FINAL AGENDA

REGULAR COUNCIL MEETING
TUESDAY
MAY 21, 2019

COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
4:30 P.M. AND 6:00 P.M.

4:30 P.M. MEETING

Individual Items on the 4:30 p.m. meeting agenda may be postponed to the 6:00 p.m. meeting.

1. CALL TO ORDER

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

2. ROLL CALL

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR EVANS
VICE MAYOR SHIMONI
COUNCILMEMBER ASLAN
COUNCILMEMBER MCCARTHY
COUNCILMEMBER ODEGAARD
COUNCILMEMBER SALAS
COUNCILMEMBER WHELAN

3. PLEDGE OF ALLEGIANCE AND MISSION STATEMENT

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life for all.

4. PUBLIC PARTICIPATION

Public Participation enables the public to address the Council about an item that is not on the agenda. Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

5. APPOINTMENTS

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that the City Council may vote to go into executive session, which will not be open to the public, for the purpose of discussing or considering employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body...., pursuant to A.R.S. §38-431.03(A)(1).

A. **Consideration of Appointments:** Board of Adjustment.

STAFF RECOMMENDED ACTION:

Make two appointments to terms expiring May 2021.
Make one appointment to a term expiring May 2022.

6. ROUTINE ITEMS

A. **Consideration and Approval of Contract:** City Court Facility Project - Award of Amendment #2 to the Design-Build Services Agreement 2018-63. This amendment contains the Guaranteed Maximum Price (GMP) #2 agreement for completion of construction.

STAFF RECOMMENDED ACTION:

1. Award the Design-Build Services Amendment GMP #2 to Kinney Construction Services, Inc. of Flagstaff Arizona in an amount not to exceed $15,557,094 with a 329 calendar-day contract period; and
2. Authorize the City Manager to execute the necessary documents

B. **Consideration and Approval of Contract:** Annual Street Maintenance Chip Seal Program 2019

STAFF RECOMMENDED ACTION:

1. Approve the Annual Street Maintenance Chip Seal Program 2019 and execute a Construction Manager at Risk (CMAR) Contract with C and E Paving & Grading, LLC for a Guaranteed Maximum Price (GMP) of $2,033,450.55; and
2. Authorize the City Manager to execute the necessary documents.

C. **Consideration and Adoption of Ordinance No. 2019-10:** An ordinance amending the Employee Handbook of regulations relating to General Definitions, Grievance Procedures, Employee Advisory Committee, Performance Evaluation System, Purchase Day Program, and Use of City Vehicles.

STAFF RECOMMENDED ACTION:

1. Read Ordinance No. 2019-10 by title only for the final time
2. City Clerk reads Ordinance No. 2019-10 by title only (if approved above)
3. Adopt Ordinance No. 2019-10

D. **Consideration and Approval of Contract:** Approve the Cooperative Purchase Contract with The Public Restroom Company for the Buffalo Park restrooms.

STAFF RECOMMENDED ACTION:

1. Approve the cooperative purchase contract in the amount of $202,506.00 with The Public Restroom Company to purchase and install a turnkey restroom at Buffalo Park through the BuyBoard Cooperative Purchasing Agreement 2019-115, and
2. Authorize the City Manager to execute the necessary documents

E. **Consideration and Approval of Contract:** Sole Source License and Hosting Agreement with Resource Exploration, LLC in the amount not to exceed $165,000 for consulting and software service for the implementation of Priority Based Budgeting.

STAFF RECOMMENDED ACTION:

1. Approve the Sole Source License and Hosting Agreement with Resource Exploration, LLC for Priority Based Budgeting for an amount not to exceed $165,000.00; and
2. Authorize the City Manager to execute the necessary documents.

F. **Consideration and Approval of a Contract:** Material Testing Professional Services

STAFF RECOMMENDED ACTION:

1. Approve the Professional Services Contract with ATL, Inc. dba CMT Engineering Laboratories for an estimated annual amount of $220,500.00; and
2. Authorize the City Manager to execute the necessary documents

G. **Amendment to Contract No. 2019-03:** Amend Contract 2019-03 between the City of Flagstaff and Housing Solutions of Northern Arizona for the City of Flagstaff Employer Assisted Housing (COF-EAH) program to clarify employee eligibility criteria.

STAFF RECOMMENDED ACTION:

Approve the recommended contract amendment to clarify employee eligibility criteria for the City of Flagstaff Employer Assisted Housing (COF-EAH) program

RECESS

6:00 P.M. MEETING

RECONVENE

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

7. ROLL CALL

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR EVANS
VICE MAYOR SHIMONI
COUNCILMEMBER ASLAN
COUNCILMEMBER MCCARTHY
COUNCILMEMBER ODEGAARD
COUNCILMEMBER SALAS
COUNCILMEMBER WHELAN

8. PLEDGE OF ALLEGIANCE

9. PUBLIC PARTICIPATION

10. CARRY OVER ITEMS FROM THE 4:30 P.M. AGENDA

11. PUBLIC HEARING ITEMS

A. Public Hearing, Consideration and Possible Adoption of Ordinance No. 2019-014: Canyon del Rio Investors, LLC requests a Concept Zoning Map Amendment of approximately 83.88 acres at 3200 East Butler Avenue from the RD, Research and Development Zone, to MR, Medium Density Residential Zone (27.9 acres), HR, High Density Residential Zone (30.0 acres), and HC, Highway Commercial Zone (25.9 acres). The area proposed for the Concept Zoning Map Amendment is a portion of a 262-acre development known as Canyon del Rio. (Canyon del Rio Investors, LLC Concept Zoning Map Amendment request for property located at 3200 East Butler Avenue.)

STAFF RECOMMENDED ACTION:

At the May 21, 2019 Council Meeting:
1) Hold the Public Hearing
2) Read Ordinance No. 2019-14 by title only for the first time
3) City Clerk reads Ordinance No. 2019-14 by title only (if approved above)

At the June 4, 2019 Council Meeting:
4) Read Ordinance No. 2019-14 by title only for the final time
5) City Clerk reads Ordinance No. 2019-14 by title only (if approved above)
6) Adopt Ordinance No. 2019-14

12. REGULAR AGENDA

A. **Consideration and Approval of Contract**: Consideration and approval of the Professional Services Contract for the Mobile Home Assistance for Displaced Residents Program, Contract No. 2019-62 between City of Flagstaff and Flagstaff Shelter Services (FSS).

STAFF RECOMMENDED ACTION:

Approve the contract with Flagstaff Shelter Services for the administration of the Mobile Home Assistance for Displaced Residents Program.

13. DISCUSSION ITEMS

A. **Discussion/Direction:** Current Issues Before Arizona Legislature and Federal Issues.

14. COUNCIL LIAISON REPORTS

15. FUTURE AGENDA ITEM REQUESTS

After discussion and upon agreement by three members of the Council, an item will be moved to a regularly-scheduled Council meeting.

A. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Whelan to place on a future agenda a discussion about a committee of two councilmembers and staff to look at the I-40 corridor lands and Red Gap Ranch for economic development and give direction for our economic development and land use.

STAFF RECOMMENDED ACTION:

Council direction.

B. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Odegaard to place on a future agenda a discussion on how the city can add more residential units within the single-family residential zoning parcels.

STAFF RECOMMENDED ACTION:

Council direction.

16. INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, FUTURE AGENDA ITEM REQUESTS

17. ADJOURNMENT

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on _____, at _____ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this _____ day of _____, 2019.

_____
Stacy Saltzburg, MMC, City Clerk

5. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	05/13/2019
Meeting Date:	05/21/2019

TITLE:

Consideration of Appointments: Board of Adjustment.

STAFF RECOMMENDED ACTION:

Make two appointments to terms expiring May 2021.
Make one appointment to a term expiring May 2022.

Executive Summary:

The Board of Adjustment is made up of seven citizens and holds hearings on requests for variances and appeals of decisions by the Planning Director and Zoning Administrator. The Board does not have the authority to change zoning law. There are currently three seats available on the Board and one additional expired term. The Board of Adjustment has a case in the near future, so it is important to fill the vacancies quickly to ensure that the appeal process is efficient and effective.

There are three applications on file for consideration by the Council, they are as follows:

Michael Banker (new applicant)
Richard Becher (new applicant)
Patricia Loven (current commissioner)

COUNCIL APPOINTMENT ASSIGNMENT: Vice Mayor Shimoni, Councilmember McCarthy, and Councilmember Whelan

Financial Impact:

These are voluntary positions and there is no budgetary impact on the City of Flagstaff.

Policy Impact:

None

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

There is no Council goal that specifically addresses appointments to boards and commissions; however, boards and commissions do provide input and recommendations based on City Council goals that may pertain to the board or commission work plan.

Has There Been Previous Council Decision on This:

None.

Options and Alternatives:

1) Appoint three Board Members: By appointing members at this time, the Board of Adjustment will be at full membership (including expired members), allowing the group to meet and provide recommendations to the City Council.

2) Table the action to allow for further discussion or expand the list of candidates.

Community Benefits and Considerations:

The City's boards, commissions, and committees were created to foster public participation and input and to encourage Flagstaff citizens to take an active role in city government.

Community Involvement:

INFORM: The vacancies are posted on the City's website, and have been made known through word of mouth by City staff and current board and commission members.

Attachments: BOA Authority

CHAPTER 2-10
BOARD OF ADJUSTMENT

SECTIONS:

2-10-001-0001 ESTABLISHMENT OF THE BOARD
2-10-001-0002 MEMBERSHIP
2-10-001-0003 MEETINGS
2-10-001-0004 POWERS AND DUTIES
2-10-001-0005 APPEALS
2-10-001-0006 RESTRICTIONS

2-10-001-0001 ESTABLISHMENT OF THE BOARD

There is hereby created a Board of Adjustment (the "Board"). (1978 Code; Ord. 2010-35, Amended, 11/16/2010)

2-10-001-0002 MEMBERSHIP

The Board of Adjustment shall be composed of seven (7) voting members.

A. Six (6) members shall be appointed by the Mayor and City Council from the citizens of the City of Flagstaff.

B. One (1) member shall be appointed by the City Council from the membership of the Planning and Zoning Commission.

C. Terms shall be for three (3) years for members.

D. The Board shall elect from its voting members a Chairperson and a Vice-Chairperson who shall serve for a term of one (1) year. The Chairperson shall have the power to administer oaths and take evidence. (Ord. 2010-35, 11/16/2010; Ord. 2014-28, Amended, 11/18/2014)

2-10-001-0003 MEETINGS

The meetings of the Board of Adjustment shall be open to the public and held at the time and place adopted for the regular monthly meetings of the Board. Meetings shall be conducted in accordance with the Board and Commission Members' Rules and Operations Manual adopted by resolution of the Flagstaff City Council, and in compliance with all other local, State, and Federal laws. The minutes of its proceedings, showing the vote of each member and records of its examinations and other official actions shall be kept by the City Clerk as a public record.

A quorum shall consist of four (4) voting members of the Board. (Ord. 2010-35, 11/16/2010; Ord. 2014-28, Amended, 11/18/2014; Ord. 2016-30, Amended, 07/05/2016)

2-10-001-0004 POWERS AND DUTIES

The Board of Adjustment ("Board") is a quasi-judicial administrative body established by the City Council that functions on the level between enforcement officers and the Courts. The Board interprets the meaning and spirit of City Code Title 10 (Zoning Code) as enacted by the City Council; it does not have authority to make or change zoning law. The Board of Adjustment shall have the powers and duties per A.R.S. § 9-462.06 to:

A. Hear and decide appeals in which it is alleged there is an error in an order, requirement, or decision made by an administrative official in the enforcement of City Code Title 10 (Zoning Code).

B. Hear and decide appeals for variances from the terms of the Zoning Code only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance is subject to such conditions as will ensure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

C. Reverse or affirm, wholly or in part, or modify the order, requirement, or decision of an administrative officer appealed from, and make such order, requirement, decision, or determination as necessary.

D. Adopt such rules of procedure necessary for the administration of responsibilities consistent with these regulations. (Ord. 2010-35, 11/16/2010)

2-10-001-0005 APPEALS

Any person aggrieved by a decision of the Board of Adjustment may, at any time within thirty (30) days after the Board has rendered its decision, file a complaint for special action in the superior court to review the Board’s decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed. (Ord. 2010-35, 11/16/2010)

2-10-001-0006 RESTRICTIONS

The Board of Adjustment may not:

A. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the Zoning Code provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this Chapter and Division 10-20.70 (Variances).

B. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

C. Grant a variance on an appeal for any of the following:

1. Conditions or stipulations of a Zoning Map amendment.

2. Conditions of a Subdivision Plat recommended for approval by the Planning and Zoning Commission or as approved by the City Council, or of a Land Split Map.

3. Conditions of a Development Agreement.

4. Conditions of an Annexation Agreement or ordinance.

5. Conditions of a Conditional Use Permit.

6. Conditions of a Resource Mitigation Case.

7. Illegal or Prohibited Uses in any zoning district.

8. Illegal or Prohibited Signs, as listed in Division 10-50.100 (Sign Standards), in any district.

9. Determination of a requirement for a General Plan Amendment by the Planning Director.

D. Applications for any of the above-listed items shall not be accepted or processed, nor will the Board of Adjustment schedule or conduct meetings regarding the same. (Ord. 2010-35, 11/16/2010)

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Christine Cameron, Project Manager III
Date:	05/13/2019
Meeting Date:	05/21/2019

TITLE:

Consideration and Approval of Contract: City Court Facility Project - Award of Amendment #2 to the Design-Build Services Agreement 2018-63. This amendment contains the Guaranteed Maximum Price (GMP) #2 agreement for completion of construction.

STAFF RECOMMENDED ACTION:

1. Award the Design-Build Services Amendment GMP #2 to Kinney Construction Services, Inc. of Flagstaff Arizona in an amount not to exceed $15,557,094 with a 329 calendar-day contract period; and
2. Authorize the City Manager to execute the necessary documents

Executive Summary:

Kinney Construction Services, Inc. (KCS) was selected by a five-member evaluation committee as the most qualified service provider for the City Court Facility Project pursuant to the evaluation and ranking process per A.R.S. 34-603.

City Council awarded the original Design-Build Agreement #2018-63 on July 3, 2018, for design phase services. KCS and the Architect (CGL Companies) have been working over the last ten months on programming the building space and developing construction plans with Courts Administration, the City Prosecutor's Office, Flagstaff Police Department, City Manager's Office, and City Planning. The GMP #1 Amendment was awarded on March 5, 2019. KCS has been on site performing the hazardous waste abatement and demolition in preparation for construction. This GMP #2 Amendment contains the work for construction of the facility.

Financial Impact:

The City Court Facility is currently budgeted in the amount of $17,408,403.00 for FY 2019 and is anticipated to be budgeted in the amount of $4,334,024 for FY 2020. Project funding is in the Capital Project Fund, Account Number 408-09-426-3278-1.

Policy Impact:

Award of the Design-Build Services GMP #2 Amendment will allow KCS to proceed with full construction of the City Court facility as approved by Proposition 412 in the November 2016 ballot question.

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

Council Goal: Transportation and Other Public Infrastructure.
Deliver quality community assets and continue to advocate and implement a highly performing multi-modal transportation system.

Flagstaff Regional Plan 2030: Locating Facilities Goals and Policies.
Goal PF.2. - Provide sustainable and equitable public facilities, services and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

Team Flagstaff Strategic Plan: Foster a Resilient and Economically Prosperous City.
Deliver outstanding service through a healthy environment, resources, and infrastructure.

Has There Been Previous Council Decision on This:

On June 14, 2016, Council reviewed options for the City Court Facility bond project and directed staff to prepare ballot language for a $12M bond project to be funded through secondary property tax.

On July 3, 2018, City Council awarded the Design-Build Contract #2018-63 to KCS for design phase services of the project.

On March 5, 2019, City Council approved the GMP #1 Amendment to the original Design-Build Contract #2018-63.

Options and Alternatives:

1. Approve the Design-Build Services Amendment GMP #2 to KCS as presented.
2. Reject the Design-Build Services Amendment GMP #2 and direct staff to re-negotiate the terms and fee structure with KCS.

Background/History:

The physical condition of the existing City Court building located at 15 North Beaver Street has deteriorated to a point where significant financial resources would be needed to remediate, remodel and stabilize the structure. In addition, the need exists for current and future space to ensure continued operational viability.

On July 5, 2016, staff came before Council with the Consideration and Adoption of Resolution No. 2016-27. This Resolution allowed Council to adopt an official ballot question to be submitted to qualified electors of the City of Flagstaff. This ballot question asked the citizens of Flagstaff to approve a temporary increase in the City's secondary property tax and authorize the sale and issuance of bonds for purposes of constructing a new City Court Facility. Council adopted the Resolution and the question was placed on the ballot for the election of November 08, 2016. The ballot question was approved.

On April 1, 2018, the City advertised a Request for Statement of Qualifications from Arizona Registered Contractors for the qualification-based selection of a Design-Build team to provide design and construction services for the City Court Facility.

On April 23, 2018, the City received eight responses to the Request for Statements of Qualifications. A five-person committee was formed to evaluate the Statements of Qualifications and the committee selected 3 firms for interviews. Upon the completion of the interviews, the committee selected KCS as most qualified Design-Builder to perform the work.

On July 3, 2018, City Council awarded the Design-Build contract to KCS, in the amount of $1,593,628.00 for design phase services. Over the last seven months the Design-Build team has been working on programming the building space and developing construction plans with Courts

Administration, the City Prosecutor's Office, Flagstaff Police Department, City Manager's Office, and City Planning.

On March 5, 2019, City Council awarded the GMP #1 Amendment to the original contract for hazardous waste abatement, demolition and site work in the amount of $1,518,175.00.

Key Considerations:

The new City Court Facility will be located on property owned by the City located at 101 W. Cherry Avenue. The existing buildings at this location have recently been demolished and removed in compliance with the GMP #1 amendment scope.

To meet City of Flagstaff Zoning Code-Title 10, parking capacity requirements, the existing City Court located at 15 N. Beaver Street and the City Prosecutor's Offices located at 107 W. Aspen Avenue will be demolished to provide patron and staff parking. The new City Court Facility will be designed to provide secure staff parking. The combined parking at these two parcels will meet the Zoning Code requirements for parking capacity.

City staff anticipates a third GMP to be presented to Council in the fall of 2019. It will contain the ADA Parking design and construction as directed by Council, the Beaver Street/Aspen Avenue temporary parking lot, fiber optic communications work, and final building furniture. These items will be in the planning stage through the summer.

The facility design includes several components to support sustainability and the City's Climate Action Plan, including:

- Adherence to Resolution 2014-09 requiring all new City facilities to achieve sustainable certification - Green Globes level 3 certification is included for this project
- Drought resistant and pollinator plant species will be provided in the site landscaping
- Rainwater harvesting
- Electric vehicle charging station at the new Beaver Street/Aspen Avenue parking lot
- NAIPTA information kiosk in the new Court lobby
- Water bottle refill stations
- Diversion of demolition material for the Cinder Lake Landfill Alternative Daily Cover program

Expanded Financial Considerations:

Total project funding for the project is as follows:

Prop 412 Voter Approved Courts Project Funding

Bonds	$12,000,000
**Identified Funding (Courts Fees)	$ 7,500,000
Total	$ 19,500,000

****Identified Funding**

Court Fees	$2,080,000
Sale of Fire Station #1	$ 520,000
Re-development Fund	$ 500,000
Capital Funding Transfer	$ 400,000
Capital Financing	$4,000,000
Total	$7,500,000

In addition to the $19,500,000 building budget, $2,000,000 is obligated to the future downtown parking.

A Contractor's contingency of 4% in the amount of $472,189 and an Owner's contingency of 1% in the amount of $154,031 is included in this contract. The City's Contract Contingency Justification form is attached for the Council's information.

Community Benefits and Considerations:

The new City Court Facility will provide a safe and efficient Municipal building that will greatly improve the Court's operations now and into the future, enhance the staff and user experience and provide an attractive amenity to downtown Flagstaff.

Community Involvement:

There have been multiple Council meetings to discuss the City Court Facility over the course of the last three years, in addition to multiple public meetings prior to the ballot question of 2016.

A Public Meeting was held on February 20, 2019, to present the project design and engage the public on the project.

Expanded Options and Alternatives:

1. Approve the Design-Build Services GMP #2 Amendment to KCS as presented. Upon Council authorization, KCS will begin the construction of the facility.
2. Reject the Design-Build Services GMP #2 Amendment and direct staff to re-negotiate the terms and fee structure with KCS. It is anticipated that this action would delay the project for approximately seven weeks and possibly would result in very little cost savings.
3. Reject the Design-Build Services GMP #2 Amendment with KCS and continue Court operations in the existing facility. The current court space is in a state of deterioration and significant financial resources will be needed to remediate, remodel and stabilize the structure. Furthermore, there is a need for additional space to accommodate current operations and future growth in order to ensure continued operational viability, safety, and security.

Attachments:

Amendment 2 GMP 2
Original Design Build Contract
GMP 1
Court Context Map
Court Vicinity Map
Contract Support Justification
Court GMP 2 PowerPoint

AMENDMENT TWO

City of Flagstaff Court Facility
Design-Build Contract

Construction Services Phase – GMP 2

Project No. 03-18007
Contract No. 2018-63

This Second Amendment ("Amendment") to the fully executed Design-Build Services Contract No. 2018-63 dated 7/17/18 (the "Agreement") for the City of Flagstaff Court Facility (the "Project") is made and entered into this ____ day of _____, 2019, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona 86001, and Kinney Construction Services, Inc., an Arizona corporation with offices at 121 E. Birch Avenue, Flagstaff, Arizona 86001.

The parties to the Agreement for City of Flagstaff Court Facility project, the City of Flagstaff and Kinney Construction Service, Inc., hereby agree to the following amendment; all other provisions of the Agreement shall remain unchanged in full force and effect. New text is underlined.

ARTICLE 5 – CONTRACT PRICE

5.3 – GMP

Design-Builder's GMP 2 for the construction phase services for the Phase 2 portion of (Construction) work of the Project shall be **fifteen million, five hundred fifty-seven thousand, and ninety-four dollars ($15,557,094).** The GMP shall be for the complete performance of Phase 2 portion of work in accordance with the Contract Documents and exhibits listed below, which are part of this Amendment, and which shall be incorporated into the Agreement by this Second Amendment as if fully set forth therein.

EXHIBIT A – GMP 2 Summary Sheet, dated 4/24/2019, 1 page(s).

EXHIBIT B – Basis of GMP 2 (Allowances, Assumptions and Clarifications on which the GMP is based), dated 4/23/19, 9 page(s).

EXHIBIT C – Enumeration of Drawings and Specifications, including Addenda, if any, on which the GMP is based, 5 page(s).

EXHIBIT D – Baseline Project Schedule, 1 page(s).

The total Contract Price under the Agreement, as amended by this Amendment, shall be **eighteen million, six hundred and sixty-eight thousand, eight hundred and ninety-seven dollars ($18,668,897).**

ARTICLE 6 – CHANGES TO CONTRACT PRICE AND TIME

The Scheduled Date of Completion of the work for the City of Flagstaff Court Facility project under this First Amendment is an additional **329 calendar days from the Notice to Proceed with a substantial completion date of 7/20/2020.**

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives as of the date first written above. This Amendment will be in full force and effect only when it has been approved and executed by the duly authorized City officials.

(Please sign in blue ink. Submit original signatures – photocopies not accepted)

City of Flagstaff	**Kinney Construction Services, Inc.**
By:_____	By:_____
Barbara Goodrich, City Manager	Title:_____
Dated:_____	Dated:_____

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

PROJECT GMP PROPOSAL SUMMARY SHEET

COF Courts - Phase 2 GMP - Exhibit A

4/24/2019

ITEM NO.	BUILDING/CONSTRUCTION TYPE		TOTALS
	PROFESSIONAL SERVICES		
1	Professional Services		
2	Reimbursables		
3	Construction Administration (Architect & Engineers)		$247,130.00
	Total Professional Services		**$247,130.00**
	CONSTRUCTION		
4	*Cost of Construction*		
5	Concrete		$565,394.00
6	Masonry		$2,042,717.00
7	Steel Structure & Fabrications		$1,193,740.00
8	Millwork & Misc Blocking		$525,000.00
9	Roofing, Insulation, & Joint Sealants		$456,499.00
10	Doors, Windows, & Glazing		$698,913.00
11	Finishes (Flooring, Paint, Stucco, Gypsum Assemblies, & ACT)		$1,930,500.00
12	Specialties (Signage, Appliances, Restroom Accessories, & Flagpoles)		$189,000.00
13	Furniture & Window Coverings		$150,000.00
14	Elevators		$337,840.00
15	Fire Suppression & Alarm		$195,000.00
16	Plumbing		$363,000.00
17	Mechanical		$1,200,000.00
18	Electrical		$1,092,000.00
19	Low Voltage Systems		$500,000.00
20	Exterior Improvements & Remaining Sitework		$88,000.00
21	Landscaping & Irrigation		$30,000.00
	Subtotal of Construction & Professional Services		**$11,804,733.00**
22	Design-Builder's Contingency	4.00%	$472,189.00
	Indirect Costs	**Rate**	
23	General Conditions	7.87%	$966,768.00
24	Payment & Performance Bond	1.50%	$198,655.00
25	Insurance	1.20%	$161,308.00
26	Construction Fee	7.00%	$952,256.00
27	Sales Taxes	5.82%	$847,154.00
	Total Construction & Professional Services Cost - GMP 2		**$15,403,063.00**
28	Owner's Contingency (1%)		$154,031.00
	Grand Total (w/ owner contingney)		**$15,557,094.00**

EXHIBIT 'B'
Statement of Clarifications and Assumptions
COF Courts Facility – Phase 2 GMP
4.23.2019

Purpose & Intent

The intent of the qualifications is to provide a supplement scope design and cost control guide. They are included to further the "Teams" understanding of what is included in the scope of this project based on Kinney Construction Services' interpretation of the design intent.
Since cost control is largely the result of scope control, we have clarified and elaborated based on this proposal for areas where systems were incomplete or anticipated to be revised, and where scope was unclear.

Basis of Qualifications

Documents as outlined in Exhibit C – Enumeration of Drawings

General Clarifications

1. Pricing is based on an approximate 15 month total duration starting April 1st, 2019. Phase 2 GMP only includes a portion of this schedule for the scope of work outlined below and in Exhibit A with a duration of 41 weeks total.
2. A payment and performance bond for Kinney Construction Services, Inc. is included.
3. Any costs associated with a building permit or reviews are not included. Permits and fees required by City of Flagstaff (COF) are to be paid for by the owner including all water and sewer impact feeds.
4. All temporary utility consumption costs are assumed to be by the Owner and are therefore not included.
5. Costs for preconstruction and design services are not included as part of this GMP.
6. Material testing and special inspections are not included. COF to procure & provide all special inspections. Contractor to coordinate with COF and 3rd Party Testing representative to schedule required testing and inspection during construction.
7. A (1) one-year warranty from date of substantial completion has been included.
8. All work is intended on being performed during normal business hours, Monday thru Friday.
9. KCS has registered this project with GreenGlobes with the intent of reaching 3 Globes certification. KCS will provide necessary documentation to achieve this certification.
10. All work will abide by MAG specs with COF modifications as required.
11. KCS reserves the right to work with CGL, it's consultants, and city staff to amend drawings and specifications as necessary in order to meet budgetary constraints.

General Conditions

- KCS will provide adequate project management, supervision, tools, equipment, waste management containers and temporary construction facilities for the duration of this project.
- A temporary construction office will be provided at the site or adjacent laydown area. KCS intends on leasing the property across the street from FSL for the duration of the project for contractor parking and laydown.
- All necessary project documentation will be maintained from project start to closeout including paper / electronic copies of all plan iterations, ASIs, submittals, RFIs, weekly reports, meeting minutes, and safety logs. KCS intends on using Procore Construction Management Software as a tool to assist with this documentation management. COF staff will have access to this web-based software as well.
- KCS will provide protection of existing site and necessary traffic and pedestrian signage and control. A temporary chainlink fence with screening will be installed around the entire property including the sidewalks, but will not be installed in the street impeding traffic. Sidewalks will be closed and proper signage will be placed at the nearest adjacent intersection directing pedestrian traffic to open walkways.

Foundations, Structural Concrete, & Miscellaneous Concrete

- All materials and equipment necessary to construct the concrete footings, concrete stem walls, concrete slab on grade, concrete over steel decking, concrete stairs and landings, concrete ramps, vapor barrier, and all concrete reinforcing.
- All materials and equipment to construct concrete interior stair pans and landings.
- Includes elevator pits and associated waterproofing.
- Includes vapor barrier below slab on grade including termite pre-treat.
- Includes all backfill and excavation including subgrade prep and ABC.
- Includes all miscellaneous bolts and anchors including all form work.
- Includes all equipment pads.
- Does not include colored concrete, concrete stamping, or concrete banding.
- Does not include concrete slurry or hard digging.
- Does not include winter protection.
- Excludes shoring of any kind.
- Excludes below grade foundation wall waterproofing other than for the elevator pits.

Structural Steel

- All materials and equipment necessary to construct all structural steel and miscellaneous steel including all anchor bolts, templates, embeds, wide flanges beams, interior stairs and railing, stair riser perforated metal and stair nosings, steel joists, steel decking, elevator hoist beams, elevator pit ladders, exterior roof access ladder, concrete ramp and stair rails, miscellaneous roof framing for penetrations, trash enclosure gates, cross bracing, pipe bollards, and roof screen wall.
- Includes steel shop drawings and detailing.
- Includes all sally port steel including canopy.
- Includes all dumpster enclosure gates.
- All steel to be coated with one coat of shop primer.
- All steel railing to be standard steel railing to be painted. No stainless steel railing has been included.
- Interior stair railing to include standard steel guardrail and hand rail. No specialty mesh or trim pieces have been included.
- Roof screen wall to be standard screen wall no special trim has been included.
- Standard MAG type concrete filled, top mounded, painted bollards have been included.

Structural Masonry & Brick/Stone Veneer

- All materials and equipment necessary to install all modular brick and brick veneer including all grout and associated attachments.
- All materials and equipment necessary to install all stone veneer including all grout and associated attachments. Stone to be Sedona Red Sandstone and sourced locally.
- All materials and equipment necessary to install all structural CMU shaft walls and exterior CMU site walls.
- Includes standard ladder wire instead of heavy duty specified wire.
- Includes all steel rebar reinforcing associated with this work.
- Includes all precast stone caps at secure parking pilasters.
- Includes all drypacking at structural steel.
- Includes mortar trap at base and shelf angles instead of full wall mortairvent CW.
- Includes lighter colored brick at all building exterior banding instead of cast stone. Lintels and sills to be cast stone.
- Includes all caulking of masonry joints where called out on the plans.
- Includes all exterior enclosure brick and stone sealer.
- Excludes cold weather protection.
- Arched brick pattern at windows to be formed using standard bricks, not specialty brick forms.
- Interview room walls have been included as framed drywall walls not as CMU.
- Excludes any anti-graffiti coating.

Metal Stud Framing, Drywall, & Exterior Sheathing

- All materials and equipment necessary to install all interior and exterior metal stud framing, drywall, and dens glass sheathing.
- Cold formed metal steel studs includes all 16 ga. framing at exterior walls, 18 ga. framing at parapet soffits and furring, and 20 ga. framing at all interior walls and ceilings. Includes all framing at openings as required.
- Includes all masonry wall and steel column furring and drywall.
- Includes standard bridging at all exterior. No cross bracing or strapping included.
- Includes all in-wall blocking and backing for surface mounted accessories and monitors.
- Includes all drywall suspended ceilings and soffits.
- Cornices and soffits have been simplified in order to reduce framing.
- Includes all 5/8" type X gypsum interior drywall throughout and moisture resistant drywall at all wet walls.
- Includes 5/8" dens glass sheathing at all exterior framing.
- Includes moisture resistant gyp board at walls behind ceramic wall tile.
- All materials and equipment necessary to install all exterior dense glass sheathing.
- Includes ballistic board in court rooms where shown on plans and ¾" non-rated CDX plywood at security walls, 5C walls, and security ceilings.
- Assumes square corner bead throughout.
- Assumes top and bottom sound caulking at sound walls and top and bottom fire caulking at 1 hr rated fire walls.
- Assumes that interior finish in public areas is to be level 4 and back of house areas to be level 3 or fire taped.
- Includes all control joints in walls at runs longer than 30 feet. Locations to be determined by architect.

Interior & Exterior Insulation, Roofing, Joint Sealants, & Moisture Barrier

- All materials and equipment necessary to install all interior and exterior in-wall insulation. Includes R-19 unfaced batt insulation at exterior walls and R-11 unfaced batt insulation at interior walls as noted on the drawings.
- All materials and equipment necessary to install all exterior rigid insulation and roll on exterior wall moisture barrier as noted on the drawings.
- All materials and equipment necessary to install all single ply roofing system; final manufacturer to be determined.
- Includes all roof drains and tie-ins.
- Includes all roof parapet caps and walk pads.
- Includes all joint sealants including masonry control joints, exterior concrete building joints.
- Includes all fire stopping for all MEP trades.

Millwork

- All materials and equipment necessary to construct the interior millwork and trim.
- Includes all courtroom millwork and trim including wood framed walls and platforms. Courtroom wood framing and plywood included as non-engineered.
- Includes all plastic laminate upper and lower cabinetry and solid surface counter tops.
- Includes courtroom seal and finished wood steps up to judges platform.
- Includes simplification of the courtroom millwork scope and details.
- Includes all acoustic panels in courtrooms, surface mounted to drywall finished surface. No recessed niches or specialty trim have been included.
- Includes FRP at janitor's closets.
- All materials and equipment necessary to construct the courtroom pews and benches.
- Benches and pews included as straight back, open end, veneer maple finish with a plywood core.
- Millwork areas include the following: custody courtroom, mail/copy room, public counters, collection and queuing, public terminals counter, staff breakrooms, security room, lobby security screening, service area, standard courtroom, prosecutor counter, hearing room, interview rooms, trim at courtroom doorways, and public restrooms.
- All plastic laminate cabinet interior to be white melamine over particle board. Moisture resistant particle board not included.

Storefront & Glazing

- All materials and equipment necessary to construct the exterior storefront and glazing systems including all storefront style punch windows. Includes exterior entrance into the lobby and interior lobby storefront system at the first and second floor.
- All materials and equipment necessary to construct the interior storefront and glass openings including doors. Areas include the following: collection and queuing, interview rooms, prosecutor, and public counters. Includes all polycarbonate glass.
- Includes all door glass lites. No fire glass has been included.
- Interior vestibule has not been included.

Stucco

- All materials and equipment necessary to construct the exterior stucco/EIFS flat infill panels including cornices.
- Includes all substrate materials for stucco/EIFS assembly. Includes all lath, moisture barrier, and rigid insulation.
- Includes a base coat and fine sand integral color finish coat.
- Includes all moisture drainage trim as necessary.
- Includes all cornice framing and foam pieces; includes simplification of stucco cornice.

Painting

- All materials and equipment necessary to furnish and install all interior & exterior paint.
- Includes paint at all drywall surfaces including walls, soffits, and ceilings.
- Includes paint at all hollow metal doors and door frames.
- Includes paint at exterior hollow metal door frames and doors.
- Includes paint at exterior metal handrail, canopy, gates, and roof screen wall.
- Includes stair well stringers, stair pans, stair guardrail, and stair handrail.
- Includes one prime coat and 2 finish coats.
- All materials and equipment necessary to furnish and install all exterior brick and stone clear waterproofing sealer.
- Includes paint at exterior soffits.

Flooring & ACT Ceilings

- All materials and equipment necessary to furnish and install all carpet, ceramic floor and wall tile, stained and sealed concrete.
- Includes all rubber cove base and rubber carpet transitions.
- Includes all tile base and Schluter metal door way transitions.
- Assumes epoxy grout for all ceramic tile.
- Includes walk-off mat.
- Includes all nosings and accessories for adjacent different flooring materials.
- All materials and equipment to furnish and install all grid ceilings.
- Includes heavy duty suspension system.
- Includes simplification of Act ceiling systems to create similar intent with standard products.

Doors & Hardware

- All materials and equipment necessary to furnish and install all doors, frames, and hardware.
- Includes all wood factory pre-finished rotary white birch doors with a finished top edge.
- Includes all hollow metal frames and doors. All hollow metal frames to be 16 ga. and hollow metal heavy duty doors to be 16 ga. & standard hollow metal doors to be 18 ga.
- Includes all door hardware including electrified hardware. Includes standard selection of finishes.
- Cores to be Best cores and are included.
- Includes all detention-grade doors, frames and hardware. Final grade to be determined.
- Includes all detention security glass.
- Includes accommodations for all access control.
- Includes all sally port roll up doors and associated hardware.

Conveying Systems

- All materials and equipment necessary to furnish and install 3 machine room-less elevators of the following sizes: 3,500 lb inmate, 2,500 lb staff, and 4,000 lb public.

Mechanical

- All materials and equipment necessary to furnish and install all HVAC roof top units, interior equipment, ducting, insulation, mini split air conditioners, insulated flex runs, copper refrigerant lines, condensate piping, fire and smoke dampers, diffusers and louvers, and HVAC trim.
- Includes energy management system including controls.
- Includes 3rd party test and balance.

Plumbing

- All materials and equipment necessary to furnish and install all plumbing domestic water piping and valves, water piping insulation, interior waste piping, plumbing fixtures, roof drains including heat tape, sump pumps and associated piping at elevator pits, water heaters, recirculation pumps, backflow preventors, gas piping at interior, and roof drains including heat tape. Final fixture selection to be determined.

Electrical

- All materials and equipment necessary to furnish and install all light fixtures including controls, receptacles, outlets, conduit, wiring, feeders, gear, electrical panels, emergency lighting, occupancy sensors, exterior site light fixtures, generator, electrical trim, and snow melt system.
- Includes all power supply to HVAC and plumbing equipment.
- Includes all power to elevators.
- Includes all power to electrified door hardware including sally port roll up doors and secure parking area gates.
- Includes complete lighting control package.
- Includes commissioning and final test and balance.
- Lightening protection systems not included.

Fire Protection

- All materials and equipment necessary to furnish and install complete wet pipe fire sprinkler system and wet automatic standpipe system.
- Includes all pipe, sprinkler heads, pull boxes, riser, trim, and accessories for a complete system.
- Includes engineered shop drawings to be submitted to the City of Flagstaff for review.
- Excludes dry system or exterior fire sprinkler piping.

Fire Alarm

- All materials and equipment necessary to furnish and install complete fire alarm system including all conduit, wire, devices, control panel, and trim for a complete system.
- Includes engineered shop drawings to be submitted to the City of Flagstaff for review.
- Includes annunciator, smoke detectors, fire alarm control panel, boosters, pull stations, audio/visual and visual devices, elevator recalls, monitor modules for sprinkler system, and final testing and balance.

Communications, Data, Security, & A/V

- All materials and equipment necessary to furnish and install all communications, data, security, and A/V.
- Includes all low voltage cable tray, conduit, and pathway.
- Includes all data and communications cabling. Cabling to be Cat6 cable. Excludes Cat 6A cable.
- Includes IT equipment and rack.
- Includes data devices and trim.
- Includes A/V mixers, amps, microphone receivers, cabling, controls, switches, and trim.
- Excludes microphones and signature pads.
- Includes all card readers and access control hardware and wiring.
- Includes all courtroom monitors.

Landscaping & Irrigation

- All materials and equipment necessary to furnish and install all landscaping and automatic drip irrigation system.
- Includes all site pavers and table mesa brown gravel.
- Includes all site plantings and soil amendments including mulch and ground cover.
- Includes all trees (with tree grates at ROW) and shrubs.
- Includes all irrigation piping, controller, backflow preventer, control valve, controller device, and emitters.

Exterior Ornamental Fencing & Gates

- All materials and equipment necessary to furnish and install all ornamental tube fencing, sally port ornamental fencing including fencing at outdoor entry from sally port, secure parking area automated gates with card reader access, secure parking area ornamental fencing, and 2 ornamental fencing style man gates.
- Fence color and style to be standard options offered by manufacturer.

Specialties, Signage, & Restroom Accessories

- All materials and equipment necessary to furnish and install all site amenities such as bike racks, exterior benches, and flagpoles.
- All materials and equipment necessary to furnish and install one non-illuminated clock at the clock tower.
- All materials and equipment necessary to furnish and install all restroom accessories and partitions. Partitions to be phenolic overhead braced.
- Accessories include grab bars, toilet paper dispenser, seat cover dispenser, napkin disposal unit, channel frame standard mirror, manual soap dispenser, paper towel and waste disposal combination unit, mop holder, and restroom code signage.
- All materials and equipment necessary to furnish and install all fire extinguishers and cabinets.
- Includes dedication plaque at exterior of building.
- Includes interior and exterior flagpoles.
- All materials and equipment necessary to install all refrigerators, dishwasher, garbage disposals, standard break room fridge, and microwave.
- Includes all interior room identification signage and exterior non-illuminated building signage.

Exclusions

- Electrical Power Consumption Costs – KCS has included hook-up of temp power, but the assumption is that the meter will be in COF name and costs for electricity consumption will be by owner.
- 3rd Party Testing – assume costs by owner. KCS to coordinate inspections and providing copies of reports as necessary.
- Parking Lot improvements at existing site – will be part of GMP 3.
- ADA parking requirements outside of staff parking areas – will be part of GMP 3.
- Fiber & Conduit Installation outside of building including run to City Hall – will be part of GMP 3.
- Utility Impact Fees
- Site security

Exhibit C - Enumeration of Documents
COF Courts - Phase 2 GMP

Number	Title	Date
G-00	COVER SHEET-2	1.4.2019
D-101	DEMOLITION PLAN	1.4.2019
AS-100	SITE PLAN	1.4.2019
G-1.0	FIRE/LIFE SAFETY SITE PLAN	1.4.2019
G-1.1	BUILDING CODE ANALYSIS PLAN-FIRST FLOOR	1.4.2019
G-1.2	BUILDING CODE ANALYSIS PLAN-SECOND FLOOR	1.4.2019
G-1.3	BUILDING CODE ANALYSIS PLAN-THIRD FLOOR	1.4.2019
CVR	COVER SHEET	4.1.2019
GN01	GENERAL NOTES	4.1.2020
DT01	CIVIL DETAILS	4.1.2021
DM01	DEMO PLAN	4.1.2022
IP01	CIVIL IMPROVEMENT PLAN	4.1.2023
GD01	GRADING AND DRAINAGE PLAN	4.1.2024
HC01	HORIZONTAL CONTROL PLAN	4.1.2025
EC01	EROSION CONTROL PLAN	4.1.2026
EC02	EROSION CONTROL PLAN NOTES AND DETAILS	4.1.2027
10	LANDSCAPE PLAN	2.7.2019
11	LANDSCAPE PLAN	2.7.2019
12	LANDSCAPE PLAN	2.7.2019
A-111	FLOOR PLAN - LEVEL 1	1.4.2019
A-112	FLOOR PLAN - LEVEL 2	1.4.2019
A-113	FLOOR PLAN - LEVEL 3	1.4.2019
A-114	FLOOR PLAN - ROOF PLAN	1.4.2019
A-121	REFLECTED CEILING PLAN - LEVEL 1	1.4.2019
A-122	REFLECTED CEILING PLAN - LEVEL 2	1.4.2019
A-123	REFLECTED CEILING PLAN - LEVEL 3	1.4.2019
A-221	ELEVATIONS - EXTERIOR	1.4.2019
A-222	ELEVATIONS - EXTERIOR	1.4.2019
A-311	BUILDING SECTIONS	1.4.2019
A-401	EXTERIOR WALL SECTIONS	1.4.2019
A-402	EXTERIOR WALL SECTIONS	1.4.2019
A-403	EXTERIOR WALL SECTIONS	1.4.2019
A-404	EXTERIOR WALL SECTIONS	1.4.2019
A-405	EXTERIOR WALL SECTIONS	1.4.2019
A-406	EXTERIOR WALL SECTIONS	1.4.2019
A-407	EXTERIOR WALL SECTIONS	1.4.2019
A-408	EXTERIOR WALL SECTIONS	1.4.2019
A-409	EXTERIOR WALL SECTIONS - DETAILS	1.4.2019
A-410	EXTERIOR WALL SECTIONS - DETAILS	1.4.2019
A-411	EXTERIOR WALL SECTIONS - DETAILS	1.4.2019
A-412	EXTERIOR WALL SECTIONS - DETAILS	1.4.2019
A-413	EXTERIOR WALL SECTIONS - DETAILS	1.4.2019

Exhibit C - Enumeration of Documents
COF Courts - Phase 2 GMP

A-421	ENLARGED TOILET PLANS AND ELEVATIONS	1.4.2019
A-422	ENLARGED TOILET PLANS AND ELEVATIONS	1.4.2019
A-423	ENLARGED TOILET PLANS AND ELEVATIONS	1.4.2019
A-431	COURTROOM ENLARGED AND REFLECTED CEILING PLAN	1.4.2019
A-432	COURTROOM ENLARGED AND REFLECTED CEILING PLAN	1.4.2019
A-433	COURTROOM ELEVATIONS	1.4.2019
A-434	COURTROOM ELEVATIONS	1.4.2019
A-435	PUBLIC CORRIDOR ELEVATIONS	1.4.2019
A-441	PUBLIC STAIR 1 ENLARGED PLANS AND DETAILS	1.4.2019
A-442	PUBLIC STAIR 2 ENLARGED PLANS AND DETAILS	1.4.2019
A-443	PUBLIC STAIR ENLARGED PLANS AND DETAILS	1.4.2019
A-451	VERTICAL CIRCULATION ENLARGED PLANS AND SECTIONS	1.4.2019
A-452	VERTICAL CIRCULATION ENLARGED PLANS AND SECTIONS	1.4.2019
A-501	EXTERIOR DETAILS - SIGNAGE PLAN	1.4.2019
A-502	EXTERIOR DETAILS - SITE	1.4.2019
A-503	EXTERIOR DETAILS - SALLYPORT	1.4.2019
A-504	EXTERIOR DETAILS - RAMPS/STAIRS	1.4.2019
A-505	EXTERIOR DETAILS - GLAZING	1.4.2019
A-506	EXTERIOR DETAILS - MISC	1.4.2019
A-511	INTERIOR GLAZING	1.4.2019
A-521	INTERIOR PARTITION TYPES AND DETAILS	1.4.2019
A-531	MISCELLANEOUS MILLWORK PLANS AND ELEVATIONS	1.4.2019
A-532	MISCELLANEOUS MILLWORK PLANS AND ELEVATIONS	1.4.2019
A-533	MISCELLANEOUS MILLWORK PLANS AND ELEVATIONS	1.4.2019
A-534	MISCELLANEOUS MILLWORK PLANS AND ELEVATIONS	1.4.2019
A-541	COURTROOM MILLWORK PLANS AND ELEVATIONS	1.4.2019
A-542	COURTROOM MILLWORK PLANS AND ELEVATIONS	1.4.2019
A-543	COURTROOM MILLWORK PLANS AND ELEVATIONS	1.4.2019
A-544	COURTROOM MILLWORK PLANS AND ELEVATIONS	1.4.2019
A-545	COURTROOM MILLWORK PLANS AND ELEVATIONS	1.4.2019
A-546	COURTROOM MILLWORK PLANS AND ELEVATIONS	1.4.2019
A-551	COURTROOM MILLWORK DETAILS	1.4.2019
A-552	COURTROOM MILLWORK DETAILS	1.4.2019
A-553	COURTROOM MILLWORK DETAILS	1.4.2019
A-554	COURTROOM MILLWORK DETAILS	1.4.2019
A-561	CEILING DETAILS	1.4.2019
A-562	CEILING DETAILS	1.4.2019
A-571	INTERIOR ENLARGED PLAN DETAILS	1.4.2019
A-572	INTERIOR ENLARGED PLAN DETAILS	1.4.2019
A-573	INTERIOR/EXTERIOR ENLARGED PLAN DETAILS	1.4.2019
A-574	INTERIOR/EXTERIOR ENLARGED PLAN DETAILS	1.4.2019
A-584	DETENTION DOOR AND WINDOW DETAILS	1.4.2019
A-595	INTERIOR DETAILS	1.4.2019

Exhibit C - Enumeration of Documents
COF Courts - Phase 2 GMP

A-611	DOOR SCHEDULE/DOOR FRAME AND PANEL TYPES	1.4.2019
A-612	DOOR SCHEDULE	1.4.2019
A-613	DOOR SCHEDULE	1.4.2019
A-620	DOOR DETAILS	1.4.2019
I-111	FINISH PLAN - LEVEL 1	1.4.2019
I-112	FINISH PLAN - LEVEL 2	1.4.2019
I-113	FINISH PLAN - LEVEL 3	1.4.2019
I-114	FINISH PLAN - ROOF	1.4.2019
1-121	FURNITURE PLAN - LEVEL 1	1.4.2019
1-122	FURNITURE PLAN - LEVEL 2	1.4.2019
1-123	FURNITURE PLAN - LEVEL 3	1.4.2019
GP0.1	GEOPIER GENERAL NOTES AND DETAILS	1.4.2019
GP1.1	GEOPIER PLAN	1.4.2019
S-001	GENERAL STRUCTURAL NOTES	1.4.2019
S-002	TYPICAL DETAILS	1.4.2019
S-003	TYPICAL DETAILS	1.4.2019
S-004	SCHEDULES	1.4.2019
S-101	FOUNDATION PLAN	1.4.2019
S-102	2ND FLOOR FRAMING PLAN	1.4.2019
S-103	3RD FLOOR AND LOBBY FRAMING PLAN	1.4.2019
S-104	ROOF FRAMING PLAN	1.4.2019
S-201	ENLARGED STAIR PLANS	1.4.2019
S-202	ENLARGED STAIR PLANS	1.4.2019
S-301	FOUNDATION DETAILS	1.4.2019
S-302	FOUNDATION DETAILS	1.4.2019
S-401	FLOOR FRAMING DETAILS	1.4.2019
S-402	FLOOR FRAMING DETAILS	1.4.2019
S-501	ROOF FRAMING DETAILS	1.4.2019
S-502	ROOF FRAMING DETAILS	1.4.2019
S-601	STAIR FRAMING DETAILS	1.4.2019
S-701	SALLY PORT FRAMING DETAILS	1.4.2019
S-801	MECHANICAL PLATFORM FRAMING DETAILS	1.4.2019
M-000	MECHANICAL LEGEND AND GENERAL NOTES	1.4.2019
M-001	MECHANICAL SCHEDULES	1.4.2019
M-002	MECHANICAL SCHEDULES	1.4.2019
M-003	MECHANICAL CALCULATIONS	1.4.2019
M-111	MECHANICAL FLOOR PLAN - LEVEL 1	1.4.2019
M-112	MECHANICAL FLOOR PLAN - LEVEL 2	1.4.2019
M-113	MECHANICAL FLOOR PLAN - LEVEL 3	1.4.2019
M-114	MECHANICAL FLOOR PLAN - ROOF PLAN	1.4.2019
M-211	MECHANICAL PIPING PLAN - LEVEL 1	1.4.2019
M-212	MECHANICAL PIPING PLAN - LEVEL 2	1.4.2019
M-213	MECHANICAL PIPING PLAN - LEVEL 3	1.4.2019

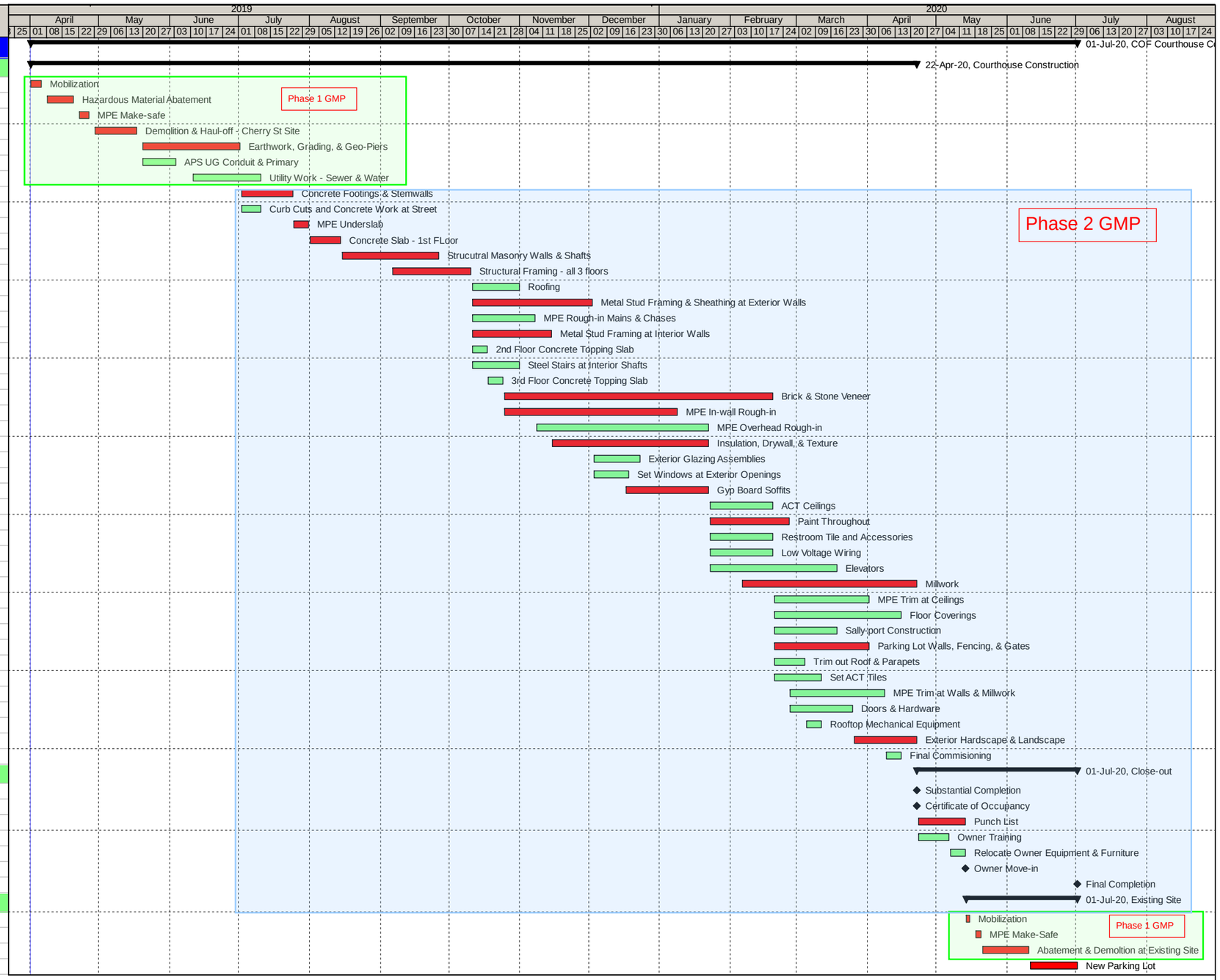
Exhibit C - Enumeration of Documents
COF Courts - Phase 2 GMP

M-214	MECHANICAL PIPING PLAN - ROOF PLAN	1.4.2019
M-300	MECHANICAL DETAILS	1.4.2019
M-301	MECHANICAL DETAILS	1.4.2019
M-400	MECHANICAL SCHEMATICS	1.4.2019
M-500	MECHANICAL CONTROLS DRAWINGS	1.4.2019
E-000	ELECTRICAL SYMBOLS AND NOTES	1.4.2019
E-001	ELECTRICAL FIXTURES SCHEDULES, NOTES, AND IECC	1.4.2019
E-002	ELECTRICAL FIXTURES CUTSHEETS AND APPLICATION	1.4.2019
E-100	ELECTRICAL SITE PLAN	1.4.2019
E-211	FIRST FLOOR POWER PLAN	1.4.2019
E-212	SECOND FLOOR POWER PLAN	1.4.2019
E-213	THIRD FLOOR POWER PLAN	1.4.2019
E-231	ROOF LEVEL POWER PLAN	1.4.2019
E-311	FIRST FLOOR LIGHTING PLAN	1.4.2019
E-312	SECOND FLOOR LIGHTING PLAN	1.4.2019
E-313	THIRD FLOOR LIGHTING PLAN	1.4.2019
E-411	FIRST FLOOR MECHANICAL ELECTRICAL CONNECTION PLAN	1.4.2019
E-412	SECOND FLOOR MECHANICAL ELECTRICAL CONNECTION PLAN	1.4.2019
E-412	SECOND FLOOR MECHANICAL ELECTRICAL CONNECTION PLAN	1.4.2019
E-500	ONE-LINE DIAGRAM	1.4.2019
E-600	PANEL SCHEDULES	1.4.2019
E-601	PANEL SCHEDULES	1.4.2019
P100	PLUMBING NOTES AND SPECIFICATIONS	1.4.2019
P001	PLUMBING SCHEDULES	1.4.2019
P201	PLUMBING FIRST FLOOR PLAN	1.4.2019
P202	PLUMBING SECOND FLOOR PLAN	1.4.2019
P203	PLUMBING THIRD FLOOR PLAN	1.4.2019
P300	PLUMBING DETAILS	1.4.2019
P301	PLUMBING DIAGRAM	1.4.2019
FA-0.1	ABBREVIATIONS, LEGENDS, AND GENERAL NOTES	1.4.2019
FA-3.1	FLOOR PLAN - FIRST FLOOR - FIRE ALARM	1.4.2019
FA-3.2	FLOOR PLAN - SECOND FLOOR - FIRE ALARM	1.4.2019
FA-3.3	FLOOR PLAN - THIRD FLOOR - FIRE ALARM	1.4.2019
FA-3.4	ROOF PLAN - FIRE ALARM	1.4.2019
FA-6.1	LARGE SCALE - FLOOR PLANS - FIRE ALARM	1.4.2019
FA-8.1	WIRING DIAGRAMS - FIRE ALARM	1.4.2019
T-0.1	ABBREVIATIONS, LEGENDS, AND GENERAL NOTES	1.4.2019
TA-0.2	SCHEDULES - AUDIO/VISUAL	1.4.2019
TA-3.1	FLOOR PLAN - FIRST FLOOR - AUDIO/VISUAL	1.4.2019
TA-3.2	FLOOR PLAN - SECOND FLOOR - AUDIO/VISUAL	1.4.2019
TA-3.3	FLOOR PLAN - THIRD FLOOR - AUDIO/VISUAL	1.4.2019
TA-4.1	LARGE SCALE CONDUIT PLAN - AUDIO VISUAL	1.4.2019
TA-6.1	LARGE SCALE FLOOR PLANS - AUDIO/VISUAL	1.4.2019

Exhibit C - Enumeration of Documents
COF Courts - Phase 2 GMP

TA-8.1	WIRING DIAGRAMS - AUDIO/VISUAL	1.4.2019
TA-8.2	WIRING DIAGRAMS - AUDIO/VISUAL	1.4.2019
TA-9.1	DETAILS - AUDIO/VISUAL	1.4.2019
TT-1.1	SITE PLAN - TELECOMMUNICATIONS	1.4.2019
TT-3.1	FLOOR PLAN - FIRST FLOOR - TELECOMMUNICATIONS	1.4.2019
TT-3.2	FLOOR PLAN - SECOND FLOOR - TELECOMMUNICATIONS	1.4.2019
TT-3.3	FLOOR PLAN - THIRD FLOOR - TELECOMMUNICATIONS	1.4.2019
TT-8.1	WIRING DIAGRAMS - TELECOMMUNCIATIONS	1.4.2019
TT-9.1	DETAILS TELECOMMUNICATIONS	1.4.2019
TY-0.2	SCHEDULES - SECURITY	1.4.2019
TY-1.1	SITE PLAN - SECURITY ELECTRONICS	1.4.2019
TY-3.1	FLOOR PLAN - FIRST FLOOR - SECURITY ELECTRONICS	1.4.2019
TY-3.2	FLOOR PLAN - SECOND FLOOR - SECURITY ELECTRONICS	1.4.2019
TY-3.3	FLOOR PLAN - THIRD FLOOR - SECURITY ELECTRONICS	1.4.2019
TY-6.1	LARGE SCALE FLOOR PLANS - SECURITY ELECTRONICS	1.4.2019
TY-8.1	WIRING DIAGRAMS - SECURITY ELECTRONICS	1.4.2019
TY-8.2	WIRING DIAGRAMS - SECURITY ELECTRONICS	1.4.2019
TY-9.1	DETAILS - SECURITY ELECTRONICS	1.4.2019
TY-9.2	DETAILS - SECURITY ELECTRONICS	1.4.2019

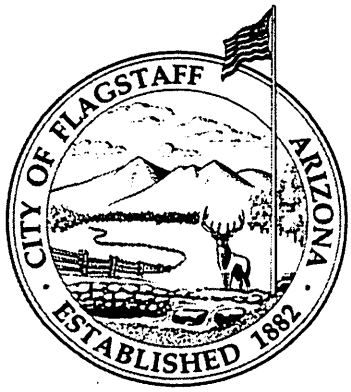
Activity ID	Activity Name	Original Duration	Start	Finish
COF Courthouse Construction Schedule		320	01-Apr-19	01-Jul-20
Courthouse Construction		270	01-Apr-19	22-Apr-20
A1080	Mobilization	5	01-Apr-19	05-Apr-19
A1440	Hazardous Material Abatement	10	08-Apr-19	19-Apr-19
A1180	MPE Make-safe	5	22-Apr-19	26-Apr-19
A1100	Demolition & Haul-off - Cherry St Site	15	29-Apr-19	17-May-19
A1460	Earthwork, Grading, & Geo-Piers	30	20-May-19	01-Jul-19
A1480	APS UG Conduit & Primary	10	20-May-19	03-Jun-19
A1470	Utility Work - Sewer & Water	20	11-Jun-19	10-Jul-19
A1450	Concrete Footings & Stemwalls	15	02-Jul-19	24-Jul-19
A1510	Curb Cuts and Concrete Work at Street	5	02-Jul-19	10-Jul-19
A1490	MPE Underslab	5	25-Jul-19	31-Jul-19
A1500	Concrete Slab - 1st FLoor	10	01-Aug-19	14-Aug-19
A1350	Strucutral Masonry Walls & Shafts	30	15-Aug-19	26-Sep-19
A1110	Structural Framing - all 3 floors	25	06-Sep-19	10-Oct-19
A1600	Roofing	15	11-Oct-19	31-Oct-19
A1620	Metal Stud Framing & Sheathing at Exterior Walls	35	11-Oct-19	02-Dec-19
A1630	MPE Rough-in Mains & Chases	20	11-Oct-19	07-Nov-19
A1640	Metal Stud Framing at Interior Walls	25	11-Oct-19	14-Nov-19
A1650	2nd Floor Concrete Topping Slab	5	11-Oct-19	17-Oct-19
A1860	Steel Stairs at Interior Shafts	15	11-Oct-19	31-Oct-19
A1660	3rd Floor Concrete Topping Slab	5	18-Oct-19	24-Oct-19
A1610	Brick & Stone Veneer	80	25-Oct-19	19-Feb-20
A1700	MPE In-wall Rough-in	50	25-Oct-19	08-Jan-20
A1690	MPE Overhead Rough-in	50	08-Nov-19	22-Jan-20
A1710	Insulation, Drywall, & Texture	45	15-Nov-19	22-Jan-20
A1670	Exterior Glazing Assemblies	15	03-Dec-19	23-Dec-19
A1680	Set Windows at Exterior Openings	12	03-Dec-19	18-Dec-19
A1740	Gyp Board Soffits	25	17-Dec-19	22-Jan-20
A1720	ACT Ceilings	20	23-Jan-20	19-Feb-20
A1730	Paint Throughout	25	23-Jan-20	26-Feb-20
A1770	Restroom Tile and Accessories	20	23-Jan-20	19-Feb-20
A1820	Low Voltage Wiring	20	23-Jan-20	19-Feb-20
A1870	Elevators	40	23-Jan-20	18-Mar-20
A1780	Millwork	55	06-Feb-20	22-Apr-20
A1750	MPE Trim at Ceilings	30	20-Feb-20	01-Apr-20
A1790	Floor Coverings	40	20-Feb-20	15-Apr-20
A1800	Sally-port Construction	20	20-Feb-20	18-Mar-20
A1810	Parking Lot Walls, Fencing, & Gates	30	20-Feb-20	01-Apr-20
A1830	Trim out Roof & Parapets	10	20-Feb-20	04-Mar-20
A1900	Set ACT Tiles	15	20-Feb-20	11-Mar-20
A1760	MPE Trim at Walls & Millwork	30	27-Feb-20	08-Apr-20
A1890	Doors & Hardware	20	27-Feb-20	25-Mar-20
A1840	Rooftop Mechanical Equipment	5	05-Mar-20	11-Mar-20
A1850	Exterior Hardscape & Landscape	20	26-Mar-20	22-Apr-20
A1880	Final Commisioning	5	09-Apr-20	15-Apr-20
Close-out		50	22-Apr-20	01-Jul-20
A1090	Substantial Completion	0		22-Apr-20
A1320	Certificate of Occupancy	0		22-Apr-20
A1330	Punch List	15	23-Apr-20	13-May-20
A1370	Owner Training	10	23-Apr-20	06-May-20
A1340	Relocate Owner Equipment & Furniture	5	07-May-20	13-May-20
A1360	Owner Move-in	0		13-May-20
A1380	Final Completion	0		01-Jul-20
Existing Site		35	14-May-20	01-Jul-20
B1000	Mobilization	2	14-May-20	15-May-20
B1010	MPE Make-Safe	3	18-May-20	20-May-20
B1100	Abatement & Demoltion at Existing Site	15	21-May-20	10-Jun-20
B1020	New Parking Lot	15	11-Jun-20	01-Jul-20



Actual Work
Remaining Work
Critical Remaining Work
Milestone
Summary

COF Courthouse Construction Schedule
Project Schedule

Kinney Construction Services, Inc.
06-Feb-19



Kinney Construction Services

CITY OF FLAGSTAFF COURT FACILITY

PROJECT NUMBER: 03-18007

CONTRACT NO.: 2018-63

DESIGN-BUILD SERVICES AGREEMENT

Mayor
Coral Evans

Council

Jamie Whelan
Scott Overton
Jim McCarthy
Celia Barotz
Charlie Odegaard
Eva Putzova

Interim City Manager
Barbara Goodrich

Water Services Director
Brad Hill

Community Development Director
Mark G. Landsiedel

Public Works Director
Andy Bertelsen

TABLE OF CONTENTS

ARTICLE 1 - DEFINITIONS 1

ARTICLE 2 - DESIGN-BUILDER'S SERVICES AND RESPONSIBILITIES 4

ARTICLE 3 - CITY'S SERVICES AND RESPONSIBILITIES 18

ARTICLE 4 - CONTRACT TIME 20

ARTICLE 5 - CONTRACT PRICE 22

ARTICLE 6 - CHANGES TO CONTRACT PRICE AND TIME 26

ARTICLE 7 - PROCEDURE FOR PAYMENT 27

ARTICLE 8 - CLAIMS AND DISPUTES 31

ARTICLE 9 - SUSPENSION AND TERMINATION 32

ARTICLE 10 - INSURANCE AND BONDS 35

ARTICLE 11 - INDEMNIFICATION 38

ARTICLE 12 - GENERAL PROVISIONS 39

EXHIBIT A - PROJECT DESCRIPTION 47

EXHIBIT B – SCOPE OF SERVICES 48

EXHIBIT C – PERFORMANCE STANDARDS REQUIREMENTS 49

EXHIBIT D – MONTHLY ANTICIPATED ADVERSE WEATHER DAYS 50

CITY OF FLAGSTAFF COURT FACILITY PROJECT

DESIGN-BUILD SERVICES AGREEMENT
PROJECT NO. 03-18007

CONTRACT NO. 2018-63

THIS AGREEMENT, made and entered by and between the CITY OF FLAGSTAFF, an Arizona municipal corporation, hereinafter designated the "CITY" and KINNEY CONSTRUCTION SERVICES, INC., an Arizona corporation, hereinafter designated the "DESIGN-BUILDER."

RECITALS

A. The City Manager of the City of Flagstaff, Arizona, is authorized and empowered by Article VIII, Section 2 of the City Charter to execute contracts for professional services and construction services.

B. The City intends to construct the **City of Flagstaff Court Facility** as more fully described in Exhibit A attached hereto, hereinafter referred to as the "Project".

C. The Design-Builder has represented to the City its ability to design and construct the Project, and based on this representation the City has engaged [Contractor's Name], to design and construct the Project.

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between the City and the Design-Builder as follows:

ARTICLE 1 - DEFINITIONS

"Addenda" written or graphic instruments issued prior to the submittal of the GMP proposal(s), which clarify, correct or change the GMP proposal(s) requirements.

"Agreement" or "Contract" means this written document signed by the City and Design-Builder covering the design and construction of the Project, and including other documents itemized and referenced in or attached to and made part of this Contract. This term shall also include the RSOQ, all Attachments and Exhibits, and all Appendices.

"Change Order" (Amendment) means a written instrument issued after execution of this Agreement signed by City and Design-Builder, stating their agreement upon all of the following: the scope of the change in the Work; the amount of the adjustment to the Contract Price; the extent of the adjustment to the Contract Time(s) or modifications of other contract terms.

"City" (Owner) means the City of Flagstaff, a municipal corporation, with whom Design-Builder has entered into this Contract and for whom the services are to be provided pursuant to said Contract. Regulatory activities handled by the City of Flagstaff Community Development Department, Utilities Department or any other City Department are not subject to the responsibilities of the City under this Agreement.

"City's Representative" means the person designated in section 8.4.1.2.

"City's Senior Representative" means the person designated in section 8.4.1.1.

"Commissioning" means the process prescribed in section 2.21 for achieving, validating and documenting the performance of the total Project and its systems to meet the design needs and requirements of the City.

"Construction Documents" means the plans, specifications and drawings prepared by the Design-Build team and include documents as prescribed by section 2.8.

"Construction Drawings" means the detailed drawings, corrected for permit requirements, approved as part of the Construction Documents.

"Construction Fee" means the Design-Builder's administrative costs, home office overhead, and profit.

"Contract Documents" means the following items and documents in descending order of precedence executed by the City and the Design-Builder: (i) all written modifications, amendments and Change Orders (ii) this Agreement, including all exhibits and attachments; (iii) Construction Documents; (iv) Design-Builder's GMP proposal, and (v) Design-Builder's Statement of Qualifications.

"Contract Price" means the amount or amounts set forth in Article 5, subject to adjustment in accordance with this Agreement.

"Contract Time" means the period of time, as set forth in Article 4, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

"Cost of the Work" means the direct costs necessarily incurred by the Design-Builder in the proper performance of the Work. The Cost of the Work shall include direct labor costs, subcontract costs, costs of materials and equipment incorporated in the completed construction, costs of other materials and equipment, temporary facilities, permit and license fees (if not paid for by City), materials testing, and related items. The Cost of the Work shall not include the Design-Builder's Construction Fee, General Conditions Costs, or taxes.

"Critical Path" means the sequence of activities from the start of the Work to the Substantial Completion of the Project. Any delay in the completion of these activities will extend the Substantial Completion date.

"Day(s)" means calendar days unless otherwise specifically noted in the Contract Documents.

"Deliverables" means the work products prepared by the Design-Builder in performing the scope of work described in this Contract. Some of the major Deliverables to be prepared and provided by the Design-Builder during the design phase may include but are not limited to: Construction Management Plan, Project Schedule, Schedule of Values, alternative system evaluations, procurement strategies and plans, cost estimates, construction market surveys, cash flow projections, GMP proposals, Subcontractor procurement plan, Statement of Proposed MBE/WBE Utilization as may be required or appropriate, Subcontractor agreements, Subcontractor bid packages, Supplier agreements, and others as indicated in this Contract or required by the Project Team.

"Design Services" means all professional services to be performed or procured by the Design-Builder to provide required Project design under this Agreement and any subsequent amendments.

"Design-Builder" means the firm, corporation, or other approved legal entity with whom the City has entered into this Contract to provide services as detailed in this Contract.

"Design-Builder's Contingency" means a fund to cover cost growth during the Project used at the discretion of the Design-Builder, usually for costs that result from Project circumstances. The amount of the Design-Builder's Contingency will be negotiated as a separate line item in each GMP package. Use and management of the Design-Builder's Contingency is described in sections 5.3.3.4 and 5.3.3.6.

"Design-Builder's Senior Representative" means the person designated in section 8.4.2.1.

"Design-Builder's Representative" means the person designated in section 8.4.2.2.

"Differing Site Conditions" means concealed or latent physical conditions or subsurface conditions at the Site that, (i) materially differ or are not reasonably inferable from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work.

"Final Completion" means the completion of the Project as prescribed in section 4.4.

" Float" means the number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Substantial Completion date.

"General Conditions Costs" includes, but is not limited to the following types of costs for the Design-Builder during the construction phase: (i) payroll costs for project manager or construction manager for work conducted at the Site; (ii) payroll costs for the superintendent and full-time general foremen; (iii) payroll costs for other management personnel resident and working at the Site; (iv) workers not included as direct labor costs engaged in support (e.g. loading/unloading, clean-up, etc.); (v) administrative office personnel; (vi) costs of offices and temporary facilities set up solely for this Project including office materials, office supplies, office equipment, and minor expenses; (vii) utilities, fuel, sanitary facilities and telephone services at the Site; (viii) costs of liability and other applicable insurance premiums not included in labor burdens for direct labor costs; (ix) costs of bond premiums; and (x) cost of consultants not in the direct employ of the Design-Builder or Subcontractors.

"Guaranteed Maximum Price" or "GMP" means the sum of the cost for design, permitting and maximum cost of the construction including the Design-Builder's Construction Fee, General Conditions Costs; sales tax, and Design-Builders Contingency.

"GMP Plans and Specifications" means the plans and specifications upon which the Guaranteed Maximum Price proposal is based.

"Legal Requirements" means all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project, Site or Work.

"Notice to Proceed" or "NTP" means the directive issued by the City authorizing the Design-Builder to start Work.

"Owner's Contingency" means a fund to cover cost growth during the Project used at the discretion of the City usually for costs that result from City's directed changes or Differing Site Conditions, or as the City may otherwise elect. The amount of the Owner's Contingency will be set solely by the City and will be in addition to the Project costs included in the Design-Builder's GMP packages. Use and management of the Owner's Contingency is described in section 5.3.4.

"Payment Request" means the City form used by the Design-Builder to request payment for Work in accordance with Article 7.

"Performance Period" means the period of time allotted in the Contract Documents to complete the construction comprised within a GMP. The Performance Period shall be stated with each GMP and shown on the Project Schedule.

"Product Data" means illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Design-Builder to illustrate materials or equipment for some portion of the construction.

"Project" means the Work to be completed in the execution of this Agreement and as amended and as described in the Recital above and in Exhibit A.

"Project Schedule" means a schedule as prescribed in section 2.4.

"Record Documents" means the documents created pursuant to section 2.19.

"Recovery Schedule" means a schedule created pursuant to section 2.4 generally, and section 2.4.5.9 specifically, which clearly and realistically identifies adjustments proposed to bring the Project back to the initial project Substantial Completion date.

"Samples" means physical examples which illustrate materials, equipment or workmanship and establish standards by which the construction will be judged.

"Scheduled Substantial Completion Date" means the date on which the Work, or an agreed upon portion of the Work, is anticipated to be sufficiently complete so that City can occupy and use the Project or a portion thereof for its intended purposes.

"Schedule of Values (SOV)", means the Document specified in the construction phase, which divides the Contract Price into pay items, such that the sum of all pay items equals the Contract Price for the construction phase Work, or for any portion of the Work having a separate specified Contract Price. The SOV may or may not be output from the Project Schedule depending on if the Project Schedule is cost-loaded or not.

"Shop Drawings" means drawings, diagrams, schedules and other data specially prepared for the construction by the Design-Builder or a Subcontractor, Sub-subcontractor, manufacturer, Supplier or distributor to illustrate some portion of the construction.

"Site" means the land or premises on which the Project is located.

"Subcontractor" or "Subconsultant" means an individual or firm having a direct contract with the Design-Builder or any other individual or firm having a contract with the aforesaid contractors at any tier, who undertakes to perform a part of the Work for which the Design-Builder is responsible.

"Substantial Completion" means the established date when the Work or designated portion thereof is sufficiently complete, in accordance with the Contract Documents so that the City may occupy the Work, or designated portion thereof, for the use for which it is intended. This may include, but is not limited to: (i) Approval by the City or State Fire Marshall and/or other state or local authorities having jurisdiction over the Work or a portion thereof (Certificate of Occupancy); (ii) all systems in place, functional, and displayed to, and accepted by, the City or it's representative; (iii) City operation and maintenance training complete; (iv) HVAC test and balance completed with reports provided to the Design Professional for review; (v) Operational and Maintenance manuals and final Project Record Documents delivered to the City or Design Professional for review, (vi) landscaping and site work complete; and (vii) final cleaning complete.

"Supplier" means a manufacturer, fabricator, supplier, distributor, material manager or vendor having a direct contract with Design-Builder or any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by Design-Builder or any Subcontractor.

"Work" means all design, construction, and Commissioning services, including procuring and furnishing materials, equipment, services, and labor reasonably inferable from the Contract Documents

ARTICLE 2 – DESIGN-BUILDER'S SERVICES AND RESPONSIBILITIES

2.0 The following sections prescribe the services and responsibilities required for the proper execution and completion of the Work by the Design-Builder. They are not organized in any specific order and may pertain to all phases of the Work.

2.1 General Services

2.1.1 Design-Builder shall, through personnel employed by Design-Builder, or procured from qualified Subconsultants or Subcontractors, perform all Work, and provide all material, equipment, tools and labor necessary to complete the Work described in and reasonably inferable from this Agreement.

2.1.1.1 This Agreement shall be executed and signed by City and Design-Builder, stating their agreement to proceed with design in accordance with all codes, standards and requirements as adopted by ordinance or as may be referenced in Exhibit B – Scope of Services.

2.1.1.2 An amendment to this Agreement may be executed and signed by City and Design-Builder, stating their agreement to a GMP, or multiple GMP's, and to proceed with the completion of the design and construction of the Project.

2.1.2 The City hereby acknowledges its acceptance of the key personnel of the design-build team as submitted by the Design-Builder in its statement of qualifications or as amended subsequently during the selection process. At any time hereafter that the Design-Builder desires to reassign or change key personnel while performing under this Agreement, the Design-Builder shall submit a request to reassign or change key personnel and the qualifications of the proposed new key personnel to the City for prior approval.

2.1.3 The Design-Builder will maintain an adequate and competent staff of qualified persons, as may be determined by the City, throughout the performance of this Agreement. If the City objects, with reasonable cause, to any of the Design-Builder's design professionals, the Design-Builder shall take prompt corrective action acceptable to the City and, if required, remove such persons from the Project and replace with new design professionals agreed to by the City.

2.1.4 Design-Builder's Representative shall be reasonably available to City and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with City and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced as described in section 2.1.2.

2.1.5 The parties will meet within seven (7) Days after execution of this Agreement to discuss issues affecting the administration of the Work, the Project Schedule, and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under this Agreement. The Notice to Proceed (NTP) date prescribed in section 4.1 will be established.

2.2 Professional Services.

2.2.1 Design-Builder shall, consistent with applicable state licensing laws, provide qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed design consultants, the necessary Design Services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. The Design-Builder's design professionals shall seal with an Arizona registered professional seal all plans, works, and Deliverables prepared by them for this Agreement as required by state law.

2.2.2 The Design-Builder understands and agrees that the City's Senior City Representative or City Representative, shall be the sole contacts for administering this Agreement. The Design-Builder is not precluded from discussing the Project, or its requirements with the tenants or other entities which will ultimately use the facility, but all specific directions to or requests of the Design-Builder must be authorized by the Senior City Representative or the City Representative.

2.3 Standard of Care for Design Professional Services and Corrections

2.3.1 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project. Notwithstanding the preceding sentence, if the parties agree upon specific performance standards for any aspect of the services, which standards are to be set forth in an exhibit to this Agreement entitled "Performance Standard Requirements," the design professional services shall be performed to achieve such standards.

2.3.2 The Design-Builder shall be responsible for the completeness and accuracy of the plans, specifications, supporting data, and other work prepared or compiled under its obligation for this Project and shall correct, at its expense, all errors, omissions and negligent acts therein which may be discovered. Correction of errors, omissions and negligent acts discovered on architectural or engineering plans and specifications shall be the responsibility of the Design-Builder. The cost of the design necessary to correct those errors attributable to the Design-Builder shall not be reimbursable costs to the Design-Builder. Any damage incurred by the City as a result of additional construction cost caused by such errors, omissions or negligent acts shall not be reimbursed to the Design-Builder to the extent that such errors, omissions and negligent acts fall below the standard of care and skill that a registered professional in Arizona would exercise under similar conditions. The fact that the City has accepted or approved the Design-Builder's product shall in no way relieve the Design-Builder of any of its responsibilities.

2.4 Project Schedule

2.4.1 The Project Schedule shall be established within seven (7) Days of the NTP and, updated and maintained throughout the Work. An updated Project Schedule shall be part of any GMP amendment.

2.4.2 The Project Schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents.

2.4.3 An updated Project Schedule shall be submitted monthly to the City five (5) working Days prior to the Design-Builder's monthly Payment Request as prescribed in Article 7 of this Agreement.

2.4.3.1 Design-Builder shall provide City with a monthly status report with each Project Schedule detailing the progress of the Work, including whether (i) the Work is proceeding according to schedule, (ii) discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, and (iii) other items require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price(s) and within the Contract Time(s).

2.4.3.2 With each Project Schedule submitted, the Design-Builder shall include a transmittal letter including the following.

- Description of problem tasks (referenced to field instructions, requests for information (RFIs), change order or claim numbers) as appropriate.
- Current and anticipated delays not resolved by approved change order, including:
  - Cause of the delay
  - Corrective action and schedule adjustments to correct the delay
  - Known or potential impact of the delay on other activities, milestones, and the date of Substantial Completion
  - Changes in construction sequence
- Pending items and status thereof including but not limited to:
  - Pending change orders
  - Time extension requests
  - Other items
- Substantial Completion date status:
  - If ahead of schedule, the number of Days ahead
  - If behind schedule, the number of Days behind
- Other Project or scheduling concerns

2.4.1 City's review of and response to the Project Schedule is only for general conformance with the scheduling requirements of the Contract Documents. The review shall not relieve the Design-Builder from compliance with the requirements of the Contract Documents or be construed as relieving the Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

2.4.1.1 Upon the City's request, the Design-Builder shall participate in the review of the Design-Builder's Project Schedule submissions. The City may request the participation of Subconsultants and/or Subcontractors in these reviews, as determined necessary by the City.

2.4.5 The Project Schedule shall include a Critical Path Method (CPM) diagram schedule that shall show the sequence of activities, the interdependence of each activity and indicate the path of critical activities.

2.4.5.1 The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates, and total Float times for all activities except critical activities. The CMP diagram shall be presented in a time scaled graphical format for the Project as a whole.

2.4.5.2 The CPM diagram schedule shall indicate all relationships between activities.

2.4.5.3 The activities making up the schedule shall be of sufficient detail to assure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work.

2.4.5.4 The CPM diagram construction schedule shall be based upon activities, which would coincide with the Schedule of Values.

2.4.5.5 The CPM diagram schedule shall show all submittals associated with each work activity and the review time for each submittal.

2.4.5.6 The schedule shall show milestones, including milestones for City-furnished information, and shall include activities for City-furnished equipment and furniture when those activities are interrelated with the Design-Builder's activities.

2.4.5.7 The schedule shall include a Critical Path activity that reflects anticipated weather delay during the performance of the Contract. The duration shall reflect the average climatic range and usual industrial conditions prevailing in the locality of the Site. Weather data shall be based on the information set forth on the City of Flagstaff's Table of "Monthly Anticipated Adverse Weather Calendar Days" and the explanatory paragraphs attached thereto.

2.4.5.8 The Project Schedule shall consider the City's occupancy requirements showing portions of the Project having occupancy priority, and Contract Time.

2.4.5.9 In the event of significant delays, lags or changes in the planned sequence of activities, as determined by Owner, Contractor shall provide to Owner a Recovery Schedule indicating proposed rescheduling of activities to achieve completion of the Project by the Scheduled Substantial Completion Date.

2.4.6 Float time shall be as prescribed below:

2.4.6.1 The total Float within the overall schedule, is not for the exclusive use of either the City or the Design-Builder, but is jointly owned by both and is a resource available to and shared by both parties as needed to meet contract milestones and the Project completion date.

2.4.6.2 The Design-Builder shall not sequester shared Float through such strategies as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing, etc. Since Float time within the schedule is jointly owned, no time

extensions will be granted nor delay damages paid until a delay occurs which extends the Work beyond the Substantial Completion date, and then only if such extensions or damages are shown to be justified under the Contract Documents.

2.4.6.3 Since Float time within the construction schedule is jointly owned, it is acknowledged that City-caused delays on the Project may be offset by City-caused time savings (i.e., Critical Path submittals returned in less time than allowed by the Contract, approval of substitution requests and credit changes which result in a savings of time to the Design-Builder, etc.). In such an event, the Design-Builder shall not be entitled to receive a time extension or delay damages until all City-caused time savings are exceeded, and the Substantial Completion date is also exceeded.

2.5 Cost Estimates

2.5.1 The Project budget available for the Work will be communicated to the Design-Builder through separate correspondence. The Design-Builder is responsible for the delivery of the Project covered by the Contract Documents within the Project budget.

2.5.2 With each Project Schedule submittal pursuant section 2.4.3, the Design-Builder shall provide a detailed cost estimate and a written review of the documents.

2.5.2.1 If any estimate submitted to the City exceeds previously accepted estimates or the City's Project budget, the Design-Builder shall make at its sole expense appropriate recommendations on methods and materials to the City that it believes will bring the Project back into the Project budget.

2.5.2.2 In between these milestone estimates, the Design-Builder shall periodically provide a tracking report which identifies the upward or downward movements of costs due to value engineering or scope changes. It shall be the responsibility of the Design-Builder to keep the City informed as to the major trend changes in costs relative to the City's budget.

2.5.3 If requested by the City, the Design-Builder shall prepare a preliminary "cash flow" projection based upon historical records of similar type projects to assist the City in the financing process.

2.6 Not Used

2.7 Construction Management Plan

2.7.1 The Design-Builder will prepare a Construction Management Plan (CMP).

2.7.2 The CMP shall include:

- Project milestone dates and the Project Schedule, including the broad sequencing of the design and construction of the Project,
- Investigations, if any, to be undertaken to ascertain subsurface conditions and physical conditions of existing surface and subsurface facilities and underground utilities,
- Alternate strategies for fast-tracking and/or phasing the construction,
- Goal compliance strategy,
- The number of separate sub-agreements to be awarded to Subcontractors and Suppliers for the Project construction,
- Permitting strategy,
- Safety and training programs,
- Construction quality control,
- Commissioning program,
- Cost estimate and basis of the model, and
- Matrix summarizing each Project Team member's responsibilities and roles.

2.7.3 The Design-Builder shall add detail to its previous version of the CMP to keep it current throughout

the design phase, so that the CMP is ready for implementation at the start of construction.

2.8 Design Services

2.8.1 Design-Builder shall provide all interim design submissions and Deliverables as prescribed in the Performance Standards Requirements provided by the City, and as shown on the Project Schedule.

2.8.1.1 Within seven (7) Days after a scheduled submission, the Design-Builder and City shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any significant changes or deviations from the Contract Documents, or previously submitted design submissions.

2.8.1.2 The Design-Builder, with each required submittal, shall submit and distribute ten, or as otherwise identified in the Performance Standards Requirements, hard copy sets of plans and specifications.

2.8.1.3 Minutes of the meetings will be maintained by Design-Builder and provided within five Days following the design review meeting to all attendees for review.

2.8.1.4 City shall review and approve the interim design submissions in a time that is consistent with the turnaround times set forth in Design-Builder's Owner approved Project Schedule.

2.8.1.5 Design-Builder shall not cause the design to proceed until City approves the interim design submissions as prescribed in this section. If the Design-Builder allows the design to proceed without City approval, the cost of any resultant redesign is not a reimbursable cost.

2.8.1.6 City's review and approval of interim design submissions and the Construction Documents is for the purpose of mutually establishing a conformed set of Construction Documents compatible with the requirements of the Project. Neither City's review nor approval of any interim design submissions and Construction Documents shall be deemed to transfer any design liability to the City.

2.8.2 The Project design must meet all applicable (i) Maricopa Association of Governments (MAG) Uniform Standard Technical Specifications and Uniform Standard Details and Drawings, latest revision; (ii) the City of Flagstaff Supplements and Amendments to the latest revision of the MAG Uniform Standard Technical Specifications and Uniform Details and Drawings; (iii) the City of Flagstaff Engineering Design and Construction Standards and Specifications, latest edition, (iv) all City building standards; and (v) shall include any general provisions provided by the City.

2.8.3 The Project design criteria and specifications shall be in accordance with all codes, standards and requirements as adopted by ordinance or as may be referenced in Exhibit C – Performance Standards Requirements. Variances from the standards and guidelines must be identified in writing by the Design-Builder and approved by the City. The Design Builder shall identify conflicts between the design standards and guidelines and the requirements in section 2.8.2 above or Legal Requirements and shall obtain concurrence with resolution of the conflict. The design standards and guidelines or approval of variances or resolution of conflicts shall not be deemed to transfer any design liability to the City.

2.8.4 The Design-Builder shall not specify any construction materials known to be hazardous or potentially hazardous, including asbestos, lead or any derivative thereof unless specifically approved in writing by the City.

2.8.5 The Design-Builder shall coordinate with private, public and City utilities (i.e., Information Technology Department, Water Services Department) regarding standard utility issues and incorporate pertinent information in the plans.

2.8.6 The Design-Builder shall be responsible for scheduling, submitting to, obtaining approval and retrieving all required Construction Documents from the various required reviewing agencies.

2.8.7 Until such time as a GMP amendment has been executed, Design-Builder when requested by the City, will attend, make presentations, and participate as may be appropriate in public agency and/or community meetings relative to the Project. Design-Builder will provide drawings, schedule diagrams, budget charts and other materials describing the Project, when their use is required or appropriate in any such meetings.

2.8.8 Design-Builder shall submit to the City, Construction Documents setting forth in detail drawings and specifications describing the requirements for construction.

2.8.8.1 The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting.

2.8.8.2 The Design-Builder shall provide the drawings in AutoCAD format compatible with City of Flagstaff Community Development Department CADD technology using City layering standards.

2.8.8.3 The drawing format will be a 24" x 36" sheet size unless otherwise authorized in writing by the City.

2.8.8.4 The parties shall have a design review meeting to discuss, and City shall review and approve, the Construction Documents in accordance with the procedures set forth this section.

2.8.8.5 Prior to commencement of construction, Design-Builder shall submit to the City the following.

- One set of approved Construction Drawings in AutoCAD format on electronic media (CD-ROM);
- Five print sets of approved Construction Drawings and five half-size sets; and
- Five sets of specifications.

2.8.9 To the extent not prohibited by Legal Requirements, Design-Builder may arrange for interim design submissions and Construction Documents for a portion of the construction to permit construction to proceed on that portion prior to completion of the Construction Documents for the entire construction.

2.9 Not Used

2.10 Government Approvals and Permits

2.10.1 Design-Builder shall obtain all necessary permits, approvals, and licenses required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project. **The Design-Builder is specifically reminded of the need to obtain the necessary environmental permits and/or file the necessary environmental notices.**

2.10.2 Copies of these permits and notices must be provided to the City's Representative prior to starting the permitted activity. In the case of Fire Department permits, a copy of the application for permit shall also be provided to the City's Representative. This provision does not constitute an assumption by the City of any obligation of any kind for violation of said permit or notice requirements.

2.10.3 City shall be responsible for City of Flagstaff review and permit(s) fees for building and demolition permits. City will also pay review fees for grading and drainage, water, sewer, and landscaping. City shall also pay for utility fees for permanent services.

2.10.4 Design-Builder shall be responsible for all other permits and review fees not specifically listed in section 2.10.3 above.

2.10.5 Design-Builder is responsible for the cost of water meter(s), water and sewer taps and fire lines and taps, and all utility fees including incremental billings until Substantial Completion. Arrangements for construction water and associated fees are the Design-Builder's responsibility.

2.11 Subcontractor Selection

2.11.1 Subcontractors shall be selected by a combination of qualifications and price derived through competitive bidding.

2.11.1.1 Design-Builder shall employ only Subcontractors who are duly licensed in Arizona and qualified to perform the Work per the requirements of the Contract Documents.

2.11.2 The Design-Builder will develop Subcontractor interest, submit the names of a minimum of three qualified Subcontractors selected pursuant to a qualifications based procedure, for each trade in the Project for approval by the City and solicit bids for the various construction categories. If there are not three qualified Subcontractors available for a specific trade or there are extenuating circumstances warranting such, the Design-Builder may request approval by the City to submit less than three names. Without prior approval by the City, no change in the City-approved Subcontractors will be allowed.

2.11.2.1 If the Design-Builder desires to self-perform certain portions of the construction, it will request to be one of the approved Subcontractor bidders for those specific bid packages. The Design-Builder's bid will be evaluated in accordance with the process identified below. If after selection of a Subcontractor, events warrant and the City concurs, the Design-Builder may self perform construction without bidding or re-bidding.

2.11.2.2 If the City objects to any nominated Subcontractor or to any nominated self-performed construction for good reason, the Design-Builder will nominate a substitute Subcontractor.

2.11.2.3 The Design-Builder will distribute drawings and specifications, and when appropriate, conduct a prebid conference with prospective Subcontractors.

2.11.2.4 The Design-Builder shall receive, open, record and evaluate the bids. The apparent low bidders will be interviewed to determine the responsiveness of their proposals. In evaluating the responsiveness of bid proposals the Design-Builder, in addition to bid price, shall consider the following factors: past performance on similar projects, qualifications and experience of personnel assigned, quality management plan, approach or understanding of the Work to be performed, and performance schedule to complete the Work. The final evaluation of Subcontractor bids will be done with the City Representative in attendance to observe and witness the process. The Design-Builder will resolve any Subcontractor bid withdrawal, protest or disqualification in connection with the award at no increase in the cost of the construction.

2.11.3 Upon completion of the Subcontractor selection process, the Design-Builder shall submit a summary report to the City of the entire Subcontractor selection process. The report will indicate, by bid process, all Subcontractors contacted to determine interest, the Subcontractors solicited, the bids received and costs negotiated, and the selected Subcontractors for each category of Work.

2.11.4 The selected Subcontractors will provide a Schedule of Values, which will be used to create the overall Project Schedule of Values.

2.12 General Construction Services

2.12.1 Unless otherwise provided in the Contract Documents to be the responsibility of City or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, taxes, inspection, testing, start-up, material, equipment, machinery, arrangements for temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.12.2 The Design-Builder shall completely and totally construct the Project and install the material therein for the City, in a good and workmanlike and substantial manner. The Work shall be to the satisfaction of the City and strictly pursuant to and in conformity with the Contract Documents as amended.

2.12.3 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.13 Pre-construction Conference

2.13.1 After approval of Construction Documents and prior to the commencement of any construction, the City's Representative will schedule a pre-construction conference.

2.13.2 The purpose of this conference is to establish a working relationship between the Design-Builder, utility firms, and various City agencies. The agenda will include critical elements of the construction schedule, submittal schedule, cost breakdown of major lump sum items, the level of Record Project Documents required, Payment Requests and processing, coordination with the involved utility firms, and emergency telephone numbers for all representatives involved in the course of construction.

2.13.3 The construction start date will be concurred with. After the meeting a Notice to Proceed letter will be issued confirming the construction start date, duration of the construction and if applicable the Substantial Completion date. If a Substantial Completion date is established the conditions of the Substantial Completion will be listed.

2.13.4 The Design-Builder shall provide a Schedule of Values based on the categories used in the buy out of the construction, but not greater than the approved GMP, and identifying the construction contingency. The Schedule of Values will subdivide the construction into all items comprising the construction.

2.13.5 Minimum attendance by the Design-Builder shall be the Design-Builder's Representative who is authorized to execute and sign documents on behalf of the firm, the Design-Builder's Design and Contractor Representatives, the job superintendent, and the Design-Builder's safety officer.

2.14 Supervision of Construction

2.14.1 Design-Builder or the Design-Builder's Representative shall at all times be present at the Site when construction activities are taking place.

2.14.1.1 All elements of the construction, such as concrete work, pipe work, etc., shall be under the direct supervision of a foreman or his designated representative on the Site, who shall have the authority to take actions required to properly carry out that particular element of the construction.

2.14.1.2 In the event of noncompliance of this section 2.14, the City may require the Design-Builder to stop or suspend the construction in whole or in part. Such suspension, due to the Design-Builder's noncompliance shall not be considered a basis for an increase in the Contract Price or extension of Contract Time.

2.14.2 Where the Contract Documents require that a particular product be installed and/or applied by an applicator approved by the manufacturer, it is the Design-Builder's responsibility to ensure the Subcontractor employed for such Work is approved.

2.14.3 During construction the City may reasonably object to any Subcontractor and the Subcontractor shall be removed from the construction, provided that the Contract Price and/or Contract Time(s) may be adjusted to the extent that City's decision impacts Design-Builder's cost and/or time of performance.

2.14.4 Any person employed by the Design-Builder or any Subcontractor who, in the opinion of the City, does not perform his work in a proper, skillful and safe manner or is intemperate or disorderly shall, at the written request of the City, be removed from the construction by Design-Builder or Subcontractor employing such person, and shall not be employed again in any portion of construction without the

written approval of the City. The Design-Builder or Subcontractor shall keep the City harmless from damages or claims, which may occur in the enforcement of this section.

2.14.5 Design-Builder shall be solely responsible to City for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between City and any Subcontractor, including but not limited to any third-party beneficiary rights.

2.14.6 Design-Builder shall coordinate the activities of all Subcontractors. If City performs other work on the Project or at the Site with separate contractors under City's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.15 Control of Construction Site

2.15.1 Throughout all phases of construction, including suspension of Work, Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the construction, or a portion of the construction, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the construction or applicable portions thereof to permit City to occupy the Project or a portion of the Project for its intended use.

2.15.2 Design-Builder shall take whatever steps, procedures or means to prevent any dust nuisance due to construction operations. The dust control measures shall be maintained at all times to the satisfaction of the City and in accordance with the requirements of the Arizona Department of Environmental Quality (ADEQ).

2.15.3 Design-Builder shall maintain ADA and ANSI accessibility requirements during construction activities in an occupied building or facility. ADA and ANSI accessibility requirements shall include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. Design-Builder shall be responsible for the coordination of all Work to minimize disruption to building occupants and facilities.

2.15.4 In the event of abnormal weather conditions, such as windstorms, rainstorms, snowstorms, etc., the Design-Builder shall immediately inspect the work site and take all necessary actions to insure public access and safety are maintained, and that the Work in place and site conditions are protected from damage.

2.15.5 Only materials and equipment, which are to be used directly in the construction, shall be brought to and stored on the Site by the Design-Builder. When equipment is no longer required for the construction, it shall be removed promptly from the Site. Protection of construction materials and equipment stored at the Site from weather, theft, damage and all other adversity is solely the responsibility of the Design-Builder.

2.16 Shop Drawings, Product Data and Samples

2.16.1 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the construction for which submittals are required the way the Design-Builder proposes to conform to the information given and the design concept expressed in the Construction Documents.

2.16.2 The Design-Builder shall review, approve, verify, and submit to the City three copies of each Shop Drawing, Product Data, Sample, and similar submittal required by the Construction Documents in accordance with the approved construction schedule as prescribed in section 4.2 as to cause no delay in the Work or in the activities of the City or of separate contractors.

2.16.3 By approving, verifying and submitting Shop Drawings, Product Data, Samples and similar submittals, the Design-Builder represents that the Design-Builder has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the construction and of the Construction Documents.

2.16.4 The Design-Builder shall not be relieved of responsibility for deviations from requirements of the Contract Documents unless the Design-Builder has specifically informed the City in writing of such deviation at the time of submittal and the City has given written approval to the specific deviation.

2.16.5 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the City shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

2.17 Quality Control, Testing and Inspection

2.17.1 All materials used in the construction shall be new and unused, unless otherwise agreed to in writing by the parties, and shall meet all quality requirements of the Contract Documents.

2.17.2 All construction materials to be used on the construction or incorporated into the construction, equipment, plant, tools, appliances or methods to be used in the construction may be subject to the inspection and approval or rejection of the City. Any material rejected by the City shall be removed immediately and replaced in an acceptable manner.

2.17.3 The procedures and methods used to sample and test material will be determined by the City. Unless otherwise specified, samples and tests shall be made in accordance with (i) Maricopa Association of Governments (MAG) Uniform Standard Technical Specifications and Uniform Standard Details and Drawings, latest revision, (ii) the City of Flagstaff Supplements and Amendments to the latest revision of the MAG Uniform Standard Technical Specifications and Uniform Details and Drawings, (iii) City of Flagstaff Engineering Design and Construction Standards and Specifications latest revision, and (iv) ASHTO and ASTM standards, latest revisions.

2.17.4 The City will select a pre-qualified City or independent testing laboratory and will pay for initial City acceptance testing.

2.17.4.1 When the first and subsequent tests indicate noncompliance with the Contract Documents, the cost associated with that noncompliance and the cost of all tests, except the first test, will be paid for by the Design-Builder. Construction contingency cannot be utilized for the cost of re-testing.

2.17.4.2 When the first and subsequent tests indicate noncompliance with the Contract Documents, all retesting shall be performed by the same testing agency.

2.17.5 The Design-Builder will cooperate with the selected testing laboratory and all others responsible for testing and inspecting the Work and shall provide them access to the Work at all times.

2.17.6 At the option of the City, materials may be approved at the source of supply before delivery is started.

2.17.7 Code compliance testing and inspections required by codes or ordinances, or by a plan approval authority, and which are made by a legally constituted authority, shall be the responsibility of and shall be paid by the Design-Builder, unless otherwise provided in the Contract Documents.

2.17.8 Design-Builder's convenience and quality control testing and inspections shall be the sole responsibility of the Design-Builder and paid by the Design-Builder.

2.18 Trade names and Substitutions. Construction Document references to equipment, materials or

patented processes by manufacturer, trade name, make or catalog number, unless indicated that no substitutions are permitted, may be substituted. Substitute or alternate items may be permitted, subject to the following:

2.18.1 The substitution shall be submitted by Design-Builder in writing to the City.

2.18.2 The Design-Builder shall certify that the substitution will perform the functions and achieve the results called for by the general design, be similar and of equal substance, and be suited to the same use as that specified.

2.18.3 The submittal shall state any required changes in the Construction Documents to adapt the design to the proposed substitution.

2.18.4 The submittal shall contain an itemized estimate of all costs and credits that will result directly and indirectly from the acceptance of such substitution, including cost of design, license fees, royalties, and testing. Also, the submittal shall include any adjustment in the Contract Time created by the substitution. Substitutions will only be considered if they do not extend Contract Time.

2.18.5 The Design-Builder if requested by the City shall submit Samples or any additional information that may be necessary to evaluate the acceptability of the substitution.

2.18.6 The City will make the final decision and will notify the Design-Builder in writing as to whether the substitution has been accepted or rejected. If accepted, the Design-Builder will cause the Construction Documents to be revised as approved at the Design-Builder's cost.

2.18.7 The Design-Builder shall continue to perform the construction in accordance with the Construction Documents unless the City accepts the substitution and there is no extension of Contract Time.

2.19 Project Record Documents

2.19.1 During the construction period, the Design-Builder shall maintain at the Site a set of blueline or blackline prints of the Construction Drawings and Shop Drawings for Project Record Document purposes.

2.19.1.1 The Design-Builder shall mark these drawings to indicate the actual installation where the installation varies appreciably from the original Construction Drawings. The Design-Builder shall give particular attention to information on concealed elements, which would be difficult to identify or measure and record later. Items required to be marked include but are not limited to:

- Dimensional changes to the drawings.
- Revisions to details shown on drawings
- Depths of foundations below first floor
- Locations and depths of underground utilities
- Revisions to routing of piping and conduits.
- Revisions to electrical circuitry.
- Actual equipment locations.
- Duct size and routing.
- Locations of concealed internal utilities.
- Changes made by Change Order, Field Order, Report of Field Change, ASI or RFI.
- Details not on original Construction Drawings.

2.19.1.2 The Design-Builder shall mark completely and accurately Project record drawing prints of Construction Drawings or Shop Drawings, whichever is the most capable of indicating the actual physical condition. Where Shop Drawings are marked, show cross-reference on Construction Drawings location.

2.19.1.3 The Design-Builder shall mark Project record drawings sets with red erasable colored pencil.

2.19.1.4 The Design-Builder shall note RFI Numbers, ASI Numbers and Change Order numbers, etc, as required to identify the source of the change to Construction Drawings.

2.19.1.5 The Design-Builder shall as a condition of Substantial Completion, submit Project record drawing prints and Shop Drawings to the City or its representative for review and comment.

2.19.2 Final Project record drawings: Upon receipt of the reviewed Project record drawings from the City, the Design-Builder shall correct any deficiencies and/or omissions to the drawings and prepare the following for submission to the City within 14 Days:

2.19.2.1 On electronic media: (i) a complete set of Project record drawings prepared in Autocad format compatible with City of Flagstaff Community Development Department CADD technology using City layering standards, each drawing shall be clearly marked with "As-Built Document;" (ii) a complete set of Project specifications in Microsoft Word format; and (iii) Shop Drawings in CADD or graphic file format.

2.19.2.2 On hard copy media: (i) a complete set of reproducible mylars from the final AutoCAD drawings in the format compatible with City of Flagstaff Community Development Department CADD technology using City layering standards; and (ii) two edge bound blueline or blackline sets reproduced from these mylars.

2.19.2.3 The original copy of the Project record drawings (redline mark-ups).

2.20 Project Safety

2.20.1 Design-Builder recognizes the importance of performing the construction in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the construction, including materials and equipment incorporated into the construction or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto.

2.20.2 Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the construction.

2.20.3 Design-Builder shall, prior to commencing construction, designate a safety representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the construction. Unless otherwise required by the Contract Documents, Design-Builder's safety representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety.

2.20.4 The safety representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

2.20.5 Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any City-specific safety requirements set forth in the Contract Documents, provided that such City-specific requirements do not violate any applicable Legal Requirement.

2.20.6 Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the construction to City's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the construction.

2.20.7 Design-Builder's responsibility for safety under this section is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the construction.

2.21 Commissioning

2.21.1 The Design-Builder shall develop a Commissioning program, subject to the City's approval, as part of its CMP pursuant to section 2.7.

2.21.2 The Commissioning program shall include the roles and responsibilities of the City, tenants, and the Design-Builder.

2.21.3 The Design-Builder will provide a final Commissioning report indicating that the Project and all its systems and components are functioning as prescribed in the Contract Documents and training has been completed as required by the Contract Documents.

2.22 Design-Builder's Warranty

2.22.1 Design-Builder warrants to City that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship.

2.22.2 Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Project by persons other than Design-Builder and anyone for whose acts Design-Builder may be liable.

2.22.3 Design-Builder's warranty obligation shall be for one (1) year, except for such greater periods as may be required by the technical specifications.

2.22.4 Nothing in this warranty is intended to limit any manufacturer's warranty, or any other remedy at law available to the City, which provides City with greater warranty or other rights than set forth in this section or the Construction Documents.

2.22.5 Design-Builder will provide City with all manufacturers' warranties upon Substantial Completion.

2.23 Correction of Defective Construction

2.23.1 Design-Builder agrees to correct any construction that is found to not be in conformance with the Construction Documents, including that part of the construction subject to section 2.22 hereof. A progress payment, or partial or entire use or occupancy of the Project by the City shall not constitute acceptance of construction not in accordance with the Construction Documents.

2.23.2 Design-Builder shall, within seven Days of receipt of written notice from City that the construction is not in conformance with the Construction Documents, take meaningful steps to commence correction of such nonconforming construction, including the correction, removal or replacement of the nonconforming construction and any damage caused to other parts of the construction affected by the nonconforming construction.

2.23.3 If Design-Builder fails to commence the necessary steps within such seven Day period, City, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that City will commence correction of such nonconforming construction with its own forces. If City does perform such corrective construction, Design-Builder shall be responsible for all reasonable costs incurred by City in performing such correction. Any such Work performed by the City as a result of the Design-Builder's failure to commence corrective action shall not impact, in any way, the remaining warranty of the affected construction.

2.23.4 If the nonconforming construction creates an emergency requiring an immediate response, the Design-Builder will respond and initiate corrections within twenty-four hours.

2.23.5 Sections 2.22 and/or 2.23 above shall not limit any rights or remedies the City may have regarding Design-Builder's obligations under the Contract Documents.

ARTICLE 3 - CITY'S SERVICES AND RESPONSIBILITIES

3.1 Duty to Cooperate

3.1.1 City shall, throughout the performance of Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 City shall provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in the Project Schedule.

3.1.3 City's Representative as identified in section 8.4.1.2 shall be responsible for providing City-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. City's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work.

3.1.4 Appropriate City staff will be available and will participate in required training as part of the Commissioning activities.

3.1.4 If requested by the Design-Builder, the City's Representative will provide assistance and guidance in obtaining necessary permits. Regulating agencies of the City, such as the Community Development Department and the Utilities Department, enforce Legal Requirements. These enforcement activities are not subject to the responsibilities of the City under this Agreement.

3.2 Furnishing of Services and Information

3.2.1 The City will be responsible for the payment of the following:

3.2.1.1 City review and permit(s) fees for building and demolition permits.

3.2.1.2 City review fees for grading and drainage, water, sewer, and landscaping.

3.2.1.3 Utility fees for permanent services.

3.2.2 Unless expressly stated to the contrary in the Contract Documents, City will provide, at its own cost and expense, for Design-Builder's information, the following:

3.2.2.1 To the extent available, surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

3.2.2.2 Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

3.2.2.3 A legal description of the Site.

3.2.2.4 To the extent available, as-built record and/or historical drawings of any existing structures at the Site;

3.2.2.5 To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including hazardous materials, in existence at the Site; and

3.2.2.6 To the extent available, geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

3.2.3 City will provide all City standards and guidelines, supplementary conditions and special provisions that shall be included in the plans and specifications for the Project. These may include but are not limited to: disposal of surplus material, special security provisions, investigation of underground facilities, traffic controls and regulations, special quality control testing and termite treatment requirements.

3.2.4 City is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the construction. City is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 Field Inspections

3.3.1 The City may utilize field inspectors to assist the City's Representative during construction in observing performance of the Design-Builder. The inspector is for the purpose of assisting the City's Representative and should not be confused with an inspector with a City regulatory agency or with an inspector from a City laboratory pursuant to section 2.17.

3.3.2 Through onsite observation of the Work in progress and field checks of materials and equipment, the inspector shall endeavor to provide protection against defects and deficiencies in the Work.

3.3.2.1 The inspector will be authorized to inspect all Work and materials furnished. Such inspection may extend to all or part of the Work and to the preparation, fabrication or manufacture of the materials to be used.

3.3.2.2 The inspector will not be authorized to issue instructions contrary to the Construction Documents or to act as foremen for the Design-Builder.

3.3.2.3 The inspector shall have the authority to reject Work or materials until any questions at issue can be decided by the City's Representative.

3.3.3 The furnishing of such services for the City shall not make the City responsible for or give the City control over construction means, methods, techniques, sequence or procedures or for safety precautions or programs or responsibility for the Design-Builder's failure to perform the Work in accordance with Contract Documents.

3.4 City's Separate Contractors. City is responsible for all Work performed on the Project or at the Site by separate contractors under City's control. City shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

3.5 Project Management Services (if applicable to this Project)

3.5.1 The City may contract separately with one or more technical consultants to provide project management assistance of the Project. The technical consultant's contract as well as other firms hired by the City shall be furnished to the Design-Builder. The Design-Builder shall not have any right however, to limit or restrict any contract modifications that are mutually acceptable to the City and technical consultant.

3.5.2 The technical consultant services will augment the City staffing resources to effectively manage the objectives of the City and this Project with the goal of managing the key project communication, cost

and time parameters. The City and the Design-Builder shall endeavor to communicate through the technical consultant.

3.5.3 The technical consultant may provide preprogramming and design standards.

3.5.4 The City may contract with the technical consultant to provide some or all of the following services during the performance of the construction:

3.5.4.1 Oversight of the construction.

3.5.4.2 Site visits at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed construction and to determine in general if the construction is being performed in accordance with the Construction Documents. The technical consultant will keep the City informed of progress of the construction, and will endeavor to guard the City against defects and deficiencies in the construction. The technical consultant may have authority to reject construction which does not conform to the Construction Documents and to require additional inspection or testing of the construction in accordance with section 2.17.

3.5.4.3 Review and recommend approval of the Design-Builder's Payment Requests.

3.5.4.4 Interpretations of matters concerning performance under and requirements of the Contract Documents on written request of the City. The technical consultant's response to such requests will be made with reasonable promptness and within any time limits agreed upon.

3.5.4.5 Analyze, recommend and assist in negotiations of Change Orders.

3.5.4.6 Conduct inspections to determine Substantial Completion and Final Acceptance.

3.5.4.7 Receive and forward to the City for the City's review and records written warranties and related documents required by the Contract Documents and assembled by the Design-Builder.

3.5.5 Commissioning Services. The technical consultant may supervise and/or participate in the Commissioning activities.

ARTICLE 4 – CONTRACT TIME

4.1 Contract Time.

4.1.1 Contract Time shall start with the Notice to Proceed (NTP) and end with Substantial Completion.

4.1.2 The City shall issue a NTP letter establishing the mutually agreed upon NTP date for this Agreement and design.

4.1.3 The Design-Builder shall provide a Project Schedule of the design activities within seven (7) Days after the NTP.

4.1.3.1 The Project Schedule shall provide fourteen (14) Days to be used by the City or its designee for reviews and approvals for any interim design submissions pursuant to section 2.8.

4.1.3.2 Failure on the part of the Design-Builder to adhere to the Project Schedule may be the basis for termination of this Agreement by the City.

4.1.4 Each GMP amendment to this Agreement will establish a separate construction NTP date Performance Period and Substantial Completion date for the entire Project. The Performance Period(s) for individual GMP's may be sequential or concurrent as established in the individual Notices To Proceed.

4.1.5 Design-Builder agrees that it will commence performance of the Work and achieve Performance Periods and the Contract Time.

4.1.6 All of the times set forth in this Article 4 or by amendments to this Agreement shall be subject to adjustment in accordance with Article 6.

4.2 **Construction Schedule.** Each approved GMP proposal shall include a Project Schedule as prescribed in section 2.4 with a CPM diagram construction schedule that will indicate the path of critical activities and establish the Performance Period encompassed by the GMP. The Design-Builder will maintain the construction schedule throughout the construction.

4.3 **Substantial Completion**

4.3.1 Substantial Completion shall be for the entire Project unless a partial Substantial Completion is identified in the approved GMP schedule and stated in the Notice to Proceed letter. Substantial Completion shall be in accordance with its definition in Article 1 and with the criteria set forth in the Notice to Proceed.

4.3.2 Prior to notifying the City in accordance with section 4.3.3 below, the Design-Builder shall inspect the construction and prepare and submit to the City a comprehensive list of items to be completed or corrected. The Design-Builder shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all construction in accordance with the Construction Documents.

4.3.3 Design-Builder shall notify City when it believes the construction, or a portion of the construction, is substantially complete.

4.3.4 Within five Days of City's receipt of Design-Builder's notice, City and Design-Builder will jointly inspect such construction to verify that it is substantially complete in accordance with the requirements of the Construction Documents.

4.3.5 If such construction is substantially complete, City shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the construction or portion thereof, (ii) the remaining items of construction that have to be completed within thirty Days before Final Acceptance, (iii) provisions (to the extent not already provided in the Contract Documents) establishing City's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending Final Acceptance, and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

4.3.6 City, at its option, may use a portion of the construction which has been determined to be substantially complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of construction addressing the items set forth in section 4.3.5 above, (ii) Design-Builder and City have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) City and Design-Builder agree that City's use or occupancy will not interfere with Design-Builder's completion of the remaining construction.

4.4 **Final Completion and Acceptance.** The Work, or identified portions of the Work must be finally complete within thirty Days from the date the Certificate of Substantial Completion is issued unless there is a written agreement of the parties that establishes another date for Final Completion. Upon receipt of written notice that the construction or identified portions of the Work is ready for final inspection and acceptance, City and Design-Builder will jointly inspect to verify that the remaining items of Work have been completed as set forth in section 4.3.5. The City will issue a Final Acceptance letter when the City finds the Work or identified portions of the Work to be finally

complete.

4.5 **Liquidated Damages – Substantial Completion.** Design-Builder understands that if Substantial Completion is not attained within the Contract Time as may be adjusted, City will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained within the Contract Time as may be adjusted, Design-Builder shall pay the City (to be determined separately for each GMP) as liquidated damages, and not as a penalty, for each Day that Substantial Completion extends beyond the date determined by the Contract Time as adjusted and further agrees that such amount is reasonable under the circumstances.

4.6 **Liquidated Damages – Final Completion.** Design-Builder understands that if Final Completion is not attained within the time allowed in section 4.4 above, as may be adjusted, the City will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Final Completion is not attained within the specified time as may be adjusted, Design-Builder shall pay the City (to be determined separately for each GMP) as liquidated damages, and not as a penalty, for each Day that Final Completion extends beyond the date for Final Completion as determined by the Agreement and further agrees that such amount is reasonable under the circumstances.

ARTICLE 5 – CONTRACT PRICE

5.1 Contract Price.

5.1.1 The Contract Price will be the amounts prescribed for design in section 5.2 below plus GMPs and Owner's Contingency.

5.1.2 The Contract Price is subject to adjustments made in accordance with Article 6 and by amendment.

5.1.2.1 GMP amendments are cumulative except for contingency. The amount of contingency for each GMP amendment will be negotiated separately.

5.1.2.2 If the GMP requires an adjustment due to changes in the Work, the cost of such changes is determined subject to Article 6. The markups that shall be allowed on such changes shall be no greater than the markups delineated in the approved GMP.

5.1.3 Unless otherwise provided in the Contract Documents, the Contract Price is deemed to include all sales, use, consumer and other taxes which are legally enacted when negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

5.2 Design

5.2.1 The Design-Builder's fee for providing, through personnel employed by Design-Builder or procured from qualified Subconsultants, Design Services and GMP preparation for the construction of the City Court Facility Project. The Fee Schedules in Exhibit B shall determine the basis for payment depending on how and when the individual Sites become available. Any savings from the design shall revert to the City for use during construction.

5.2.2 The contract fees for Design-Builder and Subconsultants are based upon the approved cost proposal dated June 10, 2018 attached hereto as Exhibit B as reimbursable, not to exceed amount of $1,593,628.00.

5.3 GMP

5.3.1 At the end of the design phase or at a time determined by the City, the City will request the Design-Builder to provide a GMP or series of GMP's at the same or different times. The approved GMP(s) will be made part of this Agreement by amendment. The GMP(s) will include amounts for completion of design, if applicable, in the same format as prescribed above and a price for construction in

accordance with section 5.3.3.

5.3.2 The Design-Builder guarantees to bring the completion of the design and construction within the GMP or Design-Builder alone will be required to pay the difference between the actual cost and the GMP.

5.3.2.1 Any savings of the Design-Builder's bid contingency used to buy out the construction at the conclusion of the selection of Subcontractors may be used during construction by the Owner as a construction contingency.

5.3.2.2 Any savings realized during construction may be, at the City's sole discretion, incorporated into the construction of the Project to fund additional scope items or will be returned to the City upon the City's request.

5.3.3 The GMP is composed of the following not-to-exceed cost reimbursable or lump sum amounts defined below.

5.3.3.1 The Cost of the Work is actual costs and is a not-to-exceed reimbursable amount.

5.3.3.2 The General Conditions Costs are firm fixed lump sum amount which will include bonds and insurance premiums based on the full Contract Price for construction.

5.3.3.3 The Construction Fee is a firm fixed lump sum.

5.3.3.4 Design-Builder's Contingency is an amount the Design-Builder may use under the following conditions: (1) at its discretion for increases in the Cost of the Work, or (2) with written approval of the City for increases in General Condition Costs. Design-Builder Contingency is assumed to be a direct Project cost so will receive all markups at the time of GMP submission.

5.3.3.5 Taxes are deemed to include all sales, use, consumer and other taxes which are legally enacted when negotiations of the GMP were concluded, whether or not yet effective or merely scheduled to go into effect. Taxes are actual costs and are a not-to-exceed reimbursable amount.

5.3.3.6 When the Design-Builder utilizes Design-Builder's Contingency funds, the Design-Builder shall make the appropriate changes to the Schedule of Values with the next regular progress Payment Request. The Design-Builder shall deduct the amount of Design-Builder's Contingency funds used from the Design-Builder's Contingency line item and add the same amount to the line item on the Schedule of Values where the funds were used. If the Design-Builder's Contingency funds are used for a new line item that was not given with the original Schedule of Values, that will be so indicated.

5.3.4 The Owner's Contingency is funds to be used at the sole discretion of the City to cover any increases in Project costs that result from City directed changes, Differing Site Conditions, or as the City may otherwise elect. Owner's Contingency will be added to the GMP amount provided by the Design-Builder, the sum of which will be the full Contract Price for construction. Markups for Construction Fee and taxes will be applied by the Design-Builder at the time that Owner's Contingency is used.

5.3.5 GMPs are cumulative except for Design-Builder's Contingency. The amount of Design-Builder Contingency for each GMP amendment will be negotiated separately and shall reflect the Design-Builder's risk from that point in the Project forward.

5.4 GMP Proposal

5.4.1 When requested, the Design-Builder shall submit three (3) sets of the approved sealed design submittal to be used to establish the GMP.

5.4.1.1 The Design-Builder shall sign and date the face of each document of each set used as the basis of the proposed GMP.

5.4.1.2 The Design-Builder shall send two (2) sets of these documents to the City's Representative, while keeping one set for itself.

5.4.2 The GMP proposal shall include:

5.4.2.1 A list of the documents including the latest approved plans and design criteria, with latest issuance date including all Addenda thereto which were used in preparation of the GMP proposal;

5.4.2.2 A list of allowances and a statement of their basis;

5.4.2.3 A list of the clarifications and assumptions made by the Design-Builder in the preparation of the GMP proposal, to supplement the information contained in the documents;

5.4.2.4 A summary of the GMP with a total for each of the components of the GMP as shown in the table below. On the table the percentages requested should be calculated as the percent of the "Total Construction Cost." The sub-amount shown under General Conditions should be included in the General Conditions amount.

PROJECT GMP PROPOSAL SUMMARY SHEET

PROFESSIONAL SERVICES				
	Professional Services			$
	Reimbursables			
	Construction Administration			
			TOTAL PROFESSIONAL SERVICES	$
CONSTRUCTION				
	Cost of the Construction (Labor, Materials, Equipment, Warranty)			$
	Design-Builder's Contingency			
	Indirect Costs		RATE	AMOUNT
	General Conditions, Total		%	$
	Payment and Performance Bond	$	%	
	Insurance	$	%	
	Construction Fee (overhead & profit)		%	$
	Sales Taxes		%	$
			TOTAL CONSTRUCTION COST	$
			Owner's Contingency	$
			GRAND TOTAL	$

5.4.2.5 A spread sheet showing the basis for professional services, with hours and hourly costs for basic services and Subconsultant services indicating overhead and profit.

5.4.2.6 A list and estimated cost of reimbursables and other not-to exceed costs.

5.4.2.7 An itemized detail of any costs proposed to be included in the General Conditions.

5.4.2.8 A statement of proposed additional services, if any.

5.4.2.9 The GMP shall include in the Cost of the Work those taxes that are applicable at the time the GMP is executed. If, in accordance with the City's express written direction an exemption is claimed for taxes, the City agrees to indemnify, defend and hold Design-Builder harmless for any liability,

penalty, interest, fine, tax assessment, attorney's fees or other expense or cost incurred by Design-Builder as a result of any action taken by Design-Builder in accordance with the City's direction relative to the taxes as described in this section only.

5.4.2.10 The GMP shall exclude the actual costs of any jurisdictional or regulatory agency permit or fee as well as those for testing and inspection services that are to be paid per section 2.10. However, a detailed estimate of all anticipated direct costs for permits, fees, inspection and testing shall be attached to the GMP.

5.4.2.11 A Schedule of Values for the construction, with the costs organized by subcontract categories, allowances, contingency, General Conditions Costs, and the Design-Builder's construction phase fee.

5.4.2.12 A Project Schedule as prescribed in section 4.2 and establishing the Performance Period and the Scheduled Substantial Completion Date.

5.4.2.13 The updated CMP as prescribed in section 2.7.

5.4.2.14 The street or physical address of the Site of the Work for each GMP, phased GMP, or separate location at which Work, or a portion of the Work, will be performed shall be set forth in each GMP amendment.

5.5 GMP Approval

5.5.1 The Design-Builder shall meet with the City to review the GMP proposal and the written statement of its basis. In the event that the City discovers any inconsistencies or inaccuracies in the information presented, the City shall promptly notify the Design-Builder, who shall make appropriate adjustments to the GMP proposal, its basis or both.

5.5.2 Upon receiving the GMP proposal from the Design-Builder, the City may submit the same documents that were used by Design-Builder in developing its GMP to an independent third party for review and verification. The third party shall develop an independent estimate and review the CPM schedule.

5.5.2.1 If the Design-Builder's GMP proposal is greater than the independent third party estimate, the City may require the Design-Builder to reconfirm its proposal.

5.5.2.2 The Design-Builder shall describe the differences between the two, and explain why its GMP reflects the scope of the Work and is correct.

5.5.3 If the City accepts the Design-Builder's GMP proposal and the GMP proposal is within the City's budget, the City may accept the Design-Builder's GMP proposal without comment. If the GMP proposal exceeds the City's budget, the City must indicate in writing to the Design-Builder that the budget has been increased to fund the excess cost.

5.5.4 If the City accepts the Design-Builder's GMP, the City and the Design-Builder will execute an amendment to this Agreement for the GMP amending the Contract Price and establishing the Performance Period and the Contract Time.

5.5.5 The City shall authorize and cause the Design-Builder to revise the documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the GMP proposal.

5.5.6 After final submission of the GMP the City may, at the City's sole discretion and for any or no reason, accept or reject the GMP. If the City rejects the Design-Builder's GMP, the City may terminate the Design-Builder's Contract. If the Contract is terminated pursuant to this section, the Design-Builder's compensation shall be limited to the direct cost of its completed Work and materials supplied as of the date of termination. Design-Builder shall not be entitled to any unearned or anticipated profit or overhead. If the Contract is terminated pursuant to this section, Design-Builder shall deliver to the

City all drawings, plans, specifications, special provisions, estimates and other work entirely or partially completed, together with all unused materials supplied by the City.

ARTICLE 6 – CHANGES TO CONTRACT PRICE AND TIME

6.1 Delays

6.1.1 If Design-Builder is delayed in the performance of the Work that will cause a change in the date of Substantial Completion due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or of those for whom Design-Builder is responsible, the Contract Times for performance may be reasonably extended by Change Order.

6.1.2 The Design-Builder shall request an increase in the Contract Time by written notice including an estimate of probable effect of delay on progress of the Work.

6.1.2.1 In the case of a continuing delay only one (1) request is necessary.

6.1.2.2 Written notice by the Design-Builder shall be provided to the City within thirty (30) Days of the commencement of the cause.

6.1.2.3 If written notice is received by the City more than thirty (30) Days after commencement of the cause, the period of delay shall be deemed to commence thirty (30) Days prior to the giving of such notice.

6.1.3 By way of example, events that may entitle Design-Builder to an extension of the Contract Time include acts or omissions of City or anyone under City's control (including separate contractors), changes in the Work, Differing Site Conditions, hazardous conditions, delays by regulating agencies, wars, floods, labor disputes, unusual delay in transportation, epidemics abroad, earthquakes, adverse weather conditions not reasonably anticipated, and other acts of God.

6.1.4 If adverse weather conditions are the basis for a request for additional Contract Time, such requests shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled Substantial Completion. All terms, conditions and definitions necessary for the application of this paragraph shall be as set forth on the City of Flagstaff's Table of "Monthly Anticipated Adverse Weather Calendar Days" and the explanatory paragraphs attached thereto.

6.1.5 It is understood, however, that permitting the Design-Builder to proceed to complete any Work, or any part of the Work, after the date to which the time of completion may have been extended, shall in no way act as a waiver on the part of the City of any of its legal rights herein.

6.1.6 In addition to Design-Builder's possible right to a time extension for those events set forth in this section, Design-Builder may also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for those events set forth in this section that are beyond the control of both Design-Builder and City, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

6.2 Differing Site Conditions

6.2.1 If Design-Builder encounters a Differing Site Condition, Design-Builder may be entitled to a Change Order to adjust the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are impacted by the Differing Site Condition.

6.2.2 Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to City of such condition, which notice shall not be later than seven Days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the

Differing Site Condition has been substantially disturbed or altered.

6.3 **Legal Requirements.** The Contract Price and/or Contract Time(s) shall be adjusted by Change Order to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of this Agreement negatively affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of this Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

6.4 **City Requested Change in Work.**

6.4.1 The City reserves the right to make, at any time during the progress of the Work, such alterations as may be found necessary or desirable in the City's sole discretion.

6.4.2 Such alterations and changes shall not invalidate this Agreement, and the Design-Builder agrees to perform the Work as altered, the same as if it has been a part of the original Contract.

6.4.3 Upon receipt of a request for proposal for a change in Work, the Design-Builder shall prepare a proposal in significant detail, using the rates and markups established in the Contract Documents as a basis of the Contract Price adjustment. The Design-Builder's proposal shall include a detailed description of any schedule impact.

6.4.4 City and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the adjustment.

6.4.5 If City requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change Order may be issued to reimburse Design-Builder for reasonable costs incurred for estimating services and other services involved in the preparation of proposed revisions to the Contract Documents.

6.5 **Minor Changes.** The City may make minor changes in the Work that do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however that Design-Builder shall immediately inform City, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

6.6 **Emergencies.** In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time on account of emergency work shall be determined as provided in this Article 6.

ARTICLE 7- PROCEDURE FOR PAYMENT

7.1 **Design Services**

7.1.1 Design-Builder will be paid 100% of the amount earned for Design Services minus the value or cost arising from any deficiencies or defects in the Design Services.

7.1.2 The Design-Builder shall pay all sums due to Subconsultants for services and reimbursable expenses within fourteen calendar Days after the Design-Builder has received payment for those services from the City.

7.1.3 Requests for monthly payments by the Design-Builder shall be submitted on the City's "Payment Request" form and shall be accompanied by a design progress report, detailed invoices and receipts,

if applicable. This submittal shall include, as a minimum, a narrative description of the tasks accomplished during the billing period, a listing of any Deliverables submitted, and the Subconsultants' actual requests for payment plus similar narrative and listing of their Work.

7.1.4 After approved completion of design and GMP(s) for the total construction of the Project in accordance with section 2.8 and 5.4, Design-Builder will be paid 100% of the amount for Design Services less the total of payments previously made, subject to section 7.1.1.

7.1.5 Payments for those services negotiated as a lump sum shall be made in accordance with the percentage of the services completed during the preceding month. Those services negotiated as a not-to-exceed fee shall be paid in accordance with the actual cost of the service expended during the preceding month.

7.1.6 All Payment Requests shall be submitted to the City for review and approval.

7.2 Request for Payment for Construction Services. The Design-Builder agrees at its own cost and expense, to perform all construction, as called for by this Agreement free and clear of all claims, liens, and charges whatsoever, in the manner and under the conditions specified within the time, or times, stated in this Agreement.

7.2.1 The Schedule of Values submitted as prescribed in section 2.13.5, subject to adjustment in accordance with this Agreement will serve as the basis for monthly progress payments made to Design-Builder throughout the construction.

7.2.2 Design-Builder shall submit to City's Representative the construction phase services "Payment Request" form no later than the **3rd** of the month to be paid on the **15th** check run, or by the **19th** of the month to be paid on the **30th** check run. If the 3rd or 19th falls on a Saturday or Sunday invoices are due on the preceding **Fri**day.

7.2.3 At least five (5) working Days **pr**ior to the date estab**lished** for a Payment Request, the Des**ign**-Builder shall submit an updated Project Schedule and meet with the City's Representative to review **the** progress of the construction, as it will be reflected on the Payment Request.

7.2.4 The Design-Builder Payment Request may request payment for equipment and materials not yet incorporated into the Project if construction progress is in reasonable conformance with the approved schedule.

7.2.4.1 For equipment and materials suitably stored at the Site, the equipment and materials shall be protected by suitable insurance and City shall receive the equipment and materials free and clear of all liens and encumbrances.

7.2.4.2 For materials and equipment stored off the Site, the City must approve the storage facility. The material and equipment must be stored within Coconino County or other sites as may be approved and be accessible for City's inspection. The Design-Builder must establish City title to such materials and equipment or otherwise protect the City's interest and shall include applicable insurance, bonding, storage and transportation to the Site.

7.2.4.3 All bonds and insurance required for stored materials shall name the City as the loss payee to the extent of its interest in the stored materials.

7.2.5 The Payment Request shall constitute Design-Builder's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Payment Request, and all construction will pass to City free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the construction into the Project.

7.3 Progress Payment

7.3.1 City shall make payment in accordance with A.R.S. § 34-607 such that payment will be made no later than fourteen (14) Days after Payment Request is certified and approved. City shall review Payment Request and make recommendation of approval or denial within seven (7) Days after City's receipt of each properly submitted and accurate Payment Request, but in each case less the total of payments previously made, and less amounts properly withheld under section 7.3.2 below.

7.3.2 City shall pay Design-Builder all amounts properly due. If City determines that Design-Builder is not entitled to all or part of the Payment Request, it will notify Design-Builder in writing at least seven (7) Days after the date the Payment Request is received by the City. The notice shall indicate the specific amounts City intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify City's concerns. Design-Builder and City will attempt to resolve City's concerns. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 8 hereof.

7.3.3 Notwithstanding anything to the contrary in the Contract Documents, City shall pay Design-Builder all undisputed amounts in a Payment Request within the times required by the Agreement.

7.4 Retention on Progress Payments

7.4.1 City will retain ten percent (10%) of the amount on each Payment Request provided, however, that when fifty percent (50%) of the construction has been completed by Design-Builder, upon request of the Design-Builder, City may reduce the amount retained to five percent (5%) from Design-Builder's subsequent Payment Requests, if the Design-Builder's performance of construction has been satisfactory.

7.4.2 In lieu of retention, the Design-Builder may provide as a substitute any of the following: an assignment of time certificates of deposit (CDs) from a bank licensed by Arizona; securities guaranteed by the United States; securities of the United States, the State of Arizona, Arizona counties, Arizona municipalities, or Arizona school districts; or shares of savings and loan institutions authorized to transact business in Arizona.

7.4.2.1 CDs assigned to the City must be maintained at the City's single servicing bank, currently Wells Fargo, Arizona, in the form of time deposit receipt accounts.

7.4.2.2 Securities deposited in lieu of retention must be deposited into a separate account with a financial institution within the state of Arizona.

7.4.2.3 CDs and Securities shall be assigned exclusively for the benefit of the City of Flagstaff pursuant to the City's form of escrow agreement. Escrow agreement forms may be obtained from the Management Services Department by calling (928)779-7685 x7267.

7.5 Substantial Completion. Upon Substantial Completion of the entire construction or, if applicable, any portion of the construction, City shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount up to two and one half times (2.5) the reasonable value of all remaining, deficient or incomplete items of construction as noted in the Certificate of Substantial Completion.

7.6 Final Payment

7.6.1 After receipt of a final Payment Request from Design-Builder, City shall make final payment within 60 Days after the receipt by the City, provided that a Final Acceptance Letter has been issued by the City in accordance with section 4.4.

7.6.2 At the time of submission of its final Payment Request, Design-Builder shall provide the following information:

7.6.2.1 An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the construction which will in any way affect City's interests.

7.6.2.2 A general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to City and remaining unsettled at the time of final payment, and

7.6.2.3 Consent of Design-Builder's surety, if any, to final payment.

7.7 Payments To Subcontractors or Suppliers

7.7.1 Design-Builder shall pay its Subcontractors or Suppliers within seven Days of receipt of each progress payment from the City. The Design-Builder shall pay for the amount of construction performed or materials supplied by each Subcontractor or Supplier as accepted and approved by the City with each progress payment. In addition, any reduction of retention by the City to the Design-Builder shall result in a corresponding reduction to Subcontractors or Suppliers who have performed satisfactory work. Design-Builder shall pay Subcontractors or Suppliers the reduced retention within fourteen Days of the payment of the reduction of the retention to the Design-Builder. No contract between Design-Builder and its Subcontractors and Suppliers may materially alter the rights of any Subcontractor or Supplier to receive prompt payment and retention reduction as provided herein.

7.7.2 If the Design-Builder fails to make payments in accordance with these provisions, the City may take any one or more of the following actions and Design-Builder agrees that the City may take such actions:

7.7.2.1 To hold the Design-Builder in default under this Agreement;

7.7.2.2 Withhold future payments including retention until proper payment has been made to Subcontractors or Suppliers in accordance with these provisions;

7.7.2.3 Reject all future offers to perform work for the City from the Design-Builder for a period not to exceed one year from Substantial Completion date of this Project.

7.7.2.4 Terminate this Agreement.

7.7.3 If Design-Builder's payment to a Subcontractor or Supplier is in dispute, it shall act in compliance with A.R.S. § 32-1129.02 and related statutes as amended, and shall further hold the City harmless from any ensuing damages, claims or costs.

7.7.4 Should the City fail or delay in exercising or enforcing any right, power, privilege, or remedy under this section, such failure or delay shall not be deemed a waiver, release, or modification of the requirements of this section or of any of the terms or provisions thereof.

7.7.5 Design-Builder shall include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Agreement.

7.8 Record Keeping and Finance Controls

7.8.1 Records of the Design-Builder's direct personnel payroll, reimbursable expenses pertaining to this Project and records of accounts between the City and Design-Builder shall be kept on a generally recognized accounting basis and shall be available for up to three (3) years following Final Completion of the Project.

7.8.2 The City, its authorized representative, and/or the appropriate federal agency, reserve the right to audit the Design-Builder's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate Contract Documents and any change orders.

7.8.3 The City reserves the right to decrease Contract Price and/or payments made on this Agreement if, upon audit of the Design-Builder's records, the audit discloses the Design-Builder has provided false, misleading, or inaccurate cost and pricing data.

7.8.4 The Design-Builder shall include a similar provision in all of its agreements with Subconsultants and Subcontractors providing services under the Contract Documents to ensure the City, its authorized representative, and/or the appropriate federal agency, has access to the Subconsultants' and Subcontractors' records to verify the accuracy of cost and pricing data.

7.8.5 The City reserves the right to decrease Contract Price and/or payments made on this Agreement if the above provision is not included in Subconsultant's and Subcontractor's contracts, and one or more Subconsultants and/or Subcontractors do not allow the City to audit their records to verify the accuracy and appropriateness of pricing data.

ARTICLE 8- CLAIMS AND DISPUTES

8.1 Requests for Contract Adjustments and Relief.

8.1.1 If either Design-Builder or City believes that it is entitled to relief against the other for any event arising out of or related to the Work, such party shall provide written notice to the other party of the basis for its claim for relief.

8.1.2 Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of the Agreement.

8.1.3 In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed twenty-one Days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later.

8.1.4 Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

8.2 Dispute Avoidance and Resolution

8.2.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and City each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

8.2.2 Design-Builder and City will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and City's Representative.

8.2.3 If a dispute or disagreement cannot be resolved through Design-Builder's Representative and City's Representative, Design-Builder's Senior Representative and City's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) Days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

8.2.4 Except as otherwise agreed by the parties, any litigation brought by either party against the other to enforce the provisions of this Agreement must be filed in the Coconino County Superior Court and Arizona law shall apply and control. In the event any action at law or in equity is instituted between

the parties in connection with this Agreement, the prevailing party in the action will be entitled to its costs including reasonable attorneys' fees and court costs from the non-prevailing party.

8.3 **Duty to Continue Performance.** Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and City shall continue to satisfy its payment obligations to Design-Builder pending the final resolution of any dispute or disagreement between Design-Builder and City.

8.4 **Representatives of the Parties**

8.4.1 City's Representatives

8.4.1.1 City designates the individual listed below as its Senior Representative ("City's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under section 8.2.3:

James Duval, Senior Project Manager
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001

8.4.1.2 City designates the individual listed below as its City's Representative, which individual has the authority and responsibility set forth in section 8.2.2:

James Duval, Senior Project Manager
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001

8.4.2 Design-Builder's Representatives

8.4.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under section 8.2.3:

Tim Kinney, President
Kinney Construction Services
121 E. Birch Avenue, Suite 500
Flagstaff, AZ, 86001

8.4.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in section 8.2.2:

Mike Thomas, Vice President of Operations
Kinney Construction Services
121 E. Birch Avenue, Suite 500
Flagstaff, AZ, 86001

ARTICLE 9 – SUSPENSION AND TERMINATION

9.1 **City's Right to Stop Work**

9.1.1 City may, at its discretion and without cause, order Design-Builder in writing to stop and suspend the Work. Immediately after receiving such notice, the Design-Builder shall discontinue advancing the Work specified under this Agreement

9.1.2 Such suspension shall not exceed one hundred eighty (180) consecutive Days during the duration of the Project.

9.1.3 Design-Builder may seek an adjustment of the Contract Price and Time, if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of Work by City.

9.2 Termination for Convenience.

9.2.1 Upon receipt of written notice to Design-Builder, City may, at its discretion and without cause, elect to terminate this Agreement. If the City suspends the Work for 181 consecutive Days or more, such suspension shall be deemed a termination for convenience.

9.2.2 Upon such termination during Design Services, the Design-Builder shall deliver to the City all drawings, plans, specifications, special provisions, estimates and other Work entirely or partially completed, together with all unused materials supplied by the City.

9.2.2.1 The Design-Builder shall estimate the value of the Work it has completed and submit its appraisal to the City for evaluation. The City shall have the right to inspect the Subconsultant's Work to appraise the Work completed.

9.2.2.2 The Design-Builder shall receive compensation for services performed to the date of such termination as set forth in section 9.2.5 The fee shall be paid in accordance with Article 7 of this Agreement, and shall be an amount mutually agreed upon by the Design-Builder and the City. If there is no mutual agreement, the final determination shall be made in accordance with Article 8.

9.2.2.3 Design-Builder shall not be entitled to anticipated profit or anticipated overhead. In no event shall the fee exceed that set forth in Article 5 of this Agreement or as amended.

9.2.2.4 The City shall make the final payment within sixty Days after the Design-Builder has delivered the last of the partially completed items and the final fee has been agreed upon.

9.2.2.5 If City terminates this Agreement pursuant to this section and proceeds to design and construct the Project through its employees, agents or third parties, City's rights to use the work product shall be as set forth in section 12.4 hereof.

9.2.3 Upon such termination during construction services, the Design-Builder shall proceed with the following obligations:

9.2.3.1 Stop Work as specified in the notice.

9.2.3.2 Place no further subcontracts or orders.

9.2.3.3 Terminate all subcontracts to the extent they relate to the Work terminated.

9.2.3.4 Assign to the City all right, title and interest of the Design-Builder under the subcontracts terminated, in which case the City shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

9.2.3.5 Take any action that may be necessary for the protection and preservation of the property related to the Contract that is in the possession of the Design-Builder and which the City has or may acquire an interest.

9.2.4 The Design-Builder shall submit complete termination inventory schedules no later than sixty (60) Days from the date of the notice of termination.

9.2.5 The City shall pay Design-Builder the following.

9.2.5.1 The direct value of its completed Work and materials supplied as of the date of termination.

9.2.5.2 The reasonable costs and expenses attributable to such termination.

9.2.5.3 Design-Builder shall be entitled to profit and overhead on completed Work only, but shall not be entitled to anticipated profit or anticipated overhead. If it appears the Design-Builder would have sustained a loss on the entire Work had the Project been completed, the Design-Builder shall not be allowed profit and the City shall reduce the settlement to reflect the indicated rate of loss.

9.2.6 The Design-Builder shall maintain all records and documents for three years after final settlement. These records shall be maintained and subject to auditing as prescribed in section 7.8.

9.3 City's Right to Perform and Terminate for Cause

9.3.1 If the City provides the Design-Builder with a written order to correct deficiencies to provide adequate maintenance of traffic, adequate cleanup, adequate dust control, or to repair damage resulting from abnormal weather conditions, and the Design-Builder fails to comply in a time frame specified, the City may have Work accomplished by other sources at the Design-Builder 's expense.

9.3.2 If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Subconsultants and/or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work are completed by the Contract Time, as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then City, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in sections 9.3.3 and 9.3.4 below.

9.3.3 Upon the occurrence of an event set forth in section 9.3.2 above, City may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) Days of Design-Builder's receipt of such notice.

9.3.3.1 If Design-Builder fails to cure, or reasonably commence to cure, such problem within such seven (7) Day period, then City may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) Day period.

9.3.3.2 If Design-Builder, within such second seven (7) Day period, fails to cure, or reasonably commence to cure, such problem, then City may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

9.3.4 Upon declaring the Agreement terminated pursuant to section 9.3.3.2 above, City may enter upon the Site and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to City for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items.

9.3.5 In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, the Design-Builder will only be entitled to be paid for Work performed and accepted by the City prior to its default.

9.3.6 If City's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to City. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by City in connection with the re-procurement and defense of claims arising from Design-Builder's default.

9.3.7 If City improperly terminates the Agreement for cause, the termination for cause shall be converted to a termination for convenience in accordance with the provisions of section 9.2.

ARTICLE 10 – INSURANCE AND BONDS

10.1 Insurance Requirements

10.1.1 Design-Builder and Subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the Work hereunder by the Design-Builder, his agents, representatives, employees or Subcontractors.

10.1.2 The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

10.1.3 The City in no way warrants that the minimum limits contained herein are sufficient to protect the Design-Builder from liabilities that might arise out of the performance of the Work under this Agreement by the Design-Builder, his agents, representatives, employees, or subcontractors. Design-Builder is free to purchase such additional insurance as may be determined necessary.

10.2 Minimum Scope And Limits Of Insurance. Design-Builder shall provide coverage with limits of liability not less than those stated below:

10.2.1 Commercial General Liability – Occurrence Form
Policy shall include bodily injury, property damage, broad form contractual liability and XCU coverage.

• General Aggregate/for this Project	$2,000,000/$1,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$1,000,000
• Each Occurrence	$1,000,000

The policy shall be endorsed to include the following additional insured language: **"The City of Flagstaff shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Design-Builder".**

10.2.2 Automobile Liability - Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Agreement.

Combined Single Limit (CSL)	$1,000,000

The policy shall be endorsed to include the following additional insured language: **"The City of Flagstaff shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Design-Builder, including automobiles owned, leased, hired or borrowed by the Design-Builder".**

10.2.3 Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$100,000
Disease - Each Employee	$100,000
Disease – Policy Limit	$500,000

10.2.4 Professional Liability

Each Claim	$1,000,000

10.2.4.1 The required professional liability coverage must cover Work done or to be done or on the behalf of the Design-Builder.

10.2.4.2 In the event that professional liability insurance required by this Agreement is written on a "claims made" basis, coverage shall be maintained for two years past completion and acceptance of the Work or services required by this Contract.

10.2.4.3 Any professional liability shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

10.2.5 **Builders' Risk Insurance or Installation Floater** to be determined at time of GMP
In an amount equal to the initial Agreement amount plus additional coverage equal to Agreement amount for all subsequent Change Orders.

10.2.5.1 The City of Flagstaff, the Design-Builder, Subcontractors, design professional and design professional's consultant and any others with an insurable interest in the Work shall be **Named Insureds** on the policy.

10.2.5.2 Coverage shall be written on an all risk, replacement cost basis and **shall include coverage for soft costs, flood and earth movement.**

10.2.5.3 Policy shall be maintained until whichever of the following shall first occur: (i) final payment has been made; or, (ii) until no person or entity, other than the City of Flagstaff, has an insurable interest in the property required to be covered.

10.2.5.4 Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the City.

10.2.5.5 Policy must provide coverage from the time any covered property becomes the responsibility of the Design-Builder, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation site, or awaiting installation, whether on or off Site.

10.2.5.6 Policy shall contain a **waiver of subrogation** against the City of Flagstaff.

10.2.5.7 Design-Builder is responsible for the payment of all policy deductibles.

10.3 **Additional Insurance Requirements.** The policies shall include, or be endorsed to include, the following provisions:

10.3.1 The City, its officers, officials, agents, employees and volunteers shall be additional insured to the full limits of liability purchased by the Design-Builder even if those limits of liability are in excess of those required by this Agreement.

10.3.2 The Design-Builder's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

10.3.3 Coverage provided by the Design-Builder shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

10.3.4 The policies shall contain a waiver of subrogation against the City, its officers, officials, agents, and employees for losses arising from Work performed by the Design-Builder and Subcontractors for the City.

10.4 **Notice Of Cancellation.** Each insurance policy required by the insurance provisions of this

Agreement shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) Days prior written notice has been given to the City. Such notice shall be sent directly to the City Senior Representative and shall be sent by certified mail, return receipt requested.

10.5 **Acceptability Of Insurers.** Insurance is to be placed with insurers duly licensed companies in the state of Arizona and with an "A.M. Best" rating of not less than A-,7, or as approved by the City and licensed in the State of Arizona with policies and forms satisfactory to the City. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect the Design-Builder from potential insurer insolvency.

10.6 **Verification Of Coverage**

10.6.1 Design-Builder shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

10.6.2 All certificates and endorsements are to be received and approved by the City before Work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of Work under this Agreement and remain in effect for the duration of the Project. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

10.6.3 All certificates required by this Agreement shall be sent directly to City's Procurement Section. The City project/contract number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

10.6.4 If the Certificate of Insurance reflecting policy coverage and cancellation notice does not conform to the City's requirements, the Design-Builder or Subcontractors, as the case may be, must:

- Submit a current insurance certificate (dated within 15 Days of the Payment Request submittal) with each form. The Payment Request will be rejected if the insurance certificate is not submitted with the Payment Request.

10.7 **Subcontractors.** Design-Builders' certificate(s) shall include all Subcontractors as additional insureds under its policies. All coverage's for Subcontractors shall be subject to the minimum requirements identified above.

10.8 **Approval.** Any modification or variation from the insurance requirements in this Contract shall be made by the Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

10.9 **Bonds and Other Performance Security.**

10.9.1 Prior to execution of this Agreement and/or amendment to this Agreement for any Work that includes construction, the Design-Builder must provide a performance bond and a labor and materials bond, each in an amount equal to the full amount of the construction set forth in the GMP.

10.9.2 Each such bond shall be executed by a surety company or companies holding a Certificate of Authority to transact surety business in the state of Arizona, issued by the Director of the Arizona Department of Insurance. A copy of the Certificate of Authority shall accompany the bonds. The Certificate shall have been issued or updated within two years prior to the execution of this Agreement.

10.9.3 The bonds shall be made payable and acceptable to the City of Flagstaff.

10.9.4 The bonds shall be written or countersigned by an authorized representative of the surety who is either a resident of the state of Arizona or whose principal office is maintained in this state, as by law required, and the bonds shall have attached thereto a certified copy of Power of Attorney of the signing official.

10.9.4.1 If one Power of Attorney is submitted, it shall be for twice the total GMP amount.

10.9.4.2 If two Powers of Attorney are submitted, each shall be for the total GMP amount. Personal or individual bonds are not acceptable.

10.9.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract Documents, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

10.9.6 All bonds submitted for this Project shall be provided by a company which has been rated "A-, 7, or better" by the A.M. Best Company.

ARTICLE 11 - INDEMNIFICATION

11.1 Intellectual Property

11.1.1 The Design-Builder shall pay all royalties and license fees associated with its performance of services herewith.

11.1.2 The Design-Builder shall defend any action or proceeding brought against City based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. City shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify, defend and hold harmless City from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against City or Design-Builder in any such action or proceeding. Design-Builder agrees to keep City informed of all developments in the defense of such actions.

11.1.3 If City is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

11.1.4 Sections 11.1.2 and 11.1.3 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer required by City and not offered or recommended by Design-Builder to City and to which Design-Builder has objected in writing or (ii) arising from modifications to the Work by City or its agents after acceptance of the Work

11.1.5 The obligations set forth in this section 11.1 shall constitute the sole agreement between the parties relating to liability for infringement of violation of any patent or copyright.

11.2 General Indemnification.

11.2.1 The Design-Builder hereby agrees to indemnify, defend and hold harmless the City, any of its departments, agencies, officers, or employees from all damages, claims or liabilities and expenses (including reasonable Attorneys' fees) arising out of or resulting in any way from the performance of professional services for the City in the Design-Builder's capacity as a Design-Builder, and caused by

any error, omission, or negligent act of the Design-Builder or any person employed by it or anyone for whose acts the Design-Builder is legally liable. In consideration of the award of this Contract, the Design-Builder agrees to waive all rights of subrogation against the City, its officers, agents and employees for losses arising from the Work performed by the Design-Builder for the City.

11.2.2 The Design-Builder agrees to indemnify, defend and save harmless the City of Flagstaff, its officers, agents and employees, and any jurisdiction or agency issuing permits for any Work included in the Project, their officers, agents and employees, hereinafter referred to as indemnitee, from all suits and claims, including attorney's fees and cost of litigation, actions, loss, damage, expense, cost or claims of any character or any nature arising out of the Work done in fulfillment of the terms of this Agreement or on account of any act, claim or amount arising or recovered under workmen's compensation law or arising out of the failure of the Design-Builder to conform to any statutes, ordinances, regulation, law or court decree. It is agreed that the Design-Builder will be responsible for primary loss investigation, defense and judgment costs where this Agreement of indemnity applies. In consideration of the award of this Agreement, the Design-Builder agrees to waive all rights of subrogation against the City, its officers, officials, agents and employees for losses arising from the Work performed by the Design-Builder for the City.

ARTICLE 12 - GENERAL PROVISIONS

12.1 Interpretation and Intent

12.1.1 The Contract Documents form the entire Agreement between City and Design-Builder and by incorporation herein are as fully binding on the parties as it repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

12.1.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Times for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards.

12.1.3 In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the order in which they are listed in the definition of Contract Documents in Article 1. In the event conflicts occur between the drawings and specifications, the Design-Builder is deemed to have estimated the more expensive method unless he has asked for and receive a written decision from the City determining which method or material will be required.

12.2 Time is of the Essence. City and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

12.3 Mutual Obligations. City and Design-Builder commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

12.4 Work Product.

12.4.1 All Work products (electronically or manually generated) including but not limited to: cost estimates, studies, design analyses, original mylar drawings, Computer Aided Drafting and Design (CADD) file diskettes or CD's, and other related documents which are prepared or procured in the performance of this Agreement (collectively referred to as documents) are to be and remain the property of the City and are to be delivered to the City before the final payment is made to the Design-Builder or pursuant to section 9.2.1. In the event these documents are altered, modified or adapted without the written consent of the Design-Builder or the Subconsultants, which consent the Design-Builder or the Subconsultants shall not unreasonably withhold, the City agrees to hold the Design-Builder and the

Subconsultants harmless to the extent permitted by law from any liability arising out of the City's alteration, modification or adaption of the documents.

12.4.2 City acknowledges Design-Builder's plans and specification as instruments of professional service. Nevertheless, the plans and specifications prepared under this Agreement shall become property of the City upon completion and approval of the Construction Documents and payment in full of all monies then due to Design-Builder for services, or upon termination of this Agreement at an earlier time and upon City payment of any pro rata amount due Design-Builder for Design Services at the time of such termination. Design-Builder shall not use the drawings and specifications, therefore, for any purpose not related to the Project without City's consent. City will not reuse, for matters unrelated to the Work any phase of the Work as set forth in the Scope of Work in Exhibit A and its subsequent usage, or make any modification to the plans and specifications without the prior written authorization of the Design-Builder. City agrees to hold the Design-Builder harmless, to the extent permitted by law, from any liability arising out of the City's modification or alteration of the Construction Documents without the written authorization of Design-Builder. The City specifically reserves the right to use or reuse any design concept, feature, or aspect of the Work incorporated into the plans and specifications in any subsequent City project. The City specifically reserves the right to use or reuse any design concept or aspect of the Work incorporated into the plans and specifications to complete the Project in the event that the City and Design-Builder are unable, after good faith efforts, to execute a GMP. Design-Builder shall incorporate such use rights into any agreement with a Subcontractor or consultant, and shall indemnify the City from any claims from such for copyright or patent infringement.

12.4.3 With this Agreement, the Design-Builder and its Subconsultants hereby grant a license to the City, its agents, employees, and representatives for an indefinite period of time to reasonably use, make copies, and distribute as appropriate the documents, works or Deliverables developed or created as a result of the Project and this Agreement and to which Design-Builder and its Subconsultants may retain rights. This license also includes the making of derivative works. In the event that the derivative works require the City to alter or modify the documents, then the provisions of section 12.4.1 apply.

12.5 **Assignment.** Design-Builder shall not, without the written consent of the City, assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents. Notwithstanding the City's consent to assignment, Contractor as Assignor, and the Assignee shall both remain liable under all rights, obligations, terms and conditions of the contract.

12.6 **Successorship.** Design-Builder and City intend that the provisions of the Contract Documents are binding upon the parties and their successors and assigns.

12.7 **Third Party Beneficiary.** Nothing under this Agreement shall be construed to give any rights or benefits in the Agreement to anyone other than the City and the Design-Builder, their successors and assigns, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of City and the Design-Builder and not for the benefit of any other party.

12.8 **Governing Law.** The Agreement and all Contract Documents shall be deemed to be made under, and shall be construed in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any action to enforce any provision of this Agreement or to obtain any remedy with respect hereto shall be brought in the Superior Court, Coconino County, Arizona, and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such Court.

12.9 **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

12.10 **No Waiver.** The failure of either party to enforce any of the provisions of this Agreement or to require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of

such provisions, nor shall it affect the validity of this Agreement or any part thereof, or the right of either party to thereafter enforce each and every provision.

12.11 Headings. The headings used in this Agreement, or any other Contract Documents, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

12.12 Notice.

12.12.1

Many notices or demands required to be given, pursuant to the terms of the Agreement, may be given to the other party in writing, delivered in person, sent by facsimile transmission, emailed, deposited in the United States mail, postage prepaid, or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the parties may substitute by written notice, given in the manner prescribed in this paragraph. However, notices of termination, notices of default, and any notice regarding warranties shall be sent via registered or certified mail, return receipt requested, at the addresses set forth below ***and*** to legal counsel for the party to whom the notice is being given.

If to City:	**If to Contractor**
Patrick Brown, C.P.M. **Purchasing Manager** **211 W. Aspen Ave** **Flagstaff, AZ. 86001**	**Tim Kinney, President** **121 E. Birch Street, Suite 500** **Flagstaff, AZ 86001**

or to such other place and with such other copies as either party may designate as to itself by written notice to the other party. Rejection, any refusal to accept, or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

12.12.2 Notices Related to Payment, Securities-In-Lieu, Bonds. Any notice, request, instruction or other document to be given under this Agreement by any party to any other party related to payment, securities-in-lieu, bonds or other instrument securing the performance of this Agreement, including but not limited to, bid bonds, performance bonds, or payment bonds shall be in writing and shall be delivered in person or by courier or mailed by certified mail, postage prepaid, return receipt requested and shall be deemed given upon (a) confirmation of receipt of a facsimile transmission, (b) confirmed delivery by hand or standard overnight mail or (c) upon the expiration of three (3) business Days after the Day mailed by certified mail, to the parties listed in section 8.4 with a copy to:

Patrick Brown, C.P.M.
Purchasing Manager
211 W. Aspen Ave
Flagstaff, AZ. 86001

or to such other place and with such other copies as either party may designate as to itself by written notice to the other party. Rejection, any refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

12.13 Amendments. The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

12.14 Equal Opportunity/Affirmative Action

12.14.1 The Design-Builder shall comply with the provisions of this Agreement, including the requirements of Article 1-150 of the City of Flagstaff Employee Handbook of Regulations pertaining to discrimination and accepting applications or hiring employees. The Design-Builder shall not discriminate against

any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin, age or disability nor otherwise commit an unfair employment practice. The Design-Builder will take affirmative action to ensure that applicants are employed, and employees are dealt with during employment, without regard to their race, color, religion, gender or national origin, age or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship as well as all other labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. The Design-Builder further agrees that this clause will be incorporated in all subcontracts, job-consultant contracts of this Contract entered into by the Design-Builder.

12.14.2 The City of Flagstaff extends to each individual, firm, vendor, Supplier, contractor, and Subcontractor an equal economic opportunity to compete for City business and strongly encourages voluntary utilization of Disadvantaged and/or Minority-owned or Woman-owned business to reflect both the industry and community ethnic composition.

The following two paragraphs apply to the Design-Builder named herein and shall appear in all contracts between the Design-Builder and any and all Subcontractors who are employed on this Project. The Design-Builder further agrees that the two paragraphs will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Contract.

"Any Party (Subcontractor), in performing under this Contract, shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, gender, national origin, age or disability nor otherwise commit an unfair employment practice.

The Party (Subcontractor) will take affirmative action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, gender or national origin, age or disability. Such action shall include, but not be limited to the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training; including apprenticeship."

The Design-Builder further agrees that the above two paragraphs will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Contract.

12.15 **Compliance with Federal Laws.** Design-Builder understands and acknowledges the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986, and the Drug Free Workplace Act of 1989 to it. The Design-Builder agrees to comply with these laws in performing this Agreement and to permit the City to verify such compliance.

12.16 **Independent Contractor.** The Design-Builder is and shall be an independent contractor. Any provisions in this Agreement that may appear to give the City the right to direct the Design-Builder as to the details of accomplishing the Work or to exercise a measure of control over the Work means that the Design-Builder shall follow the wishes of the City as to the results of the Work only.

12.17 **City's Right Of Cancellation.** All parties hereto acknowledge that this Agreement is subject to cancellation by the City of Flagstaff pursuant to the provisions of A.R.S. § 38-511.

12.18 **Data Confidentiality**

12.18.1 As used in this Agreement, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by or obtained by the Design-Builder in the performance of this Agreement.

12.18.2 The parties agree that all data, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Design-Builder in connection with the Design-Builder's performance of this Agreement is confidential and proprietary information belonging to the City.

12.18.3 The Design-Builder shall not divulge data to any third party without prior written consent of the City. The Design-Builder shall not use the data for any purposes except to perform the services required under this Agreement. These prohibitions shall not apply to the following data provided the Design-Builder has first given the required notice to the City:

12.18.3.1 Data which was known to the Design-Builder prior to its performance under this Agreement unless such data was acquired in connection with Work performed for the City;

12.18.3.2 Data which was acquired by the Design-Builder in its performance under this Agreement and which was disclosed to the Design-Builder by a third party, who to the best of the Design-Builder's knowledge and belief, had the legal right to make such disclosure and the Design-Builder is not otherwise required to hold such data in confidence; or

12.18.3.3 Data, which is required to be disclosed by virtue of law, regulation, or court order to which the Design-Builder is subject.

12.18.4 In the event the Design-Builder is required or requested to disclose data to a third party, or any other information to which the Design-Builder became privy as a result of any other contract with the City, the Design-Builder shall first notify the City as set forth in this section of the request or demand for the data. The Design-Builder shall give the City sufficient facts so that the City can be given an opportunity to first give its consent or take such action that the City may deem appropriate to protect such data or other information from disclosure.

12.18.5 Unless prohibited by law, within ten (10) Days after completion of services for a third party on real or personal property owned or leased by the City, the Design-Builder shall promptly deliver, as set forth in this section, a copy of all data to the City. All data shall continue to be subject to the confidentiality agreements of this Agreement.

12.18.6 The Design-Builder assumes all liability for maintaining the confidentiality of the data in its possession and agrees to compensate the City if any of the provisions of this section are violated by the Design-Builder, its employees, agents or Subconsultants. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this section shall be deemed to cause irreparable harm that justifies injunctive relief in court.

12.19 Conflict Of Interest

12.19.1 To evaluate and avoid potential conflicts of interest, the Design-Builder shall provide written notice to the City, as set forth in this section, of any work or services performed by the Design-Builder for third parties that may involve or be associated with any real property or personal property owned or leased by the City. Such notice shall be given seven (7) business Days prior to commencement of the Project by the Design-Builder for a third party, or seven (7) business Days prior to an adverse action as defined below. Written notice and disclosure shall be sent to the City Senior Representative identified in section 8.4.1.1.

12.19.2 Actions that are considered to be adverse to the City under this Agreement include but are not limited to:

12.19.2.1 Using data as defined in this Agreement acquired in connection with this Agreement to assist a third party in pursuing administrative or judicial action against the City;

12.19.2.2 Testifying or providing evidence on behalf of any person in connection with an administrative or judicial action against the City; and

12.19.2.3 Using data to produce income for the Design-Builder or its employees independently of performing the services under this Agreement, without the prior written consent of the City.

12.19.3 The Design-Builder represents that except for those persons, entities and projects identified to the City, the services to be performed by the Design-Builder under this Agreement are not expected to create an interest with any person, entity, or third party project that is or may be adverse to the interests of the City.

12.19.4 The Design-Builder's failure to provide a written notice and disclosure of the information as set forth in this section shall constitute a material breach of this Agreement.

12.19.5 This Contract is subject to the conflict of interest provisions of A.R.S. § 38-511.

12.20 **Legal Requirements**. Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

12.21 Confidentiality of Plans and Specifications

12.21.1 Any plans or specifications the Design-Builder generates regarding this Project are for official use only. They may not be shared with others except as required to fulfill the obligations of the Design-Builder's contract with the City.

12.21.2 All Record Documents, Shop Drawings and other plans or drawings prepared or submitted by the Design-Builder shall include the following language: "These plans are official use only and may not be shared with others except as required to fulfill the obligations of the Design-Builder's contract with the City of Flagstaff."

12.22 Hazardous Materials

12.22.1 Unless included in the Work, if the Design-Builder encounters onsite or as material to be incorporated in the Work any material which it reasonably believes to contain asbestos, polychlorinated biphenyl (PCB), or other hazardous substances or materials regulated by public health laws, it shall immediately stop work and report the condition to the City.

12.22.2 If the material is found to contain asbestos, PCB or other hazardous substances or materials regulated by public health laws, the Design-Builder shall not resume work in the affected area until the material has been abated or rendered harmless. The Design-Builder and the City may agree, in writing, to continue work in non-affected areas onsite.

12.22.3 An extension of Contract Time may be granted in accordance with Article 6.

12.22.4 The Design-Builder will comply with all applicable laws/ordinances and regulations and take all appropriate health and safety precautions upon discovery.

12.22.5 Notwithstanding the preceding provisions of this section 12.22, the City is not responsible for hazardous conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable. Design-Builder shall indemnify, defend and hold harmless the City and City's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those hazardous conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

12.23 **Design-Builder and Subcontractor Employee Security Inquiries.** The parties acknowledge that security measures required in this section are necessary in order to preserve and protect the public health, safety and welfare. In addition to the specific measures set forth below, Design-Builder shall take such other measures as it deems reasonable and necessary to further preserve and protect the

public health, safety and welfare.

12.23.1 Security Inquiries. Design-Builder acknowledges that all of the employees that it provides pursuant to this Agreement shall be subject to background and security checks and screening ("Security Inquiries"). Design-Builder shall perform all such security inquiries and shall make the results available to City for all employees considered for performing Work (including supervision and oversight) under this Agreement. City may make further security inquiries. Whether or not further security inquires are made by City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by Design-Builder for performing Work under this Agreement. Employees rejected by City for performing services under this Agreement may still be engaged by Design-Builder for other Work not involving the City of Flagstaff. An employee rejected for work under this Agreement shall not be proposed to perform Work under other City contracts or engagements without City 's prior approval.

12.23.2 Criteria for Evaluating Security Inquiries. Once formally adopted by City, criteria for excluding an individual from performing Work under this Agreement shall be communicated by City to Design-Builder and used by Design-Builder as a factor in making its decision. Prior to such adoption, Design-Builder shall use its best judgment in making its decision using, among other criteria, applicable law, administrative regulations of federal, state and local agencies concerned with Work performed under this Agreement, specific local concerns that deal with the specific Work and Work location(s) of the project, and standards used by City in evaluating its own personnel.

12.23.3 Additional City Rights Regarding Security Inquiries. In addition to the foregoing, City reserves the right to: (i) have an employee/prospective employee of Design-Builder be required to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. § 41-1750(G)(4); (ii) act on newly acquired information whether or not such information should have been previously discovered; (iii) unilaterally change its standards and criteria relative to the acceptability of Design-Builder 's employees and/or prospective employees; and, (iv) object, at any time and for any reason, to an employee of Design-Builder performing Work (including supervision and oversight) under this Agreement.

12.23.4 Terms of This Provision Applicable to all of Design-Builder 's Contracts and Subcontracts. Design-Builder shall include the terms of this provision for employee background and security checks and screening in all contracts and subcontracts for Work performed under this Agreement, including supervision and oversight.

12.23.5 Materiality of Security Inquiry Provisions. The Security Inquiry provisions of this Agreement, as set forth above, are material to City 's entry into this Agreement and any breach thereof by Design-Builder may, at City 's option, sole and unfettered discretion, be considered to be a breach of contract of sufficient magnitude to terminate this Agreement. Such termination shall subject Design-Builder to liability for its breach of contract.

12.24 Computer Systems. Design-Builder shall warrant fault free performance in the processing of date and date-related data including, but not limited to calculating, comparing, and sequencing by all equipment and software products, individually and in combination, from the commencement of the Work. Fault free performance shall include the manipulation of data when dates are in the 20th or 21st centuries and shall be transparent to the user. Failure to comply with "Year 2000" requirements shall be considered a breach of contract.

12.25 Traffic Control. Design-Builder will comply with all provisions of the latest version of the Manual on Uniform Traffic Control Devices and any other traffic control provisions as may be provided in the technical specifications.

12.26 Covenant Against Contingent Fees. The Design-Builder warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the City Council, or any

employee of the City of Flagstaff has any interest, financially, or otherwise, in the Design-Builder's firm, or the firms of Design-Builder's Design Consultant, or Design-Builders other consultants or Subcontractors. For breach or violation of this warrant, the City of Flagstaff shall have the right to annul this Agreement without liability, or at its discretion to deduct from the compensation or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

12.27 Fair Treatment of Workers. The Design-Builder shall keep fully informed of all Federal and State laws, County and City ordinances, regulations, codes and all orders and decrees of bodies or tribunals having jurisdiction or authority, which in any way affects the conduct of Work. The Design-Builder shall at all times observe and comply with all such laws, ordinances, regulations, codes. orders and decrees; this includes but is not limited to laws and regulations ensuring fair and equal treatment for all employees against unfair employment practices, including OSHA and the Fair Labor Standards Act (FLSA). The Design-Builder shall protect, defend and indemnify the City and its representatives against any claim or liability arising from or based on the violation of such, whether by itself or its employees.

12.28 All Work performed shall conform to all applicable City of Flagstaff codes, ordinances and requirements as outlined in this Agreement. If there is a conflict in interpretation between provisions in this Agreement and those in Exhibit "A", the provisions in this Agreement shall prevail.

12.29 The following exhibits are included in this Agreement:

Exhibit A – Project Description
Exhibit B – Scope of Services
Exhibit C – Performance Standards Requirements
Exhibit D – Monthly Anticipated Adverse Weather Days

12.30 Compliance with Federal Immigration Laws and Regulations. Proposer warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214.A. Proposer acknowledges that pursuant to A.R.S. § 41-4401 a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

12.31. No Boycott of Israel. Pursuant to A.R.S. §§ 35-393 and 35-393.01, the Parties certify that they are not currently engaged in and agree, for the duration of the agreement, not to engage in a boycott of Israel.

CITY COURT FACILITY PROJECT
DESIGN-BUILD CONTRACT
PROJECT NO. 03-18007

CONTRACT NO. 2018-63

This Contract will be in full force and effect only when it has been approved and executed by the duly authorized City officials.

(Please sign in blue ink. Submit original signatures – photocopies not accepted)

IN WITNESS WHEREOF, the parties hereto have executed this Contract on July 17, 2018.

CITY OF FLAGSTAFF, ARIZONA,
an Arizona Municipal Corporation
Barbara Goodrich, Interim City Manager

By: Barbara Goodrich
Barbara Goodrich
Interim City Manager

KINNEY CONSTRUCTION SERVICES, INC.
an Arizona Corporation

By:
Title: President

ATTEST:

Stacy Saltzburg
City Clerk

APPROVED AS TO FORM:

Christina Parsons for
City Attorney

EXHIBIT A – PROJECT DESCRIPTION

The City (Owner) is planning to develop a parcel of land for the City Court Facility Project. The location of the parcel is the south west corner of Beaver Street and Cherry Avenue. The parcel is located at 101 W. Cherry Avenue, Flagstaff, Arizona 86001. The Coconino County Assessor Parcel Number(s) for the subject parcels are 100-10-010C (0.51 ac.) and 100-10-009A (0.13 ac.).

The project will include facility programming, design, cost estimating, value engineering and construction of a 30,000 to 40,000 square foot municipal court facility. The facility shall be designed to meet and obtain one of the following; LEED (Silver certification), Green Globes (3 Globes) or Living Building Challenge (full certification). The project includes demolition of three City owned buildings; one located at 101 W. Cherry Avenue, the second located at 15 N. Beaver Street and the third at 107 W. Aspen Avenue, Flagstaff AZ.

The facility shall include, but is not limited to; courtrooms (jury and non-jury), hearing rooms, judicial chambers, jury assembly and deliberation space, court administration offices, supporting staff offices, security screening, customer service transaction area, lobby, conference room, training room, court enforcement unit with interview rooms, prisoner holding and staging areas, supporting spaces such as mail/copy room, janitorial closet, IT/telephone closet, mechanical room, public and staff toilets. This facility shall also include well-defined office space for the prosecution division of the City Attorney's Office.



EXHIBIT B – SCOPE OF SERVICES

Refer to attached Design & Pre-Construction Services Proposal from Kinney Construction Services dated June 10, 2018.

Design & Pre-Construction Services Proposal

06/10/2018

Mr. James Duval
Senior Project Manager
City of Flagstaff

Re: City of Flagstaff – Courts Facility

Dear Mr. Duval:

Kinney Construction Services, Inc. (KCS), in conjunction with our design team, is pleased to provide this proposal for the design & pre-construction services related to the **City of Flagstaff – Courts Facility** project. Please see cost summary as outlined below.

General Understanding of the Project

The City of Flagstaff (COF) has requested a proposal for design and pre-construction of the new City Courts Facility as outlined in RFQ#2018-63. This proposal is for full design from programming thru construction documents and permitting. KCS will work thru design for this project in order to provide a permitted set of documents and a GMP estimate. The current budget for the project is $19.5M inclusive of all costs including pre-construction, design, construction, FF&E, fees, City Staff time, utility impact fees, permitting & inspections fees, electronics security/surveillance, AV components, and necessary features for a fully functional Municipal Court facility.

Scope of Services

- KCS and its consultants will provide design services as outlined within RFQ#2018-63 and further clarified below.
- The final deliverable at the end of design and pre-construction phase will be a permitted set of construction documents for this project and a GMP estimate for the defined scope of work. Total design duration is estimated at 7 months; contract time will be 250 calendar days from Notice to Proceed (NTP).
- KCS, along with its consultants, will present design iterations throughout the course of pre-construction from schematic thru construction documents. COF is responsible for providing timely review and feedback prior to KCS moving forward with design progression.
- The design will include approximately 30,000 to 40,000 sf of new construction at the Cherry Street site along with demolition of the existing courts facility and construction of surface parking.
- Architectural design, civil engineering, structural engineering, and MEP engineering is included as part of this proposal.
- Fire protection and fire alarm engineering will be done as a deferred submittal after permitting. KCS will include basis of design as part of the package.
- A consultant for security and technology has been included for the courts facility.
- FF&E layout will be provided as part of the architectural design including space planning for existing equipment that will be relocated from the existing facility. COF to provide inventory of existing equipment for use by KCS and its consultants.
- Design workshops (~10 total) will be held in Flagstaff with stakeholders identified by COF.

- KCS will take the lead on behalf of the COF with stakeholder and community group engagement and participation during the design phase. This will include (2) public open houses and meetings with local specialty groups to solicit feedback for the project. Rich Bowen will be part of the team leading this effort on a consulting basis. KCS will also participate in (2) COF council meetings and presentations.
- KCS assumes that existing hazardous material testing reports (already received by KCS) are still valid and no additional testing is required during the design phase.
- KCS will facilitate a chartering session at the beginning of the design and pre-construction phase of the project.
- KCS will facilitate coordination meetings between architect and engineering consultants during the course of the design phase. These meetings are meant to ensure that the design will meet the budget, schedule, and quality requirements outlined by the owner and users.
- KCS will manage and present regular schedule updates during the course of design including design components, procurement, and construction.
- KCS will participate in site investigation as necessary during the design phase to ensure existing conditions are documented within the design.
- The final estimate at the end of construction documents will be the GMP and basis for contract for construction services.
- KCS has included allowances for Geotech investigation, mock-ups, and a 3rd party commissioning agent participation in pre-construction.
- Early on in the design phase of the project, KCS will assist the team in deciding on the path for sustainability certification (Green Globes vs. LEED vs. Living Building Challenge). KCS and the design consultants will provide input and manage the initial portion of the certification process including energy modeling. Costs associated with registration and certification of the chosen sustainability performance organization, either Green Globes or LEED, will be paid for by COF.
- It is assumed that the courtrooms will be fairly standard with low to mid-range finishes and there will also be limited hard surfaces. For this reason, we believe that an acoustical consultant will not be required.
- A Threat Assessment Study has not been included for blast consulting nor engineering.
- KCS assumes that surface parking will be provided at the existing site (Aspen St) and at the new site (Cherry St). There is a possibility of basement level parking and the sally port entrance below finished floor at the Cherry St location. A parking garage is not included.
- A traffic impact analysis (TIA) is not included as part of these services.
- A floodplain study and mapping I s not included. Hydrology and hydraulics is limited to the project area only. The finished floor elevation will be designed to be 1' above the 100 year flood elevation. Un-occupied space including parking and the sally port may be within the floodplain.
- ADEQ submittal won't be required since we are tying into existing mains.
- Design of off-site infrastructure is excluded. KCS assumes surface drainage to Beaver Street will be allowed. LID requirements will be reviewed with COF staff, but it is assumed that on-site detention will not be required. Costs associated with LID design are included in this proposal.
- Franchise Utility (Unisource, APS, SuddenLink, Century Link) coordination during design is included. Fees for franchise utility infrastructure and/or design are not included and will be paid for directly by COF. KCS will work with franchise utilities early on to help establish budgets to be used for the duration of the project.
- Expendables including travel are included as a lumpsum cost within the proposal.
- KCS will submit and coordinate permitting for COF and Authorities Having Jurisdiction (AHJ) permits. Costs including impact fees to be paid by COF.
- KCS' design consultants will provide E&O insurance. No additional coverage will be provided by KCS.
- Construction administration (CA) services by design consultants are not included as part of this proposal; these will be included in the GMP.

Cost Breakdown by Discipline & Phase

Description	Totals	SD Phase	DD Phase	CDs & Permits
KCS Management & Pre-Construction Services	$ 428,440.00	$ 188,930.00	$ 102,220.00	$ 137,290.00
Architecture & Interiors	$ 680,000.00	$ 212,500.00	$ 170,000.00	$ 297,500.00
Civil Engineering & Landscape	$ 56,058.00	$ 8,465.00	$ 14,660.00	$ 32,933.00
Structural Engineering	$ 66,880.00	$ 12,540.00	$ 16,720.00	$ 37,620.00
MEP Engineering	$ 242,670.00	$ 50,570.00	$ 101,110.00	$ 90,990.00
Security & Technology Consultant	$ 69,280.00	$ 12,990.00	$ 17,320.00	$ 38,970.00
Mock-up Allowance	$ 7,000.00		$ 7,000.00	
Survey & Topo	$ 13,300.00	$ 13,300.00		
Geo-tech Testing & Evaluation	$ 10,000.00	$ 10,000.00		
Commissioning Agent Allowance	$ 10,000.00		$ 5,000.00	$ 5,000.00
Reproductions, Technology, & Expendables	$ 10,000.00	$ 2,500.00	$ 2,500.00	$ 5,000.00
Grand Total	**$ 1,593,628.00**	**$ 511,795.00**	**$ 436,530.00**	**$ 645,303.00**

Thank you for this opportunity to provide you with our services.

Sincerely,

Michael Thomas
Vice President of Operations

CGL
2485 Natomas Park Drive, Suite 300
Sacramento CA 95833

7 June 2018

Mike Thomas
Kinney Construction Services, Inc.
121 E Birch - Ste 500
Flagstaff, AZ 86001

Mark-ups in proposal by KCS (Mike Thomas) based on conversations with consultants on 6-7-18 and 6-8-18.

RE: Flagstaff Municipal Courthouse Scope of Services and Fee Proposal

Dear Mike:

It is with great pleasure that CGL welcomes the opportunity to collaborate with Kinney Construction Services, Inc. on the Flagstaff Municipal Courthouse Design-Build project. CGL is confident that the combined experience of our organizations and collaborative spirit will translate into a successful partnership for the Courthouse project and for other potential projects in the future.

The following outline reflects CGL's proposed scope of work for architectural, interiors and engineering design services based on earlier discussions with the team and industry standards. We believe a partnering approach will establish a strong message on how our firms will collaborate throughout the project and how the City of Flagstaff will benefit from our combined expertise.

CGL will serve as the Prime Architect performing all architectural design services as outlined in this proposal. The CGL team will include the following sub-consultants:

- SWI, Inc. – Civil Engineering and Landscape Design
- Caruso Turley Scott – Structural Engineering
- Energy Systems Design - MEP/FP Engineering
- Pennell Consulting Inc. – Electronic Security, Audio-Visual, Voice/Data, Fire Alarm Engineering

BASIS OF SCOPE AND COST PROPOSAL

The following are the conditions and assumptions that form the basis of the Scope of Work and corresponding Cost of Services:

1. A new two to three story courthouse building of approximately 40,000 GSF, $15,000,000 construction cost located in downtown Flagstaff, AZ.

2. Design-bid-build project delivery with maximum of one Bid Package (Permit Set). A separate site development package as required by the City of Flagstaff will be developed for City planning approvals.

3. The Cost Proposal of professional fees is valid through 2020 2019, then subject to escalation and/or renegotiation.

4. Design schedule for Schematic design through Permitting documents of approximately 6-7 months.

5. Drawings will be developed in Revit 2018. Drawings will adhere to "BIM Forum 2017 Level of Development Specification". Electronic drawings can be provided to the City in AutoCad format as requested. Facility Management information is not included in the BIM model.

6. The following activities are assumed to be the responsibility of the City and/or Kinney Construction Services, Inc.:

   6.1 Environmental/Hazardous Materials analysis, report and/or remediation
   6.2 All Regulatory, Permit and Filing fees

7. Travel and/or site visits for meetings in Flagstaff, AZ for CGL staff includes the following:

   7.1 Design Phase (Schematic Design through Bidding/Permitting phase) – Twelve 1.5 day trips (total)
   7.2 Construction Administration Phase – Sixteen 1 day trips (total, including punch list)

   Travel and site visits for the engineering sub-consultants is outlined in the attached proposals from each sub-consultant.

8. All printing for owner and permit submittals shall be by Kinney. CGL shall provide files in digital format to Kinney for all printing required. All printing for internal use by CGL shall be by CGL.

The following describes the general scope and deliverables for CGL and the sub-consultants by phase:

SCHEMATIC DESIGN

Chartering Meeting - Attend Chartering meeting with Kinney, Owner and Users

Data Collection - Review previous Space Program

Program Verification - Meet with Users and Owner to review and update Space Program

Blocking and Stacking

CGL will develop two to three conceptual blocking and stacking options for the proposed building. The "blocking and stacking diagrams" define identify the number of courts per floor and the location of all major program areas. The site plan for the conceptual designs will include the proposed building footprint and massing diagrams. The City, Kinney and CGL shall collaborate to select the recommended solution for the project.

Architectural

All scales will be per COF requirements

- Architectural site plan
- Floor and roof plans – 1/16"=1'-0" scale
- Exterior elevations – 1/16"=1'-0" scale
- Building sections – 1/16"=1'-0" scale
- Two three-dimensional views of the general building design concept
- Coordinate with engineering sub-consultants to integrate preliminary engineering and design criteria
- Calculate space allocations in comparison to the Space Program
- Prepare system descriptions to generally describe the materials and systems
- Meet with City officials to discuss code requirements and design issues that may impact the design and identify potential concerns

Structural

- See attached proposal

Civil/Landscape

- See attached proposal

Mechanical, Electrical, Plumbing and Fire Protection (M/E/P/FP)

- See attached proposal

Electronic Security/AV/Voice-Data/Fire Alarm

- See attached proposal

DESIGN DEVELOPMENT

Architectural

All scales will be per COF requirements

- Site plan
- Floor and roof plans – 1/8"=1'-0" scale
- Demolition plans
- Reflected ceiling plans - 1/8"=1'-0" scale
- Exterior elevations - 1/8"=1'-0" scale
- Building sections - 1/8"=1'-0" scale
- Preliminary typical wall sections – 1/2"=1'-0" scale
- Preliminary stair and elevator plans and sections
- Enlarged courtroom plans – 1/4"=1'-0" scale

- Preliminary interior elevations -v1/4"=1'-0" scale
- Partition types
- Preliminary FF&E plans – 1/8"-1'-0"
- Coordinate with consultants to integrate engineering and design criteria
- Outline specifications in narrative form to describe the materials and systems (CSI format)
- Meet with local and City officials if required to discuss code requirements and design issues that may impact the design and identify potential concerns

Structural
- See attached proposal

Civil/Landscape
- See attached proposal

Mechanical, Electrical, Plumbing and Fire Protection (M/E/P/FP)
- See attached proposal

Electronic Security/AV/Voice-Data/Fire Alarm
- See attached proposal

CONSTRUCTION DOCUMENTS

Architectural
- Architectural site plan
- Floor and roof plans, dimensioned and annotated – 1/8"=1'-0" scale
- Demolition plans
- Life Safety plans
- Reflected ceiling plans, dimensioned and annotated – 1/8"=1'-0" scale
- Exterior elevations, dimensioned and annotated – 1/8"=1'-0" scale
- Building sections, dimensioned and annotated – 1/8"=1'-0" scale
- Wall sections, dimensioned and annotated – 1/2"=1'-0" scale
- Stair and elevator plans, sections and details, dimensioned and annotated
- Enlarged courtroom plans, reflected ceiling plans, interior elevations – 1/4"=1'-0" scale
- Courtroom and miscellaneous millwork details
- Exterior and interior details
- Interior elevations
- Door and finish schedules, door details
- Partition types
- FF&E plans – 1/8"-1'-0"
- Coordinate with consultants to integrate engineering and design criteria
- Specifications (CSI format)
- Meet with local and Commonwealth officials if required to discuss code requirements and design issues that may impact the design and identify potential concerns.

All scales will be per COF requirements

Structural

- See attached proposal

Civil/Landscape

- See attached proposal

Mechanical, Electrical, Plumbing and Fire Protection (M/E/P/FP)

- See attached proposal

Electronic Security/AV/Voice-Data/Fire Alarm

- See attached proposal

BIDDING AND PERMITTING

General

- Kinney will coordinate the construction bidding process, establishing the bidding procedures, terms and conditions of the contract, and general requirements.
- One bid package is included in the Work. Inclusion of additional bid packages will be an Additional Service.
- Kinney will assemble, print, and distribute all bid packages to potential bidders.

Architect

- Prepare Addenda to supplement the documents and clarify bidding sub-contractor questions.
- Review requests for substitutions.

All Architect Sub-consultants

- Respond to requests for substitutions for their respective discipline.
- Prepare portions of Addenda related to their respective disciplines.

CONSTRUCTION ADMINISTRATION

CA not part of this contract

General

- Kinney Construction Services, Inc. shall be responsible for the documentation, preparation and submission of all As-built documents required by the City.

Architect

- Attend up to 16 on-site meetings to observe the construction progress and perform punch list. Prepare Field Reports of each onsite visit.
- Review and respond to Requests for Information.
- Prepare Bulletin (supplemental drawings and/or specifications) for

clarification of details as needed.
- Review of all contractor submittals and shop drawings, up to three times.
- Prepare punch lists.

All Architect Consultants

Structural
- See attached proposal

Civil/Landscape
- See attached proposal

Mechanical, Electrical, Plumbing and Fire Protection (M/E/P/FP)
- See attached proposal

Electronic Security/AV/Voice-Data/Fire Alarm
- See attached proposal

OPTIONAL SUPPLEMENTAL SERVICES

The following Supplemental Services can be performed as Additional Services pending prior approval by Kinney Construction Services, Inc. See attached engineering proposals for optional Supplemental Services available to be performed by the engineering sub-consultants.

Existing Physical Conditions Survey
- Floor plan survey confirming location of all walls, columns, stairs, masonry, elevators, stairs, shafts, toilets, fire standpipes, slab height changes, etc. of existing buildings.
- Elevation study to confirm the measurement of height and width of all exterior elevations, including windows of existing buildings.
- Section documentation to confirm the floor-to-floor heights and floor to underside of structural slab.

Acoustics
- Acoustic consulting

Measured 'As-Built" Drawings of the Final Construction
- Compile mark-up drawings from the Construction Manager and Contractors
- Provide electronic as-built documents for County long-term facility maintenance purposes.

Geotechnical Engineer and Report by KCS
- Report determines the criteria for foundation design, temporary and

permanent groundwater control, and soil/rock slope stabilization.

Subsurface Soil Borings — by KCS

- Provide drilling of the subsurface soil borings and data report of the findings.

Legal Survey — by KCS

- Measured and scaled topographical survey, utility survey, and boundary survey of existing site conditions in a combined drawing document.

Leadership in Energy and Environmental Design (LEED), Green Globes — Part of base contract to assist KCS with LEED or Green Globes

- Green building rating system providing a framework of minimum criteria in the design and documentation of sustainable buildings.
- Documentation, tracking and coordination of all LEED points between the design team, owner, construction manager and general contractors.

Swing Space

- Provide design and furniture layouts of temporary swing space for building components determined by the City.

Physical Model

- Provide physical professional scale model of proposed design.

Traffic Studies or Traffic Impact Analysis

Threat Assessment Studies

- Threat assessment to determine potential project vulnerabilities, focusing on physical, architectural, electronic and/or staffing components of the project. Blast consulting and engineering for the design of the structural and architectural systems needed to absorb the energy of the potential vulnerabilities defined by the threat assessment.

Publicity and Credit:

CGL will be identified in any written of graphic material connected with the project as the Design Architect / Architect of Record. This includes all published deliverables during design and construction, including but not limited to: reports; drawings; title blocks; specification books; etc. This also applies to all material submitted for publication, awards, exhibits, etc. CGL is entitled to use of any images prepared in connection with this project, and, agrees to allow similar privilege to other design team members.

Fees:

Professional services fees for the scope of services described in this proposal shall be $1,353,800 (One million three hundred fifty three thousand eight hundred dollars). Payment shall be made in the form of monthly progress payments, paid within 30 days of receipt of invoices and based on the percentage

completed of each phase. Expenses for travel to meetings and workshops, telephone and printing are included in the total fee.

CA not part of this contract

	SD	DD	CD	P	CA
Architecture/Specs/Interiors Total	$ 212,500	$ 170,000	$ 255,000	$ 42,500	$ 170,000
Civil / Landscape Total	$ 8,465	$ 14,660	$ 32,933	$ -	$ 4,542
Structural	$ 12,540	$ 16,720	$ 33,440	$ 4,180	$ 16,720
HVAC, Plumbing/FP Electrical Total	$ 50,570	$ 101,110	$ 90,990	$ -	$ 30,330
Program Verification	$ -	$ -	$ -	$ -	$ -
LEED	$ -	$ -	$ -	$ -	$ -
FF&E	$ -		$ -	$ -	$ -
Cost Estimator/Schedule	$ -	$ -	$ -	$ -	$ -
Acoustics	$ -				
Code/Life Safety	$ -	$ -	$ -	$ -	$ -
Elec. Sec/AV/Voice-Data/Fire Alarm	$ 12,990	$ 17,320	$ 34,640	$ 4,330	$ 17,320
Way Finding - Signage	$ -	$ -	$ -	$ -	$ -
Elevator	$ -	$ -	$ -	$ -	$ -
Roofing / Envelope	$ -	$ -	$ -	$ -	$ -
Special Lighting	$ -	$ -	$ -	$ -	$ -
Travel SD-B/P	$ -	$ -	$ -		$ -
Travel CA	$ -	$ -	$ -		$ -
Printing	$ -	$ -			$ -
Sub-total per phase	$ 297,065	$ 319,810	$ 447,003	$ 51,010	$ 238,912
	21.9%	23.6%	33.0%	3.8%	17.6%
Sub-totals SD-P / CA	$1,114,888				$238,912
	82.4%				17.6%
Total	~~$1,353,800~~				
	100.0%				

Please feel free to contact us if you have any questions or comments,

Sincerely,

Enrique Macia, AIA, LEED AP
Senior Vice President
CGL Companies

Shephard ▲ Wesnitzer, Inc.
Engineering an environment of excellence

110 West Dale Avenue
Flagstaff, AZ 86001

928.773.0354
928.774.8923

www.swiaz.com

Engineering an environment of excellence.

PROPOSAL/ AGREEMENT FOR PROFESSIONAL SERVICES

Ref. No. 18073
June 1, 2018

BETWEEN: **Kinney Construction Services**
Attn: Tim Kinney
121 E. Birch Ave. Suite 500
Flagstaff, AZ 86001
("CLIENT")

AND: **Shephard – Wesnitzer, Inc.**
110 West Dale Avenue
Flagstaff, Arizona 86001 ("SWI")

FOR THE PROJECT: **Civil Engineering Services**
City Court Facility Project ("PROJECT")
101 W. Cherry Avenue
Flagstaff, Arizona
APN: 101-10-010A ("SITE")

The Client and SWI do hereby agree as follows:

2.0 DESCRIPTION OF PROJECT

Information provided by the Client indicates that the Project consists of demolition of three City buildings (101 W. Cherry Ave, 15 N. Beaver Street, 107 W. Aspen Ave.) and the construction of a new City Court Facility and associated parking lot improvements at the site located on Cherry Avenue in Flagstaff, Arizona.

2.0 PURPOSE

The purpose of our Engineering Services will be to prepare a Civil Plans for review and approval the City of Flagstaff (City) as part of the City's development process.

Client's Initials _____

3.0 SCOPE OF SERVICES

We propose to provide the following:

Survey Services:

Item No.	Description	Fee
1.	**Pre-Design Services**	**$8,500.00**
	Survey Control: Verify existing survey control, establish new permanent survey control and elevation benchmarks for use through duration of the project.	
	Results of Survey: Perform a boundary survey and prepare Results of Survey for Assessor Parcel Numbers 100-10-010C & 100-10-009A.	
	Topographic Survey: Provide a detailed topographic survey of all existing site improvements, drainage structures and utility appurtenances within the subject parcel boundaries and adjacent street15 Right-of-Way. Provide a signed and sealed topographic survey and associated CAD files.	
	Utilities: Locate all visible utility bluestake markings and surface utility appurtenances including, but not limited to: sewer manhole rim and inverts, cleanouts, water meters, water valves, gas meters, electric pullboxes/transformers.	
2.	**Lot Combination:** Prepare a Legal Description and Exhibit, and Lot Combination form for submittal to the City of Flagstaff for approval, and recording with Coconino County (City of Flagstaff Fee: $175.00, County Recording Fee: $10.00).	**$1,500.00**
3.	**Legal Descriptions:** Prepare up to 4 legal descriptions for PUE's, TCE's, and sidewalk easements as required by the City of Flagstaff.	**$1,800.00**
4.	**As-Built Survey:** Provide as-built survey data for finished construction of all site utilities, grading and drainage features in preparation of Record Drawings as required by the City of Flagstaff.	**$1,500.00**
	Survey Services Subtotal:	**$13,300.00**

Client's Initials _____

Concept Plan:
Items below are tasks that will be completed by SWI for the Concept Plan review process, and are based on **two (2)** Concept Plan submittals. It is assumed that the Court Site and Parking Site will be submitted under one concept plan application.

Item No.	Description	Fee
5.	**Concept Plan:** Review the Concept Plans as provided to SWI by the Client to make the necessary Civil Engineering related adjustments to conform to City codes: including preliminary utilities, drainage systems, low impact development systems, impervious areas, pedestrian access, and traffic circulation support. This includes all three parcels. The City comments provided to SWI by the Client will be incorporated into adjustments made by SWI. This includes one (1) iteration of Concept Plan development with the Client and architect to ensure the site works with the Civil Improvements: turning analysis, preliminary grades, driveway location, etc. This item also includes comment coordination with the City. **Additional plans and meetings will be billed on a time and material basis only upon Client's approval.**	**$8,200.00**
	Preliminary Landscape Plan: Morning Dew Landscaping will prepare a Preliminary Landscape Plan in accordance with the City's Concept Plan checklist.	
	Concept Plan Subtotal:	**$8,200.00**

Site Plan:
Items below are tasks that will be completed by SWI per the City's Site Plan conditions of approval and will be required prior to Construction Plan review. Items will be completed for the Formal Site Plan submittal and are based on **two (2)** Site Plan Submittals. Additional submittals will be considered as additional services. It is assumed that the Court Site and Parking Site will be submitted under one site plan application.

Item No.	Description	Fee
6.	**Grading and Drainage Plan:** Prepare a stand-alone Grading and Drainage Plan per City requirements. This plan will contain its own cover sheet, will be on an SWI border, and may contain information such as existing and finish grade contours, approximate retaining wall heights, finish floor elevations, detention/LID locations and required volumes, the proposed driveway and turn lane, and existing & proposed utilities.	**$14,200.00**

Client's Initials _____

Preliminary Drainage Report:
Prepare and submit a preliminary drainage report. Hydrologic calculations will be performed for the existing and developed conditions and approximate detention and LID volumes will be estimated. The results of this preliminary analysis will be documented in this report and will include a description of the preliminary drainage scheme. This report will also provide justification ~~than~~ that an area reserved for surface and/or underground detention is satisfactory. The area needed for detention will be coordinated with the Site Plan.

Preliminary Landscape Plan:
Morning Dew Landscaping will update the Preliminary Landscape Plan in accordance with the City's Site Plan checklist.

Site Plan Coordination:
Coordination and Meetings: Includes coordination with Client and City staff through the Site Plan preparation and approval process. Includes one (1) in person project kickoff meeting with the Client and Client's architect, one (1) site visit, and attendance at one (1) Formal Site Plan meeting with City staff. This item assumes that all meetings will be held in Flagstaff at SWI or City offices. Includes comment coordination with the City of Flagstaff after their review of the Site Plan. SWI will receive finished PDF's by others, print the appropriate number of copies, include an electronic copy of everything on a disc, and submit the complete submittal to the City of Flagstaff for review.

KCS

Site Plan Subtotal: **$14,200.00**

Client's Initials _____

Final Design and Construction Plans:
These tasks are based on the Preliminary Plat approved by the City and will be utilized for Final Design with only minor modifications as necessary to address their comments. The fees for the Final Design and Construction Plans assume three (3) submittals (2 for review and 1 for final approval) to the City which is typical for projects of this type.

Item No.	Description	Fee
7.	**Construction Plans for Improvements:** Prepare and submit construction plans to the City representing the detailed design of public and private improvements associated with the Project infrastructure per *The City of Flagstaff's Civil Construction Plan Submittal & Processing for Residential & Commercial Development Projects* standards. Private improvements located on-site will be designed per City standards and details. Specifications for construction will be listed on the plans. Private improvements include: curb, gutter, sidewalk, pavement plan (does not include the design of pavement structural section), on-site water and gravity sewer systems, horizontal control sheets, on-site access road, retaining wall, and site grading. Public improvements include driveway connections to the adjacent roadway and water and sewer connections.	**$31,900.00**

Provided by geotech; contracted directly by KCS

Storm Water Pollution Prevention Plan:
Prepare a SWPPP to be included in the Construction Plans that will identify temporary and permanent erosion protection facilities per ADEQ requirements. The SWPPP developed under this scope of work will address initial SWPPP best management practices and controls only; modifications to the SWPPP to address on-site changes are the responsibility of the Contractor. ADEQ National Emissions Standard for Hazardous Air Pollutants (NESHAP) is typically obtained directly by the Contractor and is not included in this scope of work. Permit fees shall be paid by the Contractor.

Client's Initials _____

Final Drainage Report:
Prepare and submit a Drainage Report per the requirements set forth by the City of Flagstaff Stormwater Management Design Manual (COFSMDM). Specifically, the report will address the existing and post development drainage peak discharge rates on the site. The report will also discuss how offsite runoff will be routed through the site if necessary. This assumes no change to the approved Site Plan and does not account for iterative drainage design. Work will be coordinated with the Grading Plans. The report will include detailed calculations for stormwater conveyances, detention areas, and Low Impact Development Integrated Management Practices.

Engineer's Opinion of Probable Cost (EOPC):
Prepare and submit an EOPC for any improvements for which an Assurance of Performance is required. The EOPC will be prepared in accordance with City standards.

Final Landscape & Irrigation Plan:
Morning Dew Landscaping will prepare a final landscape and irrigation plan in accordance with the City's Civil Construction Plan checklist. The landscape and irrigation plan will be incorporated into the Civil Construction Plans.

Final Design and Construction Plan Coordination:
Includes coordination with Client, Client's architect, Geotechnical Engineers, City staff, and utility companies through the Final Design and Construction Plan preparation and approval process. Includes two (2) in person meeting with the Client and Client's architect and attendance at two (2) comment resolution meeting with City staff (typically after the 1st review).

Final Design and Construction Plan Subtotal: $31,900.00

Construction Staking:

Item No.	Description	Not Part of this contract	Fee
8.	**Construction Survey (Estimated):** Provide construction survey and layout for all new site improvements, utilities, grading and drainage, parking lots, and building construction.		**$13,500.00**

Construction Staking Services Subtotal: $13,500.00

Client's Initials _____

Construction Phase Service:
Items 9-12 below are tasks that will be completed by SWI during construction, after construction plan approval.

Item No.	Description	Fee
9.	**Rough Grading Certification:** Provide up to 2 inspections as necessary to complete the latest *Rough Grading Inspections Certificate* to be submitted to the City of Flagstaff's Stormwater Management Section. The construction surveyor shall provide as-built information for the proposed drainage structures. This will aid in confirming the construction of the drainage structures compared to the design. The Contractor is to route the Rough Grading Inspection Certificate form to be signed by the Registered Civil Engineer, Land Surveyor, Geotechnical Engineer and Grading Contractor. It is assumed that a separate rough grading certificate will be required for the new courthouse site and the new parking lot on the existing courthouse site.	**$1,900.00**
10.	**Final Grading Certification:** Provide up to 2 inspections and the Final Grading Certification to the City of Flagstaff's Stormwater Management Section. The Contractor is to route the latest City of Flagstaff *Final Grading Inspection and Certificate* form to be signed by the Registered Civil Engineer and Geotechnical Engineer. The construction surveyor is to provide an as-built survey for any additional drainage structures note surveyed under the Rough Grading Certification. The as-built survey is not included in this item. It is assumed that a separate final grading certificate will be required for the new courthouse site and the new parking lot on the existing courthouse site.	**$1,900.00**
11.	**Record Drawing Engineered Grading Plan:** Services include compiling as-built plans for submittal to the City of Flagstaff. Based on as-builts provided by the construction surveyor, inspector reports and redlines, contractor redlines, and field visits. SWI will provide a Record drawing.	**$3,300.00**

Client's Initials _____

12. **Construction Observation Services:** **$4,400.00**
Includes review and approvals for civil related shop drawing submittals. Provide construction observations for civil related work (40 hours for a 6 month construction period), including construction coordination, support and correspondence with Client, Client's contractor, sub-contractors, City staff and utility companies. Includes up to 2 Request for Information (RFI) related to revisions due to the discovery of unanticipated conditions in the field or revisions instigated by others. Services above and beyond the site visits and RFIs *will be billed on a time and material basis* only upon written authorization. Not part of this contract

Construction Phase Services Subtotal: **$11,500.00**

FEE SUMMARY

Survey Services	$13,300
Concept Plan	$8,200
Site Plan	$14,200
Final Design and Construction Plan	$31,900
~~Construction Staking~~	~~$13,500~~
~~Construction Phase Services~~	~~$11,500~~
~~Total~~	~~$92,600~~

4.0 SCHEDULE

A schedule will be developed with the Client upon a signed copy of this agreement.

5.0 ASSUMPTIONS

a. The Court Site and Parking Site will go through Community Development as one submittal.
b. Client will provide checks for submittal fees.
c. A Resource Protection Plan will not be required.
d. Sufficient survey boundary control lying within at least one adjoining tract is existing and verifiable.
e. Narrative and Site Analysis will be prepared by others.
f. Court Site parcels will be combined. Parking Site parcels will not be combined.
g. Stormwater detention will not be required.
h. Traffic impacts will not be evaluated.
i. ADEQ submittal will not be required.
j. Demolition plans will be prepared by others.
k. Finished Floor will be a minimum 1' above Base Flood Elevation.
l. No overnight vehicles will be parked in areas with greater than 1' of flood depth.
m. Structural design is excluded with this proposal.
n. The design of dry utilities will be prepared by the Utility Owner. Any dry utility information provided to SWI in AutoCAD format will be included on the plans for reference only.

Client's Initials _____

o. A bid schedule or construction contract documents are not included.
p. No offsite water or sewer mains need to be upsized or extended more than 100' to reach the subject parcel.
q. Offsite sewers adjacent to project are at sufficient depth to accept gravity sewers from the project.
r. Offsite water lines adjacent to the project are of sufficient size and capacity to adequately service the project utilizing only a system of internal looped pipe connections, and no offsite water main extensions are required.
s. Offsite stormwater lines adjacent to the project are of sufficient size and capacity to adequately serve the project and no off-site analysis is required.
t. Mechanical Electric Plumbing (MEP) engineer will provide the size and location of water and sewer services. MEP will also provide size of water meters.
u. Fee assumes single phase construction and therefore only one construction plan set is assumed.
v. Geotechnical investigation results and pavement structural section recommendations will be performed by others, will be received by SWI *prior to initiating site work*, and are not part of this Agreement.
w. The Client or Client's contractor is responsible for obtaining all applicable construction permits for this job.

6.0 MANNER OF PAYMENT

Billing for work in progress will be made on a monthly basis. Payment is due upon receipt of monthly billings. Late fees at the rate of 2% interest on balance owed will be assessed to client for delays in payments in excess of 30 days from the date of invoice. Services will be halted due to delays in payment. Final revisions to calculations and drawings will be released upon receipt of final payment.

7.0 FEES

The cost of Civil Engineering and Surveying services items 1 thru 12 is a lump sum fee of $92,600 plus reimbursable expenses. Reimbursable expenses includes FedEx charges, mileage, plan reproduction costs, and will be billed at cost plus 10% markup and are estimated at $3,000. Work which may be indicated by the discovery of unanticipated conditions in the field or revisions to the site plans instigated by others will be performed, only upon your authorization in writing in advance, in accordance with our current standard fee schedule. Current standard hourly rates are subject to change as current year expires. The estimated fee noted above is valid for 90 (ninety) calendar days after which time a review by SWI will be required.

8.0 STANDARD SWI TERMS AND CONDITIONS

Attached hereto and incorporated by the reference are the **SWI Standard Terms and Conditions**, which shall govern this agreement.

9.0 SERVICES NOT INCLUDED

Client's Initials _____

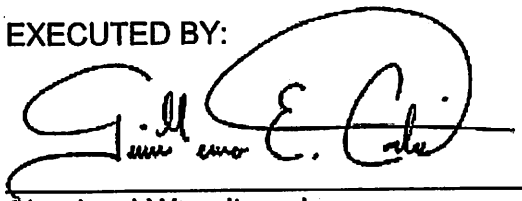
Traffic Impact Analysis (TIA), natural resource projection plan, cultural resource study, geotechnical investigations, environmental studies, archeological studies, architectural services, or any other work outside of the scope of the concept plan and not specifically identified in Section 3.0, Scope of Services.

This Proposal/Agreement, and the attached **Terms and Conditions,** contains the entire agreement between the parties, and supersedes all other agreements, either oral or written. No representations or warranties shall be valid or binding unless contained herein.

The signature below constitutes Shephard - Wesnitzer Inc.'s intention to be bound under the terms of this Proposal/Agreement, including the attached **Terms and Conditions**. The Client may accept by signing and returning to Shephard - Wesnitzer, Inc.

Any change to the **Terms and Conditions** of this Proposal/Agreement, or the tender of any contract documents in place of this Proposal/Agreement shall not be valid unless made in writing, dated and signed by all the parties.

EXECUTED BY:



Shephard-Wesnitzer, Inc. — June 1, 2018 Date

The foregoing AGREEMENT with its attached **Terms and Conditions** has been proposed by Shephard - Wesnitzer, Inc. and has been read, is understood, and is hereby accepted.

EXECUTED BY:

_____ Clients Authorized Representative

_____, 2018 Date

_____ Typed or Printed Name

_____ Title

Client's Initials _____

TERMS AND CONDITIONS

The captions of the sections herein are intended for convenience of reference only and shall not be used to interpret the content of each section.

1. **PROJECT INFORMATION**

1.1 In preparation of its Proposal, SWI has relied on certain information and documentation supplied by CLIENT or CLIENT's agents as being accurate, and CLIENT agrees that SWI has a right to rely on the said information or documentation.

1.2 CLIENT affirms that CLIENT has provided all documents, maps and other information in CLIENT's possession, relating to past, present and proposed future use of THE SITE and its surrounding area, to SWI before execution of this Agreement by SWI.

1.3 CLIENT confirms that the content of all documents, maps and other information which CLIENT has provided to SWI before SWI's execution of this Agreement is correctly addressed in the Scope of Services part of this Agreement.

1.4 CLIENT will designate in writing those persons, organizations or agencies to be contacted in the event conditions are revealed during the execution of SWI's services that would require possible alteration of the services hereunder.

2. **WARRANTY**

SWI warrants their services are performed, within the limits prescribed by this Agreement, with the usual thoroughness and competence of the professions practicing these services in the same or similar locality of THE SITE at the time of this Agreement. No other warranty or representation, either expressed or implied, is included or intended under this Agreement.

3. **SAFETY**

SWI will perform work under safe conditions. CLIENT may be charged additionally for safety or security measures required by dangerous job conditions, encountered during SWI's performance of the required services that could not be anticipated by review of the information available at the time the Agreement was executed.

4. **INSURANCE**

4.1 SWI will maintain the following insurance and amounts: Workman's Compensation, statutory limits; General Liability, $1,000,000; Professional Liability, $1,000,000.

4.2 No insurance, of whatever kind or type which may be carried by SWI, is to be considered in any way limiting the responsibility of others for damages resulting from their operations or for furnishing work and materials ON THE SITE.

5. **LIMITS OF LIABILITY**

For any damage, cost, expenses, or other liability, direct or indirect, resulting from any error, omission, or professional negligence in the performance of SWI's services, the liability of SWI, its employees, agents, officers, and consultants to all claimants with respect to THE PROJECT will be limited to an aggregate sum not to exceed $50,000 or SWI's total fee for the services rendered on THE PROJECT, whichever is greater.

6. **NOTIFICATION OF DEFECTS IN SERVICE**

CLIENT, CLIENT's personnel, and CLIENT's contractors and subcontractors shall promptly report in writing to SWI any defects or suspected defects in SWI's work or services, in order that SWI may take prompt, effective measures which in SWI's opinion will minimize the consequences of a defect in service.

7. **INDEPENDENT CONTRACTOR STATUS**

CLIENT confirms that SWI is employed as an independent contractor to perform the services required under this Agreement. SWI shall be free to exercise its discretion and independent judgment as to the methods and means of performance of these services, consistent with all other requirements of this Agreement.

8. **OWNERSHIP AND DISPOSITION OF DOCUMENTS**

8.1 CLIENTI agrees that all documents, calculations, studies, plans, maps, models, photographs, drawings, computer printouts, field notes, samples, logs, specimens, laboratory test data, and other products generated in the performance of services rendered under this agreement constitute work for hire and are and shall remain the property of the SWI.

8.2 SWI agrees that, during the performance of this Agreement, and thereafter it will <u>not</u> disclose to any persons, other than the CLIENT, CLIENT's authorized representatives, and those persons, organizations or agencies specifically designated in writing by CLIENT, any information pertaining to this Agreement or services rendered by SWI pursuant to this agreement except as follows:

8.3 In response to a valid subpoena or requirement under the law; however, SWI shall notify CLIENT upon receipt of the subpoena or other mandate in order to give CLIENT time to protect the confidentiality of the materials sought; and

8.2.2 Under circumstances where, in SWI's professional judgment, the performance of the duties under this agreement discloses a serious threat to the public health, safety of welfare, and the CLIENT after being notified of the threat refuses to, or does not take appropriate action within a reasonable time, then SWI has a professional obligation to notify the appropriate Regulatory Agency of the specific nature of the public threat.

9. **DELIVERY OF ELECTRONIC FILES**

In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by the Consultant, the Client agrees that all such electronic files are instruments of service of the Consultant, who shall be deemed the author, and shall retain all common law, statutory law and other rights, without limitation, including copyrights.

The Client agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The Client agrees not to transfer these electronic files to others without the prior written consent of the Consultant. The Client further agrees to waive all claims against the Consultant resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than the Consultant.

The Client and the Consultant agree that any electronic files furnished by either party shall conform to the specifications listed in Exhibit A. Any changes to the electronic specifications by either the Client or the Consultant are subject to review and acceptance by the other party. If the Consultant is required to expend additional effort to incorporate changes to the electronic file specifications made by the Client, these efforts shall be compensated for as Additional Services.

Electronic files furnished by either party shall be subject to an acceptance period of seven (7) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic files shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be

Client's Initials _____

accepted and neither party shall have any obligation to correct errors or maintain electronic files.

The Client is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the Consultant and electronic files, the signed or sealed hard-copy construction documents shall govern.

In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and sub-consultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than the Consultant or from any reuse of the electronic files without the prior written consent of the Consultant.

Under no circumstances shall delivery of electronic files for use by the Client be deemed a sale by the Consultant, and the Consultant makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the Consultant be liable for indirect or consequential damages as a result of the Client's use or reuse of the electronic files.

10. **ACTS OR OMISSIONS OF OTHERS**
SWI shall not be responsible for acts or omissions of any other party or parties involved in planning or designing of any project(s) for construction on THE SITE or the failure of any contractor or subcontractor to construct any item on THE SITE in accordance with recommendations contained in any issued by SWI. SWI, by the performance of services hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities with regard to any project(s) on THE SITE customarily vested in project architects, design engineers, or any other design agencies or authorities.

11. **RELIANCE ON PUBLIC RECORDS OR OTHER NON-SWI REPORTS AND DATA**
Unless otherwise described in "SCOPE OF SERVICES" , SWI accepts no responsibility for the correctness or accuracy of data or conclusions contained in public records, reports or other documents which were not published by SWI, but which are discovered by SWI in performance of the services required by this Agreement. CLIENT waives any claim against SWI, and agrees to defend, indemnify and hold SWI harmless from any claim or liability for injury or loss allegedly arising from errors, omissions or inaccuracies in such public records or in such other reports or documents.

12. **SITE ENTRY**
LIENT will furnish right of entry onto THE SITE for SWI to make the necessary field studies.

13. **MEDIATION**
In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and the Consultant agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

The Client and the Consultant further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, sub-consultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between the parties to all those agreements.

14. **LITIGATION BETWEEN AGREEMENT PARTIES**
In the event of litigation or arbitration between the parties to this Agreement, all reasonable costs and attorney's fees to enforce this Agreement incurred by the prevailing party shall be reimbursed by the non-prevailing party.

SWI and its subcontractors shall comply with all existing applicable laws and regulations under this Agreement; however, laws or ordinances enacted after the signing of this Agreement may increase SWI's cost of performing services included in this Agreement by requiring modifications of or additions to SWI's work, facilities or equipment. CLIENT shall reimburse SWI for such increased cost.

15. **SUBPOENAS**
CLIENT is responsible, after notification, for payment of time and expenses resulting from SWI's required response to subpoenas issued in conjunction with SWI's work. Compensation will be based on schedules in effect at the time the subpoena is served.

16. **COMPLIANCE WITH LAWS**
SWI and its subcontractors shall comply with all existing applicable laws and regulations under this Agreement; however, laws or ordinances enacted after the signing of this Agreement might increase SWI's cost of performing services included in this Agreement by requiring modifications of or additions to SWI's work, facilities or equipment. CLIENT shall reimburse SWI for such increased cost in proportion to the amount of the cost attributable to SWI's performance of services on THE PROJECT.

17. **INDEMNITY**
CLIENT and SWI do hereby indemnify and hold each other harmless from damage to property of whatsoever kind and nature, and injury to persons, including death, occasioned by the negligent or willful acts, errors or omissions of the indemnifying party, arising out of, or in any way connected to this Agreement.

18. **NOTIFICATION OF HAZARDOUS SUBSTANCES**
CLIENT hereby warrants that, if it knows or has any reason to assume or suspect that hazardous substances may exist at THE SITE, CLIENT has so informed SWI.

19. **DISCOVERY OF UNANTICIPATED HAZARDOUS SUBSTANCES**
SWI and CLIENT agree that the discovery of unanticipated hazardous substances constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. SWI agrees to notify CLIENT as soon as practically possible should unanticipated hazardous substances or suspected hazardous substances be encountered. SWI is hereby authorized to take such emergency measures, if any, that are necessary in SWI's professional opinion to immediately protect the health, safety and welfare of the public and SWI's personnel, and/or the environment and CLIENT agrees to compensate SWI for such emergency work. Thereafter, CLIENT and SWI will negotiate to change the scope of services hereunder to include said emergency work. In addition, CLIENT waives any claim against SWI, and agrees to indemnify, defend and hold SWI harmless from any claim or liability for injury or loss arising from SWI's encountering unanticipated hazardous substances or suspected hazardous substances. CLIENT also agrees to compensate SWI for any time spent and expenses incurred by SWI in defense of any such claim, with such compensation to be based upon SWI's prevailing fee schedule and expense reimbursement policy.

20. **PAYMENT**
CLIENT shall pay SWI in full for all services under the Agreement and executed written Change Orders, irrespective of any claim by CLIENT to third parties for compensation for additional work conducted by SWI. Any such claim shall in no respect delay payment of fees for services performed by SWI. Standard hourly rates are subject to change as current year expires.

Client's Initials _____

21. TERMINATION

21.1 This Agreement may be terminated by either party giving not less than ten (10) days written notice to the other party specifying a substantial failure to perform in accordance with the terms of the Agreement through no fault of the terminating party, provided that the terminating party is in full compliance with the Agreement at the time of the notice of termination.

21.2 Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice.

21.3 In the event of termination for any reason prior to completion of all reports contemplated by the Agreement, SWI reserves the right to complete such analyses and records as are necessary to place their files in order and, where considered necessary by them to protect their professional reputation, to complete a report on the services performed to date.

22. TERMINATION CHARGES

22.1 If this Agreement is terminated and the termination is due to substantial failure of CLIENT to perform in accordance with the Agreement through no fault of SWI, CLIENT shall pay SWI for services performed to the termination date plus termination charges.

22.2 Termination charges shall include personnel and equipment rescheduling and/or reassignment adjustments and all other related costs that are directly attributable to termination. At the option of SWI an additional termination charge, not to exceed thirty percent (30%) of all charges incurred up to the date of termination may be made to cover the cost of completing analyses, records and reports in accordance with 21.3 of these Terms and Conditions.

23. SUSPENSION OF SERVICES

23.1 CLIENT may, upon ten (10) days written notice, suspend further performance by SWI at any time.

23.2 If CLIENT's payment of statements is delinquent, SWI may, upon ten (10) days written notice, suspend further performance until such payment is restored to a current basis.

23.3 At the option of SWI, suspension for any reason exceeding thirty (30) days shall make this Agreement subject to termination or renegotiation.

23.4 All suspensions shall extend this Agreement's completion date commensurately.

23.5 In the event of suspension of services for any reason prior to completion of all reports contemplated by the Agreement, SWI reserves the right to complete such analyses and records as are necessary to place their files in order and, where considered necessary by them to protect their professional reputation, to complete a report on the services performed to date.

24. SUSPENSION CHARGES

24.1 If SWI's performance is suspended for any reason, CLIENT shall pay SWI for services performed to the suspension notice date plus suspension charges.

24.2 Suspension charges shall include personnel and equipment rescheduling and/or reassignment adjustments, all other related costs indirectly attributable to suspension, and charges for completing analyses, records and reports in accordance with 21.5 of these Terms and Conditions.

25. DELAYS

25.1 Delays resulting from acts of God or from factors beyond the reasonable control of the parties, or from the action or inaction of CLIENT shall extend this Agreement completion date commensurately.

25.2 CLIENT shall pay SWI for services performed to the delay commencement date plus delay charges. Delay charges shall include personnel and equipment rescheduling and/or reassignment adjustments and all other related costs indirectly attributable to such delays.

26. ASSIGNS

Neither CLIENT nor SWI may delegate, assign or transfer his duties or interest in this Agreement without the written consent of the other party.

27. BETTERMENT

If, due to SWI's error, any required item or component of the PROJECT is omitted from SWI's construction documents, SWI shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the PROJECT or otherwise adds value or betterment to the PROJECT. In no event shall SWI be responsible for any cost or expense that provides betterment, upgrade or enhancement of the PROJECT.

28. CONSTRUCTION OBSERVATION

28.1 SWII shall visit the site at intervals appropriate to the stage of construction, or as otherwise agreed to in writing by the Client and SWI, in order to observe the progress and quality of the Work completed by the Contractor. Such visits and observation are not intended to be an exhaustive check or a detailed inspection of the Contractor's work but rather are to allow SWI, as an experienced professional, to become generally familiar with the Work in progress and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.

Based on this general observation, SWI shall keep the Client informed about the progress of the Work and shall endeavor to guard the Client against deficiencies in the Work.

If the Client desires more extensive project observation or full-time project representation, the Client shall request that such services be provided by SWI as Additional Services in accordance with the terms of this Agreement.

SWI shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected neither by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor in accordance with the Contract Documents.

SWI shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. SWI does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

28.2 SWI shall not be responsible for as-built certifications requested by the CLIENT, regulatory agencies or other third parties unless SWI has conducted the as-built field surveys and has conducted adequate construction observation services to certify to the accuracy and quality of the construction.

Client's Initials _____

SHEPHARD-WESNITZER, INC. - 2017 HOURLY RATES

STANDARD RATE SCHEDULE

E-5	ENGINEER 5	$175/HOUR
E-4	ENGINEER 4	$160/HOUR
E-3	ENGINEER 3	$140/HOUR
E-2	ENGINEER 2	$125/HOUR
E-1	ENGINEER 1	$110/HOUR
EIT-4	ENGINEER IN TRAINING	$110/HOUR
EIT-3	ENGINEER IN TRAINING	$100/HOUR
EIT-2	ENGINEER IN TRAINING	$95/HOUR
EIT-1	ENGINEER IN TRAINING	$90/HOUR
CADD-4	CADD DESIGNER	$105/HOUR
CADD-3	CADD DESIGNER	$95/HOUR
CADD-2	CADD DESIGNER	$80/HOUR
CADD-1	CADD DESIGNER	$60/HOUR
CAD-4	CAD DRAFTER	$80/HOUR
CAD-3	CAD DRAFTER	$70/HOUR
CAD-2	CAD DRAFTER	$60/HOUR
CAD-1	CAD DRAFTER	$50/HOUR
A-1	CLERICAL	$65/HOUR
RLS	REGISTERED LAND SURVEYOR, PROJECT MANAGER	$135/HOUR
RLSPC	REGISTERED LAND SURVEYOR, PARTY CHIEF	$115/HOUR
LSIT	LAND SURVEYOR IN TRAINING, PARTY CHIEF	$85/HOUR
NRL	NON-REGISTERED LAND SURVEYOR, PARTY CHIEF	$95/HOUR
T-4	CONSTRUCTION INSPECTION TECHNICIAN	$105/HOUR
T-3	PROJECTCOORDINATOR	$90/HOUR
INT -1	INTERN	$50/HOUR
	MARKETING DIRECTOR	$64/HOUR
	GIS COORDINATOR	$95/HOUR
	INSTRUMENT PERSON	$60/HOUR
	GPS RECEIVER	$30/HOUR PER RECEIVER
	ROBOTIC TOTAL STATION	$25/HOUR
	ARCHIVE FILE RESEARCH	$60/HOUR, 1 HOUR MINIMUM

Outside Services.....COST + 10%

PRINTS

BOND	$2.75EACH
VELLUMS	$5.00EACH
MYLAR	$6.00EACH

PLOTS

BOND	$5.00EACH
VELLUM	$10.00EACH
MYLAR	$10.00EACH
COLOR PLOTS/BOND	$15.00EACH
XEROX	$.09EACH
CD'S	$5.00EACH

MILEAGE $0.65 PER MILE

For any and all services related to litigation or other legal proceedings two times our Standard rates

WORK OUTSIDE NORMAL BUSINESS HOURS WILL BE CHARGED AT 1½ TIMES HOURLY RATE. PAYMENT IS DUE UPON RECEIPT OF MONTHLY BILLINGS AND INVOICES ARE DELINQUENT THIRTY (30) DAYS AFTER DATE OF INVOICE. WORK IN PROGRESS WILL BE BILLED MONTHLY FOR PORTIONS COMPLETED AND UPON JOB COMPLETION FOR FINAL BALANCE. IF PAYMENTS ARE NOT MADE IN FULL PRIOR TO DELINQUENCY, THE CLIENT AGREES TO PAY INTEREST ON THE UNPAID AMOUNT AT THE RATE OF 2% PER MONTH FROM DELINQUENCY DATE. ALL PAYMENTS RECEIVED

Client's Initials _____

EXHIBIT A
SHEPHARD-WESNITZER, INC.
ELECTRONIC FILE SPECIFICATIONS

FILE TYPE	FILE FORMAT
Text Document	Microsoft Office Word 2010
Spreadsheet	Microsoft Office Excel 2010
Database	Microsoft Office Access 2010
Project Scheduling	Microsoft Office Project 2003
Meeting Notification	Microsoft Office Outlook 2010
Presentations	Microsoft Office PowerPoint 2010
Drawing Files	AutoCad 2012 or Microstation V8i
Geographic Information Systems	ESRI ArcInfo or AutoCad Map 2012
Storm Drain Analysis	Bentley StormCAD
Water System Analysis	Bentley WaterCAD
Sewer System Analysis	Bentley SewerCAD
Culvert Analysis	Bentley CulvertMaster
Open Channel Analysis	Bentley FlowMaster
Pond Routing Analysis	Bentley PondPack

Client's Initials _____

June 6, 2018

CLIENT INFORMATION:
CLIENT PROJECT NO.
PROJECT MANAGER
OTHER

Mr. Enrique Maciá
CGL COMPANIES
5200 Blue Lagoon Drive, Suite 430
Miami, FL
T: 786.409.7004
E: emacia@cglcompanies.com

RE: Flagstaff Courthouse New Building
101 W. Cherry Ave.
Flagstaff, AZ
CTS Job No.:

CARUSO TURLEY SCOTT
structural engineers

STRUCTURAL ENGINEERING EXPERTS

PARTNERS
Richard Turley, SE
Paul Scott, SE, PE
Sandra Herd, SE, PE, LEED AP
Chris Atkinson, SE, PE, LEED AP
Thomas Morris, SE, PE, LEED AP
Richard Dahlmann, SE, PE
Troy Turley, SE, PE, LEED AP
Brady Notbohm, SE, PE

PROFESSIONAL REGISTRATION

50 States
Washington D.C.
U.S. Virgin Islands
Puerto Rico
Guam

Dear Mr. Maciá:

This will confirm our fee to provide structural engineering and drafting services as required for the design of this new 40,000 SF courthouse with structural scope as follows:

- 40,000 SF, 2 to 3 story, with no basement
- Programming includes courtrooms (jury and non-jury), hearing rooms, judicial chambers, jury assembly, administrative and staff offices, security screening, conference and training rooms, court enforcement unit interview rooms, prison holding and staging areas, supply spaces.
- Anticipated steel or concrete construction
- 6 to 7 month design phase duration through CD's and 9 month construction schedule
- One submittal package including shell and TI
- Design Build delivery with Kinney Construction
- $15 M budget including land
- 3 design meetings in Flagstaff are included, remainder to be held via conference call
- 3 site visits during construction are included
- LEED Silver certification or Green Globes
- Construction Administration includes preparation of electronic as-builts
- Drawings will be prepared in REVIT.
- If basement is added within the 40,000 SF, or as additional square footage, additional fees will be requested
- Reimbursables for mileage and deliveries is included in the fee. No submittal printing is included, as electronic submittals are anticipated.

Doesn't include parking below grade

Our **Basic Services** will be billed at a Fixed Fee as follows:

Phase:	Fee:
Schematic Design (includes one Flagstaff meeting):	$8,400.00
Design Development (includes one Flagstaff meeting):	$20,900.00
Construction Documents (includes one Flagstaff meeting):	$36,000.00
Permitting:	$1,600.00
In House Construction Administration:	~~$13,100.00~~
On-Site Construction Administration (3 visits):	~~$3,600.00~~
Total:	**$83,600.00**
Additional site visits or meetings in Flagstaff:	$1,200 per meeting or visit including reimbursables

CA not included

Basic Services will include structural calculations, preparation of REVIT structural plans and details per the noted scope, and construction administration. Construction administration services include shop drawing review and responding to RFI type clarifications. Redesign and field repair engineering would be considered outside the scope of basic services. If the project entails multiple bid packages, phasing, or nonstandard foundations, the above budget shall be adjusted accordingly.

Reimbursable Expenses for mileage and deliveries are included in this fee.

1215 W. Rio Salado Pkwy.
Suite 200
Tempe, AZ 85281
T: (480) 774-1700
F: (480) 774-1701
www.ctsaz.com

In rendering professional services Caruso Turley Scott (CTS) shall apply the skill and care ordinarily exercised by structural engineers at the time and place the services are rendered. Schedules and timely available information from the architect, owner and other design consultants contribute to the completeness of the structural drawings. As such, all projects should carry a contingency for potential coordination and value added items. It is recommended that final bids not be taken until city review comments and coordination comments have been incorporated. If documents are bid prior to city and coordination comments, the owner assumes the risk for associated additional costs. Client agrees that the liability of CTS, its agents and employees, in connection with services hereunder to the Client and to all persons having contractual relationships with them, resulting from any negligent acts, errors, and/or omissions of CTS, its agents, and/or employees is limited to the total fees actually paid by the Client to CTS for services rendered by CTS hereunder. As a consultant we shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, since these are solely the Contractor's rights and responsibilities.

At the commencement of engineering services, a "Preliminary Notification" may be forwarded to the property owner and/or tenant. The "Preliminary Notification" is not a lien, but state law requires the distribution of a "Preliminary Notification" issued at the commencement of engineering services to maintain the option of filing a lien for nonpayment of engineering services at a future date. This "preliminary notification" is customary and routine in the construction industry and informs the recipient of their legal rights and obligations. Payments for Services as described above shall be made upon the presentation of the Engineer's invoice based on time expended. Interest at 1.5% per month, compounded monthly, will be paid on all invoices after 30 days from billing date. In the event any portion of an account remains unpaid 90 days after billing, the Client shall pay cost of collection, including reasonable attorney fees. In the event that any portion of the account remains unpaid 30 days after billing, this office may, without waiving any claim or right, and without liability whatsoever to the Client, suspend or terminate the performance of all services. **If this contract meets with your approval, please sign, date and e-mail (bkelly@ctsaz.com) back to our office for authorization to proceed.**

Respectfully Submitted By:
CARUSO TURLEY SCOTT INC.

Sandra J. Herd, SE, PE, LEED AP
Partner | Project Manager

Accepted By:
CGL COMPANIES

Name: _____
Title: _____
Date: _____

June 6, 2018

Rick Maciá
CGL Companies
5200 Blue Lagoon Drive, Suite 430
Miami, Florida 33126
P: 786.409.7004 C: 305.322.1423

Re: City Court Facility - City of Flagstaff, Arizona
(ESD P18-189R1)

Dear Rick:

Thank you for this opportunity to offer our mechanical, plumbing, and electrical engineering services for a new City Court Building through the design-build delivery method with Kinney Construction Services/CGL Companies. We understand ESD is to work directly for CGL Companies. The project description and scope of services is in accordance with the Project Definition and Scope of Services within the RFQ (RSOQ # 2018-63, Project No. 03-18007) prepared by the City of Flagstaff in March of 2018 and our phone conversation on May 31.

A. PROJECT DEFINITION:

1. Building Description:

   a. The project consists of a new 30,000 to 40,000 square foot City Court Building for the City of Flagstaff and associated site improvements and parking. The building will contain the following elements:
      (1) Courtrooms (jury and non-jury),
      (2) Hearing rooms,
      (3) Judicial chambers,
      (4) Jury assembly and deliberation space,
      (5) Court administration offices,
      (6) Supporting staff offices,
      (7) Security screening,
      (8) Customer service transaction area,
      (9) Lobby,
      (10) Conference room,
      (11) Training room,
      (12) Court enforcement unit with interview rooms,
      (13) Prisoner holding and staging areas,
      (14) Supporting spaces such as
         - Mail/copy room,
         - Janitorial closet,
         - IT/telephone closet,
         - Mechanical room,
         - Public and staff toilets.
      (15) Well-defined office space for the prosecution division of the City Attorney's Office.

2. On-grade parking. Stall amount to be determined.

3. The City of Flagstaff's total capital budget estimate for this project is currently $16 M, of which approximately $15M is available for construction.

4. This project is to be a LEED® Silver Certified minimum. or Green Globes

B. BASIS FOR PROPOSAL

1. The project will use a design-build delivery system. ESD will contract with CGL Companies who will in-turn contract with Kinney Construction Services, Inc. (KCS).
2. Building sanitary and rainwater drain piping, and natural gas and domestic water piping shall extend to a point approximately 5'-0" outside the building. Continuation of that piping, on the site, is not the responsibility of ESD.
3. All existing utilities serving the site are presumed adequate for the new building(s) (e.g. no booster pumps are required, etc.)
4. ESD has no obligation to prepare estimates of probable construction costs.
5. The design and installation of security, data, telephone and audio-visual systems is the responsibility of others. ESD is responsible only for designs related to accommodations for these systems (no wiring) – i.e. empty conduits, outlet boxes, power, based on device locations and related input being furnished to ESD. Low voltage design by CGL
6. There will be no food preparation, so no kitchen hoods are included in the design.
7. The design phase and construction documents completion dates are TBD.
8. The Architect will furnish to ESD surveys of existing utilities at the site.
9. ESD has not included any work related to relocation of existing on-site facilities, nor the demolition of existing installations on the site.
10. The Architect will furnish to ESD all special lighting design input, including related controls and specifications.
11. ESD will provide preliminary coordination with APS for early design parameters and service. KCS has the responsibility for final coordination with the electric power, telephone and natural gas utility companies, and will provide required design input to ESD.
12. The Architect will furnish all necessary electronic drawing (CADD) files as required for ESD to complete its design and preparation of mechanical, electrical and plumbing drawings and specifications. Typically, drawing files required by ESD include but are not limited to floor plans, elevations, reflected ceiling plans, and building sections. All electronic drawing files provided to ESD shall be in a format that is readily usable by ESD without extensive modifications. ESD will furnish information regarding its CADD standards, layering conventions, etc.
13. Design documents for critical locations shall be prepared in REVIT format (Version 200) which shall be issued for coordination on "major" items of equipment and installations. Construction Documents will be prepared in AutoCAD format.
14. There is no requirement to prepare demolition drawings.

C. SYSTEMS DESCRIPTIONS

1. Mechanical
   a. Building Systems
      (1) VRF Split System

- Variable Refrigerant Flow Air-cooled DX heat-pump systems with multiple indoor fan-coil units and remote condensing units, interconnecting refrigerant piping, and complete air distribution; with energy recovery units for outside air introduction.

b. Computer Room Environmental Units if required for data IDF rooms.

c. Heating boiler for outside air system.

d. Exhaust ventilation systems for toilet rooms as required.

e. Mechanical equipment room refrigerant leak detection and ventilation system where required.

f. Metering for Measurement and Verification per LEED® requirements.

g. Controls

- Energy management and control system, with communication between all system components, and with Operator Work Station, standard and project specific software, programming, graphics, and all required controllers, etc. Specific features to be confirmed in discussions with the Owner/system operator.

2. Plumbing

a. Sanitary waste and vent piping system(s).

b. Roof rainwater drainage piping system.

c. Domestic water distribution piping system.

d. Domestic water heating equipment consisting of electric water heaters for restrooms coffee bars and other tenant needs.

e. Metering for Measurement and Verification per LEED® requirements including water, gas and solar hot water.

f. Plumbing fixtures and water coolers.

3. Fire Protection

a. Performance specification for automatic fire sprinkler system(s) throughout the building which will include design criteria requirements for design by contractor, and submittal requirements. ESD drawings will indicate locations for sprinkler riser, standpipes, and other specific system design features.

4. Electrical

a. Service entrance and metering, and electrical power distribution throughout the site originating at the secondary terminals of the transformer(s) which are provided by the utility company.

b. Metering for Measurement and Verification per LEED® requirements including in gear metering, panels, plug loads, lighting loads and mechanical loads.

c. Complete building lighting and power systems for general purpose outlets, and accommodations for equipment.

d. Complete building lighting systems, including emergency lighting and control, with non-building standard lighting design input provided by your office.

e. Site lighting including parking lot walkways/hardscape, on-building and signage.

f. Site security lighting with photometric evaluations for selected fixtures.

g. Power accommodations for IDF room and any Owner-furnished equipment.

h. Power quality (i.e. non-linear loading K-rated transformers, TVSS) features as defined by the City of Flagstaff.

i. Power for fire alarm control panel. All fire alarm design is by others.

j. Empty conduit and provisions (power, junction boxes, panels, etc.) for telephone, security, data, MCTV, paging, and audio-visual systems. System equipment and cabling is the responsibility of other than ESD. by CGL

k. Accommodations only for data and telephone system installations, consisting of conduits into the main telephone room from a point 5'-0" outside of the building, to local distribution rooms, and from distribution rooms into ceiling space (no cabling). Owner will provide site conduit bank definitions for inclusion in ESD site plan.

l. Special grounding as required for the telecommunications systems.

m. SES and main conduit pathway for turnkey design and installation of photovoltaic solar at roof and parking canopies.

D. SCOPE OF SERVICES

1. General
   a. Compliance with current interpretation of applicable codes during the project design phase.
   b. Coordinate with you and other design team members.
2. Programming & Concept Plan Refinements
   a. Participate in development of Preliminary LEED® Score Card.
   b. Participate in Design Builder Estimate Support And VE Participation.
3. Schematic Design
   a. Provide MP&E (System Narratives, Major Equipment Locations on Plan, ID APS Power Needs).
   b. Assist with Dry Utilities - Site Power and Telecom Diverse Feed Concepts.
   c. Provide MP&E Basis of Design Narrative.
   d. Provide VRF and 100% OA Unit Evaluations.
   e. One team meeting is included.

4. Design Development
   a. Develop Specifications
   b. Develop Special Systems design to Schematic Level.
   c. Refine MP&E Basis of Design Narrative.
   d. Participate in LEED® Score Card Update.
   e. Preliminary Energy Model.
   f. One team meeting is included.
5. Construction Documents
   a. Specifications – Push Balance of Specs to 100%, Owner Participates In Edits of Controls sequences.
   b. Finalize Energy Model.
   c. Participate in LEED® Score Card Update.
   d. Prepare MPE sections of Design Phase LEED® Submittal.
   e. Final coordination with other design team members.
   f. Prepare 95% Construction Document package for coordination and Owner's review.
   g. Complete construction documents consisting of drawings and specifications for submission to the Building Department and for bidding, including compliance documentation for energy codes, etc. Documents shall have professional engineers' seals.
6. Construction Phase ← CA not included
   a. Make scheduled periodic visits to the site of the construction to observe the progress of the work, and its compliance with the Contract Documents. The result of all site visits shall be documented in observation reports. We have allowed for 4 man-visits by mechanical/plumbing, 4 man-visits by electrical engineer including a final punchlist walk. This totals to 8 man-visits. These visits will be scheduled as appropriate to the phase of the work and as pre-agreed upon by the Design Builder and Owner with field observation reports.
   b. RFIs, submittals, LEED® documentation support alongside Design Builder's Project Engineer.
   c. No O&M review.
   d. MPE punch list development & management (Bluebeam encouraged).
   e. Review requested submittals and shop drawings, including fire protection system design drawings, for general conformance to the Contract Documents.
   f. In-office activities related to communication with contractors, responding to proposal requests, requests for information, etc.
   g. Incorporate contractor markups ("Record Drawings") of the completed work into Contract Document drawings, and issue record drawings.

      Note: ESD has no responsibility relative to the accuracy or thoroughness of the contractor mark-ups. ESD can perform activities to confirm the accuracy of the record drawing contractor markups for an additional services fee.

E. BASIC SERVICES FEES

1.	Schematic Design Phase	$ 50,000
2.	Design Development Phase	$ 85,000
3.	Construction Document Phase	$ 85,000
4.	Construction Phase	~~$ 30,000~~
	TOTAL	~~**$ 250,000**~~

or Green Globes

F. LEED® SERVICES

1.	Energy Modeling/Analysis	$ 15,000
2.	Templating/Required Submittal Information	$ 5,000
	TOTAL	**$ 20,000**

3. Additional site visits during construction with field reports are to be billed at $1,800 per visit plus $150 trip charge for a total of $1,950 per visit.

4. Expenses
   a. The following expenses are included in the above fees: In-house coordination reproduction, and reproduction to facilitate design coordination with out-of-house members of the design team (i.e. architect, structural and civil engineers).
   b. All other costs are reimbursable at the rates outlined in the Additional Services section below.

G. ADDITIONAL SERVICES

1. ESD will submit a written description of all work with an estimated fee, which is not specifically defined as a part of Scope of Services, including requested revisions to work which has previously been completed. These additional services will be performed only after ESD has received written authorization from you to proceed with this work as defined.
2. The following items are considered as additional services:
   a. Survey of existing conditions (as-measured investigation).
   b. Analysis and/or design of alternate systems, after initial evaluation has been completed, and designs of selected systems have been commenced.
   c. Application and presentation of variances to the Building Department.
   d. Review of prior approvals during the Bidding Phase, to determine if alternate equipment is equal to specified items.
   e. Estimates of probable construction costs.
   f. Work related to demolition or modification of existing installations at the site.
   g. Revisions and/or redesign to work which has already been completed (in the Construction Document phase).
   h. Revisions in scope of work, as previously defined.
   i. "Value Engineering", involving the evaluation of alternative materials and methods of construction.
   j. Studies.
   k. Evaluation and response to design review by another owner's consultant.

l. Additional meetings, beyond which is previously stated.

m. Exterior on-site plumbing and fire protection utility systems (from a point approximately 5'-0" outside the building) including the following:

(1) Storm water drainage and provisions for on-site retention.

(2) Sanitary sewer.

(3) Domestic water.

(4) Landscape irrigation.

(5) Fire protection water and fire hydrants.

(6) Natural gas.

n. On-site storm water retention pumping system, and related electrical power (even if within the building).

o. Any other systems, features and services not specifically defined in the preceding "Systems Descriptions" and "Scope of Services" sections.

p. Additional site visits and involvement during the construction phase, due to extension of duration of construction, beyond which is previously stated.

q. Redesign to reduce construction costs, unless otherwise agreed to in writing.

r. Instruction of owner and operating personnel after or during the construction phase.

s. Preparation of operating and maintenance manuals.

t. Preparation of record drawings with associated CAD costs.

CA services will be part of GMP

u. Systems commissioning – performance verification.

v. "Fast Track" multiple construction document package approach.

w. Street Lighting.

x. If extensive modifications by ESD are required to reconfigure required electronic drawing files into a format that is usable by ESD, such work will be considered additional services and billed on an hourly basis. *(Note: extensive drawing file modifications may result in delay of project schedule.)*

3. Where the fee arrangement is based upon an hourly basis, or extra work is required due to a change in project scope, the hourly rates shall be those that prevail at the time services are rendered. Current calendar year rates for this agreement are as follows:

HOURLY RATES

Sr. Principal Engineer	$ 260.00/hour
Principal Engineer	$ 200.00/hour
Sr. Project Engineer	$ 180.00/hour
Project Engineer	$ 160.00/hour
Designer III	$ 140.00/hour
Designer II	$ 105.00/hour
Designer I	$ 90.00/hour
Testing/Balancing Technician	$ 85.00/hour
Administrative	$ 85.00/hour

Printing, deliveries, subcontractor fees, and other reimbursable expense will be billed at cost plus 15%

Plotting Charges	$ 1.00 per sf
Mileage	$ .50 per mile
Edited CAD Disks	$25.00 per sheet

H. CONDITIONS OF AGREEMENT

Note: *A purchase order (only) is not acceptable. The Owner/Client must sign an agreement for professional services with ESD, with specifically defined scope of services, and terms of payment, etc.*

1. General
   a. ESD does not, either by entering into this Agreement or otherwise, make any warranty, either express or implied, as to any findings, recommendations, evaluations, assessments, observations, plans, specifications, pre-qualification efforts, performance verifications, or advice of ESD or to inspections, if any, performed by ESD. As to ESD, there are no warranties, express or implied, including, but not limited to, any warranties of merchantability or fitness for a particular purpose or system integration, except as may be separately agreed by ESD in writing, for any services provided pursuant to this Agreement. The Owner/Client shall be solely responsible for the use, efficiency, and suitability of such services, as ESD shall have no liability therefore. Owner/Client further acknowledges that Owner/Client has worked collaboratively with ESD concerning ESD's provision of services pursuant to this agreement and has been active in all decisions concerning such services.
   b. For projects involving multiple design phases, it is mandatory that the Owner/Client provide a formal written approval of each phase and the authorization to proceed to the next phase, before ESD will proceed. This written approval signifies that the represented design approaches are appropriate, and that the related construction costs are within their budget.
   c. The Owner/Client shall provide a construction budget, and an explanation of the construction cost control process shall be provided to ESD at the beginning of the project's design phase so as to avoid any necessity for redesign.
   d. It is mandatory that all Owner/Client and design team members be responsible for their respective obligation relative to furnishing required input to ESD in a timely manner, so as to enable ESD to comply with project milestone completion dates. A project activity schedule with milestone dates shall be developed with input and agreement from ESD and all other team members at the beginning of the design phase(s) to establish responsibilities of all participants.
   e. ESD will endeavor to meet the defined design phase milestone dates, however because factors beyond ESD's control may affect ESD's work process, ESD makes no warranty hat the design phase services will be completed on the defined milestone dates nor that the construction work will commence as originally scheduled.
   f. You will furnish a copy of any "prime" agreements/contracts (i.e. Owner/ Architect, Owner/Contractor).
   g. ESD's services will represent the care and skill ordinarily used by members of ESD's profession, when practicing under similar conditions, at that time, and in the same geographic locality, which is stated as the "Standard of Care".

h. ESD's responsibilities are only as specifically hereinbefore defined and stated, and are not undefined "expectations" of the Owner and/or Architect.

i. When the plans and specifications of this project are delivered to the Owner upon completion of work, the Owner agrees to hold harmless, indemnify and defend the design professional against all damages, claims and losses, including defense costs arising out of the reuse of the plans and specifications, without the written authorization of ESD. ESD agrees to be responsible for our own or our employee's negligent acts, errors or omissions.

j. ESD agrees that its use of electronic drawings files, furnished by the Architect, shall be limited to design and preparation of mechanical, electrical, and plumbing drawings for this project and that the files will not be used for any other purposes.

k. All drawings, specifications, and other work produced for this project are instruments of services for this project only, and shall remain the property of Energy Systems Design, Inc.

l. ESD shall be furnished with one complete set of documents for each project phase, within 5 days after they have been submitted to you.

m. Sealed original reproducible drawings are the contract documents, and instruments of services for this project.

n. ESD's Electronic files shall not be edited by other than ESD. You agree to indemnify and hold harmless ESD for any subsequent use and/or modification of electronic files, for other than the original intent, as indicated on the sealed original reproducible drawings.

o. Other General Terms:

Attorneys' Fees. In the event suit is brought (or arbitration instituted) or an attorney is retained by any party to this Agreement to enforce the terms of this Agreement or to collect any money due hereunder, or to collect money damages for breach hereof, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith.

Notices. Any notice to any party under this Agreement shall be in writing and shall be effective on the earlier of (i) the date when received by such party, or (ii) the date which is three (3) days after mailing (postage prepaid) by certified or registered mail, return receipt requested, to the address of such party set forth herein, or to such other address as shall have previously been specified in writing by such party to all parties hereto.

Governing Law. This Agreement shall be deemed to be made under and shall be construed in accordance with and shall be governed by the laws of the State of Arizona and (subject to any provision in this Agreement providing for mandatory arbitration) to enforce any provision of this Agreement or to obtain any remedy with respect hereto may be brought in Superior Court, Maricopa County, Arizona, and for this purpose each party hereby expressly and irrevocably consents to the jurisdiction of said court.

Construction of Agreement. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly for nor against any party. The neuter gender includes the masculine and feminine. It is mutually agreed that in the event any term, covenant or condition herein contained is held to be invalid or void by any court of competent jurisdiction, the invalidity of any

such term, covenant or condition shall in no way affect any other term, covenant or condition herein contained.

Captions. Captions and paragraph headings used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall not be deemed relevant in construing this Agreement.

Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement; and the remaining portions of the Agreement shall remain in full force and effect.

Additional Acts and Documents. Each party hereto agrees to do all such things and take all such actions and to make, execute and deliver such other documents and instruments as shall be reasonably requested to carry out the provisions, intent and purpose of this Agreement.

Authority. Each of the parties hereto represents and warrants to each other party hereto that this Agreement has been duly authorized by all necessary action and that this Agreement constitutes and will constitute a binding obligation of each such party.

Integration Clause; Oral Modification. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all agreements entered into prior hereto are revoked and superseded by this Agreement, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed, modified or rescinded except in writing signed by all parties hereto, and any attempt at oral modifications of this Agreement shall be void and of no effect.

Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest and assigns, but in no event shall any party be relieved of its obligations hereunder without the express written consent of each other party.

I. INSURANCE AND RISK ALLOCATION

1. General Risk Insurance: ESD agrees to maintain insurance as will protect CGL Companies from claims under the Worker's Compensation Laws and from General Liability claims for bodily injury, or death, or property damage which may arise from the negligent performance by its employees in the functions and services required under this Agreement.
2. Standard of Care: ESD will provide in connection with the services contemplated herein the standards of care, skill and diligence normally provided by a professional engineer in the performance of the same or similar services. In the event ESD fails to provide such standards of care, skill and diligence, ESD will correct any such deficient services. In no event shall ESD have any liability for other damages including those as outlined below. ESD shall not be responsible for the methods, acts or omissions of CGL Companies personnel, nor for construction means, methods or safety precautions in connection with the work.
3. Professional Liability Insurance: ESD agrees to maintain Professional Liability Insurance to protect CGL Companies from ESD's negligent acts, errors or omissions of a professional nature.
4. The Client and ESD mutually agree, to the fullest extent permitted by law, to indemnify and hold each other (and each other's employees, agents, consultants, and anyone whose acts may be attributable to them) harmless against any and all damages, liabilities, injuries, claims, or costs, including reasonable attorneys' fees and defense costs, arising from their

own negligent acts in the performance of their services under this Agreement, but only to the extent that each party is found responsible for such damages, liabilities and costs on a comparative basis of fault by a court or arbitrator of competent jurisdiction.

5. In recognition of the relative risks, rewards and benefits of the project to both the Client and ESD, the risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, ESD's total liability to the Client for any and all injuries, claims, losses, expenses, damages or claim expenses, including any attorneys' fees, costs, expert witness fees and costs, and other costs of defense arising out of this Agreement from any cause or causes, shall not exceed ESD's fee or $1,000,000, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

I. PAYMENT TERMS AND CONDITIONS

1. Invoices will be submitted to you monthly so that you may readily relate our charges to the work performed. If you have any questions regarding an invoice or services rendered, please contact our office. If you do not comment within 10 days of invoice date, we will assume that you have received the invoice and found it acceptable.
2. Accounts past due will incur a finance charge of 1.5% per month (18% APR). All payments received will be applied first to interest with the balance applied to the outstanding invoice amount. Any costs incurred for collection including reasonable attorneys' fees, shall be borne by you.
3. Payment shall be received by ESD within 30 days after the invoice date.

J. TERMINATION OF AGREEMENT

1. If the project is abandoned by the Architect because of the Owner's abandonment of the project for more than 90 consecutive days, ESD may terminate this Agreement by giving written notice.
2. This Agreement may be terminated by either party upon not less than seven (7) days written notice, should the other part fail substantially to perform in accordance with the terms of this Agreement.

Please sign below, indicating your agreement to the statements and conditions of this proposal, and return a copy to ESD.

Sincerely,

Energy Systems Design, Inc.

Mo Ardebili, PE, LEED® AP

CEO | Founder

ACCEPTED:

For:_____

By:_____

Title:_____

Date:_____

EXHIBIT C – PERFORMANCE STANDARDS REQUIREMENTS

Not Applicable to this contract.

EXHIBIT D – MONTHLY ANTICIPATED ADVERSE WEATHER DAYS

The Contractor will be entitled to a Contract Time extension if the actual adverse weather Days experienced during the Work exceed the anticipated adverse weather Days shown in Table 108.7. Table 108.7 as follows is the monthly schedule of adverse weather Days that shall be anticipated by the Contractor in scheduling the Work:

TABLE 108.7 – MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS

MONTH	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS	**7 days**	**7 days**	**8 days**	**6 days**	**4 days**	**3 days**
AVERAGE MONTHLY PRECIPITATION	1.98"	1.96"	2.05"	1.84"	0.68"	0.51"
MONTHLY DAILY HIGH TEMPERATURE ≤32° F	5 days	3 days	2 days	0 days	0 days	0 days
MONTH	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS	**12 day**	**11 days**	**7 days**	**5 days**	**5 days**	**6 days**
AVERAGE MONTHLY PRECIPITATION	2.78"	2.68"	1.82"	1.52"	1.49"	1.90"
MONTHLY DAILY HIGH TEMPERATURE ≤ 32° F	0 days	0 days	0 days	0 days	1 day	5 days

The above schedule of anticipated adverse weather days establishes the base line for the project's monthly weather impacts, based on historical records, as recorded by the National Weather Service at Pulliam Airport, for precipitation in excess of 0.01 inch and daily high temperatures below 32° Fahrenheit.

AMENDMENT ONE

City of Flagstaff Court Facility
Design-Build Contract

Construction Services Phase – GMP 1

Project No. 03-18007
Contract No. 2018-63

This First Amendment ("Amendment") to the fully executed Design-Build Services Contract No. 2018-63 dated 7/17/18 (the "Agreement") for the City of Flagstaff Court Facility (the "Project") is made and entered into this 1ST day of APRIL, 2019, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona 86001, and Kinney Construction Services, Inc., an Arizona corporation with offices at 121 E. Birch Avenue, Flagstaff, Arizona 86001.

The parties to the Agreement for City of Flagstaff Court Facility project, the City of Flagstaff and Kinney Construction Service, Inc., hereby agree to the following amendment; all other provisions of the Agreement shall remain unchanged in full force and effect. New text is underlined.

ARTICLE 5 – CONTRACT PRICE

5.3 – GMP

Design-Builder's GMP 1 for the construction phase services for the Phase 1 portion of (Demolition) work of the Project shall be **one million, five hundred eighteen thousand, one hundred and seventy-five dollars ($1,518,175.00).** The GMP shall be for the complete performance of Phase 1 portion of work in accordance with the Contract Documents and exhibits listed below, which are part of this Amendment, and which shall be incorporated into the Agreement by this First Amendment as if fully set forth therein.

EXHIBIT A – GMP 1 Summary Sheet, dated 2/11/19, 3 page(s).

EXHIBIT B – Basis of GMP 1 (Allowances, Assumptions and Clarifications on which the GMP is based), dated 2/11/19, 6 page(s).

EXHIBIT C – Enumeration of Drawings and Specifications, including Addenda, if any, on which the GMP is based, 1 page(s).

EXHIBIT D – Baseline Project Schedule, 1 page(s).

The total Contract Price under the Agreement, as amended by this Amendment, shall be **three million, one hundred eleven thousand, eight hundred and three dollars ($3,111,803.00).**

ARTICLE 6 – CHANGES TO CONTRACT PRICE AND TIME

The Scheduled Date of Completion of the work for the City of Flagstaff Court Facility project under this First Amendment is an additional 148 calendar days from the Notice to Proceed with a substantial completion date of 8/27/2019.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives as of the date first written above. This Amendment will be in full force and effect only when it has been approved and executed by the duly authorized City officials.

(Please sign in blue ink. Submit original signatures – photocopies not accepted)

City of Flagstaff

By: Barbara Goodrich

Barbara Goodrich, City Manager

Dated: 3/29/19

Kinney Construction Services, Inc.

By: _____

Title: PRESIDENT

Dated: 3-28-19

Attest:

Stacy Saltzburg

City Clerk

Approved as to form:

City Attorney

PROJECT GMP PROPOSAL SUMMARY SHEET
COF Courts - Phase 1 GMP - Exhibit A

ITEM NO.	BUILDING/CONSTRUCTION TYPE		TOTALS
	PROFESSIONAL SERVICES		
1	Professional Services		
2	Reimbursables		
3	Construction Administration (Architect & Engineers)		$51,782.00
	Total Professional Services		**$51,782.00**
	CONSTRUCTION		
4	Cost of Construction		$1,031,605.00
5	Design-Builder's Contingency	5.00%	$54,169.00
	Indirect Costs	**Rate**	
6	General Conditions	12.50%	$142,190.00
7	Payment & Performance Bond	1.50%	$19,196.00
8	Insurance	1.21%	$15,587.00
9	Construction Fee	7.00%	$92,017.00
10	Sales Taxes	5.82%	$81,861.00
	Total Construction Cost		**$1,436,625.00**
11	Owner's Contingency (2%)		$29,768.00
	Grand Total (Construction & Professional Services)		**$1,518,175.00**

Dated: 02.11.2019

COF Courts GMP 1 Estimate 021119
Building Detail

DESCRIPTION	QUANTITY (UNITS)	UNIT	UNIT COST	TOTAL
DEMOLITION & ABATEMENT - CHERRY ST				**$135,210.00**
Building Abatement	1.00	ls	$33,400.00	$33,400.00
Building Demolition	1.00	ls	$59,400.00	$59,400.00
Private Utility Locating	16.00	hrs	$220.00	$3,520.00
Electrical Make-safe	40.00	hrs	$75.00	$3,000.00
Mechanical Make-safe	24.00	hrs	$75.00	$1,800.00
Plumbing Make-safe	40.00	hrs	$75.00	$3,000.00
Misc salvage prior to demolition	24.00	hrs	$35.00	$840.00
Additional demo of concrete footings/caissons	1.00	ls	$15,000.00	$15,000.00
Traffic Control	1.00	ls	$6,200.00	$6,200.00
Temp fencing	1.00	ls	$6,500.00	$6,500.00
Remove and salvage light fixtures at street	5.00	ea	$350.00	$1,750.00
Remove and salvage signage at street	10.00	ea	$80.00	$800.00
DEMOLITION & ABATEMENT - BEAVER ST				**$174,660.00**
Building Abatement	1.00	ls	$54,100.00	$54,100.00
Building Demolition	1.00	ls	$77,200.00	$77,200.00
Private Utility Locating	16.00	hrs	$220.00	$3,520.00
Electrical Make-safe	40.00	hrs	$75.00	$3,000.00
Mechanical Make-safe	24.00	hrs	$75.00	$1,800.00
Plumbing Make-safe	40.00	hrs	$75.00	$3,000.00
Misc salvage prior to demolition	24.00	hrs	$35.00	$840.00
Additional demo of concrete footings	1.00	ls	$25,000.00	$25,000.00
Traffic Control	1.00	ls	$1,500.00	$1,500.00
Temp fencing	1.00	ls	$4,700.00	$4,700.00

COF Courts GMP 1 Estimate 021119
Building Detail

DESCRIPTION	QUANTITY (UNITS)	UNIT	UNIT COST	TOTAL
SITEWORK - PHASE 1 ONLY - CHERRY ST SITE				**$721,735.00**
Sitework Demo & SWPPP				
SWPPP (construction entrance, wattles, and washout)	1.00	ls	$8,893.00	$8,893.00
ADEQ NOI	1.00	ls	$500.00	$500.00
Mobilization	1.00	ls	$8,384.00	$8,384.00
Survey	1.00	ls	$10,000.00	$10,000.00
Street Cleaning & Clean-up	13.00	wks	$729.31	$9,481.00
Demo Aspahlt, Concrete Sidewalk and Curb for utility work	1.00	ls	$16,104.08	$16,104.08
Demo Existing UG utilities (Gas & Electrical)	190.00	lf	$17.45	$3,315.50
Utilities				
Private utility locating & potholing	8.00	hrs	$389.00	$3,112.00
Water Service - 2" with tapping sleeve	65.00	lf	$59.65	$3,877.00
Fire Line - 8" with tapping sleeve & riser	63.00	lf	$336.64	$21,208.62
Remote FDC Assembly, riser, & 4" Line	24.00	lf	$302.46	$7,258.92
Hydrant Assembly including bollards	1.00	ls	$7,341.00	$7,341.00
Backflow Assembly & Hot Box - does not include irrigation	1.00	ea	$7,480.00	$7,480.00
Cap & Abandon Existing Services	2.00	ea	$1,732.00	$3,464.00
Sleeves for irrigation	300.00	lf	$15.00	$4,500.00
Sewer Service	20.00	lf	$73.00	$1,460.00
Gas Service - trenching and backfill only	80.00	lf	$20.00	$1,600.00
Relocate OH Electrical to UG - primary	1.00	ls	$200,000.00	$200,000.00
Electrical UG Conduits - secondary	290.00	lf	$45.00	$13,050.00
Concrete Equip Pad	2.00	ea	$900.00	$1,800.00
Fiber Conduits - includes road crossings & borings - not included	0.00	ls	$0.00	$0.00
Earthwork & Grading				
Grading & Excavation	1850.00	sy	$1.81	$3,348.50
Import of Soils for Backfill	1481.00	cy	$52.56	$77,841.36
Finde Grade & Subgrade Prep for Hardscape - Offsite only	1.00	ls	$21,561.22	$21,561.22
Rock-excavation Allowance	1.00	ls	$50,000.00	$50,000.00
Temporary Water - Construction Water	1.00	ls	$4,423.00	$4,423.00
Geo Piers	1.00	ls	$125,000.00	$125,000.00
Haul-off Geo-pier Spoils	1.00	ls	$12,922.00	$12,922.00
Off-Site Concrete & Asphalt				
Sidewalks (Pavers) - salvage existing and reinstall	2852.00	sf	$10.00	$28,520.00
Tree wells & Ribbon Curb - existing & protect	8.00	ea	$175.00	$1,400.00
Tree wells & Ribbon Curb - new	4.00	ea	$950.00	$3,800.00
Concrete Driveways	375.00	sf	$25.00	$9,375.00
Curb & Gutter	83.00	lf	$58.00	$4,814.00
Concrete Sidewalks	2400.00	sf	$8.00	$19,200.00
Asphalt Patching at Street	152.00	sy	$85.00	$12,920.00
Striping & Paint Curb	1.00	ls	$13,781.00	$13,781.00
GENERAL CONDITIONS & REQUIREMENTS				**$142,190.00**
Project Director (part time)	104.00	hr	$ 142.00	$ 14,768.00
Project Manager (part time)	208.00	hr	$ 120.00	$ 24,960.00
Superintendent (full time)	520.00	hr	$ 112.00	$ 58,240.00
Assistant Project Manager (part time)	208.00	hr	$ 95.00	$ 19,760.00
Project Accountant	52.00	hr	$ 96.00	$ 4,992.00
Plans & Specifications Reproductions (paper)	4.00	sets	$100.00	$400.00
Job Site Office (include set-up & 3 months rental) and supplies	1.00	ls	$5,000.00	$5,000.00
Temporary Electric - hook-up only (electrical costs by owner)	1.00	ls	$2,500.00	$2,500.00
Temporary Sanitary Facilities	3.00	mths	$180.00	$540.00
Temp laydown yard across street	3.00	mths	$1,200.00	$3,600.00
Safety Requirements , First Aid, & Fes	1.00	ls	$1,800.00	$1,800.00
Barricades, Protection, and traffic Control - included in each phase				$0.00
Project Identification & Signs (Safety & Wayfinding)	1.00	ls	$1,800.00	$1,800.00
Testing Laboratory Services & Inspections - by owner				$0.00
Expendables, Small Tools, & Drinking Water	1.00	ls	$1,830.00	$1,830.00
Construction Software/Equipment/Management (Procore)	1.00	ls	$2,000.00	$2,000.00
CONSTRUCTION ADMINISTRATION	3.00	mths	17,261.00	**$51,782.00**

EXHIBIT 'B'
Statement of Clarifications and Assumptions
COF Courts Facility – Phase 1 GMP
02.11.2019

Purpose & Intent

The intent of the qualifications is to provide a supplement scope design and cost control guide. They are included to further the "Team's" understanding of what is included in the scope of this project based on Kinney Construction Services' interpretation of the design intent.
Since cost control is largely the result of scope control, we have clarified and elaborated based on this proposal for areas where systems were incomplete or anticipated to be revised, and where scope was unclear.

Basis of Qualifications

Documents as outlined in Exhibit C – Enumeration of Drawings

General Clarifications

1. Pricing is based on an approximate 15 month total duration starting April 1st, 2019. Phase 1 GMP only includes a portion of this schedule for the scope of work outlined below and in Exhibit A with a duration of 13 weeks total.
2. A payment and performance bond for Kinney Construction Services, Inc. is included.
3. Any costs associated with a building permit or reviews are not included. Permits and fees required by City of Flagstaff (COF) are to be paid for by the owner including all water and sewer impact feeds.
4. All temporary utility consumption costs are assumed to be by the Owner and are therefore not included.
5. Costs for preconstruction and design services are not included as part of this GMP.
6. Material testing and special inspections are not included. COF to procure & provide all special inspections. Contractor to coordinate with COF and 3rd Party Testing representative to schedule required testing and inspection during construction.
7. A (1) one-year warranty from date of substantial completion has been included.
8. All work is intended on being performed during normal business hours, Monday thru Friday.
9. KCS has registered this project with GreenGlobes with the intent of reaching 3 Globes certification. KCS will provide necessary documentation to achieve this certification.
10. All work will abide by MAG specs with COF modifications as required.
11. Construction Administration by CGL and it's consultants will be provided for Phase 1 including RFI response, submittal review, attending meetings via teleconference, and one site visit (if necessary).

General Conditions

- KCS will provide adequate project management, supervision, tools, equipment, waste management containers and temporary construction facilities for the duration of this project.
- A temporary construction office will be provided at the site or adjacent laydown area. KCS intends on leasing the property across the street from FSL for the duration of the project for contractor parking and laydown. No public parking is included.
- All necessary project documentation will be maintained from project start to closeout including paper / electronic copies of all plan iterations, ASIs, submittals, RFIs, weekly reports, meeting minutes, and safety logs. KCS intends on using Procore Construction Management Software as a tool to assist with this documentation management. COF staff will have access to this web-based software as well.
- KCS will provide protection of existing site and necessary traffic and pedestrian signage and control. A temporary chainlink fence with screening will be installed around the entire property including the sidewalks, but will not be installed in the street impeding traffic. Sidewalks will be closed and proper signage will be placed at the nearest adjacent intersection directing pedestrian traffic to open walkways.

Abatement

- Prior to abatement activities, COF staff shall remove all FF&E from building – this is to include any stationary items not fixed to the building such as furniture and shelving.
- KCS will provide necessary ADEQ notices prior to beginning work.
- Asbestos removal will occur in two phases. Abatement of the existing APS buildings - 101 W Cherry (2 buildings) will occur first to make room for the new facility. Once the new facility is built and existing tenants have been moved into new building, abatement of the existing court - 15 N Beaver (1 building) and prosecutor's office - 107 W Aspen (1 building) can occur. GMP #1 includes all necessary costs for a second mobilization for phase 2 demo and abatement activities.
- 107 W Aspen asbestos containing materials - 3,300 sf of drop grid ceiling tiles including asbestos containing debris in and above ceiling area.
- 15 N Beaver asbestos containing materials - 9,900 sf of roofing material including duct sealant at existing RTU's, 5 sf caulking compound in equipment/computer room, 231 sf of drywall texture, 30 fire doors, 1 vault door, 125 sf of FRP mastic, 20 sf of cove base mastic, anchoring mastic from up to 4 mirrors, and 4 sf of window caulking and putty from 4 window units.
- 101 W Cherry (Main Building) asbestos containing materials - 32 fire doors, 200 sf of window base plate including caulking attached to each, and 14,800 sf of mastic under carpet and VFT.
- 101 W Cherry (Annex Building) asbestos containing materials - 8 windows with caulking and glazing, 1,500 sf of roofing, and 8 fire doors.

- Abatement scope is based on the following reports and adjacent addendums by Four Corners - 107 W Aspen (1 building), 101 W Cherry (2 buildings), and 15 N Beaver (1 building) per the current consolidated hazardous material reports including addendums prepared by Four Corners Environmental, Inc. dated 12.17.18 - 101 West Cherry Ave, 12.31.18-15 N Beaver, and 12.31.18-107 W Aspen Ave.
- All quantities listed above are approximate and taken from reports provided to KCS and listed in Exhibit C.
- No additional material testing has been included.
- No lead based paint abatement has been included. LBP disposal is included in demolition scope as approved by COF. It is understood that LBP materials meet the TCLP standards and can be properly disposed of at the Cinder Lakes Landfill.
- No 3rd party monitoring or specification has been included.
- No underground utility abatement has been included.
- No additional asbestos removal other than what has been identified within the reports mentioned above.

Demolition

- All materials and equipment necessary to demolish a total of 4 buildings at 3 locations - 107 W Aspen (1 building), 101 W Cherry (2 buildings), and 15 N Beaver (1 building).
- Items to be demolished include but are not limited to the following: exterior walls (concrete and masonry), interior walls including any insulation (concrete, masonry, drywall steel/wood framed), all flooring, concrete slab on grade, cast in place concrete floors/columns/beams, steel columns and beams, ACT and drywall ceilings, electrical/fixtures/conduit/wire/panels/equipment, mechanical fixtures/duct/trim/insulation/roof top units/equipment, plumbing fixtures/pipe/insulation/trim/equipment, roofing materials including all metal fascia trim/gutters/downspouts, brick, stone veneer, interior furniture, interior and exterior glazing and storefronts, doors, door frames, door hardware, accessories, exterior asphalt paving, exterior trees and grates, exterior sidewalk and curb attached to building entrances, exterior escape ladders, sprinkler system, fire alarm system, etc.
- KCS will salvage building signage as directed by owner prior to demolition.
- KCS will salvage light fixtures, tree grates, and pavers as necessary during course of construction for reinstallation along Beaver and Cherry Streets.
- KCS will provide MPE make-safe prior to demolition of existing facilities.
- Includes removal of footings as required to accommodate new construction.
- Includes removal and disposal of all lead-based paint materials. All LBP's to be disposed of at cinder lakes landfill.
- Includes dumpsters and sorting for all metal, concrete, drywall (optional), masonry, asphalt, and stone. This project will be Green Globes certified to receive 3 Green

Globes. Includes weight tickets from waste facility including all other necessary Green Globes sustainability documentation as it relates to this scope of work.

- Existing stone on exterior and interior of buildings will not be salvaged.
- Includes complete haul off from site.
- Includes removal of all parking signage and wheel stops within demo limits.
- Includes all temporary protection necessary in order to protect above ground and underground utilities to remain, light poles, power poles, adjacent buildings and structures to remain, existing adjacent sidewalk and roadways to remain, existing adjacent parking areas to remain, etc.
- Demolition of the existing APS buildings - 101 W Cherry (2 buildings) will occur first to make room for the new facility. Once the new facility is built, demolition of the existing court - 15 N Beaver (1 building) and prosecutor's office - 107 W Aspen (1 building) can be demoed after the existing tenants have moved into the new building. Includes all necessary cost for a second mobilization.
- KCS will provide all dust control as necessary using water during demolition activities.
- Does not include provisions for unforeseen removals.
- Does not include contaminated soil removal.

Sitework

Sitework Demo & SWPPP

- KCS to provide ADEQ NOI and proper SWPPP protection during demolition and sitework at Cherry St site. This includes a construction entrance off of Cherry St. and maintenance during this scope of work. A portion of the site is within the 100-year floodplain limit. KCS will abide by regulations pertaining to this limit including not storing materials or stockpiling materials overnight.
- Construction surveying will be provided to indicate demolition limits, grading limits, building layout for grading, and location of geo-piers.
- KCS will provide street cleaning as necessary during the duration of this scope of work.
- Existing underground utilities for APS and Unisource will be removed once these entities disconnect, cap, and make-safe these areas.

Utilities

- New utilities will be provided for new facility including connection to existing sewer, new 8" fire line, new 2" water assembly, gas service, and electrical service.
- KCS has included necessary traffic control and protection while working in the street for tie-in of these utilities.
- KCS will patch back asphalt, concrete sidewalk, and concrete curb after installation of new utilities.
- A new backflow preventor for the domestic water service will be provided including a hotbox.

- A remote fire department connection (FDC) will be provided as shown on plans including a 4" line to riser room.
- A new fire hydrant assembly will be provided at the SE corner of the building as shown on the plans. KCS has included bollards at this assembly.
- KCS assumes sewer service will be tied in as show on the plans and a main line tap and work within the street will not be required.
- KCS has included relocation of the overhead electrical service to underground. This allowance of $200,000 includes APS fees for new primary service and equipment necessary to place these lines underground.
- KCS has included 2 equipment pads; one for a new APS transformer and switching cabinet.

Earthwork & Grading

- Once site demolition has occurred, KCS will provide general grading work for new building pad and parking lot.
- KCS has included necessary import of fill material as necessary to establish building pad grades
- KCS has included an allowance of $50,000 for rock excavation associated with utility trenching and building excavations.
- KCS will provide geo-pier foundations at new building foundation prior to installation of concrete foundations and Phase 2 GMP scope of work.
- All additional spoils from geo-pier installation will be hauled off from site.

Off-site Concrete & Asphalt

- Off-site concrete and asphalt work will be provided as shown on plans including new concrete driveways, curb & gutter, sidewalks, and asphalt patching at street.
- Salvaged pavers will be re-installed at parkway adjacent to Beaver and Cherry Streets to accommodate new work.
- Existing trees and tree wells will be protected during the course of construction. New tree wells including ribbon curb will be provided at parkway as indicated on plans.
- New concrete driveway will be provided off of Cherry St to new parking lot.
- Off-site curb and gutter will be provided at abandoned driveway locations and utility tie-in locations.
- Asphalt patching will be provided at driveway and curb tie-ins along with utility work at street. All asphalt patching will include necessary t-top. It assumes that existing subgrade and base are suitable at existing streets. Remediation of unsuitable soils at street is not included.
- KCS will include new off-site concrete sidewalks at perimeter of new courts facility.
- KCS will provide re-striping of adjacent off-street parking spaces at new facility including curb markings as necessary. It is assumed that the markings will be epoxy based paint.

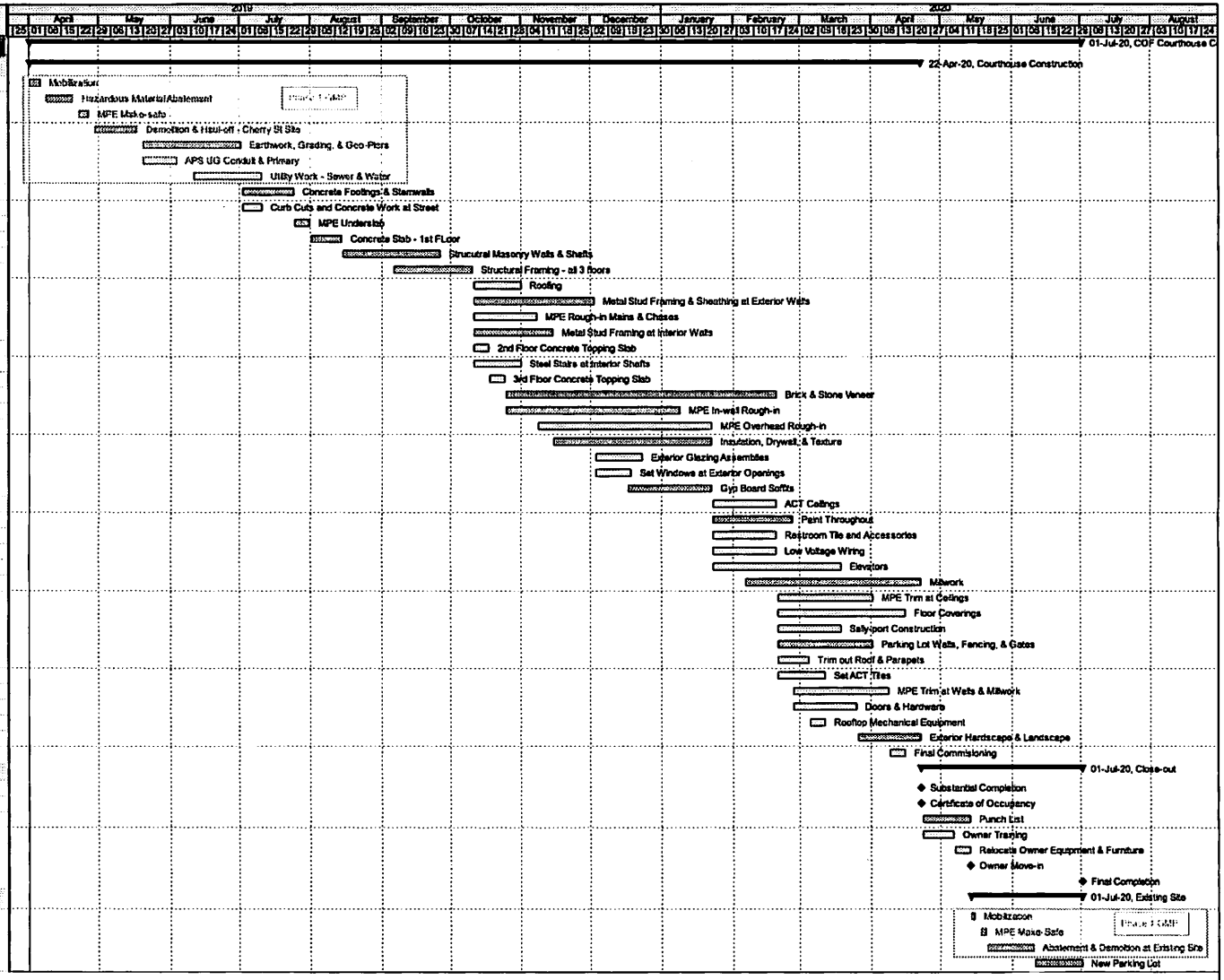
Exclusions

- Electrical Power Consumption Costs – KCS has included hook-up of temp power, but the assumption is that the meter will be in COF name and costs for electricity consumption will be by owner.
- 3rd Party Testing – assume costs by owner. KCS to coordinate inspections and providing copies of reports as necessary.
- On-site concrete and asphalt
- Structural concrete
- Parking Lot improvements at existing site
- Landscaping & Irrigation
- Fiber & Conduit Installation
- Gas Service – Unisource will bill COF direct for the actual installation of the UG pipe; KCS to provide trenching and backfill only
- 3rd Party Oversight for Abatement Activities
- Utility Impact Fees

Exhibit C - Enumeration of Documents
COF Courts - Phase 1 GMP

Number	Title	Date
	Asbestos & LCP Re-survey - 101 W Cherry	12.17.2018
	Asbestos & LCP Re-survey - 107 W Aspen	12.17.2018
	Asbestos & LCP Re-survey - 15 N Beaver	12.31.2018
	Asbestos Addendum - 101 W Cherry	1.11.2019
	Asbestos Addendum - 107 W Aspen	12.31.2018
	Asbestos Addendum - 15 N Beaver	12.31.2018
**All documents above created by Four Corners Environmental, Inc.*		
	Preliminary Drainage Report	2.7.2019
AS-100	Site Plan	2.5.2019
A-111	Floor Plan - Level 1	12.11.2018
A-112	Floor Plan - Level 2	12.11.2018
A-113	Floor Plan - Level 3	12.11.2018
A-131	Roof Plan	12.11.2018
A-211	Perspective Views	2.5.2019
A-221	Elevations - Exterior	2.5.2019
A-222	Elevations - Exterior	2.5.2019
A-223	Elevations - Exterior	2.5.2019
A-224	Elevations - Exterior	2.5.2019
A-310	Schematic Section	2.5.2019
A-501	Exterior Details - Signage Plan	2.5.2019
M-100	Materials	2.5.2019
ES-100	Electrical Site Plan	11.21.2019
ES-200	Lighting Fixture Cut Sheets	11.21.2019
10	Landscape Plan	2.7.2019
11	Landscape Plan	2.7.2019
12	Landscape Plan	2.7.2019
CVR	Cover Sheet	Feb, 2019
SP01	Civil Site Plan	Feb, 2019
GD01	Grading and Drainage	Feb, 2019
**All documents above created by CGL & SWI*		

Activity ID	Activity Name	Original Duration	Start	Finish
	COF Courthouse Construction Schedule	320	01-Apr-19	01-Jul-20
	Courthouse Construction	270	01-Apr-19	22-Apr-20
A1080	Mobilization	5	01-Apr-19	05-Apr-19
A1440	Hazardous Material Abatement	10	08-Apr-19	19-Apr-19
A1180	MPE Make-safe	5	22-Apr-19	26-Apr-19
A1100	Demolition & Haul-off - Cherry St Site	15	29-Apr-19	17-May-19
A1460	Earthwork, Grading, & Geo-Piers	30	20-May-19	01-Jul-19
A1480	APS UG Conduit & Primary	10	20-May-19	03-Jun-19
A1470	Utility Work - Sewer & Water	20	11-Jun-19	10-Jul-19
A1450	Concrete Footings & Stemwalls	15	02-Jul-19	24-Jul-19
A1510	Curb Cuts and Concrete Work at Street	5	02-Jul-19	10-Jul-19
A1490	MPE Understab	5	25-Jul-19	31-Jul-19
A1500	Concrete Slab - 1st FLoor	10	01-Aug-19	14-Aug-19
A1350	Structural Masonry Walls & Shafts	30	15-Aug-19	26-Sep-19
A1110	Structural Framing - all 3 floors	25	06-Sep-19	10-Oct-19
A1600	Roofing	15	11-Oct-19	31-Oct-19
A1620	Metal Stud Framing & Sheathing at Exterior Walls	35	11-Oct-19	02-Dec-19
A1630	MPE Rough-in Mains & Chases	20	11-Oct-19	07-Nov-19
A1640	Metal Stud Framing at Interior Walls	25	11-Oct-19	14-Nov-19
A1650	2nd Floor Concrete Topping Slab	5	11-Oct-19	17-Oct-19
A1660	Steel Stairs at Interior Shafts	15	11-Oct-19	31-Oct-19
A1680	3rd Floor Concrete Topping Slab	5	18-Oct-19	24-Oct-19
A1610	Brick & Stone Veneer	80	25-Oct-19	19-Feb-20
A1700	MPE In-wall Rough-in	50	25-Oct-19	08-Jan-20
A1690	MPE Overhead Rough-in	50	08-Nov-19	22-Jan-20
A1710	Insulation, Drywall, & Texture	45	15-Nov-19	22-Jan-20
A1670	Exterior Glazing Assemblies	15	03-Dec-19	23-Dec-19
A1680	Set Windows at Exterior Openings	12	03-Dec-19	18-Dec-19
A1740	Gyp Board Soffits	25	17-Dec-19	22-Jan-20
A1720	ACT Ceilings	20	23-Jan-20	19-Feb-20
A1730	Paint Throughout	25	23-Jan-20	26-Feb-20
A1770	Restroom Tile and Accessories	20	23-Jan-20	19-Feb-20
A1820	Low Voltage Wiring	20	23-Jan-20	19-Feb-20
A1870	Elevators	40	23-Jan-20	18-Mar-20
A1780	Millwork	55	06-Feb-20	22-Apr-20
A1750	MPE Trim at Ceilings	30	20-Feb-20	01-Apr-20
A1790	Floor Coverings	40	20-Feb-20	15-Apr-20
A1800	Sally-port Construction	20	20-Feb-20	18-Mar-20
A1810	Parking Lot Walls, Fencing, & Gates	30	20-Feb-20	01-Apr-20
A1830	Trim out Roof & Parapets	10	20-Feb-20	04-Mar-20
A1900	Set ACT Tiles	15	20-Feb-20	11-Mar-20
A1760	MPE Trim at Walls & Millwork	30	27-Feb-20	08-Apr-20
A1890	Doors & Hardware	20	27-Feb-20	25-Mar-20
A1840	Rooftop Mechanical Equipment	5	05-Mar-20	11-Mar-20
A1850	Exterior Hardscape & Landscape	20	26-Mar-20	22-Apr-20
A1880	Final Commisioning	5	09-Apr-20	15-Apr-20
	Close-out	50	22-Apr-20	01-Jul-20
A1090	Substantial Completion	0		22-Apr-20
A1320	Certificate of Occupancy	0		22-Apr-20
A1330	Punch List	15	23-Apr-20	13-May-20
A1370	Owner Training	10	23-Apr-20	06-May-20
A1340	Relocate Owner Equipment & Furniture	5	07-May-20	13-May-20
A1360	Owner Move-in	0		13-May-20
A1380	Final Completion	0		01-Jul-20
	Existing Site	35	14-May-20	01-Jul-20
B1000	Mobilization	2	14-May-20	15-May-20
B1010	MPE Make-Safe	3	18-May-20	20-May-20
B1100	Abatement & Demolition at Existing Site	15	21-May-20	10-Jun-20
B1020	New Parking Lot	15	11-Jun-20	01-Jul-20

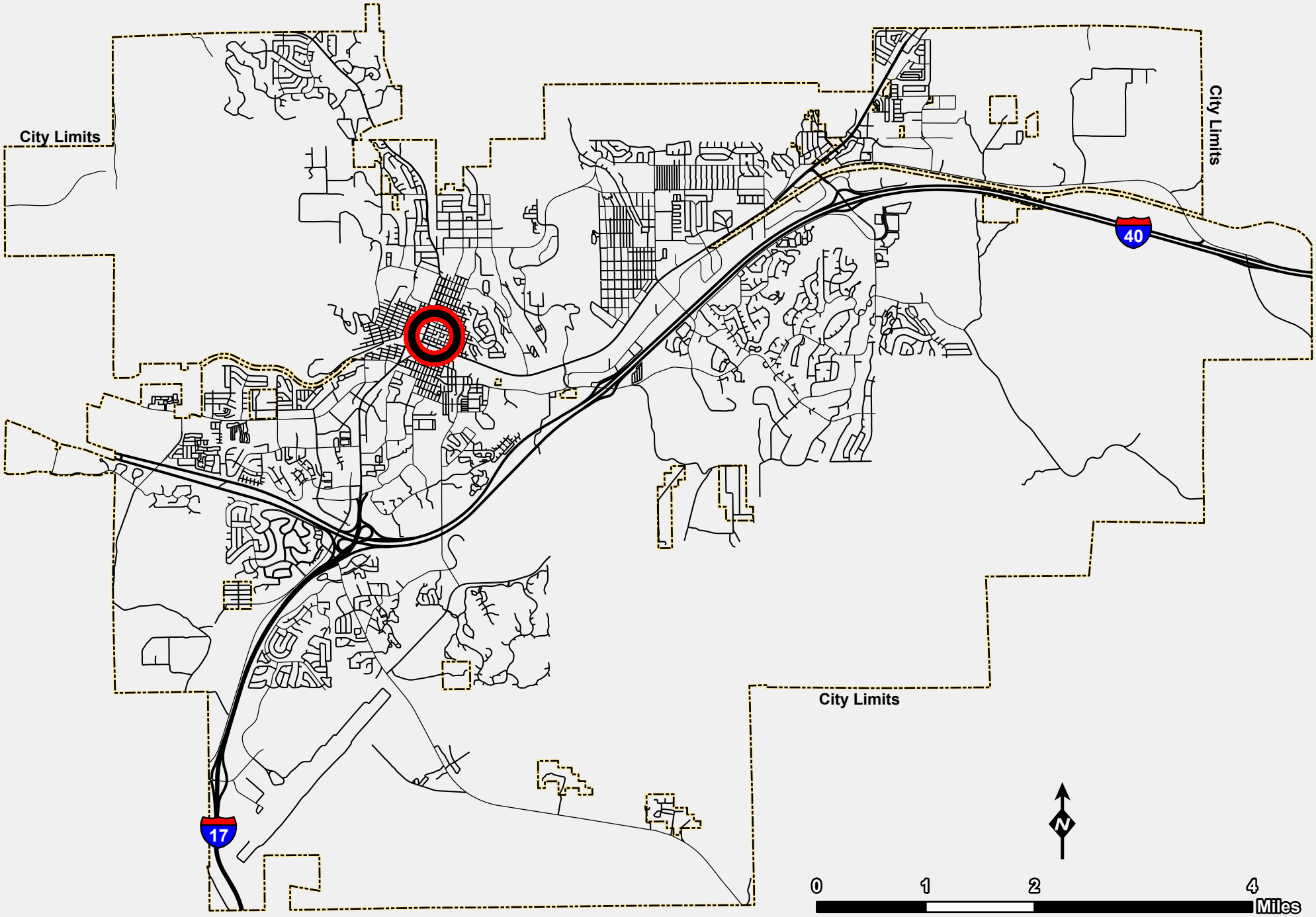


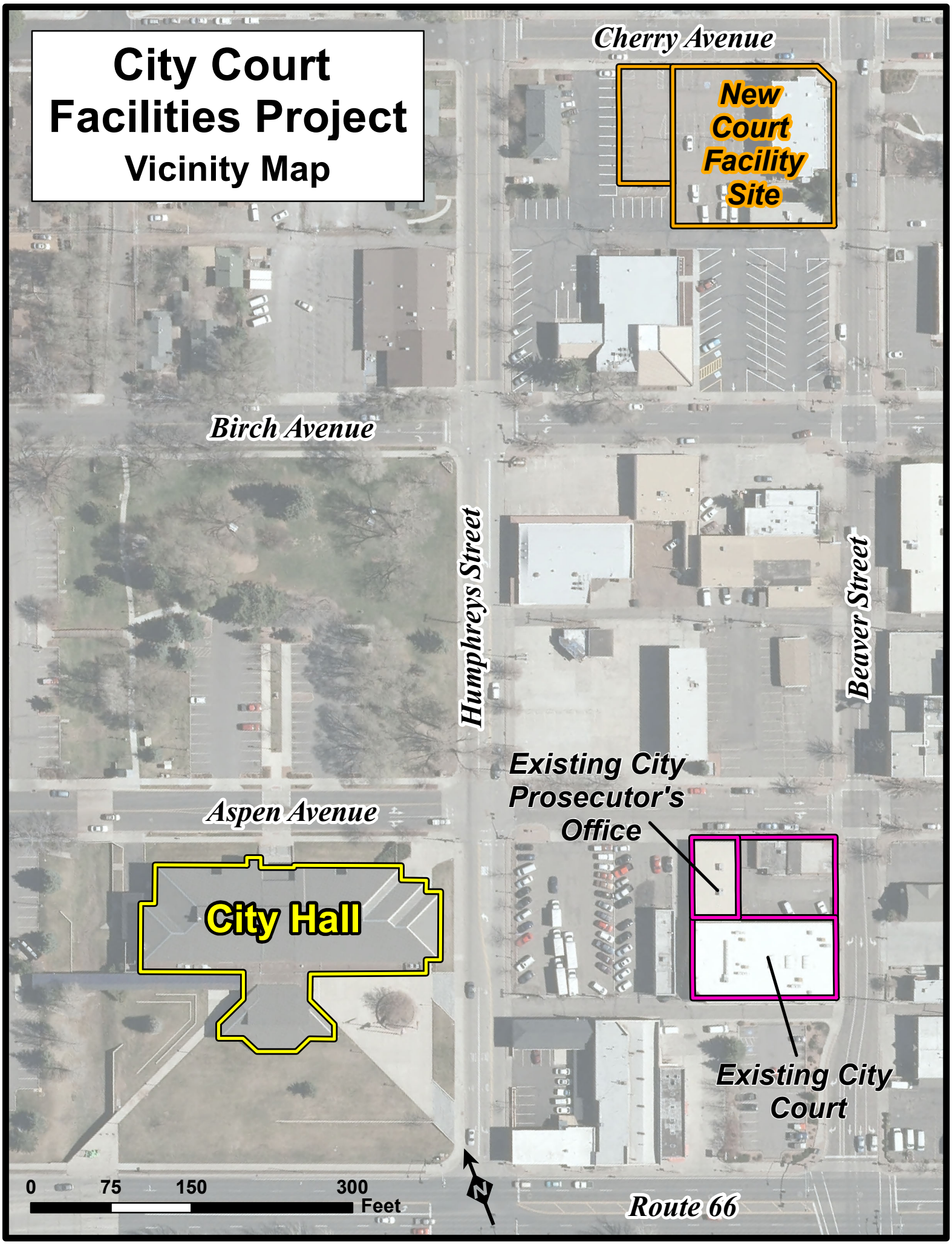
Actual Work
Remaining Work
Critical Remaining Work
Milestone
Summary

COF Courthouse Construction Schedule
Project Schedule

Kinney Construction Services, Inc.
06-Feb-19

City Court Facilities Project




City Court Facilities Project
Vicinity Map
Cherry Avenue
New Court Facility Site
Birch Avenue
Humphreys Street
Beaver Street
Existing City Prosecutor's Office
Aspen Avenue
City Hall
Existing City Court
0
75
150
300
Feet
N
Route 66

CITY OF FLAGSTAFF
CONTRACT SUPPLEMENTARY JUSTIFICATION
Design-Build OR CMAR Contracts

PROJECT NO. GG 3278 **PROJECT NAME:** City Municipal Court Facility

FILE NO. 03-18007 **Project Manager:** Christine Cameron

CONTRACTOR/CONSULTANT: Kinney Construction Services

PROJECT DESCRIPTION: Construction of a 40,000 square-foot facility to contain the Municipal City Court, the Court Administration offices, and the City Prosecutor's offices.

JUSTIFICATION FOR USE AND AMOUNT:

Contractor's Contingency Amount: $472,189, 4% of construction costs.

Justification: The Contractor's contingency is included to cover future construction issues that may arise, changes in specifications, plan constructability issues and conflicts, and unknowns.

Owner's Contingency Amount: $154,031, 1% of construction costs.

Justification: The Owner's Contingency is included to cover future added scope that is requested from the Project owners during construction.

COST/BUDGET/FUNDING SOURCE ANALYSIS:

Contractor's Contingency: $472,189, 4% of construction costs. This amount is budgeted within the total building budget of $19,500,000.

Owner's Contingency: $154,031, 1% of construction costs. This amount is budgeted within the total building budget of $19,500,000.

Funding Source: General Obligation Bonds and Court Fees, Account #408-09-426-3278-1

APPROVAL:	Signature		Date:
Project Manager		Approval Recommended	4/24/19
Program Manager		Approval Recommended	4/24/19
Section Head		Approval Recommended	4/24/19
Division Head		Approval Recommended	4/25/19

Definitions

Owner's Contingency (Design/Build or Construction Manager at Risk)

"Owner's Contingency" means a fund to cover cost growth during the Project used at the discretion of the City usually for costs that result from City's directed changes or Differing Site Conditions, or as the City may otherwise elect. The amount of the Owner's Contingency will be set solely by the City and will be in addition to the Project costs included in the Design-Builder's GMP packages.

The Owner's Contingency are funds to be used at the sole discretion of the City to cover any increases in Project costs that result from City directed changes, Differing Site Conditions, or as the City may otherwise elect. Owner's Contingency will be added to the GMP amount provided by the Design-Builder, the sum of which will be the full Contract Price for construction. Markups for Construction Fee and taxes will be applied by the Design-Builder at the time that Owner's Contingency is used

Contractor's Contingency (Design/Build or Construction Manager at Risk)

"Design-Builder's/CMAR Contingency" means a fund to cover cost growth during the Project used at the discretion of the Design-Builder/CMAR, usually for costs that result from Project circumstances. The amount of the Design-Builder's/CMAR Contingency will be negotiated as a separate line item in each GMP package.

Use and management of the Design-Builder's/CMAR Contingency:

Design-Builder's/CMAR Contingency is an amount the Design-Builder/CMAR may use under the following conditions: (1) at its discretion for increases in the Cost of the Work, or (2) with written approval of the City for increases in General Condition Costs. Design-Builder/CMAR Contingency is assumed to be a direct Project cost so will receive all markups at the time of GMP submission.

When the Design-Builder/CMAR utilizes Design-Builder's/CMAR Contingency funds, the Design-Builder/CMAR shall make the appropriate changes to the Schedule of Values with the next regular progress Payment Request. The Design-Builder/CMAR shall deduct the amount of Design-Builder's/CMAR Contingency funds used from the Design-Builder's/CMAR Contingency line item and add the same amount to the line item on the Schedule of Values where the funds were used. If the Design-Builder's/CMAR Contingency funds are used for a new line item that was not given with the original Schedule of Values, that will be so indicated.

Flagstaff City Council

City Court Facility Project

Design-Build Amendment GMP #2

May 21, 2019

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

Overview-Tonight's Discussion Points

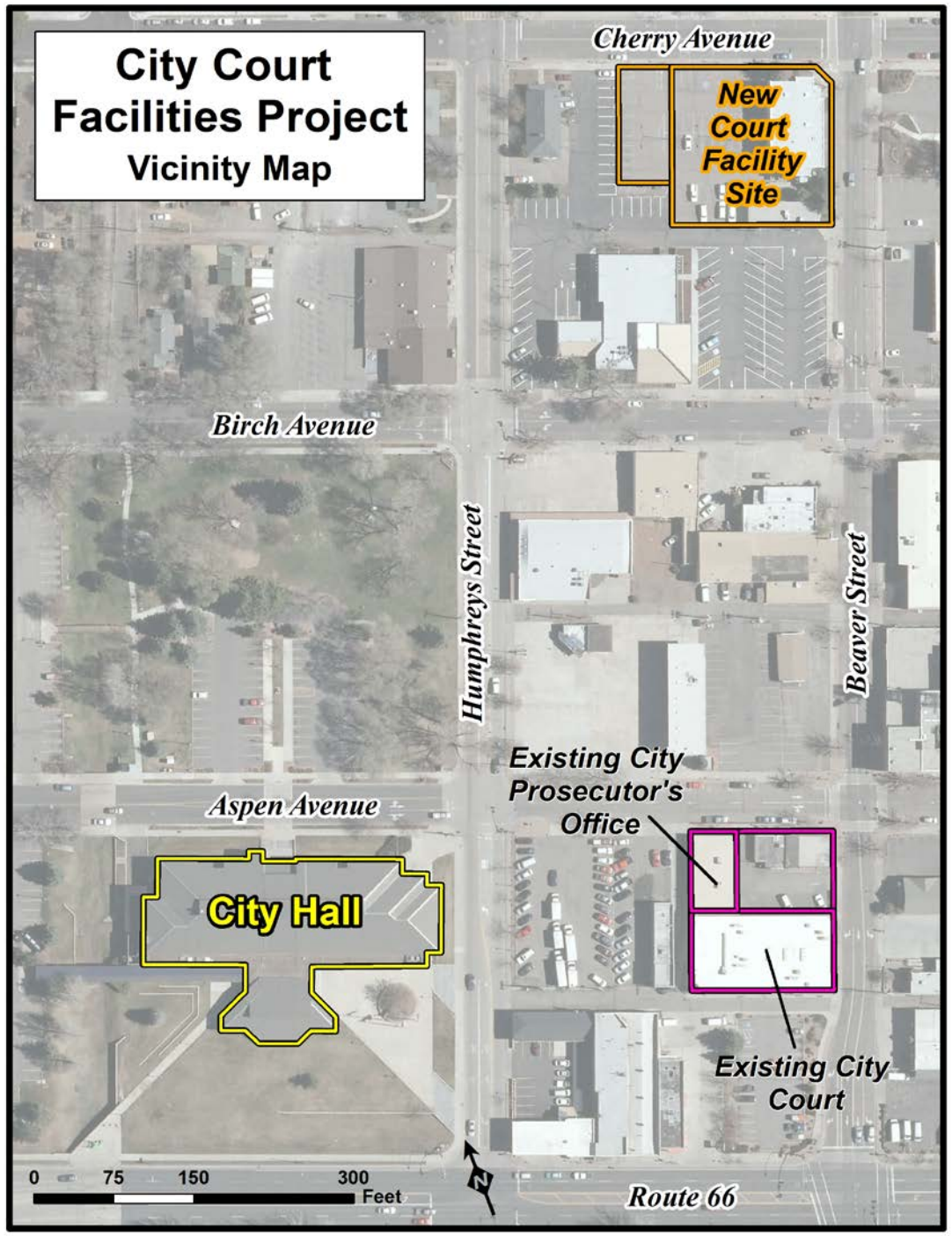
AGENDA

- General Project Information
- Budget and Schedule
- Design-Build Contract Amendment, Guaranteed Maximum Price (GMP) #2

Project Location

101 West Cherry Avenue

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER



Project Elevation Drawing

N-E Perspective (Looking south towards SW corner Beaver/Cherry)



Project Information

- Facility is approximately 39,000 SF and three stories tall
- Houses the City Municipal Courts and the City Prosecutor's office
- Courts facilities include 4 court rooms, 1 hearing room, 1 jury assembly room, and customer processing center for the City Courts

Project Budget

- Total project budget for the facility - $19.5M
- Original design contract - $1,593,628
- GMP #1 - $1,518,175
- GMP #2 - $15,557,094
- Total contracts - $18,668,897

Project Schedule

- Design Documents 100% complete and under review.
- Ground Breaking – May 30, 2019
- GMP #3 anticipated for fall of 2019 – will include ADA parking construction, Beaver/Aspen parking lot construction, final furnishings, fiber optic conduit installation.
- Project completion – July 2020

Amendment #2, GMP #2

- GMP #2 Total - $15,557,094

- Contractor's Contingency (4%) - $472,189
  - Winter conditions, changes in specifications, plan constructability issues and conflicts, unknowns.

- Owner's Contingency (1%) - $154,031
  - Additional scope for the facility that is requested by the Project owners.

Questions

6. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Scott Overton, Streets Section Director
Co-Submitter:	Adam Miele
Date:	05/13/2019
Meeting Date:	05/21/2019

TITLE:

Consideration and Approval of Contract: Annual Street Maintenance Chip Seal Program 2019

STAFF RECOMMENDED ACTION:

1. Approve the Annual Street Maintenance Chip Seal Program 2019 and execute a Construction Manager at Risk (CMAR) Contract with C and E Paving & Grading, LLC for a Guaranteed Maximum Price (GMP) of $2,033,450.55; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The Public Works Streets Section maintains approximately 700 lane miles of roadway surface infrastructure for the citizens, regional community members, and visitors. Roadways throughout the City vary in design and capacity. In addition to automobile travel, all modes of transportation are integrated and encouraged within the right of way. Modes of travels such as transit, bicycle, and pedestrian opportunities are prevalent and our Streets crews strives to provide transportation infrastructure that is well connected and as safe as possible for travel, regardless of the chosen mode.

The City's annual Street Maintenance Chip Seal Program is an effort to improve aging infrastructure within our existing transportation network. Planning efforts include an evaluation of the asphalt surface, edge treatments, recent overlay project sections, roads that meet maintence need, and road stripe engineering. Once the identified needs are prioritized, Streets utilizes funding provided from two sources to address the needs. The first source of revenue is Highway User Revenue Funds (HURF), or commonly referred to as the gas tax, a state shared revenue. The second source of revenue provided is sales tax proceeds collected as a result of the 2014 voter approved Road Repair and Street Safety Program (RRSS).

This Council action, if approved, will allow Streets to deliver the Annual Street Maintenance Chip Seal Program 2019 utilizing local contractor C and E Paving & Grading, LLC and improve the community transportation infrastructure.

****A PowerPoint presentation has been added****

Financial Impact:

The Streets capital program was reviewed and approved in the FY 2019 budget process.
The total cost of the Annual Street Maintenance Chip Seal Program 2019 is $2,033,450.55 and is funded from account number 040-06-162-3073-6-4443 in the FY2019 budget.

Policy Impact:

The award of the CMAR contract with C and E Paving & Grading, LLC. will authorize the delivery of the City's Annual Street Maintenance Chip Seal Program 2019. This treatment of chip seal will ensure that the City is protecting its streets and providing for a well-protected surface, extending the life of asphalt surfaces. Once completed this Fall, the effort will result in an improved quality transportation network. The City of Flagstaff community continues to support initiatives creating and maintaining quality infrastructure throughout our transportation network.

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

Transportation and Public Infrastructure - Deliver quality community assets and continue to advocate and implement a highly performing multi-model transportation system.

Has There Been Previous Council Decision on This:

The City of Flagstaff City Council has discussed the transportation maintenance programs and provides direction and feedback in multiple forums, such as the goal setting process, the annual budgetary process, and community service delivery expectation discussions. Clear direction has been provided to maintain our transportation system, establish asset inventory, deliver capital programs of improvement and meet the community expectations.

Options and Alternatives:

1. Approve the Construction Manager at Risk Construction Contract with C and E Paving & Grading, LLC as proposed; or
2. Request that the City continue to negotiate the scope of work and financial resources to a different outcome or expectation; or
3. Reject the Construction Manager at Risk Contract and direct staff to pursue a different type of procurement delivery method and approach to work programming.

Background/History:

The City has established an annual program to maintain existing street pavements. The program includes three major elements: non-structural upgrades of asphalt overlay, minor concrete repairs, accessibility improvements including sidewalk/ramp replacement and chip sealing.

The citizens of Flagstaff approved the Road Repair and Street Safety Maintenance Program (RRSS) (Prop. 406). This is a dedicated sales tax providing funding of $100 million over 20 years. The program has been aggressively addressing capital projects that have been identified to be in a high state of disrepair on the front end of the program with strong support for annual maintenance until the sales tax sunsets in 2034.

The chip seal streets are selected after evaluation of the street condition using pavement management asset software. Each street pavement is assigned an overall condition index (OCI) based on the type and severity of the distress observed. A pavement that has no distress is given an OCI of 100. Each pavement distress such as cracking or roughness reduces the street's OCI. The street pavements are ranked by OCI and the pavements exhibiting the most severe distress are programmed for resurfacing treatments and improvements. In addition to overall ranking we use chip seal techniques to protect

recently overlaid sections to prolong the life of the asphalt surface.

The Arizona State Legislature has authorized the use of Alternative Project Delivery Methods (APDM) as a method of project delivery. Included in these delivery methods the City of Flagstaff can select a construction team utilizing a Qualifications Based Selection process to procure construction services from a firm deemed most qualified to perform the work. The enabling legislation also allows for provision of multiple Guaranteed Maximum Prices (GMP) under a single procurement.

On July 3, 2018, Council approved award of the Design Phase Services Contract for the 2018, 2019 and 2020 programs to C and E Paving & Grading, LLC. in the amount of $ 113,794.00. This contract method provides the City various design phase services including program and budget evaluation, project scheduling, design document review, constructability review, detailed cost estimating, and preparation of final construction documents in coordination with our Public Works Senior Project Manager and our on-call civil engineering consultant Shepard-Wesnitzer Inc.

Key Considerations:

The past performance and delivery of the maintenance chip seal program from C and E Paving & Grading, LLC has been excellent. The ability to prioritize the projects and have a continuous conversation with the contractor in a meaningful way has resulted in cost savings, expanded work program and good quality in a timely manner. A City map identifying the last 4 years effort has been included for the City Council's review and to provide a visual understanding of the impact and successes of the work program and delivery method.

Expanded Financial Considerations:

None.

Community Benefits and Considerations:

Proposition 406 approved in 2104 has been a significant and positive influence on this maintenance program. The community benefit of improving the overall road conditions saves countless staff hours for repair and thousands of dollars in temporary repairs and improves the overall roadway safety. The overlay and chip seal projects have been aggressive and targeted our most degraded streets. The projects can seem large in scope and they do cause some temporary disruption to our daily travel routines. Acceptance of the temporary disruption and inconvenience can be challenging but the long-term benefits, efficiencies of bundling of our improvements is good stewardship. Community notifications of construction programs are advertised and communicated via different mediums to provide general impacts and talking points as they relate to the project.

Community Involvement:

The community continues to support transportation related initiatives demonstrating a strong understanding of supporting a quality infrastructure. We often receive citizen feedback and public participation to support our efforts of core service delivery. In addition to the constant feedback, the voters approved the Road Repair Street Safety Program and the results have been positive.

Expanded Options and Alternatives:

1. Deny the requested action and provide direction on how to best deliver the voter mandated program of Annual Street Maintenance Chip Seal Program 2019; or
2. Discontinue the use of the CMAR process and request that procurement present alternative project delivery methods for the Annual Street Chip Seal Program 2019.

Attachments: CMAR Construction Phase Agreement - 2019 Chip Seal
Exhibit B - 2019 GMP
Exhibit C - 2019 Specifications
Chip Seal Plans
Chip Seal Map
Presentation

City of Flagstaff, Arizona

Street Maintenance Program 2018, 2019, 2020

CONSTRUCTION MANAGER AT RISK

2019 CONSTRUCTION PHASE SERVICES
CHIP SEAL

PROJECT NO. 01-19001

Agreement No. 2018-32CP

MAYOR
CORAL EVANS

CITY COUNCIL

ADAM SHIMONI
JIM McCARTHY
AUSTIN ASLAN
JAMIE WHELAN
CHARLIE ODEGAARD
REGINA SALAS

CITY MANAGEMENT

City Manager
Barbara Goodrich

Utilities Director
Brad Hill

Community Development Director
Dan Folke

Public Works Director
Andrew Bertelsen

TABLE OF CONTENTS

PAGE

RECITALS 1

ARTICLE 1 - DEFINITIONS 1

ARTICLE 2 – CMAR'S SERVICES AND RESPONSIBILITIES 5

ARTICLE 3 - CITY'S SERVICES AND RESPONSIBILITIES 12

ARTICLE 4 - CONTRACT TIME 14

ARTICLE 5 - CONTRACT PRICE 18

ARTICLE 6 - CHANGES TO THE CONTRACT PRICE AND TIME 19

ARTICLE 7 - PROCEDURE FOR PAYMENT 22

ARTICLE 8 – CLAIMS AND DISPUTES 25

ARTICLE 9 – SUSPENSION AND TERMINATION 27

ARTICLE 10 - INSURANCE AND BONDS 30

ARTICLE 11 - INDEMNIFICATION 33

ARTICLE 12 - GENERAL PROVISIONS 33

SIGNATURE PAGE 39

EXHIBIT A – PROJECT DESCRIPTION

EXHIBIT B – APPROVED GMP PROPOSAL

EXHIBIT C – TECHNICAL SPECIFICATIONS

CITY OF FLAGSTAFF, ARIZONA

STREET MAINTENANCE PROGRAM 2018, 2019, 2020

CONSTRUCTION MANAGER AT RISK

2019 CONSTRUCTION SERVICES AGREEMENT: CHIP SEAL

PROJECT No. 01-19001; Agreement No. 2018-32CP

This Construction Services Agreement ("Agreement"), is made and entered into by and between the City of Flagstaff, an Arizona municipal corporation ("City"), and C and E Paving & Grading LLC, an Arizona limited liability corporation, ("Construction Manager at Risk" or CMAR") on this ___ day of _____, 20__.

RECITALS

A. The City is authorized and empowered by provisions of the City Charter to execute agreements for construction services.

B. The City intends to construct the Construction Manager at Risk (CMAR) Design pursuant to the Design Phase Services Agreement: Street Maintenance Program 2018, 2019 and 2020 (Agreement #2018-32) as more fully described in Exhibit "A" attached ("Project").

C. To undertake the construction administration of the Project the City has entered into a separate agreement with Plateau Engineering, Inc. ("Design Professional.")

D. CMAR has represented to the City that it has the ability to provide construction services for the Project, and based on this representation, the City hereby engages CMAR to provide these services and construct the Project.

E. Agreement #2018-32 has been executed previously between the City and CMAR to perform design phase services for the Project. Those services may continue during the duration of this Agreement.

***NOW THEREFORE*,** for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between the City and CMAR as follows:

Article 1 - Definitions

"Agreement" - This written document signed by the City and CMAR covering the construction phase of the Project, and including other documents itemized and referenced in, or attached to, and made part of this Agreement.

"Change Directive" - A written order prepared and signed by the City, directing a change in the Work prior to agreement on an adjustment in the Contract Price and the Contract Time.

"Change Order" - A type of Contract amendment issued after execution of the Contract Documents or future GMP Amendments signed by the City and CMAR, agreeing to changes to a GMP, for substantial unanticipated alterations in the character of Work. The Change Order shall state the following: the addition, deletion or revision in the scope of Work; the amount of the adjustment to the Contract Price; and the extent of the adjustment to the Contract Times or other modifications to Agreement terms.

"The City ("Owner" or "OWNER") - The City of Flagstaff, a municipal corporation, with whom CMAR has entered into this Agreement and for whom the services are to be provided pursuant to said Contact. Regulatory activities handled by the City of Flagstaff Community Development, Fire and Planning Departments or any other City Department are not subject to the responsibilities of the City under this Agreement.

"City's Representative" - The person designated in Subsection 8.3.1.2.

"City's Senior Representative" - The person designated in Subsection 8.3.1.1.

"CMAR" - The firm selected by the City to provide construction services as detailed in this Agreement.

"CMAR's Contingency" - A fund to cover cost growth during the Project used at the discretion of CMAR usually for costs that result from Project circumstances. The amount of CMAR's Contingency shall be negotiated as a separate line item in each GMP package. Use and management of CMAR's Contingency is described in Subsection 5.3.1.

"CMAR's Representative" - The person designated in Subsection 8.3.2.2.

"CMAR's Senior Representative" - The person designated in Subsection 8.3.2.1.

"Construction Documents" - Certain plans, specifications and drawings prepared by the Design Professional after correcting for permit review requirements or dated plans and specifications specifically identified as the "Construction Documents" herein or in an Exhibit or Addendum which is attached hereto.

"Construction Fee" - CMAR's administrative costs, home office overhead, and profit as applicable to this Project whether at CMAR's principal or branch offices.

"Contract Documents" - The following items and documents in descending order of precedence executed by the City and CMAR: (i) all written modifications, amendments and Change Orders; (ii) this Agreement, including all exhibits and attachments; (iii) Construction Documents; (iv) GMP Plans and Specifications.

"Contract Price" - The amount or amounts set forth in Article 5.

"Contract Time" - The days, as set forth in Article 4, the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work, subject to Winter Shutdown.

"Cost of the Work" - The direct costs necessarily incurred by CMAR in the proper performance of the Work. The Cost of the Work shall include direct labor costs, subcontract costs, costs of materials and equipment incorporated in the completed construction, costs of other materials and equipment, temporary facilities, permit and license fees, materials testing, and related items. The Cost of the Work shall not include CMAR's Construction Fee, General Conditions Costs, and taxes.

"Critical Path Method" - A scheduling technique used to predict project duration by analyzing which sequence of activities has the least amount of scheduling flexibility thus identifying the path (sequence) of activities which represent the longest total time required to complete the Project. Delay in completion of the identified activities shall cause a delay in achieving Substantial Completion.

"Day(s)" - Calendar days unless otherwise specifically noted in the Contract Documents.

"Design Phase Services Contract" - The agreement between the City and CMAR for Services provided by CMAR during the design phase which may include the following: design recommendations, Project scheduling, constructability reviews, alternate systems evaluation, cost estimate, Minority Business Enterprise/Woman's Business Enterprise/Small Business Enterprise **("MBE/WBE/SBE")** utilization, subcontractor bid phase services, GMP preparation and other services set forth in this Agreement or reasonably inferable therefrom.

"Design Professional" - A qualified, licensed design professional who furnishes, design**,** construction documents, and/or construction administration services required for the Project.

"Differing Site Conditions" - Concealed or latent physical conditions or subsurface conditions at the Site that, (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work.

"Final Completion" - 100% completion of all construction Work noted in or reasonably inferred from the Contract Documents, including but not limited to all Punch Lists work, all record and close-out documents specified in Owner's Project specifications and Owner training/start up activities.

"Float" - The number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Substantial Completion date.

"General Conditions Costs" - Includes, but is not limited to the following types of costs for CMAR during the construction phase: (i) payroll costs for Project manager or CMAR for work conducted at the Site, (ii) payroll costs for the superintendent and full-time general foremen, (iii) payroll costs for other management personnel resident and working at the Site, (iv) workers not included as direct labor costs engaged in support (e.g. loading/unloading, clean-up, etc.), (v) costs of offices and temporary facilities setup solely for this Project including office materials, office supplies, office equipment and minor expenses, (vi) cost of utilities, fuel, sanitary facilities and telephone services at the Site, (vii) costs of liability and other applicable insurance premiums not included in labor burdens for direct labor costs, (viii) costs of bond premiums, (ix) costs of consultants not in the direct employ of CMAR or Subcontractors.

"Guaranteed Maximum Price" or "GMP" - The sum of the maximum Cost of the Work; the Construction Fee; General Conditions Costs, taxes, and CMAR's Contingency.

"GMP Plans and Specifications" - The plans and specifications upon which the Guaranteed Maximum Price proposal is based.

"Legal Requirements" - All applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

"Notice to Proceed" or "NTP" - The directive issued by the City, authorizing CMAR to start Work.

"Opening Physical Conditions" – The current physical conditions present on the Site as jointly documented by an inspection of the Site by City and CMAR at the Pre-construction Conference.

"Owner's Contingency" - A fund to cover cost growth during the project used at the discretion of the Owner usually for costs that result from Owner directed changes or unforeseen Site conditions. The amount of the Owner's contingency shall be set solely by the Owner and shall be in addition to the Project costs included in CMAR's GMP packages. Use and management of the Owner's contingency is described in Section 5.3.2.

"Performance Period" - The period of time allotted in the Contract Documents to complete the Work comprised within a GMP. The Performance Period shall be stated with each GMP and shown on the Project Master Schedule.

"Payment Request" - The City form used by CMAR to request progress payments for Work in accordance with Article 7.

"Pre-construction Conference" – A Conference held between City and CMAR prior to the commencement of any Work, as scheduled by the City's Representative or designee.
"Product Data" - Illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by CMAR to illustrate materials or equipment for some portion of the Work.

"Project" - The work to be completed in the execution of this Agreement as amended and as described in the Recitals above and in Exhibit "A" attached.

"Project Record Documents" - The documents created pursuant to Section 2.10.

"Samples" - Physical examples, which illustrate materials, equipment or workmanship and establish standards by which the Work shall be evaluated.

"Schedule of Values" - A statement furnished by CMAR to the City's Representative for approval, reflecting the portions of the GMP allotted for the various parts of the work and used as the basis for evaluating CMAR's applications for progress payments.

"Shop Drawings" - Drawings, diagrams, schedules and other data specially prepared for the Work by CMAR or a Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

"Site" - Land or premises on which the Project is located.

"Specifications" - The part(s) of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

"Subcontractor" - An individual or firm having a direct Agreement with CMAR or any other individual or firm having an Agreement with the aforesaid Contractors at any tier, who undertakes to perform a part of the construction phase Work for which CMAR is responsible.

"Submittals" - Documents and/or things that may be produced or presented by one party for consideration review or such other actions as may be required by this Agreement by another party, entity or person. Examples of Submittals include, but are not limited to, preliminary or evolving drafts, product data samples, etc.

"Substantial Completion" - The established date when the Work or designated portion thereof is sufficiently complete, in accordance with the Contract Documents so that the Owner may occupy the Work, or designated portion thereof, for the use for which it is intended. This may include, but is not limited to: (i) Approval by the City or State Fire Marshall and/or other state or local authorities having jurisdiction over the Work or a portion thereof (Certificate of Occupancy); (ii) all systems in place, functional, and displayed to, and accepted by, the City or it's representative; (iii) City operation and maintenance training complete; (iv) HVAC test and balance completed with reports provided to the Design Professional for review; (v) Operational and Maintenance manuals and final Project Record Documents delivered to the City or Design Professional for review.

"Supplier" - A manufacturer, fabricator, supplier, distributor, material man or vendor having a direct agreement with CMAR or any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by CMAR or any Subcontractor.

"Winter Shutdown" – The period of time typically including December through March during which no Work will be performed by any person or entity (including but not limited to the CMAR) on the Project and CMAR shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the City reserves the right to initiate and terminate a Winter Shutdown at the City's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the City despite delays, *for any reason,* on the Project.

"Work" - The entire completed construction or the various separately identifiable parts thereof, required to be furnished during the construction phase. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials, resources and equipment into the construction, and performing or furnishing services and documents as required by the Contract Documents for the construction phase.

Article 2 - CMAR's Services and Responsibilities

2.0 CMAR shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all Work for the construction of the Project, and to completely and totally construct the same and install the material therein for the City. All Work shall be performed in a good and workmanlike and substantial manner and within the care and skill of a qualified CMAR in Flagstaff, Arizona. The Work shall be to the satisfaction of the City and strictly pursuant to and in conformity with the Project's Contract Documents. It is not required that the services be performed in the sequence in which they are described.

2.1 General Services

2.1.1. CMAR's Representative shall be reasonably available to the City and shall have the necessary expertise and experience required to supervise the Work. CMAR's Representative shall communicate regularly with the City but not less than once a week and shall be vested with the authority to act on behalf of CMAR. CMAR's Representative may be replaced only with the written consent of the City.

2.2 Government Approvals and Permits

2.2.1 Unless otherwise provided, CMAR shall obtain all applicable and/or necessary permits, approvals and licenses required for the prosecution of the Work from any government or quasi-government entity having jurisdiction over the Project. CMAR is specifically reminded of the need to obtain the applicable and/or necessary environmental permits or file the applicable and/or necessary environmental notices.

2.2.2 Copies of the permits and notices listed in Subsection 2.2.1 above must be provided to the City's Representative prior to starting the permitted activity. In the case of Fire Department permits, a copy of the application for permit shall also be provided to the City's Representative. This provision does not constitute an assumption by the City of an obligation of any kind for violation of said permit or notice requirements.

2.2.3 City shall be responsible for City of Flagstaff review and permit(s) fees for building and demolition permits. City shall also pay review fees for grading and drainage, water, sewer, and landscaping. City shall also pay for utility design fees for permanent services.

2.2.4 CMAR shall be responsible for all other permits and review fees not specifically listed in Subsection 2.2.3 above.

2.2.5 CMAR is responsible for the cost of water meter(s), water and sewer taps, fire lines and taps, and all water bills on the project meters until Substantial Completion of the Project. Arrangements for construction water are CMAR‘s responsibility.

2.3 Pre-construction Conference

2.3.1 Prior to the commencement of any Work, the City’s Representative or designee shall schedule and conduct a Preconstruction Conference.

At the Pre-Construction Conference, City and CMAR shall document the Opening Physical Conditions of the Site as jointly documented by an inspection of the Site by City and CMAR at the Pre-Construction.

2.3.2 The purpose of this conference is to establish a working relationship between CMAR, utility firms, and various City agencies. The agenda shall include critical elements of the work schedule, submittal schedule, cost breakdown of major lump sum items, Payment Requests and processing, coordination with the involved utility firms, the level of Project Record Documents required and emergency telephone numbers for all representatives involved in the course of construction.

2.3.3 The Notice to Proceed date shall be concurred with by the parties or set by the City at the Preconstruction Conference. After the meeting and upon receipt of a signed Agreement and delivery of the required bonds and insurance in a City approved format, a Notice to Proceed letter shall be issued confirming the construction start date, Performance Period and if applicable, the Substantial Completion date. If a Substantial Completion date is established the conditions of the Substantial Completion shall be listed and/or as set forth in Article 1 herein. Failure by CMAR to provide the properly executed bond and insurance forms in a timely manner may delay the construction start date; however, it shall not alter the proposed Substantial Completion date nor be a basis for any time extension request or other claims.

2.3.4 CMAR shall provide a Schedule of Values based on the categories used in the buyout of the Work but not greater than the approved GMP and identifying CMAR’s Contingency. The Schedule of Values shall subdivide the Work into all items comprising the Work. The Schedule of Values shall contain sufficient detail to identify each individual element of the Work and shall relate to the approved GMP Schedule. The Schedule of Values shall be subject to approval by the City’s representative.

2.3.5 Minimum attendance by CMAR shall be CMAR’s Representative, who is authorized to execute and sign documents on behalf of the firm, the job superintendent, and CMAR's safety officer.

2.4 Control of the Work

2.4.1 Unless otherwise provided in the Contract Documents to be the responsibility of the City or a separate Contractor, CMAR shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit CMAR to complete the Work consistent with the Contract Documents.

2.4.2 CMAR shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. CMAR shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.4.3 CMAR’s Representative or CMAR’s Superintendent shall be present at the Site at all times that construction activities are taking place.

2.4.3.1 All elements of the Work shall be under the direct supervision of a foreman or his designated

representative on the Site who shall have the authority to take actions required to properly carry out that particular element of the work.

2.4.3.2 In the event of noncompliance with this Section, the City may require CMAR to stop or suspend the Work in whole or in part.

2.4.4 Where the Contract Documents require that a particular product be installed and/or applied by an applicator approved by the manufacturer, it is CMAR's responsibility to ensure the Subcontractor employed for such work is approved by the manufacturer.

2.4.5 Before ordering materials or doing work, CMAR and each Subcontractor shall verify measurements at the Site and shall be responsible for the correctness of such measurements. No extra charge or compensation shall be allowed because of differences between actual dimensions and the dimensions indicated on the drawings; differences which may be found shall be submitted to the City for resolution before proceeding with the Work.

2.4.6 CMAR shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to CMAR with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the City at once.

2.4.7 CMAR shall establish and maintain all building and construction grades, lines, levels, and bench marks, and shall be responsible for accuracy and protection of same. This Work shall be performed or supervised by a civil engineer or surveyor licensed as such in the State of Arizona.

2.4.8 Any person employed by CMAR or any Subcontractor who, in the opinion of the City, does not perform his or her work in a proper, skillful, and safe manner or is intemperate or disorderly shall, at the written request of the City, be removed from the Work by CMAR or Subcontractor employing such person, and shall not be employed again in any portion of Work without the written approval of the City. CMAR or Subcontractor shall hold the City harmless from damages or claims which may occur in the enforcement of this Section.

2.4.9 CMAR assumes responsibility to the City for the proper performance of the work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between the City and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.4.10 CMAR shall coordinate the activities of all Subcontractors. If the City performs other work on the Project or at the Site with separate contractors under the City's control, CMAR agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.5 Control of the Work Site

2.5.1 Throughout all phases of construction, including suspension of Work, CMAR shall keep the Site reasonably free from debris, trash and construction wastes to permit CMAR to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, CMAR shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit the City to occupy the Project or a portion of the Project for its intended use.

2.5.2 CMAR shall take whatever steps, procedures or means to prevent any dust nuisance due to construction operations. The dust control measures shall be maintained at all times to the

satisfaction of the City and in accordance with the requirements of the Arizona Department of Environmental Quality rules and regulations.

2.5.3 CMAR shall maintain ADA, ADAAG and ANSI accessibility requirements during construction activities in an occupied building or facility. ADA, ADAAG and ANSI accessibility requirements shall include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. CMAR shall be responsible for the coordination of all work to minimize disruption to building occupants and facilities.

2.5.4 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Site by CMAR. When equipment is no longer required for the Work, it shall be removed promptly from the Site. Protection of construction materials and equipment stored at the Site from weather, theft, damage and all other adversity is solely the responsibility of CMAR.

2.6 Shop Drawings, Product Data and Samples

2.6.1 Shop Drawings, Product Data, Samples and similar Submittals are not Contract Documents. The purpose of their submittal is to demonstrate, for those portions of the Work for which Submittals are required, the way CMAR proposes to conform to the information given and the design concept expressed in the Contract Documents.

2.6.2 CMAR shall review, approve, verify, and submit to the City five copies of each Shop Drawing, Product Data, Sample, and similar Submittals required by the Contract Documents in accordance with the approved GMP schedule as shown in Exhibit “B” as to cause no delay in the Work or in the activities of the City or of separate contractors. Submittals made by CMAR, which are not required by the Contract Documents, may be returned without action.

2.6.3 CMAR shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar Submittals until the respective submittal has been approved by the City or City’s designee. Such Work shall be in accordance with approved Submittals.

2.6.4 By approving, verifying and submitting Shop Drawings, Product Data, Samples and similar Submittals, CMAR represents that CMAR has determined and verified materials, field measurements and field construction criteria related thereto, or shall do so, and has checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents.

2.6.5 CMAR shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the City 's approval of Shop Drawings, Product Data, Samples or similar Submittals unless CMAR has specifically informed the City in writing of such deviation at the time of submittal and the City has given written approval to the specific deviation. CMAR shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar Submittals by the City’s approval thereof.

2.6.6 CMAR shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar Submittals, to revisions other than those requested by the City on previous Submittals.

2.6.7 Informational Submittals upon which the City is not expected to take responsive action may be so identified in the Contract Documents.

2.6.8 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the City shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

2.7 Quality Control, Testing and Inspection

2.7.1 All materials used in the Work shall be new and unused, unless otherwise noted, and shall meet all quality requirements of the Contract Documents.

2.7.2 All construction materials to be used on the Work or incorporated into the Work, equipment, plant, tools, appliances or methods to be used in the Work may be subject to the inspection and approval or rejection by the City. Any material rejected by the City shall be removed immediately and replaced in an acceptable manner.

2.7.3 The procedures and methods used to sample and test material shall be determined by the City. Unless otherwise specified, samples and tests shall be made in accordance with the most recently adopted edition of the City of Flagstaff Engineering Division Design and Construction Standards and Specifications.

2.7.4 The City shall select a City or Independent Testing Laboratory and shall pay for initial City Acceptance Testing.

2.7.4.1 When the first and/or subsequent tests indicate noncompliance with the Contract Documents, the cost associated with that noncompliance and the cost of all tests, except the first test, shall be paid for by CMAR. CMAR's Contingency cannot be utilized for the cost of re-testing.

2.7.4.2 When the first and/or subsequent tests indicate noncompliance with the Contract Documents, all retesting shall be performed by the same testing agency.

2.7.5 CMAR shall cooperate with the selected testing laboratory and all others responsible for testing and inspecting the work and shall provide them access to the Work at all times.

2.7.6 At the option of the City, materials may be approved at the source of supply before delivery is started.

2.7.7 Code compliance testing and inspections required by codes or ordinances, or by a plan approval authority, and which are made by a legally constituted authority, shall be the responsibility of and shall be paid by CMAR, unless otherwise provided in the Contract Documents.

2.7.8 CMAR's convenience and quality control testing and inspections shall be the sole responsibility of CMAR and paid by CMAR.

2.8 Trade Names and Substitutions

2.8.1 Unless indicated that no substitutions are permitted, CMAR may request a substitution or alternative to Contract Document references to equipment, materials or patented processes by manufacturer, trade name, make or catalog number, subject to the following:

2.8.2 The substitution shall be submitted by CMAR in writing to the City.

2.8.3 CMAR shall certify that the substitution shall perform the functions and achieve the results called for by the general design, be similar and of equal substance, and be suited to the same use as that specified.

2.8.4 The submittal shall state any required changes in the Contract Documents to adapt the design to the proposed substitution.

2.8.5 The submittal shall contain an itemized estimate of all costs and credits that will result directly and indirectly from the acceptance of such substitution, including cost of design, license fees, royalties, and testing. Also, the submittal shall include any adjustment in the Contract Time

created by the substitution.

2.8.6 CMAR if requested by the City shall submit Samples or any additional information that may be necessary to evaluate the acceptability of the substitution.

2.8.7 The City shall make the final decision and shall notify CMAR in writing as to whether the substitution has been accepted or rejected.

2.8.8 If the City does not respond in a timely manner, CMAR shall continue to perform the Work in accordance with the Contract Documents and the substitution shall be considered rejected.

2.9 Project Record Documents

2.9.1 During the construction period, CMAR shall maintain at the Site a set of blueline or blackline prints of the Construction Document drawings and shop drawings for Project Record Document purposes.

2.9.1.1 CMAR shall mark these drawings to indicate the actual installation where the installation varies appreciably from the original Construction Documents. CMAR shall give particular attention to information on concealed elements, which would be difficult to identify or measure and record later. Items required to be marked include but are not limited to:

- Dimensional changes to the drawings.
- Revisions to details shown on drawings
- Depths of foundations below first floor
- Locations and depths of underground utilities
- Revisions to routing of piping and conduits.
- Revisions to electrical circuitry.
- Actual equipment locations.
- Duct size and routing.
- Locations of concealed internal utilities.
- Changes made by Change Order, Change Order Directive, Field Order, Record of Field Change, ASI's and RFI's.
- Addenda and other details not on original Agreement Drawings.

2.9.1.2 CMAR shall mark completely and accurately Project Record Drawing prints of Construction Documents or Shop Drawings, whichever is the most capable of indicating the actual physical condition. Where Shop Drawings are marked, show cross-reference on the Construction Documents location.

2.9.1.3 CMAR shall mark Project Record Drawings sets with red erasable colored pencil.

2.9.1.4 CMAR shall note RFI Numbers, ASI Numbers and Change Order numbers, etc., as required to identify the source of the change to the Construction Documents.

2.9.1.5 CMAR shall, as a condition of Substantial Completion, submit Project Record Drawing prints and Shop Drawings to the City or its representative for review and comment.

2.9.2 Upon receipt of the reviewed Project Record Drawings from the City, CMAR shall correct any deficiencies and/or omissions to the drawings and prepare the following for submission to the City within 14 Days:

2.9.2.1 CMAR shall provide a complete set of electronic Project Record Drawings prepared in AutoCAD format compatible with City of Flagstaff CADD technology. The Design Professional shall provide files of the original Construction Documents to CMAR for the use of preparing these final Project Record Drawings or CMAR may contract with the Design Professional to

revise and update the electronic drawing files. Each drawing shall be clearly marked with "As-Built Document."

2.9.2.2 CMAR shall provide a complete set of reproducible mylars from the final AutoCAD drawings.

2.9.2.3 CMAR shall provide the original copy of the Project Record Drawings (redline mark-ups).

2.10 Project Safety

2.10.1 CMAR recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto.

2.10.2 CMAR assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work.

2.10.3 CMAR shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, CMAR's Safety Representative shall be an individual stationed at the Site who may have other responsibilities on the Project in addition to safety.

2.10.4 The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with CMAR's personnel, Subcontractors and others as applicable.

2.10.5 CMAR and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any City-specific safety requirements set forth in the Contract Documents, provided that such City-specific requirements do not violate any applicable Legal Requirement.

2.10.6 CMAR shall immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to City's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.10.7 CMAR's responsibility for safety under this Section is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.

2.11 **Warranty**

2.11.1 CMAR warrants to City that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship.

2.11.2 CMAR's warranty obligation shall be for one (1) year, except for such greater period as may be required by the technical specifications.

2.11.3 Nothing in this warranty is intended to limit any manufacturer's warranty which provides The City with greater warranty rights than set forth in this Section or the Contract Documents. CMAR shall provide City with all manufacturers' warranties upon Substantial Completion.

2.11.4 Nothing in this warranty is intended to limit any other remedy at law that may be available to the City.

2.12 Correction of Defective Work

2.13 .1 CMAR agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.12 above, within a period of one (1) year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by the Contract Documents, or as may be available to the City by law. A progress payment, or partial or entire use or occupancy of the Project by the City, shall not constitute acceptance of Work not in accordance with the Contract Documents.

2.12.2 During the performance of the Work, CMAR shall take meaningful steps to commence correction of such nonconforming Work as notified by the City or as discovered by CMAR. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If CMAR fails to commence the necessary steps during the performance of the Work, City, in addition to any other remedies provided under the Contract Documents, may provide CMAR with written notice that City shall commence correction of such nonconforming Work with its own forces.

2.12.3 CMAR shall, take meaningful steps to commence correction of nonconforming Work subject to Section 2.12 and/or Section 2.13.1 above, within seven (7) days of receipt of written notice from City. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If CMAR fails to commence the necessary steps within such seven-day period, City, in addition to any other remedies provided under the Contract Documents, may provide CMAR with written notice that City shall commence correction of such nonconforming Work with its own forces. 2.12.4 If City does perform such corrective Work, CMAR shall be responsible for all reasonable costs incurred by City in performing such correction.

2.12.4 For nonconforming Work that creates an emergency requiring an immediate response, CMAR shall respond and initiate corrections within twenty-four hours.

2.12.5 The one year period referenced in Subsection 2.13.1 above applies only to CMAR's obligation to correct nonconforming Work relative to the warranty set forth in that section and is not intended to constitute a period of limitations for any other rights or remedies the City may have regarding CMAR's other obligations under the Contract Documents or as may be allowed by law.

Article 3 - The City's Services and Responsibilities

3.1 Duty to Cooperate.

3.1.1 City shall, throughout the performance of the Work, cooperate with CMAR and perform its responsibilities, obligations and services in a timely manner to facilitate CMAR's timely and efficient performance of the Work and so as not to delay or interfere with CMAR's performance of its obligations under the Contract Documents.

3.1.2 City shall furnish at CMAR's request, at no cost to CMAR, a CADD file of the Construction Documents in AutoCAD format compatible with the City of Flagstaff CADD technology.

3.2 The City's Representative

3.2.1 City's Representative shall be responsible for providing City (as defined in Article I) supplied information and approvals in a timely manner to permit CMAR to fulfill its obligations under the Contract Documents.

3.2.2 City's Representative shall also provide CMAR with prompt notice if City's Representative observes any failure on the part of CMAR to fulfill its contractual obligations, including any default or defect in the project or non-conformance with the drawings and specifications.

3.2.3 The City may utilize field inspectors to assist the City's Representative during construction in observing performance of CMAR. The inspector is for the purpose of assisting the City's Representative and should not be confused with an inspector with a City regulatory department.

3.2.3.1 The field inspector shall be authorized to inspect all Work and materials furnished. Such inspection may extend to all or part of the Work and to the preparation, fabrication or manufacture of the materials to be used.

3.2.3.2 The field inspector shall not be authorized to issue instructions contrary to the Construction Documents or to act as foreman for CMAR.

3.2.3.3 The field inspector shall have the authority to reject work or materials until any questions at issue can be decided by the City's Representative.

3.2.3.4 The furnishing of such services for the City shall not make the City responsible for or give the City control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs or responsibility for CMAR's failure to perform the work in accordance with Contract Documents.

3.3 Design Professional Services

3.3.1 The City may contract separately with one or more Design Professionals to provide construction administration of the Project. The Design Professional's Agreement as well as other firms hired by the City shall be available for review by CMAR. CMAR shall not have any right however, to limit or restrict any contract provisions and/or modifications that are mutually acceptable to the City and Design Professional.

3.3.2 The City may contract with the Design Professional to provide some or all of the following services during the performance of the Work.

3.3.2.1 Provide oversight of the Work. The City and CMAR shall endeavor to communicate through the Design Professional. Communications by and with the Design Professional's consultants shall be through the Design Professional.

3.3.2.2 Conduct Site visits at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in accordance with the Contract Documents. The Design Professional shall keep the City informed of progress of the Work and any noted defects and deficiencies of the Work, and shall endeavor to guard the City against defects and deficiencies in the Work. The Design Professional may have authority to reject construction, which does not conform to the Construction Documents and to require additional inspection or testing of the construction in accordance with Section 2.7.

3.3.2.3 Review and recommend approval of Payment Requests.

3.3.2.4 Review and approve or take other appropriate action upon CMAR's Submittals such as Shop Drawings, Product Data and Samples in accordance with Section 2.6.

3.3.2.5 Interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the City or CMAR. The Design Professional's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.

3.3.2.6 Prepare Change Orders, and may authorize minor changes in the Work as provided in Section 6.6.1.

3.3.2.7 Conduct inspections to determine Substantial Completion and Final Acceptance.

3.3.2.8 Receive and forward to the City for the City's review and records written warranties and related documents required by the Contract Documents and assembled by CMAR.

3.4 **City's Separate Contractors**. City is responsible for all work performed on the Project or at the Site by separate contractors under City's control. City shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with CMAR in order to enable CMAR to timely complete the Work consistent with the Contract Documents.

3.5 Permit Review and Inspections

3.5.1 If requested by CMAR, the City's Representative shall provide assistance and guidance in obtaining necessary reviews, permits and inspections, however, the responsibility for obtaining the necessary reviews, permits and inspections remains with CMAR.

3.5.2 Regulating agencies of the City, such as Community Development, Fire, Planning, Building Inspection, Environmental Services, and Engineering Departments, enforce Legal Requirements. These enforcement activities are not subject to the responsibilities of the City under this Agreement.

Article 4 - Contract Time

4.0 Contract Time.

4.0.1 Contract Time shall start with the Notice to Proceed ("NTP") with construction services and shall end with Substantial Completion.

4.0.2 Where there is more than one GMP, each GMP shall establish a separate NTP date and a Performance Period. The Performance Periods for individual GMPs may be sequential or concurrent as established in the individual Notices to Proceed. The Performance Period for the GMP under this Agreement shall be 365 days starting with the NTP.

4.0.3 CMAR agrees that it shall commence timely performance of the Work and shall achieve substantial completion within the Performance Periods and Contract Time.

4.0.4 All of the times set forth in this Article 4 shall be subject to adjustment in accordance with Article 6.

4.0.5 Time is of the essence, for times and time matters set forth in Article 4 and the rest of this Agreement.

Pursuant to Section 9.3 below, if, in the sole discretion of the Capital Improvements Department of the City of Flagstaff, the Project is not at Substantial Completion prior to the advent of adverse weather conditions, a Winter Shutdown shall occur during which no Work will be performed by any person or entity (including but not limited to the CMAR) on the Project and CMAR shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the City reserves the right to initiate and terminate a Winter Shutdown at the City's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the City despite delays, *for any reason,* on the Project.

4.1 Substantial Completion

4.1.1 Substantial Completion shall be for the entire Project unless a partial Substantial Completion is identified in the approved GMP schedule and stated in the Notice to Proceed letter or as may be mutually agreed by the parties in writing. Substantial Completion shall be in accordance with its definition in Article 1 and with the criteria set forth in the Notice to Proceed.

4.1.2 Prior to notifying the City in accordance to Section 4.1.3 below, CMAR shall inspect the Work and prepare and submit to the City a comprehensive list of items to be completed or corrected. CMAR shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of CMAR to complete all Work in accorda*nce with the Co*ntract Documents**.**

4.1.3 CMAR shall notify City when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is substantially complete.

4.1.4 Within five (5) days of City's receipt of CMAR's notice, the City and CMAR shall jointly inspect such Work to verify that it is substantially complete in accordance with the requirements of the Contract Documents.

4.1.5 If such Work is substantially complete, City shall prepare and issue a Certificate of Substantial Completion that shall set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed within thirty (30) calendar days before Final Acceptance, (iii) provisions (to the extent not already provided in the Contract Documents) establishing City's and CMAR's responsibility for the Project's security, maintenance, utilities and insurance pending Final Acceptance and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

4.1.6 City, at its option, may use a portion of the Work which has been determined to be substantially complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 4.1.5 above, (ii) CMAR and City have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) City and CMAR agree that City's use or occupancy shall not interfere with CMAR's completion of the remaining Work.

4.2 Final Completion. Upon receipt of written notice that the Work or identified portions of the Work is ready for final inspection and acceptance, City and CMAR shall jointly inspect to verify that the remaining items of Work have been completed as set forth in Section 4.1.5. The City shall issue a Final Completion Letter and payment pursuant to Section 7.5.

4.3 Liquidated Damages

4.3.1 CMAR understands that if Substantial Completion is not attained within the Contract Time as adjusted, the City shall suffer damages, which are difficult to determine and accurately specify.

CMAR agrees that if Substantial Completion is not attained within the Contract Time as adjusted, CMAR shall pay the City $2,000.00 per day as liquidated damages for each Day that Substantial Completion extends beyond the date determined by the Contract Time as adjusted and further agrees that such amount is reasonable under the circumstances.

4.3.2 CMAR understands that if Final Completion is not attained within the Contract Time as adjusted, the City shall suffer damages, which are difficult to determine and accurately specify. CMAR agrees that if Final Completion is not attained within the Contract Time as adjusted, CMAR shall pay the City $2,000.00 per day as liquidated damages for each Day that Final Completion extends beyond the date determined by the Contract Time as adjusted and further agrees that such amount is reasonable under the circumstances.

4.4 Project Master Schedule

4.4.1 The Project Master Schedule approved as part of a GMP shall be updated and maintained throughout the Work by CMAR.

4.4.2 The Project Master Schedule shall be revised by CMAR as required by conditions and progress of the Work, but such revisions shall not relieve CMAR of its obligations to complete the Work within the Contract Time, as such dates may be adjusted in accordance with the Contract Documents.

4.4.3 Updated Project Master Schedules shall be submitted monthly by CMAR to the City as part of the Payment Request.

4.4.3.1 CMAR shall provide City with a monthly status report with each Project Master Schedule detailing the progress of the Work, including: (i) if the Work is proceeding according to schedule, (ii) any discrepancies, conflicts, or ambiguities found to exist in the Contract Documents that require resolution, and (iii) other items that require resolution so as not to jeopardize ability to complete the Work as presented in the GMP and within the Contract Time.

4.4.3.2 With each schedule submittal CMAR shall include a transmittal letter including the following:

- Description of problem tasks (referenced to field instructions, requests for information ("RFI's"), as appropriate.
- Current and anticipated delays including:
  - Cause of the delay
  - Corrective action and schedule adjustments to correct the delay
  - Known or potential impact of the delay on other activities, milestones, and/or the date of Substantial Completion
- Changes in construction sequence
- Pending items and status thereof including but not limited to:
  - Time Extension requests
  - Other items
- Substantial Completion date status:
  - If ahead of schedule, the number of calendar days ahead
  - If behind schedule, the number of calendar days behind
- Other project or scheduling concerns

4.4.4 City's review of and response to the Project Master Schedule is only for general conformance with the scheduling requirements of the Contract Documents. The review shall not relieve CMAR from compliance with the requirements of the Contract Documents or be construed as relieving CMAR of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

4.4.5 The Project Master Schedule shall include a Critical Path Method ("CPM") diagram schedule that shall show the sequence of activities, the interdependence of each activity and indicate the Critical Path.

4.4.5.1 The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float times for all activities except critical activities. The CPM diagram shall be presented in a time scaled graphical format for the Project as a whole.

4.4.5.2 The CPM diagram schedule shall indicate all relationships between activities.

4.4.5.3 The activities making up the schedule shall be in sufficient detail to assure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work.

4.4.5.4 The CPM diagram schedule shall be based upon activities, which would coincide with the Schedule of Values.

4.4.5.5 The CPM diagram schedule shall show all Submittals associated with each work activity and the review time for each submittal.

4.4.5.6 The schedule shall show milestones, including milestones for Owner-furnished information, and shall include activities for Owner-furnished equipment and furniture when those activities are interrelated with CMAR activities.

4.4.5.7 The schedule shall include a critical path activity that reflects anticipated weather delay during the performance of the Agreement. The duration shall reflect the average climatic range and usual industrial conditions prevailing in the locality of the Site. Weather data shall be based on the information set forth on the City of Flagstaff's Table of "Monthly Anticipated Adverse Weather Calendar Days" and the explanatory paragraphs attached thereto.

4.4.6 The Project Master Schedule shall consider the City's and the tenants' occupancy requirements showing portions of the Project having occupancy priority, and Contract Time.

4.4.7 Float time shall be as prescribed below:

4.4.7.1 The total Float within the overall schedule, is not for the exclusive use of either the City or CMAR, but is jointly owned by both and is a resource available to and shared by both parties as needed to meet Agreement milestones and the Project completion date.

4.4.7.2 CMAR shall not sequester shared Float through such strategies as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing, etc. Since Float time within the schedule is jointly owned, no time extensions shall be granted nor delay damages paid until a delay occurs which extends the Work beyond the Substantial Completion date and then only if any such extensions or damages are shown to be justified under the Contract Documents.

4.4.7.3 Since Float time within the schedule is jointly owned, it is acknowledged that City-caused delays on the Project may be offset by City-caused time savings (i.e., critical path Submittals returned in less time than allowed by the Agreement, approval of substitution requests and credit changes which result in savings of time to CMAR, etc.). In such an event, CMAR shall not be entitled to receive a time extension or delay damages until all City-caused time savings are exceeded, and the Substantial Completion date is also exceeded.

Article 5- Contract Price

5.0.1 CMAR agrees at his own cost and expense, to completely construct and install all Work and materials as called for by this Agreement, free and clear of all claims, liens and charges whatsoever, in the manner and under the conditions specified in the Contract Documents, within the time or times stated in the approved GMP.

5.1 Contract Price

5.1.1 The Contract Price shall be as approved in the Guaranteed Maximum Price Proposal attached as Exhibit "B" and an amount of **$1,933,450.55** with an additional **$100,000.00** allowed for Owner's Contingency for a total contract price of **$2,033,450.55.**

5.1.2 The Cost of the Work is actual costs and is a not-to-exceed reimbursable amount.

5.1.3 The General Conditions Costs will be included in the GMP as a not to exceed amount and paid for on actual costs based on submitted and approved invoices. The Construction Fee will be paid as a firm lump sum.

5.1.4 Taxes are deemed to include all sales, use consumer and other taxes, which are legally enacted when negotiations of the GMP were concluded, whether or not yet effective, or merely scheduled to go into effect. Taxes are actual costs and are a not-to-exceed reimbursable amount.

5.2 Guaranteed Maximum Price

5.2.1 The Guaranteed Maximum Price is composed of the maximum Cost of the Work; the Construction Fee; General Conditions Costs; taxes; and, CMAR's contingency all of which are not-to-exceed cost reimbursable or lump sum amounts defined in Articles 5.1 and 5.3. CMAR is at risk to cover any additional Project costs. If the Cost of Work amount, set forth in the GMP, is in excess of the actual Cost of Work and/or CMAR's Contingency, said amount by which the Cost of Work set forth in the GMP is in excess of the actual Cost of Work and/or CMAR's Contingency, shall revert to the City.

5.2.2 The GMP is subject to adjustments made in accordance with Article 6 and by GMP amendments to this Agreement.

5.2.3 GMP amendments are cumulative except for CMAR's Contingency. The amount of CMAR's Contingency for each GMP shall be negotiated separately.

5.2.4 If the GMP requires an adjustment due to changes in the scope of the Work the cost of such changes is determined subject to Article 6. The markups that may be allowed on such changes shall be no greater than the markups delineated in the approved GMP.

5.3 Contingencies

5.3.1 CMAR's Contingency is an amount CMAR may use at its sole discretion for, an increase in the Cost of Work, and may use for increases in General Conditions Costs with written approval of the City. CMAR's Contingency is assumed to be a direct Project cost and all applicable markups shall be applied at the time of GMP submission.

5.3.2 When CMAR utilizes CMAR's Contingency funds, CMAR shall make the appropriate changes to the Schedule of Values with the next regular progress payment request. CMAR shall deduct the amount of CMAR's Contingency funds used from CMAR's Contingency line item and add the same amount to the line item on the Schedule of Values where the funds were

used. If CMAR's contingency funds are used for a new line item that was not given with the original Schedule of Values, these shall be so indicated.

5.3.3 Owner's Contingency are funds to be used at the sole discretion of the Owner to cover any increases in Project costs that result from Owner directed changes or unforeseen Site conditions. Owner's Contingency shall be added to the GMP amount provided by CMAR, the sum of which shall be the full Contract Price for construction. At the time that Owner's Contingency is used the appropriate markups shall be applied.

5.4 **Open Book.** CMAR shall submit to the City upon request all payrolls, reports, estimates, records and any other data concerning the Work performed or to be performed or concerning materials supplied or to be supplied, as well as Subcontractor or Consultant payment applications or invoices and such Subcontractor's or Consultant progress payment checks. The requirements of this Section shall be included in all Agreements between CMAR and its Subcontractors and Consultants. The City may exercise its rights under this Section as often as reasonably necessary in the City's sole judgment to assure the City has a complete and accurate understanding of all Project costs.

Upon project closeout and immediately prior to the release of final payment, the CMAR shall provide to the City a Final Cost Report detailing all Project costs for each division of work with supporting documentation for materials, labor, equipment and other appurtenant items.

Article 6 - Changes to the Contract Price and Time

6.0 Delays to the Work

6.0.1 If CMAR is delayed in the performance of the Work that shall cause a change in the date of Substantial Completion due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own, or, those for whom CMAR is responsible, the Contract Times for performance shall be reasonably extended by Change Order. However, the City and the CM@R must agree on the determination of whether acts, omissions, conditions, events, or circumstances are actually beyond the CM@Rs control and/or whether they are due to no fault of the CM@R, or those for whom CMAR is responsible; if the City and the CM@R do not agree, then an independent third party, selected by both parties, shall make the determination of whether acts, omissions, conditions, events, or circumstances are actually beyond the CM@Rs control and/or whether they are due to no fault of the CM@R, or those for whom CMAR is responsible.

6.0.2 CMAR shall request an increase in the Contract Time by written notice including an estimate of probable effect of delay on progress of the Work within three (3) days of the occurrence of the delay. In the case of a continuing delay only one request is necessary.

6.0.3 By way of example, events that shall entitle CMAR to an extension of the Contract Time include acts or omissions of City or anyone under City's control (including separate Contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, delays by regulating agencies, wars, floods, labor disputes, unusual delay in transportation, epidemics abroad, earthquakes, adverse weather conditions not reasonably anticipated, and other acts of God.

6.0.4 If adverse weather conditions are the basis for a request for additional Contract Time, such requests shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated, and that weather conditions had an adverse effect on the scheduled Substantial Completion. All terms, conditions and definitions necessary for the application of this paragraph shall be as set forth

on the City of Flagstaff's Table of "Monthly Anticipated Adverse Weather Calendar Days" and the explanatory paragraphs attached thereto.

6.0.5 It is understood, however, that permitting CMAR to proceed to complete any Work, or any part of the Work, after the date to which the time of completion may have been extended, shall in no way act as a waiver on the part of the City of any of its legal rights herein.

6.0.6 In addition to CMAR's right to a time extension for those events set forth in this Section, CMAR shall also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for those events set forth in this Section that are beyond the control of both CMAR and City, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God and shall not be adjusted absent a showing of actual damage.

6.1 Differing Site Conditions

6.1.1 If CMAR encounters a Differing Site Condition, CMAR shall be entitled to an adjustment in the Contract Price and/or Contract Times to the extent CMAR's cost and/or time of performance are actually adversely impacted by the Differing Site Condition.

6.1.2 Upon encountering a Differing Site Condition, CMAR shall provide prompt written notice to City of such condition, which notice shall not be later than seven (7) days after such condition has been encountered. CMAR shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

6.2 Errors, Discrepancies and Omissions

6.2.1 If CMAR observes errors, discrepancies or omissions in the Contract Documents, CMAR shall promptly notify the Design Professional and request clarification.

6.2.2 If CMAR proceeds with the Work affected by such errors, discrepancies or omissions, without receiving such clarifications, CMAR does so at its own risk. Adjustments involving such circumstances made by CMAR prior to clarification by the Design Professional shall be at CMAR's risk.

6.3 The City Requested Change in Work

6.3.1 The City reserves the right to make, at any time during the progress of the Work, such alterations as may be found necessary or in the City's best interest.

6.3.2 Such alterations and changes shall not invalidate this Agreement nor release the surety and CMAR agrees to perform the Work as altered, the same as if it has been a part of the original Contract Documents.

6.3.3 The City shall request a proposal for a change in Work from CMAR, and an adjustment in the Contract Price and/or Contract Times shall be made based on a mutual agreed upon cost and time.

6.4 Legal Requirements. The Contract Price and/or Contract Times shall be adjusted to compensate CMAR for the effects of any changes in the Legal Requirements enacted after the date of their Agreement or the date of the GMP, affecting the performance of the Work

6.5 Change Directives and Change Orders

6.5.1 City and CMAR shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for a Change Directive if any adjustments are appropriate. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the adjustment.

6.5.2 All changes in Work authorized by Change Directives and/or Change Orders shall be performed under the conditions of the Contract Documents.

6.6 Minor Changes in the Work

6.6.1 The City has authority to order minor changes in Work that do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Such changes shall be affected by written order and shall be binding on the City and CMAR. CMAR shall carry out such written orders promptly.

6.6.2 CMAR may make minor changes in Work, provided, however that CMAR shall promptly inform City, in writing, of any such changes and record such changes, if appropriate, on the Project Record Documents maintained by CMAR.

6.6.3 Minor changes in Work shall not involve an adjustment in the Contract Price and/or Contract Times.

6.7 Contract Price Adjustments

6.7.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

6.7.1.1 Unit prices set forth in this Agreement or as subsequently agreed to between the parties;

6.7.1.2 A mutually accepted, lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by City; and

6.7.1.3 Costs, fees and any other markups.

6.7.2 The markups that shall be allowed on such changes shall be no greater than the markups delineated in the approved GMP as shown on Exhibit “B”.

6.7.3 If an increase or decrease cannot be agreed to as set forth in Sections 6.7.1.1 through 6.7.1.3 above and City issues a Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in their Agreement. CMAR shall maintain a documented, itemized accounting evidencing the expenses and savings associated with such changes.

6.7.4 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices shall cause substantial inequity to City or CMAR because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

6.7.5 If City and CMAR disagree upon whether CMAR is entitled to be paid for any services required by City, or if there are any other disagreements over the scope of Work or proposed changes to the Work, City and CMAR shall resolve the disagreement pursuant to Article 8 hereof.

6.7.5.1 As part of the negotiation process, CMAR shall furnish City with a good faith estimate of the costs to perform the disputed services in accordance with City's interpretations.

6.7.5.2 If the parties are unable to agree and City expects CMAR to perform the services in accordance with City's interpretations, CMAR shall proceed to perform the disputed services, conditioned upon City issuing a written order to CMAR (i) directing CMAR to proceed and (ii) specifying City's interpretation of the services that are to be performed.

6.7.6 **Emergencies**. In any emergency affecting the safety of persons and/or property, CMAR shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time resulting from emergency work under this Section shall be determined as provided in this Article.

Article 7- Procedure for Payment

7.0 For and in consideration of the faithful performance of the Work herein embraced as set forth in the Contract Documents, which are a part hereof and in accordance with the directions of the City and to the City's satisfaction, the City agrees to pay CMAR the actual Cost of the Work and any applicable General Conditions Costs including, insurance and bonding, taxes and CMAR's Construction Fee, but no more than the GMP as adjusted by any change orders. Payment for the specific Work under this Agreement shall be made in accordance with payment provisions detailed below.

7.1 GMP Payment Request

7.1.1 At the pre-construction conference prescribed in Section 2.4, CMAR shall submit for City's review and approval a Schedule of Values. The Schedule of Values shall serve as the basis for monthly progress payments made to CMAR throughout the Work.

7.1.2 At least five (5) working days prior to the date established for a Payment Request, CMAR shall submit an updated Project Master Schedule and meet with the City's Representative to review the progress of the Work as it shall be reflected on the Payment Request.

7.1.3 The Payment Request shall constitute CMAR's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Payment Request, and that title to all Work shall pass to City free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project.

The Payment Request shall include, at a minimum:

1. Monthly Executive summary detailing work completed during the pay period, a statement addressing the project budget and schedule and the items of work anticipated for the upcoming pay period
2. Current critical path schedule
3. Pay application cover sheet, detailed schedule of values and conditional lien waivers upon release of progress payment
4. Subcontractor and Supplier invoices and conditional lien waivers for current pay period
5. General Conditions invoices for current pay period
6. Daily Reports for current pay period
7. Weekly reports for current pay period
8. Project meeting minutes for current pay period
9. Certified payroll reports- alphabetical by subcontractor (when required for Davis Bacon projects)

7.1.4 The Payment Request may request payment for stored equipment and materials if construction progress is in reasonable conformance with the approved schedule.

7.1.4.1 For equipment and materials suitably stored at the Site, the equipment and materials shall be protected by suitable insurance and City shall receive the equipment and materials free and clear of all liens and encumbrances.

7.1.4.2 For materials and equipment stored off the Site, the City must approve the storage. The material and equipment must be stored within Coconino County or other Sites as may be approved and be accessible for City's inspection. CMAR must establish City title to such materials and equipment or otherwise protect the City's interest and shall include applicable insurance, bonding, storage and transportation to the Site.

7.1.4.3 All bonds and insurance required for stored materials shall name the City as the loss payee to the extent of its interest in the stored materials.

7.1.5 CMAR shall submit to City on a monthly basis either on the first of the month for payment on the 15th or on the 19th of the month for payment on the 30th or 31st. If the payment date is on a Saturday, payment shall be on Friday. If the payment date is on a Sunday, payment shall be on Monday.

7.2 Payment of GMP

7.2.1 City shall make payment in accordance with A.R.S. §34-607. Payment shall be made no later than fourteen (14) days after the Payment Request is certified and approved, but in each case less the total of payments previously made, and less amounts properly retained under Section 7.3 below.

7.2.2 City shall pay CMAR all amounts properly due. If City determines that CMAR is not entitled to all or part of a Payment Request, it shall notify CMAR in writing within (7) days after the date Payment Request is received by the City. The notice shall indicate the specific amounts City intends to withhold, the reasons and contractual basis for the withholding, and the specific measures CMAR shall take to rectify City's concerns. CMAR and City shall attempt to resolve City's concerns. If the parties cannot resolve such concerns, CMAR may pursue its rights under the Contract Documents, including those under Article 8 hereof.

7.3 Retention of GMP

7.3.1 City shall retain ten percent (10%) of each Payment Request amount provided. When fifty percent (50%) of the Work has been completed by CMAR, upon request of CMAR, City may reduce the amount retained to five percent (5%) from CMAR's subsequent Payment Requests if CMAR's performance of Work has been satisfactory.

7.3.2 In lieu of retention, CMAR may provide as a substitute, an assignment of time certificates of deposit (CDs) from a bank licensed by the State of Arizona, securities of or guaranteed by the United States of America, securities of counties, municipalities and school districts within the State of Arizona or shares of savings and loan institutions authorized to transact business in Arizona.

7.3.2.1 CDs assigned to the City must be maintained at the City's single servicing bank, in the form of time deposit receipt accounts.

7.3.2.2 Securities deposited in lieu of retention must be deposited into a separate account with a bank within the State of Arizona.

7.3.2.3 CDs and Securities shall be assigned exclusively for the benefit of the City of Flagstaff pursuant to the City's form of Escrow Agreement. Escrow Agreement forms may be obtained from the Purchasing Department by contacting Patrick Brown, Senior Procurement Specialist.

7.4 **Substantial Completion**. Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, City shall release to CMAR all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount up to two and one-half (2.5) times the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

7.5

7.6 Final Payment

7.6.1 After receipt of a final Payment Request, City shall make final payment within sixty (60) days after receipt by the City, provided that CMAR has completed all of the Work in conformance with the Contract Documents and a Final Completion Letter has been issued by the City.

7.6.2 At the time of submission of its final Payment Request, CMAR shall provide the following information:

7.6.2.1 An affidavit affirming that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which shall in any way affect City's interests;

7.6.2.2 A general release executed by CMAR waiving, upon receipt of final payment by CMAR, all claims, except those claims previously made in writing to City and remaining unsettled at the time of final payment; and

7.6.2.3 Consent of CMAR's surety, if any, to final payment.

7.7 Payments To Subcontractors or Suppliers

7.7.1 CMAR shall pay its Subcontractors or suppliers within seven (7) calendar days of receipt of each progress payment from the City. CMAR shall pay for the amount of Work performed or materials supplied by each Subcontractor or supplier as accepted and approved by the City with each progress payment. In addition, any reduction of retention by the City to CMAR shall result in a corresponding reduction to Subcontractors or suppliers who have performed satisfactory work. CMAR shall pay Subcontractors or suppliers the reduced retention within fourteen (14) calendar days of the payment of the reduction of the retention to CMAR. No agreement between CMAR and its Subcontractors and suppliers may materially alter the rights of any Subcontractor or supplier to receive prompt payment and retention reduction as provided herein.

7.7.2 If CMAR fails to make payments in accordance with these provisions, the City may take any one or more of the following actions and CMAR agrees that the City may take such actions:

7.7.2.1 Hold CMAR in default under this Agreement;

7.7.2.2 Withhold future payments including retention until proper payment has been made to Subcontractors or suppliers in accordance with these provisions;

7.7.2.3 Reject all future offers to perform work for the City from CMAR for a period not to exceed one (1) year from Substantial Completion date of this Project; or

7.7.2.4 Terminate this Agreement.

7.7.3 If CMAR's payment to a Subcontractor or supplier is in dispute, it shall act in compliance with A.R.S. § 32-1129.02(D) and related statutes as amended, and shall further hold the City harmless from any ensuing damages, claims or costs.

7.7.4 Should the City fail or delay in exercising or enforcing any right, power, privilege, or remedy under this Section, such failure or delay shall not be deemed a waiver, release, or modification

of the requirements of this Section or of any of the terms or provisions thereof.

7.7.5 CMAR shall include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Agreement.

7.8 Record Keeping and Finance Controls

7.8.1 Records of CMAR's direct personnel payroll, reimbursable expenses pertaining to this Project and records of accounts between the City and CMAR shall be kept on a generally recognized accounting basis and shall be available for three (3) years after Final Completion of the Project.

7.8.2 The City, its authorized representative, and/or the appropriate federal agency, reserve the right to audit CMAR's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate Contract Documents and any Change Orders.

7.8.3 The City reserves the right to decrease Contract Price and/or payments made on this Agreement if, upon audit of CMAR's records, the audit discloses CMAR has provided false, misleading, or inaccurate cost and pricing data.

7.8.4 CMAR shall include a similar provision in all of its agreements with Subconsultants and Subcontractors providing services under the Contract Documents to ensure the City, its authorized representative, and/or the appropriate federal agency, has access to the Subconsultants' and Subcontractors' records to verify the accuracy of cost and pricing data.

7.8.5 The City reserves the right to decrease Contract Price and/or payments made on this Agreement if the above provision is not included in Subconsultant's and Subcontractor's Agreements, and one or more Subconsultants and/or Subcontractors do not allow the City to audit their records to verify the accuracy and appropriateness of pricing data.

7.8.6 Records and Retention Requirements: The City and its employees, agents, and authorized representatives shall have the right at all reasonable times and during all business hours to inspect and examine CMAR's records related to this Agreement. CMAR shall comply with the City of Flagstaff's records retention policy. This record retention requirement shall remain in effect following expiration of the Agreement or termination of the Agreement by either Party.

Article 8- Claims and Disputes

8.0 Requests for Agreement Adjustments and Relief.

8.0.1 If either CMAR or City believes that it is entitled to relief against the other for any event arising out of or related to Work, such party shall provide written notice to the other party of the basis for its claim for relief.

8.0.2 Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of the Agreement.

8.0.3 In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed fourteen (14) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later.

8.0.4 Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

8.1 Dispute Avoidance and Resolution

8.1.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, CMAR and City each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

8.1.2 CMAR and City shall first attempt to resolve disputes or disagreements at the field level through discussions between CMAR's Representative and City's Representative.

8.1.3 If a dispute or disagreement cannot be resolved through CMAR's Representative and City's Representative, CMAR's Senior Representative and City's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Senior Representatives, the parties shall exchange relevant information that shall assist the parties in resolving their dispute or disagreement.

8.1.4 Except as otherwise agreed by the parties, any litigation brought by either party against the other to enforce the provisions of this Agreement shall be filed in the Coconino County Superior Court and Arizona law shall apply and control. In the event any action at law or in equity is instituted between the parties in connection with this Agreement, the prevailing party in the action shall be entitled to its costs including reasonable attorneys' fees and court costs from the non-prevailing party.

8.2 Duty to Continue Performance. Unless provided to the contrary in the Contract Documents, CMAR shall continue to perform the Work and City shall continue to satisfy its payment obligations to CMAR, pending the final resolution of any dispute or disagreement between CMAR and City.

8.3 Representatives of the Parties

8.3.1 The City's Representatives

8.3.1.1 City designates the individual listed below or his designee as its Senior Representative ("City's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 8.1.3:

Andy Bertelsen, Division/Department Head
211 West Aspen Avenue
Flagstaff, AZ 86001
(928) 213-2105
abertelsen@flagstaffaz.gov

8.3.1.2 City designates the individual listed below as its City's Representative, which individual has the authority and responsibility set forth in Section 8.1.2:

Scott Overton, Streets Section Director
211 West Aspen Avenue
Flagstaff, AZ 86001
(928) 226-2107
scott.overton@flagstaffaz.gov

8.3.2 CMAR's Representatives

8.3.2.1 CMAR designates the individual listed below as its Senior Representative ("CMAR's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 8.1.3:

Harvey (Corkey) Heckethorn
C and E Paving & Grading
740 S Heckethorn Rd
Flagstaff, AZ 86001

8.3.2.2 CMAR designates the individual listed below as its CMAR's Representative, which individual has the authority and responsibility set forth in Section 8.1.2:

Earl Heckethorn
C and E Paving & Grading
740 S Heckethorn Rd
Flagstaff, AZ 86001

Article 9 – Suspension and Termination

9.0 City's Right to Stop Work

9.0.1 City may, at its discretion and without cause, order CMAR in writing to stop and suspend the Work. Such suspension shall not exceed one hundred and eighty (180) consecutive days.

9.0.2 CMAR may seek an adjustment of the Contract Price and/or Contract Time if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of Work by City.

9.1 Termination for Convenience

9.1.1 The City may terminate this Agreement at any time for any reason by giving at least thirty (30) days written notice to the CMAR. In such event, City shall pay CMAR only the direct value of its completed Work and materials supplied as of the date of termination. CMAR shall be entitled to profit and overhead on completed Work only, but shall not be entitled to anticipated profit or anticipated overhead.

9.1.2 If the City suspends the Work for one hundred eighty-one (181) consecutive days or more, such suspension shall be deemed a termination for convenience.

9.1.3 Upon such notice of termination for convenience, CMAR shall proceed with the following obligations:

9.1.3.1 Stop Work as specified in the notice.

9.1.3.2 Place no further subcontracts or orders.

9.1.3.3 Terminate all subcontracts to the extent they relate to the Work terminated. CMAR shall ensure that all subcontracts contain this same termination for convenience provision set forth in Section 9.1 et seq.

9.1.3.4 At the City's sole discretion and if requested in writing by the City, assign to the City all rights, title and interest of CMAR under the subcontracts subject to termination.

9.1.3.5 Take any action that may be necessary for the protection and preservation of the property related to this Agreement that is in the possession of CMAR and in which the City has or may acquire an interest.

9.1.4 CMAR shall submit complete termination inventory schedules no later than one hundred twenty (120) days from the date of the notice of termination.

9.1.5 The City shall pay CMAR the following:

9.1.5.1 The direct value of its completed Work and materials supplied as of the date of termination.

9.1.5.2 The reasonable and direct, actual costs and expenses attributable to such termination. Reasonable costs and expenses shall not include, among other things, anticipated profit, anticipated overhead, or costs arising from CMAR's failure to perform as required under this Agreement.

9.1.5.3 CMAR shall be entitled to profit and overhead on completed Work only, but shall not be entitled to anticipated profit or anticipated overhead. If it is determined that CMAR would have sustained a loss on the entire Work had they been completed, CMAR shall not be allowed profit and the City shall reduce the settlement to reflect the indicated rate of loss.

9.1.6 CMAR shall maintain all records and documents for three (3) years after final settlement. These records shall be maintained and subject to auditing as prescribed in Section 7.7.

9.2 The City's Right to Perform and Terminate for Cause

9.2.1 If the City provides CMAR with a written order to provide adequate maintenance of traffic, adequate cleanup, adequate dust control or to correct deficiencies or damage resulting from abnormal weather conditions, and CMAR fails to comply in a time frame specified, the City may have work accomplished by other sources at CMAR's sole expense.

9.2.2 If CMAR persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Subconsultants and/or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time, as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then City, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Subsections 9.2.3 and 9.2.4 below.

9.2.3 Upon the occurrence of an event set forth in Subsection 9.2.2 above, City may provide written notice to CMAR that it intends to terminate this Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of CMAR's receipt of such notice.

9.2.3.1 If CMAR fails to cure, or reasonably commence to cure, such problem, then City may give a second written notice to CMAR of its intent to terminate within an additional seven (7) day period.

9.2.3.2 If CMAR, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then City may declare this Agreement terminated for default by providing written notice to CMAR of such declaration.

9.2.4 Upon declaring this Agreement terminated pursuant to Subsection 9.2.3.2 above, City may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which CMAR hereby transfers, assigns and conveys to City for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items.

9.2.5 In the event of such termination, CMAR shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, CMAR shall only be entitled to be paid for Work performed and accepted by the City prior to its default.

9.2.6 If City's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then CMAR shall be obligated to pay the difference to City. Such costs and expenses shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by City in connection with the reprocurement and defense of claims arising from CMAR's default.

9.2.7 If City improperly terminates the Agreement for cause, the termination for cause shall be converted to a termination for convenience in accordance with the provisions of Section 9.1.

9.3 Maintenance During Winter Shutdown of Work; Snow Removal

9.3.1 **The Capital Improvement Department of the** City of Flagstaff retains the right to declare a Winter Shutdown when, in the opinion of the City, it would be unreasonable to continue Work due to adverse weather conditions. The Winter Shutdown determination is at the sole discretion of the City. If Work has been suspended due to winter weather, the CMAR shall be responsible for maintenance and protection of the improvements and of partially completed portions of the Work until final acceptance of the project. Winter Shutdown shall be by field order, change order or original contract. If repairs and/or maintenance are needed during the Winter Shutdown, the CMAR is required to perform the repairs and/or maintenance within twenty-four (24) hours of notification from the City. If the needed repairs and/or maintenance are not addressed within the timeframe, the City will accomplish the repairs and/or maintenance and deduct the cost from monies due or become due to the CMAR.

9.3.2 The City shall provide snow removal operations on active traffic lanes only. All other snow removal and maintenance operations shall be the responsibility of the Contractor. All cost associated with snow removal and proper disposal shall be considered incidental to the work including repair of temporary surface improvements due to normal wear and snow removal operations.

9.3.3 Upon termination of the Winter Shutdown by the City, the CMAR shall have the right to complete the Work and the Project.

9.3.4 The CMAR shall be solely responsible for any and all costs incurred either as a direct or indirect result of a Winter Shutdown, and shall hold the City harmless from the same.

Article 10 - Insurance and Bonds

10.0 Insurance Requirements

10.0.1 CMAR and Subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the Work hereunder by CMAR, its agents, representatives, employees or Subcontractors.

10.0.2 The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

10.0.3 The City in no way warrants that the minimum limits contained herein are sufficient to protect CMAR from liabilities that might arise out of the performance of the work under this Agreement by CMAR, its agents, representatives, employees, or subcontractors. CMAR is free to purchase such additional insurance as may be determined necessary.

10.1 Minimum Scope and Limits of Insurance. CMAR shall provide coverage with limits of liability not less than those stated below:

10.1.1 Commercial General Liability – Occurrence Form

• General Aggregate/for this Project	$2,000,000/$1,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Each Occurrence	$1,000,000

The policy shall be endorsed to include the following additional insured language: **"The City of Flagstaff shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of CMAR."**

Additional Insured Status. The insurance coverage, except Workers' Compensation, required by this Agreement, shall name the CITY, its agents, representatives, directors, officials, employees, and officers, as additional insured AND be accompanied by the required endorsement. Such evidence of additional insured status shall be subject to the approval of the Risk Management Department of the City of Flagstaff. The absence of acceptable insurance and endorsement shall be deemed a breach of this agreement.

10.1.2 Automobile Liability **-** Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Agreement.

Combined Single Limit ("CSL")	$1,000,000

The policy shall be endorsed to include the following additional insured language: **"The City of Flagstaff shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of CMAR, including automobiles owned, leased, hired or borrowed by CMAR."**

10.1.3 Worker's Compensation: The CMAR shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes.

10.1.4 Builders' Risk Insurance or Installation Floater
In an amount equal to the initial Contract Amount plus additional coverage equal to Contract Amount for all subsequent change orders.

10.1.4.1 The City of Flagstaff, CMAR, Subcontractors, Design Professional and Design Professional's consultant and any others with an insurable interest in the Work shall be **Named Insureds** on the policy**.**

10.1.4.2 Coverage shall be written on an all risk, replacement cost basis and **shall include coverage for soft costs, flood and earth movement**.

10.1.4.3 Coverage shall be maintained until whichever of the following shall first occur: (i) final payment has been made; or, (ii) until no person or entity, other than the City of Flagstaff, has an insurable interest in the property required to be covered.

10.1.4.4 Coverage shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the City.

10.1.4.5 CMAR shall provide coverage from the time any covered property becomes the responsibility of CMAR, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation Site, or awaiting installation, whether on or off Site.

10.1.4.6 Coverage shall contain a **waiver of subrogation** against the City of Flagstaff.

10.1.4.7 CMAR is responsible for the payment of all policy deductibles.

10.1.5 Umbrella/Excess Liability Insurance not less than $2,000,000 per occurrence combined limit Bodily Injury and Property Damage, that "follows form" and applies in excess of the Commercial General Liability, Automobile Liability as required above.

10.2 Additional Insurance Requirements. The policies shall include, or be endorsed to include, the following provisions:

10.2.1 The City, its officers, officials, agents, employees and volunteers shall be additional insured to the full limits of liability purchased by CMAR even if those limits of liability are in excess of those required by this Agreement.

10.2.2 CMAR's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

10.2.3 Coverage provided by CMAR shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

10.2.4 The policies shall contain a Waiver of Subrogation against the City, its officers, officials, agents, and employees for losses arising from work performed by the CMAR for the City.

10.3 Notice of Cancellation. Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the City. Such notice shall be sent directly to the City Purchasing Department, attention Patrick Brown, Senior Procurement Specialist, and shall be sent by certified mail, return receipt requested.

10.4 Acceptability of Insurers. Insurance is to be placed with insurers who are duly licensed companies in the State of Arizona with an "A.M. Best" rating of A-7, or as approved by the City and licensed in the State of Arizona with policies and forms satisfactory to the City. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect CMAR from potential insurer insolvency.

10.5 Verification Of Coverage

10.5.1 CMAR shall furnish the City with Certificates of Insurance (ACORD form or equivalent approved by the City) as required by this Agreement. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

10.5.2 All Certificates of Insurance and endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Agreement shall be in effect at or prior to commencement of Work under this Agreement and remain in effect for the duration of the Project. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

10.5.3 All Certificates of Insurance required by this Agreement shall be sent directly to City's Purchasing Department, attention Patrick Brown, Senior Procurement Specialist. The City project/contract number and project description shall be noted on the Certificate of Insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

10.5.4 If the Certificate of Insurance reflecting policy coverage and cancellation notice does not conform to the City's requirements, the CMAR must:

- **Submit a current Certificate of Insurance (dated within fifteen (15) days of the payment request submittal) with each payment request form. The payment request shall be rejected if the Certificate of Insurance is not submitted with the payment request.**

10.6 Subcontractors. CMAR's Certificate(s) of Insurance shall include all Subcontractors as additional insureds under its policies. All coverages for Subcontractors shall be subject to the minimum requirements identified above.

10.7 Approval. Any modification or variation from the insurance requirements in this Agreement shall be made by the City Attorney's Office, whose decision shall be final. Such action shall not require a formal contract amendment, but may be made by administrative action.

10.8 Bonds and Other Performance Security.

10.8.1 Prior to execution of this Agreement, CMAR shall provide a performance bond and a labor and materials bond, each in an amount equal to the full amount of the GMP.

10.8.2 Each such bond shall be executed by a surety company, or companies, holding a Certificate of Authority to transact surety business in the State of Arizona, issued by the Director of the Arizona Department of Insurance. A copy of the Certificate of Authority shall accompany the bonds. The Certificate shall have been issued or updated within two (2) years prior to the execution of this Agreement.

10.8.3 The bonds shall be made payable and acceptable to the City of Flagstaff.

10.8.4 The bonds shall be written or countersigned by an authorized representative of the surety who is either a resident of the State of Arizona or whose principal office is maintained in Arizona, as by law required, and the bonds shall have attached thereto a certified copy of Power of Attorney of the signing official.

10.8.4.1 If one Power of Attorney is submitted, it shall be for twice the total GMP amount.

10.8.4.2 If two Powers of Attorney are submitted, each shall be for the total GMP amount. Personal or individual bonds are not acceptable.

10.8.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract Documents, CMAR shall promptly furnish a copy of the bonds or shall permit a copy to be made.

10.8.6 All bonds submitted for this project shall be provided by a company which has been rated AM Best rating of "A-,7, or better for the prior four quarters" by the A.M. Best Company.

Article 11 - Indemnification

11.1 CMAR's Liability and Indemnification.

11.1.1 To the fullest extent permitted by law, CMAR shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the negligent, reckless, or intentional acts, errors, mistakes, omissions, work or services of CMAR, its employees, agents, or any tier of subcontractors in the performance of this Agreement. CMAR's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with the claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of CMAR or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services CMAR may be legally liable.

The amount and type of insurance coverage requirements set forth herein shall in no way be construed as limiting the scope of the indemnity in this paragraph.

Article 12 – General Provisions

12.1 Contract Documents

12.1.1 Contract Documents are as defined in Article 1. This Agreement, Plans, Standard Specifications and Details, Special Provisions, and used as the basis for the Guaranteed Maximum Price Proposal and Guaranteed Maximum Price Proposal, as accepted by the Mayor and Council per Council Minutes **21st day of May, 2019,** Performance Bond, Payment Bond, Certificates of Insurance, Construction Documents and Change Orders (if any) are by this reference made a part of this Agreement to the same extent as if set forth herein in full.

12.1.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Times for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards.

12.1.3 In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the order in which they are listed in the definition of Contract Documents in Article 1.

12.1.3.1 On the drawings, given dimensions shall take precedence over scaled measurements, and large-scale drawings over small-scale drawings.

12.1.3.2 Specifications take precedence over Plans.

12.1.3.3 In the event of any inconsistency, conflict, or ambiguity between the Contract Documents and

the Design Phase Services Agreement, the Contract Documents take precedence over the Design Phase Services Agreement

12.1.4 The headings used in this Agreement, or any other Contract Documents, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

12.1.5 The Contract Documents form the entire agreement between City and CMAR and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

12.2 Amendments. The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

12.3 Time is of the Essence. City and CMAR mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

12.4 Mutual Obligations. City and CMAR commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

12.5 Cooperation and Further Documentation. CMAR agrees to provide the City such other duly executed documents as shall be reasonably requested by the City to implement the intent of the Contract Documents.

12.6 Assignment. CMAR shall not, without the written consent of the City, assign, transfer or sublet any portion of this Agreement or part of the Work or the obligations required by the Contract Documents. Notwithstanding the City's consent to assignment, CMAR as Assignor, and the Assignee shall both remain liable under all rights, obligations, terms, and conditions of this Agreement.

12.7 Successorship. CMAR and City intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

12.8 Third Party Beneficiary. Nothing under the Contract Documents shall be construed to give any rights or benefits in the Contract Documents to anyone other than the City and CMAR, and all duties and responsibilities undertaken pursuant to the Contract Documents shall be for the sole and exclusive benefit of City and CMAR and not for the benefit of any other party.

12.9 Governing Law. This Agreement and all Contract Documents shall be deemed to be made under, and shall be construed, in accordance with and governed by the laws of the State of Arizona without regard to the conflicts or choice of law provisions thereof. Any action to enforce any provision of this Agreement or to obtain any remedy with respect hereto shall be brought in the Superior Court, Coconino County, Arizona, and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such Court.

12.10 Severability. If any provision of the Contract Documents or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of the Contract Documents and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

12.11 Compliance with All Laws. CMAR will comply with all applicable Federal, State, County and City laws, regulations and policies, including but not limited to the mandatory statutory provisions in Exhibit __, attached and made a part of this Agreement. CMAR understands and acknowledges the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. CMAR agrees to comply

with these laws in performing the Contract Documents and to permit the City to verify such compliance.

12.12 Legal Requirements. CMAR shall perform all Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

12.13 Construction Documents. It is not CMAR's responsibility to ascertain that the Construction Documents are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. However, if CMAR recognizes that portions of the Construction Documents are at variance therewith, CMAR shall promptly notify the Design Professional and City in writing, describing the apparent variance or deficiency.

12.14 Independent Contractor. CMAR is and shall be an independent contractor. Any provisions in the Contract Documents that may appear to give the City the right to direct CMAR as to the details of accomplishing the Work or to exercise a measure of control over the Work means that CMAR shall follow the wishes of the City as to the results of the Work only. These results shall comply with all applicable laws and ordinances.

12.15 The City's Right of Cancellation. All parties hereto acknowledge that this Agreement is subject to cancellation by the City pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

12.16 Survival. All warranties, representations and indemnifications by CMAR shall survive the completion or termination of this Agreement.

12.17 Covenant against Contingent Fees. CMAR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the City Council, or any employee of City has any interest, financially, or otherwise, in the firm. For breach or violation of this warrant, the City shall have the right to annul this Agreement without liability, or at its discretion to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

12.18 No Waiver. The failure of either party to enforce any of the provisions of the Contract Documents or to require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of such provisions, nor shall it affect the validity of the Contract Documents or any part thereof, or the right of either party to thereafter enforce each and every provision.

12.19 Notice.

12.19.1 Many notices or demands required to be given, pursuant to the terms of this Agreement, may be given to the other Party in writing, delivered in person, sent by facsimile transmission, emailed, deposited in the United States mail, postage prepaid, or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph. However, notices of termination, notices of default and any notice regarding warranties shall be sent via registered or certified mail, return receipt requested at the address set forth below ***and*** to legal counsel for the party to whom the notice is being given.

to CMAR:

C and E Paving & Grading
740 S Heckethorn Rd
Flagstaff, AZ 86001

Attn: Harvey (Corkey) Heckethorn
Phone: (928) 774-4133

to City:

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attn: Patrick Brown, Purchasing Manager
Phone: (928) 213-2277

With a copy to:

City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Attn: Scott Overton, Streets Section Director
Phone: (928) 213-2107

Design Professional:

Shephard Wesnitzer, Inc.
Guillermo Cortes, Vice-President
110 West Dale Avenue
Flagstaff, AZ 86001
Phone: (928) 773-0354

or to such other place and with such other copies as either Party may designate as to itself by written notice to the other Party. Rejection, any refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

12.20.2 Notices Related to Payment, Securities-in-lieu and Bonds. Any notice, request, instruction or other document to be given under this Agreement by any party to any other party related to payment, securities-in-lieu, bonds or other instrument securing the performance of this Agreement, including but not limited to, bid bonds, performance bonds, payment bonds or letters of credit, shall be in writing and shall be delivered in person or by courier or facsimile transmission or mailed by certified mail, postage prepaid, return receipt requested and shall be deemed given upon (a) confirmation of receipt of a facsimile transmission, (b) confirmed delivery by hand or standard overnight mail or (c) upon the expiration of three (3) business days after the day mailed by certified mail, as follows:

to Contractor:

Harvey (Corkey) Heckethorn
C and E Paving & Grading
740 S Heckethorn Rd
Flagstaff, AZ 86001
Phone: (928) 774-4133

to City:

Patrick Brown, Purchasing Manager
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Phone: (928) 213-2277

With copies to:

Scott Overton, Streets Section Director
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001
Phone: (928) 213-2107

or to such other place and with such other copies as either Party may designate as to itself by written notice to the other Party. Rejection, any refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

12.20 Confidentiality of Plans and Specifications

12.20.1 Any plans or specifications regarding this Project shall be for official use only. CMAR shall not share them with others except as required to fulfill the obligations of this Agreement with the City.

12.20.2 All Record Documents, Shop Drawings and other plans or drawings prepared or submitted by CMAR shall include the following language: "These plans are for official use only and may not be shared with others except as required to fulfill the obligations of the Street Maintenance Program 2011 Project Agreement with the City of Flagstaff."

12.21 CMAR and Subcontractor Employee Security Inquiries. The parties acknowledge that security measures required in this Section are necessary in order to preserve and protect the public health, safety and welfare. In addition to the specific measures set forth below, CMAR shall take such other measures, as it deems reasonable and necessary to further preserve and protect the public health, safety and welfare.

12.21.1 Security Inquiries. CMAR acknowledges that all of the employees that it provides pursuant to this Agreement shall be subject to background and security checks and screening ("Security Inquiries"). CMAR shall perform all such security inquiries and shall make the results available to City for all employees considered for performing work (including supervision and oversight) under this Agreement. City may make further security inquiries. Whether or not further security inquires are made by City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by CMAR for performing work under this Agreement. Employees rejected by City for performing services under this Agreement may still be engaged by CMAR for other work not involving the City. An employee rejected for work under this Agreement shall not be proposed to perform work under other City Agreements or engagements without City's prior approval.

12.21.2 Criteria for Evaluating Security Inquiries. Once formally adopted by City, criteria for excluding an individual from performing work under this Agreement shall be communicated by City to CMAR and used by CMAR as a factor in making its decision. Prior to such adoption, CMAR shall use its best judgment in making its decision using, among other criteria, applicable law, administrative regulations of federal, state and local agencies concerned with work performed under this Agreement, specific local concerns that deal with the specific work and work location(s) of the Project, and standards used by City in evaluating its own personnel.

12.21.3 Additional City Rights Regarding Security Inquiries. In addition to the foregoing, City reserves the right to: (1) have an employee/prospective employee of CMAR be required to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information pursuant to A.R.S. § 41-1750(G)(4); (2) act on newly acquired information whether or not such information should have been previously discovered; (3) unilaterally change its standards and criteria relative to the acceptability of CMAR 's employees and/or prospective employees; and, (4) object, at any time and for any reason, to an employee of CMAR performing work (including

supervision and oversight) under this Agreement.

12.21.4 Background and Security-Contracts and Subcontracts. CMAR shall include the security inquiry terms of this Section for employee background and security checks and screening in all contracts and subcontracts for work performed under this Agreement, including supervision and oversight.

12.21.5 Materiality of Security Inquiry Provisions. The security inquiry provisions of this Agreement, as set forth above, are material to City 's entry into this Agreement and any breach thereof by CMAR may, at City's sole and unfettered discretion, be considered to be a breach of contract of sufficient magnitude to terminate this Agreement. Such termination shall subject CMAR to liability for its breach of this Agreement.

12.22 Hazardous Materials

12.22.1 Unless included in the Work, if CMAR encounters material on the Site which it reasonably believes to contain asbestos, polychlorinated biphenyl (PCB), or other hazardous substances or materials regulated by applicable law, it shall immediately stop work and report the condition to the City.

12.22.2 If the material is found to contain asbestos, PCB or other hazardous substances or materials regulated by applicable law, CMAR shall not resume work in the affected area until the material has been abated or rendered harmless. CMAR and the City may agree, in writing, to continue work in non-affected areas on the Site.

12.22.3 An extension of Contract Time may be granted in accordance with Article 6.

12.22.4 CMAR shall comply with all applicable laws/ordinances and regulations and take all appropriate health and safety precautions upon discovery.

12.23 Computer Systems. CMAR shall warrant fault-free performance in the processing of date and date-related data including, but not limited to calculating, comparing, and sequencing by all equipment and software products, individually and in combination, from the commencement of the Work. Fault-free performance shall include the manipulation of data when dates are in the 20th or 21st centuries and shall be transparent to the user. Failure to comply with "Year 2000" requirements shall be considered a breach of this Agreement.

12.24 Traffic Control. CMAR shall comply with all provisions of the latest version of the Manual on Uniform Traffic Control Devices and any other traffic control provisions as may be provided in the technical specifications.

THE CITY OF FLAGSTAFF, ARIZONA

Street Maintenance Program 2018, 2019, 2020

2019 Construction Phase Services – Chip Seal

Project No. 01-19001, Agreement No. 2018-32CP

IN WITNESS WHEREOF, two (2) identical counterparts of this Agreement each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties herein above named, on

the date and year first above written.

CMAR agrees that this Agreement, as awarded, is for the stated Work and understands that payment for the total Work shall be made on the basis of the indicated amount(s), per the terms and conditions of this Agreement.

Guaranteed Maximum Price

Two million, thirty-three thousand, four hundred fifty-five dollars and fifty-five cents

$2,033,450.55

THE CITY OF FLAGSTAFF, ARIZONA

By:_____
Barbara Goodrich, City Manager

C AND E PAVING & GRADING, LLC.

By:_____

Title:_____

(Corporate Seal)

ATTEST:

_____
City Clerk

_____
ATTEST: (Signature and Title)

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT A - PROJECT DESCRIPTION

Following is a brief description of the Project for which the Construction Phase Services specified in this Agreement are to be performed:

The Street Maintenance Program includes street overlay, chip seal, micro seal and

crack sealing construction to preserve and maintain existing asphalt street and parking lot pavements. The contract work also includes removal and replacement of curb returns and sidewalks at many locations on the streets overlaid to bring these streets into compliance with the Americans with Disabilities Act ("ADA"). Traffic signal detection modifications may be required where the work disturbs existing detection equipment. Utility adjustments and pavement marking are also included in the work.

The chip seal streets are selected after evaluation of the street condition using pavement management software owned by the Owner. One half of the City street pavements are evaluated and ranked each year. Each street pavement is assigned an overall condition index ("OCI") based on the type and severity of the distress observed. A pavement that has no distress is given an OCI of 100. Each pavement distress such as cracking or roughness reduces the street's OCI. The street pavements are ranked by OCI and the pavements exhibiting the most severe distress are programmed for resurfacing with asphaltic concrete overlays as budget allows.

The goal of the Street Maintenance Program is to use the available funds in the most efficient manner to lengthen the service life of the City street pavements and avoid costly pavement reconstruction. The ADA improvements provide improved access for disabled citizens and visitors along existing streets and provide compliance with Federal requirements.

The Street Maintenance Program provides surface treatments as required to preserve and maintain pavement condition on the 664 lane miles of City streets. The ADA improvements provide improved access for disabled citizens and visitors along existing streets and provide compliance with Federal requirements.

Contractors will have civil construction challenges typical to Flagstaff. The successful contractor/firm/team selected for this project is expected to have significant demonstrated experience in both the type of work required and constructing facilities in colder, high altitude climates with a limited construction season.

EXHIBIT B – APPROVED GMP PROPOSAL

PROJECT #: 01-19001 **DATE:** April 15, 2019
PROJECT NAME: Street Maintenance Program 2018, 2019, 2020

Street Maintenance 2019 Construction Phase Services
GMP Attached as separate document (*Exhibit B – 2019 GMP.pdf*).

EXHIBIT C – TECHNICAL SPECIFICATIONS

PROJECT #: 01-19001 **DATE:** April 2019
PROJECT NAME: Street Maintenance Program 2018, 2019, 2020

Street Maintenance 2019 Construction Phase Services
Technical Specifications attached as separate document (*Exhibit C – 2019 Specifications.pdf*).

Chip Seal

CMAR
2019

GMP # 2

STREET MAINTENANCE PROGRAM

GMP SUMMARY

PROJECT NAME:	City of Flagstaff Street Maintenance Program 2019 - **GMP #2 - Chip Seal**
PROJECT NUMBER:	01-19001
LAST UPDATED:	5/2/2019
OWNER(S):	City of Flagstaff
BILLNG ADDRESS:	211 West Aspen Avenue
JOB SITE ADDRESS:	various locations -
OWNER PHONE:	(928) 779-7685

C and E
PAVING & GRADING L.L.C.

GMP SUMMARY					
A	COST OF THE WORK (LABOR, MATERIALS, EQUIPMENT)				$1,394,860.77
B	CM@RISK'S CONTINGENCY				$150,000.00
	INDIRECT COSTS			RATE	$1,544,860.77
C	CONSTRUCTION FEE			4.8%	$92,805.62
D	GENERAL CONDITIONS			9.8%	$189,478.16
	D1	PAYMENT AND PERFORMANCE BOND	$12,142.07	0.628%	
	D2	INSURANCE	$23,974.79	1.24%	
E	SALES TAX		(8.951)	.054983	$106,306.01
			F. TOTAL GMP		$1,933,450.55
			G. OWNER'S CONTINGENCY		$100,000.00
			H. CONTRACT AMOUNT		$2,033,450.55

CITY OF FLAGSTAFF
GENERAL CONDITIONS ESTIMATE

PROJECT NAME:	City of Flagstaff Street Maintenance Program - 2019 **GMP #2 - Chip Seal**
PROJECT NUMBER:	01-19001
LAST UPDATED:	5/2/2019
OWNER(S):	City of Flagstaff
BILLNG ADDRESS:	211 West Aspen Avenue
JOB SITE ADDRESS:	various locations
OWNER PHONE:	(928) 779-7685

C and E
PAVING & GRADING L.L.C.

PHASE #		CATEGORY DESCRIPTION	NOTES / SCOPE	BUDGET
General Requirements				
1		VEHICLE / FUEL ALLOWANCE		$25,214.64
1		PROJECT MANAGER		$33,982.54
1		SUPERINTENDENT		$27,604.88
1		OFFICE PERSONNEL		$4,697.78
1		OFFICE SUPPLIES AND EQUIPMENT		$1,366.05
1		SITE MECHANIC & SERVICE TRUCK		$15,966.24
1		TEMP SANITARY FACILITIES		$773.95
1		ADDITIONAL PUBLIC NOTICES AND DELIVERY/ LIME / CONCRETE PLASTIC		$2,054.01
		SURVEY		$1,459.54
1		MOBILIZATION		$16,073.53
1		WARRANTY RESERVE	1.25% OF PROJECT	$24,168.13
1		GL INSURANCE	1.24% OF PROJECT	$23,974.79
1		PERFORMANCE BOND	.0062827% OF PROJECT	$12,142.07
TOTAL				$189,478.16

COST SCHEDULE OF VALUES

2019 COF STREETS					
GMP #2 - CHIP SEAL	*Schedule of Values*				
NO.	**DESCRIPTION**	**QUANTITY**	**UNIT**	UNIT COST	**COST**
1	BITUMINOUS MATERIAL (CRS-2P)	556.0	T	$553.00	$307,468.00
2	COVER MATERIAL (CM-11)	5,313.0	T	$73.00	$387,849.00
3	CRACK SEALING	100	T	$3,650.00	$365,000.00
4	HOT MIX ASPHALT - (LARGE THERMAL CRACK FILLER)	100	T	$250.00	$25,000.00
5	STREET REBUILDING & PATCHING CONTINGENCY	300	SY	$61.00	$18,300.00
6	STRIPING AND MARKING	1	LS	$94,981.77	$94,981.77
7	TRAFFIC CONTROL	1	LS	$158,102.00	$158,102.00
8	FOG COAT LAKE MARY (WALAPAI TO CITY LIMITS)	61	T	$450.00	$27,450.00
9	FOG COAT HIGH COUNTRY TRAIL (WILD WEST TO PULLIAM) & PULLIAM (HIGH COUNTRY TO J.W. POWELL)	21	T	$510.00	$10,710.00

TOTAL COST=	**$1,394,860.77**

BID NO.	BID ITEM	DESCRIPTION	FORECAST QUANTITIES	UNIT	UNIT COST	UNIT COST FORECAST	TOTAL COST FORECAST
1	BITUMINOUS MATERIAL (CRS-2P)	SUBCONTRACTOR	556	Ton	$132.00	$73,392.00	
		MATERIALS			$418.00	$232,408.00	
		EQUIPMENT			$0.00	$0.00	
		LABOR			$3.00	$1,668.00	
			556.0	Ton	$553.00	Total:	$307,468.00
2	COVER MATERIAL (CM-11)	SUBCONTRACTOR	5313.0	Ton	$0.00	$0.00	
		MATERIALS			$29.00	$154,077.00	
		EQUIPMENT			$31.35	$166,562.55	
		LABOR			$12.65	$67,209.45	
			5313.0	Ton	$73.00	Total:	$387,849.00
3	CRACK SEALING	SUBCONTRACTOR	100.0	Ton	$3,600.00	$360,000.00	
		MATERIALS			$0.00	$0.00	
		EQUIPMENT			$0.00	$0.00	
		LABOR			$50.00	$5,000.00	
			100.0	Ton	$3,650.00	Total:	$365,000.00
4	HOT MIX ASPHALT - (LARGE THERMAL CRACK FILLER)	SUBCONTRACTOR	100	Ton	$0.00	$0.00	
		MATERIALS			$81.00	$8,100.00	
		EQUIPMENT			$99.00	$9,900.00	
		LABOR			$70.00	$7,000.00	
			100.0	Ton	$250.00	Total:	$25,000.00
5	STREET REBUILDING & PATCHING CONTINGENCY	SUBCONTRACTOR	300	SY	$0.00	$0.00	
		MATERIALS			$28.00	$8,400.00	
		EQUIPMENT			$22.00	$6,600.00	
		LABOR			$11.00	$3,300.00	
			300.00	SY	$61.00	Total:	$18,300.00

BID NO.	BID ITEM	DESCRIPTION	FORECAST QUANTITIES	UNIT	UNIT COST	UNIT COST FORECAST	TOTAL COST FORECAST
6	STRIPING AND MARKING	SUBCONTRACTOR	1	LS	$94,981.77	$94,981.77	
		MATERIALS			$0.00	$0.00	
		EQUIPMENT			$0.00	$0.00	
		LABOR			$0.00	$0.00	
			1.0	LS	$94,981.77	Total:	$94,981.77
7	TRAFFIC CONTROL	SUBCONTRACTOR	1.00	LS	$124,877.00	$124,877.00	
		MATERIALS			$0.00	$0.00	
		EQUIPMENT			$0.00	$0.00	
		LABOR			$33,225.00	$33,225.00	
			1.00	LS	$158,102.00	Total:	$158,102.00
8	FOG COAT LAKE MARY (WALAPAI TO CITY LIMITS)	SUBCONTRACTOR	61	Ton	$101.00	$6,161.00	
		MATERIALS			$200.00	$12,200.00	
		EQUIPMENT			$120.50	$7,350.50	
		LABOR			$28.50	$1,738.50	
			61	Ton	$450.00	Total:	$27,450.00
9	FOG COAT HIGH COUNTRY TRAIL (WILD WEST TO PULLIAM) & PULLIAM (HIGH COUNTRY TO J.W. POWELL)	SUBCONTRACTOR	21	Ton	$133.00	$2,793.00	
		MATERIALS			$200.00	$4,200.00	
		EQUIPMENT			$140.50	$2,950.50	
		LABOR			$36.50	$766.50	
			21	Ton	$510.00	Total:	$10,710.00

Total: $1,394,860.77

LIST OF PLANS AND SPECIFICATIONS

Flagstaff Street Maintenance Program - 2019
Shephard - Wesnitzer Inc. (928) 773-0354

Project No: 01-19001
GMP #2 - Chip Seal

Drawing No.	Drawing Title	Release Date
C1	Cover	05-2019
C2	Notes and Details	05-2019
C3	Key Map - Overlay	05-2019
C4	Improvement Schedule	05-2019

Maricopa Association of Governments Uniform Standard Specifications and Details for Public Works Construction General Provisions

City of Flagstaff Amendments to Maricopa Association of Governments General Provisions

Shephard - Wesnitzer Inc. Special Provisions

C and E
PAVING & GRADING
L.L.C.

LIST

OF

CLARIFICATIONS

AND

ASSUMPTIONS

Project No: 01-19001

Clarifications and Assumptions

City of Flagstaff Street Maintenance Program – 2019

GMP #2 – Chip Seal

1. It is assumed that City of Flagstaff team members will assist the contractor in identifying and marking the stop and start areas for pavement milling and chip seal.
2. If cross-street approaches are to be overlaid, the Engineer shall outline the location and extent of work on cross-streets prior to beginning the work.
3. We realize that no potable water will be utilized on this project. We will need to obtain a permit (no fee) at the Wildcat Hill Waste Water Treatment Plant and will be responsible for complying with all permit requirements.
4. The January 2018 ADOT Index was used to construct the GMP Asphalt prices for this project. Adjustments may have to be made during construction with variances in the Index.
5. It is assumed that during the term of this contract; 2018 MAG and C.O.F. Specifications will govern.
6. The City of Flagstaff will furnish all necessary quality control testing for this project.
7. The City of Flagstaff will Trim and dispose of any trees that conflict with the construction methods.
8. GMP was built using engineers estimated quantities for striping. No revisions to striping was discussed. Any future revisions will be negotiated.
9. No obliteration of existing striping is included in this GMP.
10. No Thermo will be used on Chip Seal Streets.

1): 4" Double Yellow - Paint
4): 18" Preformed Stop Bars ADOT 705 Tape
6): 4" Broken White - Paint
7): 4" Solid/4" Broken Yellow - Paint
8): 4" Solid White Edge Line - Paint
9): 4" Parking Stall White - Paint
10): 6" Solid White Bike Lane - Paint
11): Painted Bike Assembly – ADOT 705 Tape
12): Performed Turn Arrows (RT, LT, Straight, Combo, Rail Road Crossing) – ADOT 705 Tape
13): Solid White Lane Liens – Paint
15): 6" Dashed Bike Lane – Paint
16): Piano Key Crosswalk – ADOT 705 Tape

PROJECT

MASTER

SCHEDULE

C AND E PAVING & GRADING L.L.C.

5/3/2019 *GMP # 2 - Chip Seal*

City of Flagstaff
2019 City Street Maintenance Program
Project No: 01-19001

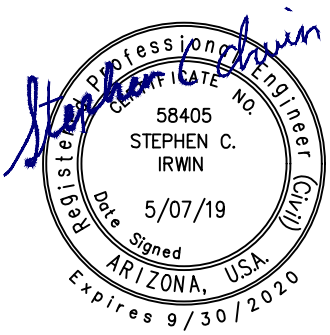
TENTATIVE SCHEDULE

	WEEK 1					WEEK 2					WEEK 3					WEEK 4					WEEK 5					WEEK 6					WEEK 7					WEEK 8					WEEK 9					WEEK 10				
	May																				June																				July									
	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F
BLUESTAKE	6	7	8	9	10	13	14	15	16	17	20	21	22	23	24	27	28	29	30	31	3	4	5	6	7	10	11	12	13	14	17	18	19	20	21	24	25	26	27	28	1	2	3	4	5	8	9	10	11	12
MOBILIZATON																H																												H	H					
TRAFFIC CONTROL																O																												O	O					
CRACK SEAL 100 tons																L																												L	L					
CONCRETE REMOVALS		900 C.Y.														I																												I	I					
CONCRETE REPLACEMENT		900 C.Y.														D																												D	D					
HOT MIX 4" AC PATCHING		139 ton Mag 3/4														A																												A	A					
LOWER UTILITIES FOR MILL		59 M/H - 50 Valves														Y																												Y	Y					
HOT MIX CRACK PATCH		100 tons 3/8 AC																																															
MILL & FILL LARGE CRACKS		CEDAR HILL 140 TN 1/2 in.																																															
MILL & FILL LARGE CRACKS		LAKE MARY 103 TN 1/2 in.																																															
RECONSTRUCT ROADWAY		THORPE / BONITO																																															
Metz Walk 4 INCH Mill & Fill		102 tns 3/4 AC & 47 tns PMRAC																																															
Chip Seal (379,529 S.Y.)																																																
FOG SEAL (82 tons ?)																																																
STRIPING																																																

	WEEK 11					WEEK 12					WEEK 13					WEEK 14					WEEK 15					WEEK 16					WEEK 17																			
	JULY													August																																				
	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F
	15	16	17	18	19	22	23	24	25	26	29	30	31	1	2	5	6	7	8	9	12	13	14	15	16	19	20	21	22	23																			
TRAFFIC CONTROL																																																
CONCRETE REMOVALS																																																
CONCRETE REPLACEMENT																																																
HOT MIX 4" AC PATCHING																																																
EDGE MILLING: 49161 S.Y.																																																
ASPHALT PAVING: 10519 TNS																																																
SHOULDER AZTEC																																																
ADJUST VALVES / MANHOLES		Valves 54 ea. -- M/H 83 ea.																																															
SURVEY MONUMENTS																																																
STRIPING																																																

SPECIAL PROVISIONS
FLAGSTAFF STREET MAINTENANCE PROGRAM 2019
CHIP SEAL

PROJECT NO. 01-19001



110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
www.swiaz.com

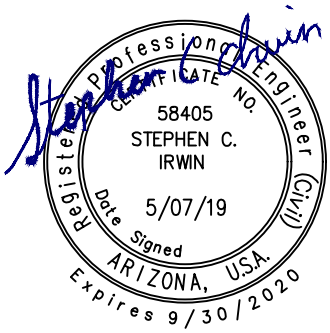
Shephard Wesnitzer, Inc.
Engineering an environment of excellence

TABLE OF CONTENTS

SECTION 100 – GENERAL CONDITIONS 1
SECTION 104 – SCOPE OF WORK 1
104.1.3 WATER SUPPLY: 1
104.1.6 RECORD DRAWINGS 1
SECTION 105 – CONTROL OF WORK 2
105.8 CONSTRUCTION STAKES, LINES AND GRADES: 2
SECTION 106 - CONTROL OF MATERIALS 2
106.2 SAMPLES AND TESTS OF MATERIALS 2
SECTION 107 - LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC 2
107.1.2 MAINTENANCE OF TRAFFIC 2
107.6 PUBLIC CONVENIENCE AND SAFETY 2
107.7 BARRICADES AND WARNING SIGNS 3
107.9 PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE: 3
SECTION 108 - COMMENCEMENT, PROSECUTION AND PROGRESS 3
108.4 CONTRACTOR'S CONSTRUCTION SCHEDULE: 3
SECTION 200 EARTHWORK 4
SECTION 211 - FILL CONSTRUCTION 4
211.2 PLACING 4
211.3 COMPACTING 4
SECTION 300 – STREETS / RELATED WORK 5
SECTION 301 – SUBGRADE PREPARATION 5
301.2.2 UNSTABLE SUBGRADE 5
301.3 RELATIVE COMPACTION 5
301.4 SUBGRADE TOLERANCES: 5
301.8 PAYMENT: 5
SECTION 305 STREET REBUILDING 6
305.1 DESCRIPTION 6
305.2 CONSTRUCTION 6
305.3 MEASUREMENT AND PAYMENT 6
SECTION 310 – PLACEMENT AND CONSTRUCTION OF AGGREGATE BASE COURSE 6
310.1 DESCRIPTION 6
310.2 PLACEMENT AND CONSTRUCTION: 6
310.4 PAYMENT 7
SECTION 311 - PLACEMENT AND CONSTRUCTION OF CEMENT TREATED SUBGRADE 7
311.2 MATERIALS 7
311.4 CONSTRUCTION METHODS 7
SECTION 321 – PLACEMENT AND CONSTRUCTION OF ASPHALT CONCRETE PAVEMENT 7
321.2 MATERIALS AND MANUFACTURE 7
321.4 APPLICATION OF TACK COAT 7
321.8.1 PLACING 7
321.8.2 JOINTS 8
321.8.3 ASPHALT LEVELING COURSE 8
321.8.4 COMPACTION: ASPHALT BASE COURSE AND SURFACE COURSE 8
321.8.5 SMOOTHNESS 8
321.10.3 GRADATION, BINDER CONTENT AND AIR VOIDS 8
321.10.4 ASPHALT PAVEMENT THICKNESS 9
321.13 PAYMENT 9

SECTION 330 - ASPHALT CHIP SEAL 9
330.2.1 ASPHALT 9
330.3 TIME OF APPLICATION AND WEATHER CONDITIONS 9
330.4.8 PROTECTION TO ADJACENT PROPERTY 9
SECTION 336 - PAVEMENT MATCHING AND SURFACING REPLACEMENT 9
336.2.2 PAVEMENT TO BE REMOVED 9
336.2.3 TEMPORARY PAVEMENT REPLACEMENT 10
336.2.4 PERMANENT PAVEMENT REPLACEMENT 11
336.2.5.1 EXCESSIVE CRACKS / VOID FILLER 11
336.2.5.2 EXCESSIVE RUTTING AND SHOVING FILLER 11
336.5 PAYMENT 11
SECTION 337 CRACK SEALING 11
337.1 GENERAL 11
337.2 MATERIALS 12
337.4 APPLICATION 12
337.8 MEASUREMENT 12
337.9 PAYMENT 12
SECTION 400 – RIGHT-OF-WAY TRAFFIC CONTROL 13
SECTION 401 - TRAFFIC CONTROL 13
401.4 TRAFFIC CONTROL MEASURES 13
401.5 GENERAL TRAFFIC REGULATIONS 13
401.6 MEASUREMENT 13
401.7 PAYMENT 13
SECTION 405 - MONUMENTS 14
405.2 MATERIALS 14
405.4 INSTALLATION 14
SECTION 700 - MATERIALS 14
SECTION 702 - BASE MATERIALS 14
702.1 GENERAL 14
702.2 PHYSICAL PROPERTIES 14
SECTION 703 - RIPRAP 14
703.2 PHYSICAL PROPERTIES 14
SECTION 710 - ASPHALTIC CONCRETE 15
710.2.1 ASPHALT BINDER 15
710.3 MIX DESIGN REQUIREMENTS 15
710.3.2.1 MARSHALL MIX DESIGN 15
SECTION 713 - EMULSIFIED ASPHALT MATERIALS 16
713.1 GENERAL 16
SECTION 716 - COVER MATERIAL 17
716.1 GENERAL 17
716.2.3 GRADATION 17
SECTION 725 - PORTLAND AND CEMENT CONCRETE 17
725.1 GENERAL 17
725.3 AGGREGATES 17
725.4 WATER 17
SECTION 797 – PAVEMENT MARKINGS 17
797.1 GENERAL 17
797.2 MATERIALS AND INSTALLATION 18
797.2.1 LONGITUDINAL PAVEMENT MARKINGS 18
797.2.2 TRANSVERSE MARKINGS, SYMBOLS AND LEGENDS 18
797.3 CONSTRUCTION PROVISIONS 18
797.4 MEASUREMENT AND PAYMENT 18
APPENDIX – A (COF MATERIAL TESTING COST SHEET) ..... A
APPENDIX – B (REUSE OF WASTEWATER) ..... B

APPENDIX – C (ADDITIVE ADDITIONAL CRACK SEAL) ..... **C**
APPENDIX – D (STRIPING REVISIONS) ..... **D**
APPENDIX – E (AS-BUILT PLANS/RECORD DRAWING CHECKLIST) ..... **E**
APPENDIX – F (MANHOLE QUANTITIES – OVERLAY) ..... ERROR! BOOKMARK NOT DEFINED.



CITY OF FLAGSTAFF, ARIZONA

FLAGSTAFF STREET MAINTENANCE PROGRAM 2017- CHIP SEAL
PROJECT NO. 01-16001

SPECIAL PROVISIONS

The MAG UNIFORM STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (with revisions through January, 2014), together with the CITY OF FLAGSTAFF REVISIONS TO MAG UNIFORM STANDARD SPECIFICATIONS AND MAG UNIFORM STANDARD DETAILS are hereby amended to include the following:

SECTION 100 – GENERAL CONDITIONS

SECTION 104 – SCOPE OF WORK

104.1.3 WATER SUPPLY:
(revise to read as follows)

The Contractor is advised that except for public water main flushing and testing, the City will not authorize the use of potable water for construction purposes. Prior to submitting a bid contractors shall determine the availability of reclaimed water for construction purposes by contacting the City of Flagstaff Utilities Department.
Prior to loading, hauling, and applying reclaim water, the Contractor shall be required to obtain the necessary permit (no fee) at the Wildcat Hill Wastewater Treatment Plant and will be responsible for complying with all permit requirements.
No measurement or payment for construction water shall be made.

104.1.6 RECORD DRAWINGS
(add new subsection)

The Contractor shall continuously maintain on-site a set of record (As-Built) drawings which depict the status of the various items of work as the project progresses. These drawings shall be made available to the Engineer for review during construction upon request.
Prior to the City' final approval of the project, final record drawings in digital format shall be submitted in digital (Autocad™ dwg format, or Adobe™ pdf format).
Record drawings shall contain, but are not limited to, the following information:

The plans shall verify the type and details of construction as shown on the original as-bid construction plans, together with any Engineer-approved variations from the original documents.

The plans shall indicate the depth and location of all existing underground utilities encountered during construction, whether or not shown on the original plans.

All public improvements (water, sanitary sewer, storm drain, streets) shall be as-built. The elevation of gravity (sewer, drainage) features shall be confirmed by survey. Contractor shall conform to the requirements to the City's As-Built" checklist.

As-built survey data shall be based upon the same site benchmarks as the construction plans.

Record drawings shall bear the signature and seal of either a currently registered engineer or land surveyor in the State of Arizona. Record drawings shall be furnished to the City in both digital and full-sized reproducible mylar (one set) format.
No separate payment shall be made for record drawings, The cost shall be included within the appropriate associated items of work.

SECTION 105 – CONTROL OF WORK

105.8 CONSTRUCTION STAKES, LINES AND GRADES:

(revise to read)

The contractor shall provide all construction staking necessary for the project based upon control points shown on the plans or provided by the Engineer. Construction staking shall proceed under the supervision of a Land Surveyor licensed to practice in the State of Arizona.

The contractor shall provide appropriate identification and verification of furnished control points prior to commencing survey.

SECTION 106 - CONTROL OF MATERIALS

106.2 SAMPLES AND TESTS OF MATERIALS

(third paragraph; revise second sentence to read as follows)

Unless otherwise specified, samples and tests will be made in accordance with either: the Materials Testing Manual of the Contracting Agency; the standard methods of AASHTO, ASTM, or ADOT, which were in effect and published at the time of advertising for bids.

SECTION 107 - LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

107.1.2 MAINTENANCE OF TRAFFIC

(revise to include the following)

Should it be necessary to close access to private property, business, driveways or alley entrances, the closure must be for as short a time as possible and be restored at the end of the work shift. If primary access cannot be restored, the Contractor shall provide an alternative, which will be coordinated with the owner and pre-approved by the City prior to any restrictions being implemented.

Sanitation Pickup:

Regular residential sanitation pickup in the area of this project is scheduled twice per week. Commercial dumpster pick up varies from location to location. Coordinate with the City's Environmental Division for pick-up days. When construction activity interferes with sanitation pickup, the Contractor shall provide for sanitation vehicle access to the affected properties or relocate the trash containers where access is acceptable. The Environmental Division of the Public Works Department contact person is Rudy Almendarez at (928) 774-0668. If trash or recycle pick up is obstructed by construction activity, the Contractor will be responsible for proper disposal.

107.6 PUBLIC CONVENIENCE AND SAFETY

REMOVAL OF PARKED VEHICLES

(revise to include the following)

The Contractor shall give written notice, describing the proposed work and parking restrictions, to each adjacent business or residence. Written notice (with specific dates of anticipated construction work) shall be given at least 24 hours in advance of the work and no more than three working days before the work is scheduled to begin. In the event that the work requires removal of parked vehicles, they will be removed to the nearest convenient side street at the Contractor's expense. No separate payment will be made for this work.

The contractor shall give written notification to each affected resident at least 48 hours prior to any disruption to water or sewer service in the construction area. The notice must include the exact time of the disruption and the expected duration of the loss of service. Disruption of water or sewer services shall only be between the hours of 9:00 AM and 4:00 PM.

107.7 BARRICADES AND WARNING SIGNS

(revise to include the following)

The Traffic Barricade Manual referred to under this section and thereafter in the Standard Specifications shall be part of VI of the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD).

107.9 PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE:

(revise to include the following)

The Contractor shall take special care to control construction-related dust and noise and to keep the project site cleaned up to the greatest extent possible. The Contractor is responsible to coordinate alternate measures for any impacted operations as mentioned which are acceptable to the parties involved.

Survey monuments and property corners shall be protected and not disturbed unless specifically called out on the plans for replacement. All costs associated with protecting or re-establishing disturbed survey monuments and property corners shall be borne solely by the Contractor.

Concrete curb and gutter that is not designated for removal and replacement shall be protected. All costs associated with unauthorized removal and replacement or damage shall be borne solely by the Contractor.

The Contractor is responsible for replacing and/or restoring landscaping including but not limited to fences and walls of any type, plantings, pea gravel, grass (sod and seeded), brick pavers, concrete driveways, asphalt driveways, landscape rock, and owner improvements associated with the project. All replacement and restoration costs shall be included in the bid. The Contractor is responsible for removing existing improvements and salvaging items for replacement at the same location or relocation as directed by the Owner after the public improvements are finished. The Contractor is responsible for replacing materials in like kind. This may necessitate close coordination with property owners.

SECTION 108 - COMMENCEMENT, PROSECUTION AND PROGRESS

108.4 CONTRACTOR'S CONSTRUCTION SCHEDULE:

(revise to include the following)

It is the intention of the City of Flagstaff that the following streets be re-striped prior to opening to traffic.

Chip Seal Streets:

Map ID	Street Name	Start	Stop
7	Cherry Ave.	Humphreys St.	Thorpe Rd.
8	Cochise Dr.	Lake Mary Rd.	Zuni Dr.
13	Leupp Dr.	Zuni Dr.	North End
14	Kofa Dr.	Zuni Dr.	South End
15	Northwestern St.	Route 66	North End
17	Railroad Springs Blvd.	Adirondack Ave.	Route 66
21	Mohawk Dr.	Walapai Dr.	Lake Mary Rd.
24	Pinal Dr.	Mohawk Dr.	Papago Dr.
28	Gila Dr.	Zuni Dr.	Pima Dr.
31	Sitgreaves St.	Birch Ave.	Elm Ave.
32	Thompson St.	Kaibab Ln.	Route 66
33	Birch Ave.	Thorpe Rd.	Park St.

35	Box Canyon Tr.	Cattle Drive Trl.	South End
37	Kilte Ln.	Woody Mountain Rd.	North End
39	Mission Timber Cir.	Presidio Dr.	Pardo Calle
40	Presidio Dr.	Woody Mountain Rd.	Mission Timber Cir.
41	Patio Del Presidio	Woody Mountain Rd.	Pais Del Norte
42	Pais Del Norte	Mission Timber Cir.	Patio Del Presidio
43	Pardo Calle	Presidio Dr.	Mission Timber Cir.
53	Lake Mary Rd.	Mohawk Dr.	Beulah Blvd.
54	Pulliam Dr.	High Country Trl.	End of Curb
55	Pulliam Dr.	End of Curb	End of Curb
56	Pulliam Dr.	J.W. Powell	End of Curb
57	High Country Trl.	Wild West Trl.	Pulliam Dr.
58	Lake Mary Rd.	Walapai Dr.	City Limits
59	Forest Ave.	Fort Valley Rd.	Beaver St.
60	Cedar Ave (slip lane)	West St.	Cedar Ave.

If the scheduling of the work does not permit re-striping of these streets prior to opening to traffic, lighted vertical panels shall be installed and maintained on 40' spacing, separating the opposing lanes of traffic and delineating designated turn lanes., until the required re-striping is completed. In all cases, restriping shall be completed within 48 hours of completion of the surface treatment and opening to traffic. All preformed plastic markings shall be placed within one week of completion of surface treatment and opening to traffic.

SECTION 200 EARTHWORK

SECTION 211 - FILL CONSTRUCTION

211.2 PLACING

(fourth paragraph, revise last sentence to read)

However, such material shall not be placed within 3 feet of the finished subgrade of the fill.

211.3 COMPACTING

(fifth paragraph; revise last sentence to read)

Each layer shall be compacted to a uniform density of not less than 95 percent, or as directed by the Engineer.

(sixth paragraph; revise first sentence to read)

When fill material contains by volume over 25 percent of rock larger than 6 inches in the greatest dimension, the fill (up to 4 feet below finished subgrade) may be constructed in layers of a loose thickness not exceeding the maximum size of rock in the material. In no case shall such layers exceed 3 feet in thickness.

SECTION 300 – STREETS / RELATED WORK

SECTION 301 – SUBGRADE PREPARATION

301.2.2 UNSTABLE SUBGRADE

(revise to include the following)

If it is determined by the owner's representative that the subgrade is unstable for compaction and placement of aggregate base the contractor shall use one of the following methods to make subgrade stable. This work shall be accomplished at no additional cost to the Owner.

Remove unsuitable subgrade and replace with additional subbase (minimum of 2 feet of stockpiled asphalt millings or (ABC) or as directed by Engineer. Contractor should consult with Engineer prior to performing work.

Once the suspect areas are stabilized to the satisfaction of the engineer, the normal ABC sub-base should then be installed. The contractor shall take all reasonable efforts to eliminate or reduce construction traffic on the repaired areas.

301.3 RELATIVE COMPACTION

(revise phase in the first line of the first paragraph as follows)

"...depth of 6 inches." (deleted)

"...depth of 9 inches." (inserted).

(revise last three paragraphs to read)

The subgrade shall be scarified and loosened to a depth of 9 inches. When fill material is required a layer of approximately 3 inches may be spread and compacted with the subgrade material to provide a better bond. The subgrade cut and fill areas shall be constructed to achieve a uniform soil structure having the following density when tested in accordance with AASHTO T-99, Method A; T-191 or ASTM D-2922; and D-3017 with the percent of density adjusted in accordance with the rock correction procedures for maximum density determination, standard detail #190, to compensate for the rock content larger than that which will pass a No. 4 sieve:

a. Major streets - 95 percent
b. Other streets and traffic ways - 95 percent
c. Curbs, gutter and sidewalks - 95 percent

(modify to add:)

Moisture content shall be within two percent of optimum.

301.4 SUBGRADE TOLERANCES:

(revise to read)

Subgrade upon which pavement, sidewalk, curb and gutter, driveways, or other structures are to be directly placed shall not vary more than ¼ inch from the specified grade and cross-section. Subgrade upon which sub-base or base material is to be placed shall not vary more than ¼ inch from the specified grade and cross-section. Variations within the above specified tolerances shall be compensating so that the average grade and cross-section specified are met.

301.8 PAYMENT:

(revise to read)

No separate payment shall be made for subgrade preparation.

SECTION 305 STREET REBUILDING

(revise to include a new section)

305.1 DESCRIPTION

Certain small areas of the streets to be overlaid are to be rebuilt before overlay. These areas will be marked in the field by the Engineer. This work shall consist of removal and disposal of existing materials, subgrade preparation, and furnishing and placing asphaltic concrete.

305.2 CONSTRUCTION

The areas may vary in size. The existing pavement, base, and subgrade will be removed to an elevation that will facilitate minimum City of Flagstaff asphalt structural sections in detail 10-09-010. The subgrade will be compacted to 95%. The existing pavements shall be wheel or saw cut back to a neat straight line. The asphaltic concrete (3/4") will be placed and compacted so that it meets the following requirements:

1. The density of the asphaltic concrete is as specified under Section 321.
2. The finished grade of new asphalt can be up to 1/4" above but no lower than the adjacent existing pavement or as directed by owner's representative.
3. The maximum thickness of the new asphaltic concrete is 6" placed in 2 lifts or as necessary to match existing pavement grade.

305.3 MEASUREMENT AND PAYMENT

Measurement and payment will be made at the contract unit price for each square yard of pavement removed and replaced as directed by the Engineer. Payment will be accepted as full compensation as for all equipment, labor and materials used under this item.

SECTION 310 – PLACEMENT AND CONSTRUCTION OF AGGREGATE BASE COURSE

310.1 DESCRIPTION

(revise to read)

Aggregate base shall be a crushed Aggregate Base Course in accordance with Section 702.2.

310.2 PLACEMENT AND CONSTRUCTION:

(revise 3rd paragraph to read)

After placement, the aggregate base course surface shall be true, even and uniform conforming to the grade and cross-section specified. In no case shall the aggregate base course vary by more than ¼ inch above or below required grade.

Untreated base compaction shall be 95% under curb/gutter, sidewalk, driveway and alley entrances, handicap ramps, and catch basins. Under streets untreated base compaction shall be 100%. Moisture content shall be within two percent of optimum.

(modify to add)

Should suspension of operations take place between time of initial base placement and commencement of paving operations, contractor shall place additional aggregate base as required, and reestablish the specified grade and cross sections and compaction prior to paving.

Finish grading of aggregate base may be checked and verified by the Engineer. In areas of new paving, paving cannot commence until the grades have been checked and verified by the Engineer. The Engineer shall be notified once finish grading is ready for verification. The Engineer shall complete his or her checking and verification within 24 hours of notification. If the grades in these areas are found to be unacceptable by the Engineer, the Contractor shall regrade the areas to the satisfaction of the Engineer, at no additional expense to the Owner.

If, during the paving operations “soft spots” in the ABC are noted, they shall be excavated to a sufficient depth and backfilled with compacted ABC material (8” lifts) so that they are eliminated. No additional pavements will be made for soft spot repairs, the cost is to be included in the bid price.

310.4 PAYMENT

(revise to read)

The cost for aggregate base shall be included in the appropriate bid price for which aggregate base is required. .

SECTION 311 - PLACEMENT AND CONSTRUCTION OF CEMENT TREATED SUBGRADE

311.2 MATERIALS

(second sentence, revise to read)

The soil for the mixture shall consist of the material in the area to be paved or approved selected material.

(last sentence, revise to read)

The cement content shall be determined by the procedures set forth in AASHTO T136-50 or ASTM D560-67. The selection of a cement content based on compressive strength requirements without regard to freeze-thaw durability will not be allowed.

311.4 CONSTRUCTION METHODS

(second paragraph, modify to add)

Soil cement base course shall not be mixed with or placed on any frozen material. At the time of mixing and placing the air temperature shall be a minimum of 40ºF (5ºC) and rising, and the surface temperature shall be a minimum of 45ºF (10ºC). The soil cement base course shall be protected from freezing for a minimum period of seven (7) days.

SECTION 321 – PLACEMENT AND CONSTRUCTION OF ASPHALT CONCRETE PAVEMENT

321.2 MATERIALS AND MANUFACTURE

(modify to add)

For patching and remove and replacements asphalt concrete shall be a Type 3/4” dense surface course PG 58-28 for all asphalt paving, unless modified by the Engineer.

In addition to the requirements of M.A.G. Section 710, the aggregates and mix to be incorporated into the work must also meet the following requirements:

Test	Test Results
Index of Retained Strength	60 Min.

Compaction of asphalt concrete shall be a minimum of 95% of ASTM D1559-75 Blow Method.

Minimum temperature as measured at lay down machine to be 275 degrees F.

321.4 APPLICATION OF TACK COAT

(modify to add)

Tack coat applied to vertical surfaces shall be sprayed (pressurized sprayer) or brushed on to ensure total (100%) coverage of the surface. Dribbling, spray bottle, or pouring on will not be approved.

321.8.1 PLACING

(modify to add)

Asphalt concrete shall only be placed upon a surface of at least 70ºF. The temperature of the asphalt concrete of any course, just prior to the dumping of the material from the hauling vehicle, shall be at least 275ºF; a lower temperature is allowed if written approval is given by the Engineer. Compaction and finishing shall be completed before the mix has cooled to 180ºF. The Engineer may authorize placement of asphalt concrete upon surfaces having a temperature of 45º. For above, providing those mentioned above and the following conditions are met.

a. The underlying surface is dry.

b. The weather is dry and without threat of precipitation.

c. The temperature of the asphalt concrete mixture is such that the sum of the air temperature plus the temperature of the mixture when placed is at least 320ºF – 345ºF pending on above surface temperatures.

d. Asphalt concrete shall not be placed on grade that appears to be frozen.

Self-propelled lay down machines shall be used for all paving. This shall include patches larger than ±40 S.Y. (depending on patch shape) and as directed by the Engineer. Smaller patches may be placed by hand methods if the Contractor can demonstrate adequate placement and finishing control to the satisfaction of the Engineer. The size of the paver shall be approved by Engineer prior to beginning paving.

321.8.2 JOINTS

(modify to add)

Cold transverse and longitudinal joints shall be either trimmed backed and tacked, or heated with a joint heater. A cold joint shall be defined as any joint which has been placed for 6 hours or longer before adjoining asphalt is placed, unless approved by the Engineer.

The Contractor shall provide sufficient rollers (size and number) to compact the asphalt to the specified density. If the rollers being used do not appear capable of reaching the minimum density (as shown by field test results) paving operations shall be suspended until proper equipment is available.

Coarse aggregate from any and all raking operations shall be removed from the fresh asphalt surface prior to rolling.

321.8.3 ASPHALT LEVELING COURSE

(modify to add)

An acceptable surface shall not vary more than 1/4 inch from the lower edge of a 10 foot straightedge when placed parallel to the centerline of the roadway.

321.8.4 COMPACTION: ASPHALT BASE COURSE AND SURFACE COURSE

(add the following after the Table 321-2)

The Engineer at his sole discretion may authorize placement of asphalt concrete outside of the parameters of Table 321-2. Said authorization, if given, shall be in writing.

Asphalt shall not be placed on grade that is frozen.

321.8.5 SMOOTHNESS

(modify to add)

The contractor is to supply the 12 foot straightedge. The straightedge shall meet the approval of the Engineer prior to testing.

321.10.3 GRADATION, BINDER CONTENT AND AIR VOIDS

(modify first two sentences of the fourth paragraph)

The asphalt cement content shall be considered acceptable if it is within -0.30% to +0.40% of the mix design target value. If the asphalt binder content deviates more that the above amounts from the target value…

(modify next-to-last sentence from the fourth paragraph)

If the resulting average of the asphalt binder content deviates by more than -0.30% to +0.40% from the mix design target value…

321.10.4 ASPHALT PAVEMENT THICKNESS

(modify to add #4)

(4) Notwithstanding the provisions of (2) and (3) above, the following shall be considered the default remedial action for pavements of insufficient thickness:

When the deficiency of the pavement thickness exceeds 1/4 inch, the pavement shall be overlaid on the area affected. In no case shall this overlay be less than one City block or 660 feet in length, whichever is less. This overlay shall be placed over the full width of pavement with a new mat of material specified by the Engineer; equal in thickness to the deficiency, but not less than 1 inch in any instance.

Any remedial action other than that outlined under (4), including those addressed as a part of (2) and (3), as well as reduced payment provisions under Table 321-6, shall be at the sole discretion and written approval of the Engineer.

321.13 PAYMENT

Modify to add:

The cost for asphalt concrete pavement, including tack coat, shall be paid for as a part of the appropriate unit bid price for the thickness and type of asphalt concrete specified.

SECTION 330 - ASPHALT CHIP SEAL

330.2.1 ASPHALT

(modify to add)

Emulsified asphalt Type CRS-2P shall be used for the chip seal coat. Refer to Section 713.

330.3 TIME OF APPLICATION AND WEATHER CONDITIONS

(second paragraph; revise second sentence to read)

The ambient air temperature shall be at least 70ºF and rising.

(third paragraph, revise to read)

Asphalt chip seal shall not be performed between October 1 and May 1 unless specifically permitted by the City Engineer.

330.4.8 PROTECTION TO ADJACENT PROPERTY

(add new subsection)

The Contractor shall protect all manhole covers, water valve boxes, survey monuments, catch basins and other man-made features so that no bituminous material or cover material remains, and so that covers can be easily accessed after sweeping. All adjacent sidewalks and driveways shall be swept and maintained clear of loose cover material.

SECTION 336 - PAVEMENT MATCHING AND SURFACING REPLACEMENT

336.2.2 PAVEMENT TO BE REMOVED

(modify to add)

The Engineer or his representative will field mark (in white or pink paint) approximate areas for removal and replacement. The contractor is to call Blue Stake (1-800-STAKE IT) PRIOR to digging or removing pavement.

336.2.3 TEMPORARY PAVEMENT REPLACEMENT

(modify to add)

Temporary pavement replacement, as required in Section 601, shall be with UPMTM or an approved equal with a minimum thickness of 2 inches and shall conform to the following requirements:

DESCRIPTION:

1. The paving material shall be composed of an aggregate, as specified herewith, and plant mixed with Unique Paving Material (U.P.M.tm) liquid asphalt blend from the Sylvax Corporation or approved equal. The bituminous material shall be capable of coating wet aggregates without stripping, shall be available in various grades, and permit any one grade to be stockpiled and remain pliable and workable at a temperature of -15ºF for a minimum period of 12 months.
2. The paving material shall be capable of maintaining adhesive qualities in an uncovered stockpile or in paved areas which were damp or wet at the time of application for a minimum period of 12 months.

MATERIALS:

1. The aggregate gradation shall meet the following requirements:

Size	% Passing
3/8 inch Sieve	100
No. 4	85-100
No. 8	10-40
No. 16	10
No. 50	0-5
No. 200	2 maximum

2. The aggregate shall also meet the following criteria:

Sand equivalent	45 min.
Crushed faces	70% min.
Flakiness index	25 max.
Absorption	1.0 – 2.5%
Specific gravity	2.55 – 2.75%

3. Bituminous material:

The bituminous material shall be UPMTM liquid asphalt blend from the Sylvax Corporation or approved equal. When prepared from a base asphalt stock of either AC-10 or AC-20 and blended, it shall meet the following requirements:

Flash point (TOC)	200ºF (94ºC) min.
Kinematic Viscosity @140ºF (60ºC)	1000 – 4000 cSt
Water	0.2% max.

Distillate Test
(volume of original sample)

To 437ºF	0%
To 500ºF	0 – 55%
To 600ºF	0 – 20%
Residue from Distillate @ 680ºF	78 – 95%

Residue Test:

Absolute Viscosity @ 140ºF	125 poises
Penetration	200 min.

Ductility @ 39ºF	100 min.
Solubility in Trichloroethylene	99% min.

4. Composition of Mixture:

The mixture shall consist of an aggregate as specified and a bituminous material as specified mixed in such a manner as to contain approximately 6% of bituminous material per finished ton.

5. Preparation of Mixture:

The asphalt shall be heated to a temperature between 150ºF and 300ºF and mixed with the heated aggregate until all aggregates are uniformly coated. The mixed temperature shall not exceed 170ºF.

6. Plant and Equipment:

A batch-type mixer of approved design and capacity shall be used in mixing the ingredient materials.

336.2.4 PERMANENT PAVEMENT REPLACEMENT

(modify to add)

Reconstruct Areas

Pavement reconstruction (reconstruct areas) shall be replaced as per the details shown on the plans for all reconstruction areas. The geotextile fabric shall be a nonwoven material (Geotex™ 801 [8 oz/sq. yd.]) or approved equal. Installation shall be as per Arizona Department of Transportation; *"Standard Specifications for Road and Bridge Construction"*, Section 306; the manufacturer's recommended procedures, and to the approval of the Engineer.

If the plans or Engineer calls for a soil stabilization geotextile the specified triaxial soil stabilizing material is to be Tensar TriAx(tm) TX160 or approved equal and installed over a nonwoven fabric as specified above, per manufacturer's specifications.

Any and all asphalt reconstruct areas located on "free" asphalt edges to include thickened asphalt as per MAG S.D. 201, Type "B". All pavement replacement asphalt shall be M.A.G. PG 58-28 mm as specified in Section 710

336.2.5.1 EXCESSIVE CRACKS / VOID FILLER

(modify to add)

Prior to any overlay construction the contractor is to fill in all pavements cracks per Section 337.

336.2.5.2 EXCESSIVE RUTTING AND SHOVING FILLER

(Modify to add section)

Prior to any overlay construction the contractor is to fill (microsurface) in all pavements rutting / shoving in excess of ½" (depth) with the appropriate size (gradation) of hot mix asphalt.

336.5 PAYMENT

(modify to add:)

Payment for pavement matching (patch) will be made on the basis of square yards under the Street Rebuilding (contingency) line item. Payment for crack / void excessive rutting and shoving filling will be made on the basis of tons of material placed.

SECTION 337 CRACK SEALING

(revise Section to read)

337.1 GENERAL

Crack sealing shall consist of blowing out loose material and sealing all cracks wider than 1/4 inch and narrower than 1 3/4" with an approved crack sealant.

For edge mill streets: Crack sealing shall take place prior to milling.
For full-width mill areas: Crack sealing shall take place after any specified milling and prior to placement of overlay.
Locations identified in Appendix D shall receive only crack sealing.

337.2 MATERIALS

The crack sealant shall be composed of asphalt, reclaimed and or virgin synthetic rubber, and polymer modifiers. The material shall be approved by the Engineer prior to notice to proceed and shall meet the following requirements:

TEST	METHOD	REQUIREMENT
Softening point	ASTM D-36	200º F. Min.
Cone penetration @77ºF	ASTM D-3407	30 Min.
Resilience @77º F	ASTM D-3407	40% Min.
Flow	ASTM D-3407	3 mm Max.
Safe heating Temperature		410º F. Min.

Crack sealant shall be applied in accordance with manufacturer's recommendations.

337.4 APPLICATION

Cracks in existing pavements 1/4 inch wide or wider shall be sealed. Cracks that are wider than 1-3/4" shall not be filled with crack sealant, but shall be filled with 3/8" hot mix asphalt. **Those cracks that are filled with dirt shall be blown out to a depth of no more than 1 1/2".**
Crack sealant shall be placed to an elevation approximately 1/4" below the pavement surface. Sealant on the pavement surface shall be minimized. Should traffic pick up the crack seal material, the contractor shall provide and apply sand or a **very light** application of fine graded sand to protect the sealant. If the contractor opens the roadway to traffic before the sealant is set, sand application will be done at the contractor's expense.

337.8 MEASUREMENT

Crack sealant shall be measured by the ton of sealant complete in place. The method of accounting for the material shall be discussed at the preconstruction conference and shall be acceptable to the Engineer. No separate measurement will be made for any sand necessary to prevent pickup by traffic.

337.9 PAYMENT

Payment will be full compensation for furnishing and placing all materials specified and used and shall include all labor, traffic control, equipment, tools and incidentals necessary to complete the work as prescribed and directed by the Engineer. All costs for sand or Portland cement will be included in the unit price for crack sealant.

SECTION 400 – RIGHT-OF-WAY TRAFFIC CONTROL

SECTION 401 - TRAFFIC CONTROL

401.4 TRAFFIC CONTROL MEASURES

(modify to add)

The streets shall remain open to traffic at all times. The traffic control for the following streets shall be:

Chip Seal Streets:

Map ID	Street Name	Start	Stop	
15	Northwestern St.	Route 66	North End	1 Lane, 2 Directions with flagmen
17	Railroad Springs Blvd.	Adirondack Ave.	Route 66	1 Lane, 2 Directions with flagmen
21	Mohawk Dr.	Walapai Dr.	Lake Mary Rd.	1 Lane, 2 Directions with flagmen
32	Thompson St.	Kaibab Ln.	Route 66	1 Lane, 2 Directions with flagmen
37	Kilte Ln.	Woody Mountain Rd.	East End	1 Lane, 2 Directions with flagmen
40	Presidio Dr.	Woody Mountain Rd.	Mission Timber Cir.	1 Lane, 2 Directions with flagmen
41	Patio Del Presidio	Woody Mountain Rd.	Pais Del Norte	1 Lane, 2 Directions with flagmen
53	Lake Mary Rd.	Mohawk Dr.	Buelah Blvd.	1 Lane, 2 Directions with flagmen
54	Pulliam Dr.	High Country Tr.	End of Curb	1 Lane, 2 Directions with flagmen
55	Pulliam Dr.	End of Curb	End of Curb	1 Lane, 2 Directions with flagmen
56	Pulliam Dr.	JW Powell Blvd.	End of Curb	1 Lane, 2 Directions with flagmen
57	High Country Tr.	Wild West Tr.	Pulliam Dr.	1 Lane, 2 Directions with flagmen
58	Lake Mary Rd.	Walapai Dr.	City Limits	1 Lane, 2 Directions with flagmen
59	Forest Ave.	Fort Valley Rd.	Beaver St.	1 Lane, 2 Directions with flagmen
60	Cedar Ave. Slip Lane	West St.	Cedar Ave.	1 Lane, 2 Directions with flagmen

Prior to any construction, the contractor is to submit a traffic and pedestrian (if applicable) control plan for revisions and approval.

The Contractor is to supply and install, at 40-foot spacing, temporary raised pavement markers along the existing pavement stripes on the streets identified on the plans. Temporary raised pavement markers shall be a supplied by Davidson Plastics Company or approved equal. The furnishing and installation of temporary raised pavement markers shall be considered incidental and included in the price for traffic control.

401.5 GENERAL TRAFFIC REGULATIONS

(modify to add)

The contractor will reinstall all permanent traffic control devices as required by the approved construction plans and specifications.

Existing traffic signs, including stop, yield and street name signs shall be maintained by the contractor until such time as construction renders them obsolete. The contractor shall be responsible for furnishing and installing all permanent traffic signs as required by the construction plans and specifications.

401.6 MEASUREMENT

(revise to read)

Traffic control shall be measired as a single lump sum over the duration of the project.

401.7 PAYMENT

(modify to add)

Payment for traffic controls shall be a single lump sum.

SECTION 405 - MONUMENTS

405.2 MATERIALS

(revise second paragraph to read)

All concrete shall be Class A with 5 to 7% air entrainment

405.4 INSTALLATION

(revise to read)

Existing survey monuments shall be referenced, and if necessary reestablished by a surveyor registered in the State of Arizona.

The surveyor shall provide reference marks and dimensions to the survey monuments. A minimum of two "permanent" reference marks shall be established for each right-of-way control monument. The angle formed by the control point and the two reference points shall be approximately 90 degrees. Examples of permanent reference marks include an "x" chiseled into curb, PK nail in concrete and a nail in a power pole. Any suitable reference marks found to be existing may be used.

Alternatively, the surveyor may determine and record the location of existing survey monuments using global positioning satellite (GPS) equipment and procedures of appropriate survey-grade accuracy.

No new survey monument locations shall be incorporated into this project without prior approval from the City Engineer or representative.

Any survey monuments with boxes and covers shall be adjusted to grade by the Contractor without disturbing the survey monument.

The location of existing survey monuments must be referenced and made accessible to the City. The monuments are to be reset after overlay as per COF Std. Dwg. 11-01-010. The work shall be performed under the supervision of a registered land surveyor. The Engineer will designate the monuments to be reset. Monumentation shall consist of a reinforcing bar and cap, with the registrants number, that shall be driven or secured by a means approved by the Engineer. Monuments shall be furnished by the Contractor. A results of survey map shall be prepared and recorded with the office of the Coconino County recorder by the Contractors surveyor to show the monuments found and set.

SECTION 700 - MATERIALS

SECTION 702 - BASE MATERIALS

702.1 GENERAL

(modify to add)

The aggregate base course will be clean, free of organic matter, and be of such a nature to be compacted to a dense, firm layer capable of supporting loaded trucks and self-propelled pavers without rutting. Volcanic cinders shall not be used for base materials.

702.2 PHYSICAL PROPERTIES

(revise Table 702-1 as follows)

For aggregate base, the percentage by weight passing the No. 200 sieve shall be limited to no more than 10 percent.

SECTION 703 - RIPRAP

703.2 PHYSICAL PROPERTIES

(modify to add)

Waste concrete may not be used.

SECTION 710 - ASPHALTIC CONCRETE

710.2.1 ASPHALT BINDER

(revise the section to read)

The asphalt to be mixed with the mineral aggregate shall be paving grade asphalt conforming to AASHTO Designation MP1, *Standard Specification for Performance Grade Asphalt Binder* and shall be 58-28 for pavement and patching, and 68-28TR+ for MAC unless otherwise specified in these Special Provisions.

710.3 MIX DESIGN REQUIREMENTS

710.3.2.1 MARSHALL MIX DESIGN

(revise to include the following)

Marshall mix design criteria will be used for both ¾ mix and MAC. The aggregates and mix to be incorporated into the work shall also meet the following additional requirements:

Test	Acceptable	Test Results
AC TYPE Test	3/4”	½” MAC
Absorbed Asphalt Range (ASTM 1559)	0 - 1%	0 - 1%
Combined Water Absorption (AASHTO T-84)	0 - 2.25%	0 - 2.25%
Marshall Stability (ASTM D1559)	1800 min	1,000 min
Flow (ASTM D1559) Units of .01 inches	8 to 18	15 min
Air Voids Content (mix)	3% to 5%	3% to 5%
Tensile Strength Ratio (TSR) (AASHTO T 283, with optional freeze cycle)	0.75 min	0.75 min
Sodium Sulfate Soundness (AASHTO T-104)	12 % max	12 % max
Percent Carbonates (Arizona test Method 238)	30 % max	30 % max
Binder Content	5.3% to 6.0%	5.5% to 7%

All asphaltic concrete and modified asphaltic concrete shall contain a minimum of 1% Portland cement or dry hydrated lime by weight of total aggregate added to the aggregate in a pug mill prior to addition of the binder. The moisture content of the aggregate immediately prior to the addition of the admixture shall be a minimum of 3.0 %.

The contractor shall furnish the engineer with a job-mix formula for asphalt concrete not less than ten (10) days in advance of actual placement of the material. The job-mix formula, upon approval of the Engineer, shall be used to establish the standards to which field test results will be compared and to determine compliance of the materials furnished with all physical properties of the composite mix and its individual components as shown on the approved job-mix formula. The job-mix formula, with the allowable tolerances for a single test shall be used for monitoring compliance with the specifications. The maximum permissible variation in the daily Marshall Plug unit weight from the unit weight shown in the approved job-mix shall be +/- 3%. If the unit weight of the Marshall Plug deviates from the permissible variation by more than 1%, production shall be halted until suct time as the excess variation is corrected.

The aggregate and mix to be incorporated into the work shall also meet the following requirements:

TEST	ACCEPTABLE TEST RESULTS
Loss on Abrasion (ASTM C0131 and/or AASHTO 96) after 500 revolutions	40 Max.

Absorbed Asphalt Range (AASHTO T-245	0 – 1%
Combine Water Absorption (AASHTO T-84)	0 – 2.25%

All asphalt conctete shall contain a minimum of 1% Portland concrete or dry hydrated lime by weight of total mixture.
The percent of asphalt range for all 3/4 inch asphaltic concrete shall be from 5.3% to 6.0%.
The asphalt cement content shall be considered acceptable if it is within -0.30% to +0.40% of the mix design target value.
See Section 719 for additional requirements for Modified Asphaltic Concrete.

SECTION 713 - EMULSIFIED ASPHALT MATERIALS

713.1 GENERAL

(modify to add)

REQUIREMENTS FOR ANIONIC/CATIONIC EMULSIFIED ASPHALT
CATIONIC RAPID-SETTING POLYMER-MODIFIED ASPHALTIC EMULSION, CRS-2P

Test Description	Test Method	Min	Max
TEST OF EMULSION			
Viscosity, SFS @ 122 F	D244	125	400
Settlement, 5 days, %	D244		5
Storage Stability 1 Day, %	A244		1
Class, Un-coated Par	A502	60	
Particle Charge Test	D244		+
Sieve Test, %	D244		0.30
Oil Distillate, % V of Emulsion	D244		3
Residue by Distillation, %	D244	66	
Tests on Residue by VACUUM RECOVERY A512			
Viscosity, ABS, Poise @ 140 F	D2171	1800	2800
Pen @ 77F, 100g/5 sec, Dmm	D5	40	90
Ductility, 77F, 5 cm/min, Cm	D113	40	
Solubility in TCE, %	D2042	97.5	
Toughness, inch-pounds	(1)	150	
Elastic Recovery by means of Ductilometer, %	T301	58	
Tenacity, inch-pounds	(1)	110	
Polymer Content (by wt. Of solids) %	CAL-401	2.5	
TEST ON RTFO RESIDUE			
Aging Ratio, ABS viscosities	D2171		2.5
POLYMER REQUIREMENTS			
Melt flow rate, dg/min 190 C	D1238		45

1) Benson method of toughness and tenacity: Scott tester, inch-pounds @ 77ºF, 20 inches per minute pull. Tension head 7/8" diameter.
2) Upon standing undisturbed for a period of 24 hours, the emulsion shall show no white milky film upon the surface.
3) The base asphalt shall be modified prior to emulsification.
4) The emulsion shall be precertified prior to use. A one-quart sample each of the base asphalt and polymer shall be supplied to the agency 10 days in advance to the project start.

SECTION 716 - COVER MATERIAL

716.1 GENERAL

(modify first paragraph to add)

No volcanic cinders will be acceptable for cover material.

716.2.3 GRADATION

(revise Table 716-1 and 716-2 to read)

GRADATION CM-11

Sieve Size	% Passing
3/8 inch	100
No. 4	0-40
No. 8	0-5
No. 200	0-2.0

SECTION 725 - PORTLAND AND CEMENT CONCRETE

725.1 GENERAL

(modify to add)

As tested in accordance with ASTM C-39, the maximum slump shall be 4 inches, or as specified in the Special Provisions, when tested in accordance with ASTM C-143.

Class AA concrete, with 5 to 7% entrained air, shall be used for all valley gutters and as specified.

Class A concrete shall be used for concrete structures, either reinforced or non-reinforced. Additionally, Class A concrete with 5 to 7% entrained air shall be used for all curbs, gutters, sidewalks, and exposed structures except as may be specified otherwise.

Class B concrete shall be used as specified, except 5 to 7% entrained air shall be included for all exposed structures.

Class C concrete may be used for thrust blocks, encasements, fill or over excavation, and/or other purposes as approved by engineer.

725.3 AGGREGATES

(first paragraph after the second sentence: modify to add)

Aggregates must be subjected to five cycles of the sodium sulfate soundness test in accordance with the requirements of AASHTO T-104. The total loss shall not exceed ten percent by weight of the aggregate as a result of the test.

725.4 WATER

(last paragraph, mdify to add)

Water shall be sampled and tested in accordance with AASHTO T-26.

SECTION 797 – PAVEMENT MARKINGS

(add new section)

797.1 GENERAL

This work shall consist of cleaning and preparing the pavement surface, and applying longitudinal and transverse pavement markings as indicated on the plans or as specified herein.

Reference and incorporate appropriate portions of the Arizona Department of Transportation *Standard Specifications for Road and Bridge Construction – 2008* (herinafter ADOT SS) as indicated below.

797.2 MATERIALS AND INSTALLATION

797.2.1 LONGITUDINAL PAVEMENT MARKINGS

This item of work shall appply to all longitudinal pavement markings, as well as any other markings not specified to be pre-formed plastic.

Permanent Markings: All permanent pavement markings shall be furnished and installed in accordance with ADOT SS 708.

Temporary Markings: Temporary longitudinal pavement markings, when approved, shall be furnished and installed in accordancw with ADOT SS 701-3-05

797.2.2 TRANSVERSE MARKINGS, SYMBOLS AND LEGENDS

This item of work shall apply to all lane use arrows, all transverse pavement markings such as crosswalks and stop bar markings, and all pavment legend markings, except for bicycle lanes

Permanent transverse pavement markings shall be either:

Applied thermoplastic, vurnished and installed in accordance with ADOT SS 704, with a minimum 70 mil applied thickness, or

Preformed markings, furnished and installed in accordance with ADOT SS 705.

Temporary Markings: Temporary transverse pavement markings, when approved, shall be furnished and installed in accordance with ADOT SS 701-3-05

797.3 CONSTRUCTION PROVISIONS

The Contractor shall as-built and reference the existing lane striping and markings prior to construction. Unless noted otherwise on the plans or in these Special Provisions, the configuration of new lane striping and marking shall match that of the existing. Revised striping drawings are included in Appendix F.

The contractor is responsible for layout of the revised striping. The striping quantities do not include the revised striping for these revisions. The contractor shall estimate the cost of the pavement markings necessary to make the revisions indiocated and include those costs in the amount bid.

All new painted pavement markings placed under this contract shall receive a double application of traffic paint. The second application shall be applied no sooner than 3 hours after the first application.

All existing bike lane stripes are to be replaced as 6” wide solid white stripes. (Existing bike lane stripes may now be 4” wide) The existing bike lane symbols and cross walks are to be replaced in accordance with bike lane assembly details and piano key cross walk details shown on the plans. Bike lane diamonds are no longer required.

Double yellow centerline is to be replaced with a 6” space between the two 4” stripes. Revised striping drawings are included in Appendix F.

All crosswalks and stop bars shall be replaced with thermoplastic paint. Crosswalks shall be striped in a “piano key” configuration as shown in Appendix F. All lengths of crosswalks are given in the lengths of the crossing at the intersection, not the length of thermoplastic needed for the crosswalk. It is the contractor’s responsibility to determine how much thermal plastic paint is needed to install the piano key crosswalk at the given lengths of the crosswalks.

All turn lane symbols, and bike assembly markers must be replace with thermoplastic or preformed tape. If the striping is not a typical longitudinal lane marker stripe, it must be thermoplastic or preformed.

797.4 MEASUREMENT AND PAYMENT

Pavement markings shall be measured and paid for as a single lump sum, to include the cost of all preparation, materials, layout and application, including te cost of thoese changes shown on the plans or included in the Special Provisions.

APPENDIX – A (COF MATERIAL TESTING COST SHEET)

CITY OF FLAGSTAFF MATERIALS TESTING LABORATORY COST SHEET

HOURS	SOIL AND AGGREGATE	CHARGE
1.50	Abrasion test	82.50
6.50	California bearing ratio	357.50
0.50	Composite grading	27.50
0.75	Course sieve test	41.25
1.00	Density, sand cone, balloon	55.00
1.00	Density, nuclear (one hour minimum charge per trip) **	55.00
1.00	Drill rig (per hole)	55.00
1.00	Fine sieve test	55.00
1.00	Flakiness index	55.00
1.75	Fractured faces	96.25
2.75	Maximum density (Proctor)	151.25
1.00	Plastic index	55.00
1.00	Sand equivalent	55.00
2.25	Soil support - R value (gradation of)	123.75
5.50	Soundness sodium sulfate	302.50
1.50	Specific gravity and absorption	82.50

** All retests will be $55.00 each.

CONCRETE

1.00	Air content and slump	55.00
1.25	Concrete beams, mold can & break (per beam)	68.75
0.50	Concrete cylinders, mold can & break (per cylinder)	27.50
6.50	Concrete mix design check	357.50
0.75	Cores (per core)	41.25
1.00	Drill rig (per hole)	55.00
1.75	Sieve analysis	96.25

ASPHALT

1.00	Anti strip	55.00
6.50	Asphalt mix design check	357.50
0.75	Bitumen content (content gauge)	41.25
1.25	Bitumen content (ignition oven)	68.25
0.75	Core drilling (per core)	41.25
1.00	Density, nuclear (one hour minimum charge per trip) **	55.00
1.00	Drill rig (per hole)	55.00
2.50	Gyratory	137.50
1.25	Marshall plugs, set of three	68.75
5.50	Maximum density, Rice test	302.50
1.25	Moisture determination	68.75
1.75	Sieve analysis	96.25
1.00	Specific gravity , three set core	55.00
0.50	Specific gravity , per sample	21.50
1.25	Stability and flow, set of three	68.75
1.00	Voids, set of three	55.00

DRAFT

APPENDIX – B (REUSE OF WASTEWATER)

REUSE OF WASTEWATER FOR CONSTRUCTION ORIENTED PROJECTS

1. Reuse of Wastewater shall be limited to a 90-day period commencing on the date of signature of this form.

2. The cleanest, best disinfected effluent available at the wastewater treatment plant shall be used.

3. The effluent shall be chlorinated to an extent which will produce a free available chlorine residual in the hauling truck of at least 2.0 mg/l after 20 minutes contact time. A daily log shall be kept which indicates the chlorine residual at the point of discharge.

4. Warning signs shall be posted at the pumping station, the road, and on all spray trucks.

5. The water truck may not be utilized to haul anything except effluent, until it is thoroughly disinfected following completion of this project.

6. Where applicable, the following guidelines for occupational health shall be followed.

   a. Avoid skin contact and overspray.

   b. Truck operator should not spray if the water or mist could contaminate other employees or equipment.

   c. If exposed to this water, wash the affected areas thoroughly.

   d. If clothing becomes contaminated, shower and change clothes.

   e. All employees are instructed to keep a spare set of clothing in their lockers. Alternatively, the employer may keep an adequate supply of disposal suits on hand.

   f. If a non-employee is accidentally contaminated by the water, please instruct them to wash immediately. The on-site washrooms should be made available as needed. Immediately inform the foreman or superintendent if contamination occurs.

   g. Anyone working on the water truck (mechanics) should wash their hands and arms thoroughly after contact. Ideally, the truck should be washed prior to repairs.

   h. A worker who has had any contact with the water or associated equipment, shall wash their hands before smoking or eating.

DRAFT

i. The Manager is responsible for reviewing guidelines with all employees and ensuring that a copy of the guidelines are issued to each.

j. Attendance rosters should be maintained identifying all employees completing the review session. The attendance rosters should be filed at the Manager's office.

7. Employees who may have occasional hand contact with wastewater shall be restricted if cuts or open sores are present on the hands.

8. Hydrogen peroxide (H_2O_2) shall be used to control odor if needed.

The above list requirements may be supplemented by additional precautions deemed necessary by the consulting engineer, construction contractor, and other governmental agencies. Because the reuse of wastewater is temporary, will not include use on crops and will not result in any general public contact, the Water Permits Unit has determined that is is not necessary to obtain a Wastewater Reuse Permit. In addition, the lack of available potable water in the vicinity of the construction project makes reuse of wastewater a sound natural resource conservation measure.

This form shall be signed in the space provided by the party responsible for the wastewater application and returned within 14 days to:

Wastewater Reuse Permits Unit
Arizona Department of Environmental Quality
2005 N. Central Avenue
Phoenix, Arizona 85004

A signed form will be taken by the Department as agreement by the signatory to the above conditions.

Notify this office prior to modifying the above reuse plan. If there are any additional questions, please contact the Reuse Permits Unit at 257-2270.

_____ _____

Signature of Responsible Party Date

_____

Print Name

_____

Title

DRAFT

APPENDIX – C (ADDITIVE ADDITIONAL CRACK SEAL)

APPENDIX – D (STRIPING REVISIONS)

APPENDIX – E (AS-BUILT PLANS/RECORD DRAWING CHECKLIST)

AS-BUILT PLANS/RECORD DRAWINGS CHECKLIST

for

City of Flagstaff Public Improvements

April 27, 2015

Project Name: _____

Project No.: _____

Date: _____

All items listed below shall be provided on As-Builts/Record Drawings unless identified with N/A.

General (applies to entire plan set)

_____ As-Builts/Record Drawings plan set shall contain all sheets from the approved design/construction plan set (cover sheet to last sheet including details).

_____ As-Builts/Record Drawings shall contain all horizontal and vertical design information, sizes, thicknesses, and material types of improvements shown on the design/construction plan set (even if unchanged during construction).

_____ All plan sheets shall have an Engineer seal per B.T.R. rules.

_____ If the As-Built Engineer is different from the Design Engineer, provide the As-Built Engineer contact info on cover sheet.

_____ Place "As-Built" or "Record Drawing" lettering and date in lower right hand corner of all sheets.

_____ Improvements deleted in the field shall be crossed out with an "x" and labeled "not built".

_____ Improvements changed from the approved design plans shall be reflected and clearly called out by "clouding".

_____ Plan sheets that represent improvements that were not changed from the approved design plans shall have "Per Plan" placed in the lower right hand corner.

Sanitary Sewer Plans

_____ Improvements built exactly per design plan shall have the elevations/stations noted within parenthesis and marked "AB".

_____ Stations for all manholes, cleanouts, services and lateral stub-outs.

_____ Manhole pipe invert elevations (in and out) and manhole rim elevations shall be determined by field surveying.

_____ Pipe lengths indicated on both plan and profile.

_____ Recalculate longitudinal pipe slopes for all pipe segments. (All measurements to MH Centers)

DRAFT

_____ Stations and length of pipe encasements/extra protection.

_____ Anode locations and tracer wire connection stations and cross ties to two permanent structures.

Water Plans

_____ Stations of all water services including landscape and fire lines.

_____ Stations of all fire hydrants.

_____ Stations of all valve boxes, blow-offs, and air release valves.

_____ Stations of all bends, tees, and bell restraints.

_____ Profile view of all pipeline vertical alignments, including stations of all fittings, depth to finish grade, and pipe separation dimensions.

_____ Stations and length of pipe encasements/extra protection.

_____ Horizontal cross ties to two permanent structures (fire hydrants, light poles & ID #, power poles & ID #, etc.) for all valve boxes.

_____ Anode locations and tracer wire connection stations and cross ties to two permanent structures.

Drainage Plans

_____ Inverts for storm sewer pipes at inlets and manholes shall be determined by field surveying.

_____ Recalculate longitudinal pipe slopes for all pipe segments.

Street/Trail Plans

_____ Stations of all survey monuments.

_____ Sleeve/conduit/casing types, sizes, locations and stations.

_____ Provide spot elevations at intersections as well as pavement and curb every 500 ft.

Street Lights and Traffic Signal Plans

_____ Stations for all street illumination lights.

_____ Locations of all traffic signal poles, cabinets, J-boxes and related conduits.

_____ Abandonment of existing conduits and facilities.

_____ Location of signage related to traffic signal.

Miscellaneous

_____ Major unexpected dry utility crossings of water and sewer mains

_____ Unforeseen underground structures exposed during water and sewer main construction such as vaults

_____ Major constructed dry utilities

DRAFT

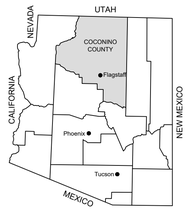
PLOTTED: May 07, 2019–3:36pm

CITY OF FLAGSTAFF, ARIZONA

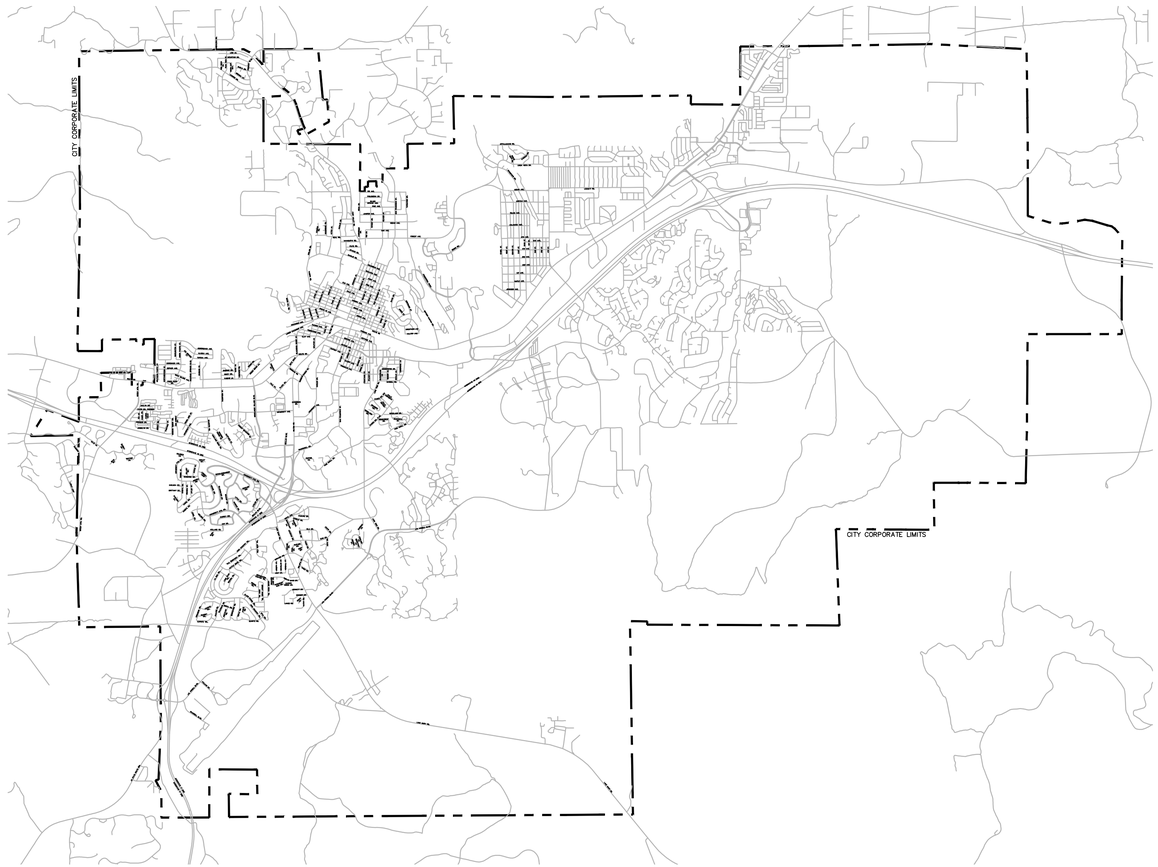
FLAGSTAFF STREET MAINTENANCE PROGRAM 2019

CHIP SEAL

C.O.F. FILE NO. 01-19001



STATE MAP
NO SCALE



CITY MAP
NO SCALE

PUBLIC IMPROVEMENTS APPROVAL:

ARIZONA PUBLIC SERVICE CO.	DATE
UNISOURCE ENERGY	DATE
SUDDEN LINK	DATE
CENTURY LINK	DATE
AT&T	DATE

APPROVED:

THE CITY APPROVES THESE PLANS FOR CONCEPT ONLY. THE CITY SHALL NOT BE LIABLE FOR ERRORS OR OMISSIONS OF THE DESIGN ENGINEER

CITY ENGINEER	DATE
CITY PUBLIC WORKS DIRECTOR	DATE
CITY WATER SERVICES DIRECTOR	DATE

OWNER

CITY OF FLAGSTAFF
211 W. ASPEN AVENUE
FLAGSTAFF, ARIZONA 86001
928-213-2000

ENGINEER

SHEPHARD WESNITZER, INC.
110 W. DALE AVENUE
FLAGSTAFF, ARIZONA 86001
928-773-0354

SHEET INDEX

C01 COVER
C02 NOTES & DETAILS
C03 KEY MAP - CHIP SEAL & OVERLAY
C04 KEY MAP - CHIP SEAL
C05 IMPROVEMENT SCHEDULE

REGISTERED PROFESSIONAL ENGINEER
58405
STEPHEN C. IRWIN
5/07/19
Date Signed
ARIZONA, U.S.A.
Expires 9/30/2020

C.O.F. Project Number: 01-19001

FLAGSTAFF STREET MAINTENANCE PROGRAM 2019 FLAGSTAFF ARIZONA

COVER SHEET

JOB NO: 19009
DATE: MAY 19
SCALE: N/A
DRAWN: BH
DESIGN: BH/ET
CHECKED: SCI

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.6934 fax
www.SWGZ.com
Shephard Wesnitzer, Inc.

REVISIONS

NO.	DESCRIPTION	DATE	BY

Call at least two full working days before you begin excavation
ARIZONA811 Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)

DRAWING NO.
C01

SHT NO. 01 OF 05

FILE: P:\2019\19009\DRAWINGS\SITE PLANS\CHIP SEAL\COVER.DWG SIRWIN

PLOTTED: May 07, 2019–3:36pm

GENERAL NOTES

1. APPROVAL OF THESE PLANS BY THE CITY ENGINEER IS FOR A ONE–YEAR PERIOD, SUBSEQUENT TO THE DATE OF APPROVAL. IF CONSTRUCTION WORK IS NOT STARTED WITHIN THE ONE–YEAR PERIOD, OR HAS BEEN DISCONTINUED FOR ANY REASON FOR LONGER THAN ONE YEAR, THE PLANS SHALL BE RESUBMITTED FOR REVIEW AND RE–APPROVAL.
2. PLAN REVIEW BY THE CITY DOES NOT EXTEND TO MATERIAL QUANTITIES SHOWN ON THE PLANS.
3. A PUBLIC WORKS PERMIT, ISSUED BY THE CITY, IS REQUIRED FOR ALL WORK IN CITY RIGHTS–OF–WAY OR EASEMENTS AND FOR CONSTRUCTION OF ANY IMPROVEMENTS INTENDED TO BECOME PUBLIC PROPERTY.
4. THE CITY SHALL BE NOTIFIED 24 HOURS PRIOR TO BEGINNING DIFFERENT PHASES OF CONSTRUCTION SO THAT CITY INSPECTORS MAY BE SCHEDULED.
5. ALL MATERIALS AND WORKMANSHIP SHALL COMPLY WITH TITLE 13, ENGINEERING DESIGN STANDARDS AND SPECIFICATIONS FOR NEW INFRASTRUCTURE, CURRENT "MAG UNIFORM STANDARD SPECIFICATIONS AND DETAILS FOR PUBLIC WORKS CONSTRUCTION", THE CITY OF FLAGSTAFF STORMWATER DESIGN MANUAL, AND WITH GENERALLY ACCEPTED ENGINEERING DESIGN AND CONSTRUCTION PRACTICE. ALL WORK AND MATERIALS, WHICH DO NOT CONFORM TO THE STANDARDS AND SPECIFICATIONS, ARE SUBJECT TO REMOVAL AND REPLACEMENT AT THE CONTRACTOR'S S EXPENSE. THE CONTRACTOR IS RESPONSIBLE FOR REVIEWING CHAPTER 13–21 OF THESE STANDARDS, WHICH MAKES MINOR MODIFICATIONS TO CERTAIN MAG SPECIFICATIONS AND DETAILS.
6. ANY WORK PERFORMED WITHOUT THE KNOWLEDGE AND APPROVAL OF THE CITY ENGINEER OR HIS AUTHORIZED REPRESENTATIVE IS SUBJECT TO REMOVAL AND REPLACEMENT AT THE CONTRACTOR'S S EXPENSE.
7. THE CITY ENGINEER OR HIS AUTHORIZED REPRESENTATIVE MAY SUSPEND THE WORK BY WRITTEN NOTICE WHEN, IN HIS JUDGMENT, PROGRESS IS UNSATISFACTORY, WORK BEING DONE IS UNAUTHORIZED OR DEFECTIVE, WEATHER CONDITIONS ARE UNSUITABLE, OR THERE IS DANGER TO THE PUBLIC HEALTH OR SAFETY.
8. THE CITY ENGINEER MAY ORDER ANY OR ALL MATERIALS USED IN THE WORK TO BE TESTED ACCORDING TO THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) AND THE AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) STANDARDS. THE CONTRACTOR SHALL, AT HIS EXPENSE, SUPPLY ALL SAMPLES REQUIRED FOR TESTING.
9. ACCESS THAT MEETS SECTION 13–13–004–0001, FIRE ACCESS, SHALL BE IN PLACE AND APPROVED BEFORE AND AT ALL TIMES DURING ON–SITE COMBUSTIBLE CONSTRUCTION AND/OR PRIOR TO ISSUANCE OF BUILDING PERMITS IN NEW SUBDIVISIONS. FIRE DEPARTMENT AND ENGINEERING SECTION APPROVAL IS REQUIRED FOR OBSTRUCTION OF ACCESS OR WATER SYSTEM SHUTDOWN.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTENANCE OF THE STREETS AND OF PARTIALLY COMPLETED PORTIONS OF THE WORK UNTIL FINAL ACCEPTANCE OF THE WORK. THE CONTRACTOR SHALL SUBMIT TO THE CITY ENGINEER FOR APPROVAL A CONSTRUCTION SCHEDULE FOR ANY STREETS REQUIRED TO BE CLOSED OR PARTIALLY CLOSED FOR THE CONSTRUCTION ACTIVITY. THE CONTRACTOR SHALL REOPEN THE STREETS NO LATER THAN THE OPENING DATE SHOWN ON THE CONSTRUCTION SCHEDULE OR UPON ORDER OF THE CITY ENGINEER. THE REGULATION AND CONTROL OF CONSTRUCTION TRAFFIC SHALL BE AS DIRECTED BY THE CITY ENGINEER OR HIS AUTHORIZED REPRESENTATIVE.
11. APPROVAL OF A PORTION OF THE WORK IN PROGRESS DOES NOT GUARANTEE ITS FINAL ACCEPTANCE. TESTING AND EVALUATION MAY CONTINUE UNTIL WRITTEN FINAL ACCEPTANCE OF A COMPLETE WORKABLE UNIT. ANY DEFECTS WHICH APPEAR IN THE WORK WITHIN ONE YEAR FROM THE DATE OF ACCEPTANCE AND WHICH ARE DUE TO IMPROPER WORKMANSHIP OR INFERIOR MATERIALS SUPPLIED SHALL BE CORRECTED BY OR AT THE EXPENSE OF THE OWNER/DEVELOPER OR THE CONTRACTOR.
12. ACCEPTANCE OF COMPLETED PUBLIC IMPROVEMENTS WILL NOT BE GIVEN UNTIL DEFECTIVE OR UNAUTHORIZED WORK IS REMOVED, AND FINAL CLEAN–UP IS COMPLETE.
13. LOCATION OF UNDERGROUND UTILITIES BEFORE WORK IS BEGUN IS TO BE ACCOMPLISHED IN ACCORDANCE WITH ARS 40–360.22.
14. IF WORK IS DONE ON PRIVATE PROPERTY IN RELATION TO A PROJECT CONSTRUCTED UNDER THESE STANDARDS, THE CONTRACTOR WILL PROVIDE THE CITY WITH WRITTEN AUTHORIZATION FROM THE PROPERTY OWNER TO DO SO.
15. THE ESTABLISHMENT AND USE OF TEMPORARY CONSTRUCTION YARDS SHALL CONFORM TO THE CURRENT CITY ZONING CODE STANDARDS FOR "TEMPORARY USES."
16. ALL EXCAVATED MATERIAL SHALL BE DISPOSED OF IN ACCORDANCE WITH APPLICABLE CITY CODES AND REGULATIONS. THE CONTRACTOR SHALL OBTAIN ALL REQUIRED CITY APPROVALS AND PERMITS, AS DEEMED NECESSARY BY THE CITY, TO DISPOSE OF EXCAVATED MATERIAL.

GENERAL NOTES (CONT.)

17. ALL CONSTRUCTION STAKING SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR/DEVELOPER AND PERFORMED UNDER THE DIRECT SUPERVISION OF A REGISTERED LAND SURVEYOR OR CIVIL ENGINEER.
18. ALL TRAFFIC SIGN SHEETING SHALL BE TYPE VIII AS DESIGNED BY ASTM D4956–07E1 STANDARD SPECIFICATIONS FOR RETROREFLECTIVE SHEETING FOR TRAFFIC CONTROL, UNLESS SPECIFIED OTHERWISE ON THE CONSTRUCTION PLANS.
19. WHEN THE CONSTRUCTION PLANS SPECIFY GRAFFITI CONTROL ON BRIDGES OR OTHER STRUCTURES, THE CONTRACTOR SHALL SEAL THE STRUCTURE FIRST USING MONOCHEM AQUASEAL ME 12 AND THEN APPLY MONOCHEM PERMASHIELD, SACRIFICIAL GRAFFITI CONTROL SYSTEM (OR APPROVED EQUAL).
20. ALL AREAS DISTURBED DURING CONSTRUCTION SHALL BE STABILIZED RESEEDED IN ACCORDANCE WITH CHAPTER 13–17 OF THIS TITLE. IN THE EVENT THAT THE CONSTRUCTION ACTIVITY DISTURBS MORE THAN ONE ACRE, A STORMWATER POLLUTION PREVENTION PLAN (SWPPP) SHALL BE PREPARED IN ORDER TO OBTAIN A CONSTRUCTION GENERAL PERMIT FROM ADEQ. (ORD. 2017–22, REP&REEN, 07/05/2017)

PAVING NOTES

1. EXACT POINT OF MATCHING TERMINATION AND OVERLAY, IF NECESSARY, SHALL BE DETERMINED IN THE FIELD BY THE CITY ENGINEER OR HIS AUTHORIZED REPRESENTATIVE. WHEN A LONGITUDINAL JOINT ASSOCIATED WITH A TRENCH PATH, PAVEMENT MATCHUP OR OTHER OCCURS ON A STREET THAT INCLUDES A BIKE LANE, THE JOINT SHALL BE LOCATED OUTSIDE THE BIKE LANE.
2. NO JOB WILL BE CONSIDERED COMPLETE UNTIL:
   A) ALL CURBS, PAVEMENTS, SIDEWALKS, CATCH BASINS, STORM DRAINS, AND MANHOLES HAVE BEEN CLEANED OF ALL DIRT AND DEBRIS
   B) SURVEY MONUMENTS ARE INSTALLED AND STAMPED
   C) ALL FRAMES, COVERS, AND VALVE BOXES ARE ADJUSTED TO GRADE.
3. NO PAVING CONSTRUCTION SHALL BE STARTED UNTIL ALL UTILITY LINES ARE COMPLETED AND APPROVED UNDER PROPOSED PAVED AREAS.
4. BASE COURSE WILL NOT BE PLACED UNTIL SUBGRADE HAS BEEN APPROVED BY THE CITY ENGINEER OR HIS AUTHORIZED REPRESENTATIVE.
5. THE LOCATION OF ALL WATER VALVES, FIRE HYDRANTS, AND MANHOLES MUST AT ALL TIMES DURING CONSTRUCTION BE REFERENCED AND MADE ACCESSIBLE TO THE CITY.
6. UTILITY FACILITIES IN CONFLICT WITH THIS WORK WILL BE RELOCATED BY THE PERMITTEE OR THE UTILITY OWNER. THIS ACTIVITY SHALL BE COORDINATED WITH THE OWNER OF THE UTILITY TO PREVENT ANY UNNECESSARY INTERRUPTION OF SERVICE TO EXISTING CUSTOMERS.
7. EXISTING STREET NAME SIGNS, TRAFFIC SIGNS AND DEVICES ASSOCIATED WITH THE PROJECT SHALL BE MAINTAINED DURING CONSTRUCTION AND RELOCATED BY THE CONTRACTOR AS SHOWN ON THE APPROVED PLANS.
8. ANY CHANGES OR ADDITIONS TO PAVEMENT MARKINGS CAUSED BY PAVEMENT OVERLAY, CHIP SEAL, OR INSTALLATION OF UNDERGROUND FACILITIES SHALL BE SHOWN ON THE APPROVED PLANS.

PAVING NOTES (CONT.)

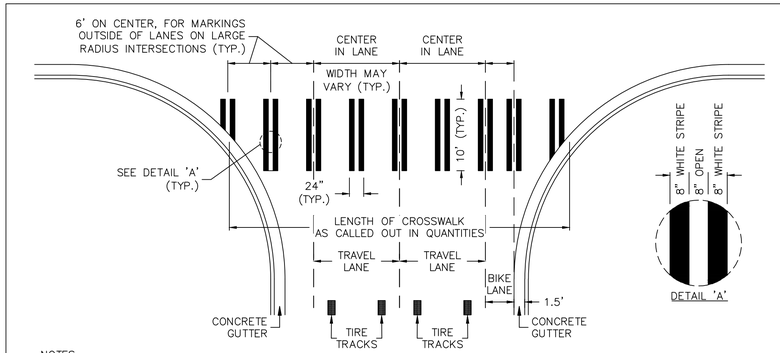
9. ON PROJECTS WHERE THE CONTRACTOR CAUSES EXCESSIVE DAMAGE TO AN EXISTING PAVED STREET OR THERE ARE MULTIPLE STREET CUTS (MAXIMUM OF FOUR IN 500 FEET) AN ASPHALT OVERLAY SHALL BE REQUIRED.
10. A PRIME COAT IS NOT REQUIRED UNLESS SO SPECIFIED IN THE SOILS AND PAVEMENT REPORT AND/OR SHOWN ON THE PLANS.
11. ALL CURB AND GUTTER, SIDEWALK, DRIVEWAYS, AND SIDEWALK RAMPS SHALL BE CONSTRUCTED ON A MINIMUM 3 INCHES OF AGGREGATE BASE COURSE (ABC). THE ABC SHALL BE CONSTRUCTED IN ACCORDANCE WITH MAG SECTION 310, AND SHALL BE COMPACTED TO 95% RELATIVE DENSITY. ALL PRECAST STRUCTURES SUCH AS MANHOLE BASES, CATCH BASINS, AND BOX CULVERTS SHALL BE CONSTRUCTED ON A MINIMUM OF 3 INCHES OF ABC.
12. PERMANENT PAVEMENT MARKINGS.
    12.1. LONGITUDINAL PAVEMENT MARKINGS SHALL BE INSTALLED IN ACCORDANCE WITH SECTION 13–16–006–0001.
    12.2. TRANSVERSE PAVEMENT MARKINGS SUCH AS STOP BARS, CROSSWALKS, ARROWS, AND LEGENDS SHALL BE INSTALLED IN ACCORDANCE WITH SECTION 13–16–006–0002.
13. TEMPORARY PAVEMENT MARKINGS.
    13.1. TEMPORARY PAVEMENT MARKINGS, WHEN APPROVED, SHALL BE INSTALLED IN ACCORDANCE WITH SECTION 13–16–006–0001 AND SECTION 13–16–006–0002.
    13.1.1. THE USE OF TEMPORARY MARKINGS IS STRONGLY DISCOURAGED AND MAY ONLY BE USED WITH PRIOR APPROVAL. WHEN IT IS USED, THE CONTRACTOR MUST BE AVAILABLE TO RESTRIPE AS NEEDED UNTIL THE PERMANENT MARKINGS CAN BE INSTALLED.
    13.1.2. WHEN IT IS IMPRACTICABLE FOR THE CONTRACTOR TO PROVIDE PERMANENT MARKINGS, THE CITY PUBLIC WORKS DEPARTMENT MAY INSTALL THE MARKINGS ON BEHALF OF THE CONTRACT PROVIDED THE FEE FOR THE WORK IS AGREED UPON AND PAID FOR IN ADVANCE.
14. THE MAXIMUM THICKNESS OF A SINGLE LIFT OF PAVEMENT SHALL BE 4 INCHES.

STORMWATER NOTES

1. ADEQUATE DRAINAGE, EROSION AND SEDIMENT CONTROL MEASURES, BEST MANAGEMENT PRACTICES, AND/OR OTHER STORMWATER MANAGEMENT FACILITIES SHALL BE PROVIDED AND MAINTAINED AT ALL TIMES DURING CONSTRUCTION. DAMAGES TO ADJACENT PROPERTY AND/OR THE CONSTRUCTION SITE CAUSED BY THE CONTRACTOR'S OR PROPERTY OWNER'S FAILURE TO PROVIDE AND MAINTAIN ADEQUATE DRAINAGE AND EROSION.SEDIMENT CONTROL FOR THE CONSTRUCTION AREA SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND/OR PROPERTY OWNER.

SPECIAL NOTES

1. CRACK FILL SHALL BE PLACED IN CRACKS THAT HAVE A WIDTH OF ½" TO 1¾". CRACKS THAT ARE WIDER THAN 1¾" SHALL BE FILLED WITH ⅜" HOT MIX ASPHALT.



NOTES:
1. FOR ROADWAYS WITH MORE OR LESS LANES, THE SAME CONFIGURATION APPLIES, WHILE KEEPING THE THERMOPLASTIC BARS CENTERED ON THE LANE LINES AND IN THE CENTER OF TRAVELED PORTION OF THE LANE TO MINIMIZE THE WEAR ON THE MARKING.
2. THIS DETAIL IS INTENDED TO BE REPRESENTATIVE ONLY. THE FINAL LAYOUT OF PAVEMENT MARKINGS IS DEPENDENT ON THE SPECIFIC LANE CONFIGURATION OF THE STREET. THE CONTRACTOR SHALL REQUEST THE CITY INSPECTOR TO INVOLVE THE TRAFFIC ENGINEERING SECTION FOR DETERMINING THE LAYOUT PRIOR TO INSTALLING THE MARKINGS, FOR WHICH AT LEAST 24–HOURS NOTICE ID REQUIRED.

TYPICAL CROSSWALK MARKING LAYOUT DETAIL
NO SCALE

NOTES:
1. BIKE LANE ASSEMBLY TO BE APPLIED AT FAR SIDE OF INTERSECTIONS OR AS DIRECTED BY THE OFFICE OF THE TRAFFIC ENGINEER.
2. ALL BIKE LANE ASSEMBLY MARKINGS ARE TO BE THERMOPLASTIC, THEY MAY NOT BE PAINTED.
3. REVISED C.O.F. DETAIL IN 2014.

TYPICAL BIKE LANE ASSEMBLY DETAIL
NO SCALE

C.O.F. Project Number: 01–19001



FLAGSTAFF STREET MAINTENANCE PROGRAM 2019 FLAGSTAFF ARIZONA

NOTES & DETAILS

JOB NO: 19009
DATE: MAY 19
SCALE: N/A
DRAWN: BH
DESIGN: BH/ET
CHECKED: SCI

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0334
928.774.8934 fax
www.swgz.com
Shephard Wesnitzer, Inc.

REVISIONS

NO.	DESCRIPTION	DATE	BY

Call at least two full working days before you dig or excavate
ARIZONA811
Arizona Blue Stake, Inc.
Dial 8–1–1 or 1–800–STAKE–IT (782–5348)

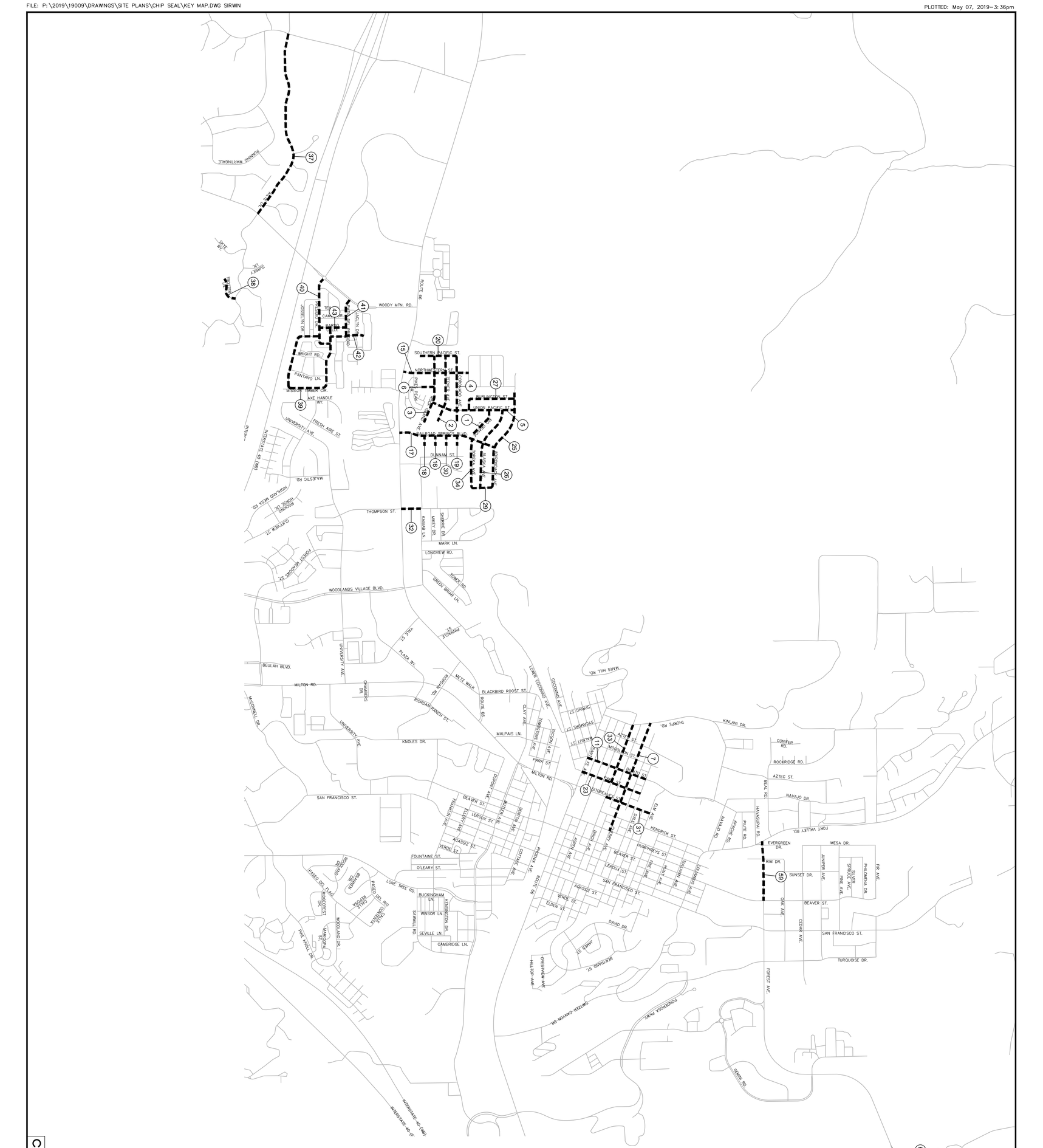
DRAWING NO.
C02

SHT NO. ~~02~~ 05 OF

FILE: P:\2019\19009\DRAWINGS\SITE PLANS\CHIP SEAL\NOTES & DETAILS.DWG SIRWIN

FILE: P:\2019\19009\DRAWINGS\SITE PLANS\CHIP SEAL\KEY MAP.DWG SIRWIN

PLOTTED: May 07, 2019-3:36pm



C.O.F. Project Number: 01-19001

Registered Professional Engineer
Scott C. Irwin
Date 5/07/19
SIRWIN C. SCOTT
56405
ARIZONA
(Seal)

SHT NO.	DRAWING NO.
03	C03
05	

Call at least two full working days before you begin excavation.
ARIZONA 811 Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)

REVISIONS			
NO.	DESCRIPTION	DATE	BY

Shephard Wesnitzer, Inc.

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.8934 fax
www.swiaz.com

JOB NO:	19009
DATE:	MAY 19
SCALE:	AS SHOWN
DRAWN:	BH
DESIGN:	BH / ET
CHECKED:	SCI

FLAGSTAFF STREET MAINTENANCE PROGRAM 2019 FLAGSTAFF ARIZONA

KEY MAP - CHIP SEAL 1

FILE: P:\2019\19009\DRAWINGS\SITE PLANS\CHIP SEAL\KEY MAP.DWG SIRWIN

PLOTTED: May 07, 2019-3:36pm


MOODY MTN. RD.
AZ STATE ROUTE 89A
INTERSTATE 17 (SB)
INTERSTATE 17 (NB)
SHADEL RD.
W. PHOENIX AVE.
W. ROUTE 66
W. HUNTINGTON DR.
W. ROUTE 66
W. ROUTE 66
W. ROUTE 66

PLOTTED: May 07, 2019–3:37pm

IMPROVEMENT SCHEDULE

ESTIMATED CONTRACT QUANTITIES

NO.	DESCRIPTION	QUANTITY	UNIT
1	ADJUST MANHOLE FRAME & COVER (CITY DTL. 9-03-062)	0.0	T
2	AIRPORT CRACK FILL	0.0	T
3	BITUMINOUS MATERIAL (CRS-2P)	581.2	T
4	COVER MATERIAL (CM-11)	5579.1	T
5	CRACK SEALING	107.6	T
6	HOT MIX ASPHALT - (LARGE THERMAL CRACK FILLER)	100.0	T
7	LOWER MANHOLE FRAME & COVER, SEWER CLEANOUT, BLOWOFFS AND SURVEY HANDHOLES	0.0	EA
8	MODIFIED ASPHALTIC CONCRETE	0.0	T
9	PAVEMENT MILLING	0.0	SY
10	REMOVE AND REPLACE CONCRETE APRON & VALLEY GUTTER	0.0	SF
11	REMOVE AND REPLACE CONCRETE DRIVEWAY (INCLUDING 6" ABC)	0.0	SF
12	REMOVE AND REPLACE CURB AND GUTTER (ROLL-INCLUDING 3" ABC)	0.0	LF
13	REMOVE AND REPLACE CURB AND GUTTER (VERTICAL-INCLUDING 3" ABC)	0.0	LF
14	REMOVE AND REPLACE CURB IN APRON	0.0	LF
15	REMOVE AND REPLACE PAVEMENT (4" AC [C-3/4"]) PATCH	0.0	SY
16	REMOVE AND REPLACE SEWER MANHOLE	0.0	EA
17	REMOVE AND REPLACE SIDEWALK (INCLUDING 3" ABC)	0.0	SF
18	REMOVE AND REPLACE SURVEY MONUMENTS	0.0	EA
19	REMOVE RAMP & INSTALL DETECTABLE WARNING (ADA RAMP MAG 235-3) INCLUDING 3" ABC	0.0	EA
20	REMOVE RAMP & INSTALL DETECTABLE WARNING (ADA RAMP MAG 235-4) INCLUDING 3" ABC	0.0	EA
21	REMOVE, REPLACE & ADJUST WATER VALVE BOX AND COVER	0.0	EA
22	STREET REBUILDING & PATCHING CONTINGENCY	300.0	SY
23	STRIPING AND MARKING	1.0	LS
24	TACK COAT (SS-1H)	0.0	T
25	TRAFFIC CONTROL	1.0	LS
26	LOWER WATER VALVE BOX	0.0	EA
27	ADJUST SEWER CLEANOUT, BLOWOFFS AND SURVEY HOLES (CITY DTL. 9-03-062)	0.0	EA
28	CONSTRUCTION SURVEY	1.0	LS
29	REMOVE RAMP & RETROFIT DETECTABLE WARNING (ADA Ramp MAG 232) INCLUDING 3" ABC	0.0	EA
30	MILL AND FILL LARGE THERMAL CRACKS ON FOREST AVE./CEDAR AVE.	N/A	LF
31	MILL AND FILL LARGE THERMAL CRACKS ON LAKE MARY RD.	N/A	LF
32	FOG COAT - LAKE MARY (WALAPAI TO CITY LIMITS)	61.0	T
33	FOG COAT - HIGH COUNTRY TRL. (WILD WEST TO PULLIAM) & PULLIAM RD. (HIGH COUNTRY TO J.W. POWELL)	21.0	T
34	MILL 4" DEPTH METZ WALK (2-3/4" C.O.F. 3/4" MIX AND 1-1/4" PMRAC)		SF

STRIPING & MARKING ESTIMATED QUANTTIES

NO.	Description	Quantity	Unit
1	4" Double Solid Yellow	29,451	LF
2	18" Preformed Stop Bar	480	LF
3	4" Broken White	3,752	LF
4	4" Solid / 4" Broken Yellow	33,216	LF
5	4" Solid White Edge Line	17,586	LF
6	4" Parking Stall White	2,976	LF
7	6" Solid White Bike Lane Line	72,292	LF
8	Painted Bike Assembly	64	EA
9	Preformed Turn Arrows (RT., LT., Straight, Combo, Rail Road Crossing)	67	EA
10	Solid White Lane Lines	2,490	LF
11	6" Dashed Bike Lane	3,416	LF
12	Piano Key Crosswalk	804	LF

TREATMENT LEGEND

CF - CRACK FILL
CS - CHIP SEAL
RS - RE-STRIPE
MAC - MODIFIED ASPHALTIC CONCRETE OVERLAY

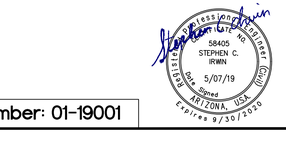
NOTES:

1. ALL LONGITUDINAL STRIPING IS QUANTIFIED BY THE LENGTH OF ROADWAY OVER WHICH THE COMPLETE STRIPING PATTERN AS DESCRIBED ABOVE IS TO BE APPLIED.
2. RE-STRIPING OF STREETS WILL REQUIRE REFERENCING OF EXISTING STRIPING BEFORE SURFACE TREATMENT. WHICH WILL THEN BE USED TO LAYOUT STRIPING AFTER SURFACE TREATMENT IS COMPLETED.
3. RE-STRIPING REQUIRES A DOUBLE APPLICATION FOR ALL PAINTED MARKINGS WITH A SECOND APPLICATION AT LEAST 3 HOURS AFTER FIRST APPLICATION.
4. QUANTITIES INCLUDE REMOVAL AND REPLACEMENT OF CURB, GUTTER, VALLEY GUTTER, SIDEWALK AND SIDEWALK RAMPS AS IDENTIFIED IN APPENDIX C OF THE CONTRACT DOCUMENTS.
5. QUANTITIES INCLUDE ADDITIONAL CRACK SEAL WORK AS IDENTIFIED IN APPENDIX D OF THE CONTRACT DOCUMENTS.
6. ALL CROSS WALKS, STOP BARS, TURN LANE SYMBOLS AND BIKE LANE ASSEMBLY MARKINGS MUST BE THERMOPLASTIC ONLY. IF THE STRIPING IS NOT A TYPICAL LONGITUDINAL LANE MARKER STRIPE, IT MUST BE THERMOPLASTIC.

CHIP SEAL STREETS

Map ID	Street Name	Start	End	Length*	Width*	OCI	Treatment
1	Rio Grande Ct.	Union Pacific St.	East End	683	23.00	91.50	CF & CS
2	Zepher Ave.	Southern Pacific St.	East End	1,590	23.00	87.72	CF & CS
3	Rock Island Ave.	Southern Pacific St.	East End	1,577	23.00	93.42	CF & CS
4	Coronado Ave.	Southern Pacific St.	East End	1,526	23.00	92.83	CF & CS
5	Union Pacific St.	Adirondack Ave.	Rock Island Ave.	1,925	27.00	86.78	CF & CS
6	Caboose Ct.	Rock Island Ave.	South End	325	23.00	98.75	CF & CS
7	Cherry Ave.	Humphreys St.	Thorpe Rd.	2,642	37.00	96.08	CF & CS
8	Cochise Dr.	Lake Mary Rd.	Zuni Dr.	738	37.00	77.70	CF & CS & RS
9	Cocopah Dr.	Zuni Dr.	Northwest End	594	28.00	71.06	CF & CS
10	Tranquil Ln.	Camille Dr.	126' South	126	29.00	91.50	CF & CS & RS
11	Bonito St.	Santa Fe Ave.	Dale Ave.	1,440	27.00	98.75	CF & CS
12	Camille Dr.	Anita Ave.	East End	1,687	33.00	65.14	CF & CS
13	Leupp Dr.	Zuni Dr.	North End	495	28.00	92.17	CF & CS
14	Kofa Dr.	Zuni Dr.	South End	252	31.00	94.08	CF & CS
15	Northwestern St.	Route 66	North End	1,369	23.00	87.58	CF & CS
16	Pennsylvania Ct.	Railroad Springs Blvd.	East End	300	23.00	91.50	CF & CS
17	Railroad Springs Blvd.	Adirondack Ave.	Route 66	2,252	27.00	81.67	CF & CS
18	Reading Ct.	Railroad Springs Blvd.	East End	300	23.00	90.17	CF & CS
19	Shortline Ct.	Railroad Springs Blvd.	East End	300	23.00	91.50	CF & CS
20	Southern Pacific Ave.	Coronado Ave	South End	827	23.00	94.08	CF & CS
21	Mohawk Dr.	Walapai Dr.	Lake Mary Rd.	913	37.00	96.08	CF & CS
22	Papago Dr.	Pinal Dr.	Pima Dr.	490	28.00	72.31	CF & CS
23	Park St.	Sante Fe Ave.	Dale Ave.	1,438	37.00	84.65	CF & CS
24	Pinal Dr.	Mohawk Dr.	Papago Dr.	395	28	84.60	CF & CS
25	Adirondack Ave.	Chaatanooga St.	West End	2,328	24.00	86.78	CF & CS
26	Alaska Ave	Union Pacific St.	Chattanooga St.	1,941	24.00	88.25	CF & CS
27	Burlington St.	Adirondack Ave.	Union Pacific St.	1,289	23.00	78.90	CF & CS
28	Gila Dr.	Zuni Dr.	Pima Dr.	1,637	28.00	70.85	CF & CS
29	Chattanooga St.	Topeka Ave.	Adirondack Ave.	455	23.00	81.67	CF & CS
30	Atlantic Ct.	Railroad Springs Blvd.	East End	300	23.00	89.00	CF & CS
31	Sitgreaves St.	Birch Ave.	Elm Ave.	1,069	37.00	94.08	CF & CS
32	Thompson St.	Kaibab Ln.	Route 66	448	40.00	96.08	CF & CS
33	Birch Ave.	Thorpe Rd.	Park St.	1,407	37.00	67.25	CF & CS
34	Topeka Ave.	Chattanooga St.	Railroad Springs Blvd.	1,132	23.00	74.42	CF & CS
35	Box Canyon Tr.	Cattle Drive Tr.	South End	672	23.00	81.35	CF & CS & RS
36	Holland Dr.	Coy Dr.	West End	1,174	27.00	62.47	CF & CS
37	Kilte Ln.	Woody Mountain Rd.	East End	4,024	27.00	71.46	CF & CS
38	Trotter Ln.	Kilte Ln.	South End	610	26.00	71.68	CF & CS
39	Mission Timber	Presidio Dr.	Parco Calle	4,055	26.00	100.00	CF & CS & RS
40	Presidio Dr.	Woody Mountain Rd.	Mission Timber Cir.	1,778	26.00	100.00	CF & CS
41	Patio Del Presidio	Woody Mountain Rd.	Pais Del Norte	877	26.00	100.00	CF & CS & RS
42	Pais Del Norte	Mission Timber Cir.	Patio Del Presidio	362	26.00	100.00	CF & CS
43	Pardo Calle	Presidio Dr.	Mission Timber Cir.	245	26.00	100.00	CF & CS
44	Brittany Way	Cheryl Dr.	West End	251	33.00	-	CF & CS
45	Sunshine Dr.	Debbie St.	University Heights Dr.	884	33.00	-	CF & CS
46	Hillary Way	Sunshine Dr.	End	419	40.14	-	CF & CS
47	Melissa Dr.	Jewel Dr.	South End	695	41.81	-	CF & CS & RS
48	Melissa Dr.	Jewel Dr.	North End	790	36.70	-	CF & CS
49	Moore Cir.	University Heights Dr.	University Heights Dr.	2,711	19.39	-	CF & CS
50	Parker Dr.	Litzler Cir.	Little Dr.	1,730	17.21	-	CF & CS
51	Walkup Dr.	University Heights Dr.	University Heights Dr.	4,584	18.36	-	CF & CS
52	Justin Way	Debbie St.	Sunshine Dr.	471	33.14	-	CF & CS
53	Lake Mary Rd.	Mohawk Dr.	Buelah Blvd.	3,161	62.38	-	CF & CS
54	Pulliam Dr.	High Country Tr.	End of Curb	1,491	38.50	-	CF & CS & RS
55	Pulliam Dr.	End of Curb	End of Curb	3,045	32.14	-	CF & CS
56	Pulliam Dr.	JW Powell Blvd.	End of Curb	698	47.16	-	CF & CS & RS
57	High Country Tr.	Wild West Tr.	Pulliam Dr.	4,771	40.00	-	CF & CS
58	Lake Mary Rd.	Walapai Dr.	City Limits	24,308	45.00	-	CF & CS
59	Forest Ave.	Fort Valley Rd.	Beaver St.	1,400	30.00	-	CF & CS & RS
60	Cedar Ave. Slip Lane	West St.	Cedar Ave.	1,274	22.00	-	CF & CS

* MEASUREMENTS WERE PROVIDED BY OTHERS AND HAVE NOT BEEN VERIFIED BY SHEPHARD WESNITZER, INC.



C.O.F. Project Number: 01-19001

FLAGSTAFF STREET MAINTENANCE PROGRAM 2019 FLAGSTAFF ARIZONA

IMPROVEMENT SCHEDULE - CHIP SEAL

JOB NO:	19009
DATE:	MAY 19
SCALE:	N/A
DRAWN:	BH
DESIGN:	BH/ET
CHECKED:	SCI

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.8934 fax
www.swinz.com
Shephard Wesnitzer, Inc.

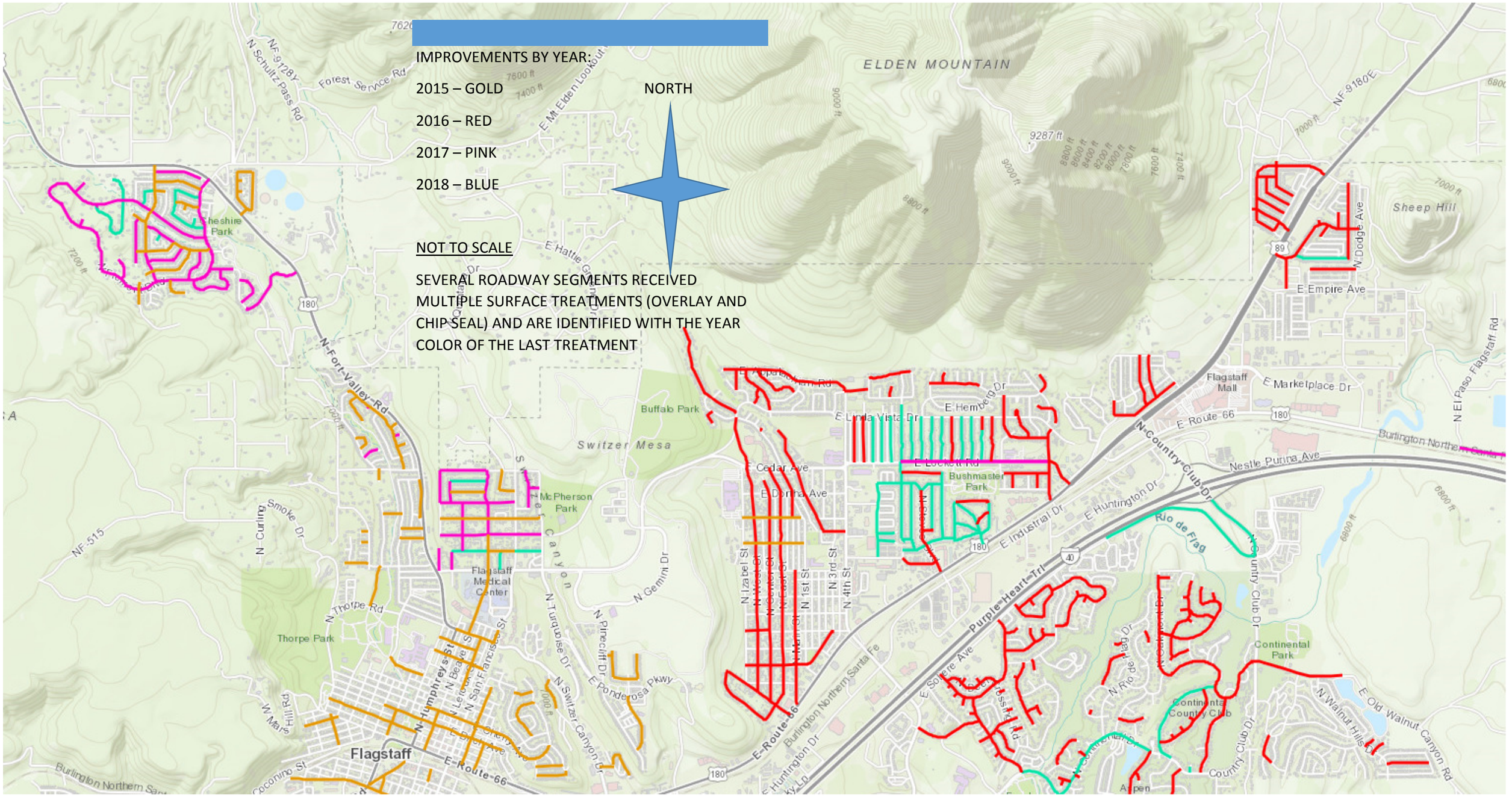
REVISIONS			
NO.	DESCRIPTION	DATE	BY

Call at least two full working days before you commence excavation
ARIZONA811 Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)

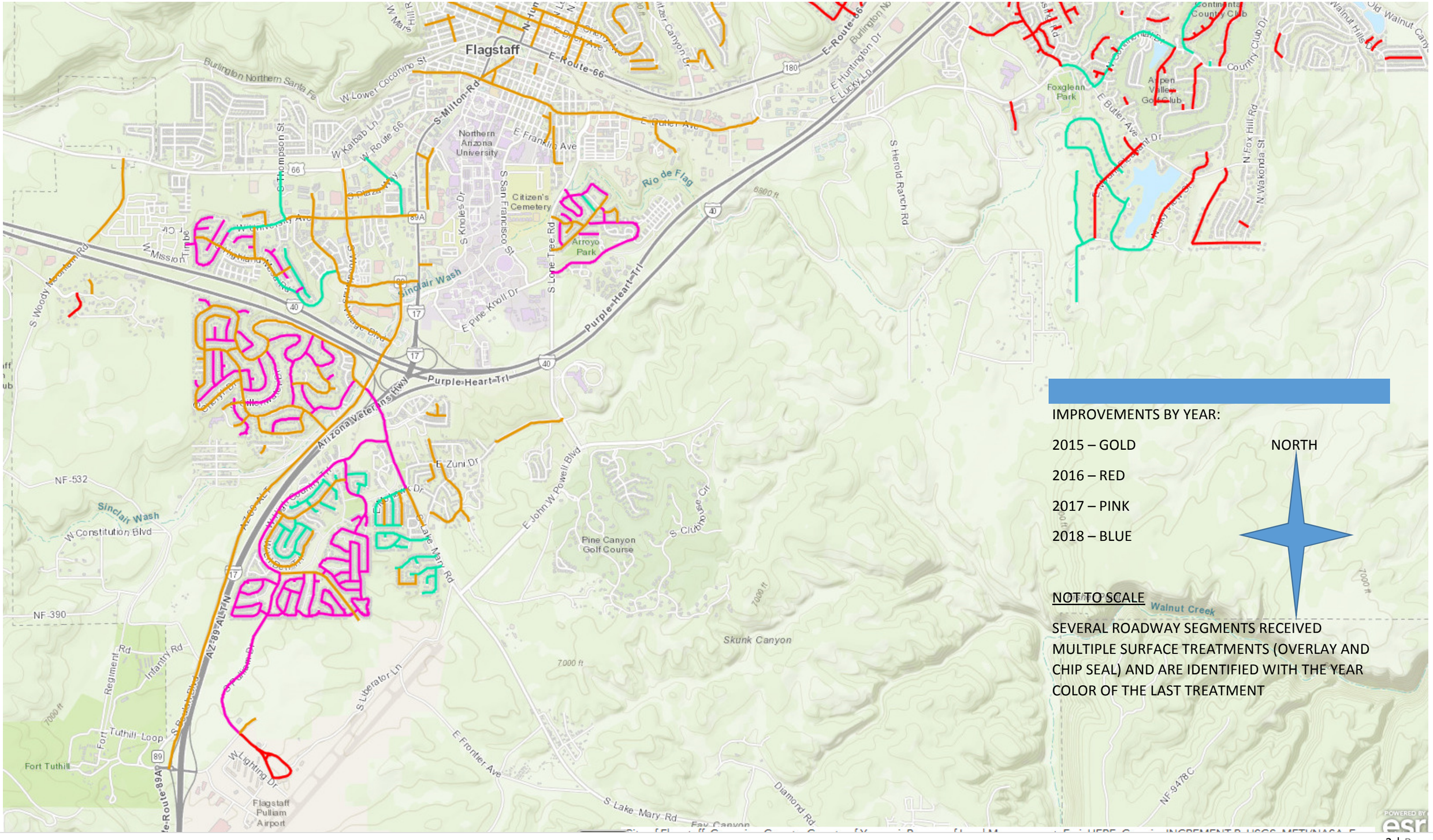
DRAWING NO.
C05

SHT NO.	OF
05	05

FILE: P:\2019\19009\DRAWINGS\SITE PLANS\CHIP SEAL\IMPROVEMENT SCHEDULE.DWG SIRWIN



Roadway work completed utilizing H.U.R.F. and Prop. 406 funding – 2015 - 2018



Roadway work completed utilizing H.U.R.F. and Prop. 406 funding – 2015 - 2018

Streets Chip Seal

2019 Program

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

Streets Chip Seal- 2019

Program Overview

- Highway User Revenue Funds (HURF) and Road Repair Street Safety (RRSS) Proposition 406.

- Streets identified and rated using Overall Condition Index (OCI).

- Street map identifies program work for 2019.

Streets Chip Seal - 2019

- Senior Project Manager, SWI and C and E Paving & Grading develop specifications and detailed work plan.
- Construction Manager at Risk (CMAR) contract is presented.
- 2019 Program is $2,033,450.55 and will be scheduled as an element of the Overlay program that is underway.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Shannon Anderson, Human Resources Director

Date: 05/13/2019

Meeting Date: 05/21/2019

TITLE:

Consideration and Adoption of Ordinance No. 2019-10: An ordinance amending the Employee Handbook of regulations relating to General Definitions, Grievance Procedures, Employee Advisory Committee, Performance Evaluation System, Purchase Day Program, and Use of City Vehicles.

STAFF RECOMMENDED ACTION:

1. Read Ordinance No. 2019-10 by title only for the final time
2. City Clerk reads Ordinance No. 2019-10 by title only (if approved above)
3. Adopt Ordinance No. 2019-10

Executive Summary:

There are clarifications needed in the Employee Handbook of Regulations in order to make explanations as clear as possible. Human Resources was also notified of a few omissions or changes after the previous ordinance was adopted by City Council. The following are recommendations for City Council's consideration:

General Definition of Emergency Service Employees: Fleet Services was omitted from Ordinance 2018-35 and "Vehicle Shop Personnel" was originally included in list of emergency service employees in the original Residency Requirement policy 1-60-010, so recommending this work group be added into the definition. Industrial Waste changed their name to Industrial Pre-Treatment in February 2019.

Grievance Procedure: Clarifying the Deputy City Manager and City Manager will work together on a final grievance ruling, so the employee does not expect a response from the Deputy City Manager and City Manager.

Employee Advisory Committee: Updating the structure of the Employee Advisory Committee to account for the reorganization approved by City Council through Ordinance 2018-30.

Performance Evaluation System: Adding language about the online benefit system processes designed by the organization, which includes moving the exempt evaluations to the employee's anniversary or classification date and changing the overall evaluation score methodology. Updating the intervals in which evaluations are completed by certain work groups.

Purchase Day Program: Updating to "open enrollment period" rather than defining dates since the first full two weeks in May change each year. Clarifying the employee must use all accrued vacation prior to being eligible to use any purchase days in accordance with the Internal Revenue Service.

Use of City Vehicles: Updating radius language to match Residency Requirement policy 1-60-010 adopted in Ordinance 2018-35. Clarifying language provided by Risk Management related to Worker's Compensation.

Financial Impact:

There are no additional financial impacts with these policy recommendations.

Policy Impact:

These recommendations do not impact any other employee related policies.

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

These policy recommendations continue to support the Team Flagstaff Strategic Plan of providing exceptional service and investing in our people by ensuring they have the proper resources.

Has There Been Previous Council Decision on This:

No.

Options and Alternatives:

The City Council may choose to amend this ordinance prior to adoption.

Community Involvement:

Inform.

Attachments: Res. 2019-10
Addendum 18

ORDINANCE NO. 2019-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, CHAPTER 1-14, *PERSONNEL SYSTEM,* BY AMENDING THE EMPLOYEE HANDBOOK OF REGULATIONS RELATING TO GENERAL DEFINITIONS; GRIEVANCE PROCEDURE; EMPLOYEE ADVISORY COMMITTEE; PERFORMANCE EVALUATION SYSTEM; PURCHASE DAY PROGRAM; AND USE OF CITY VEHICLES PROVIDING FOR PENALTIES; REPEAL OF CONFLICTING ORDINANCES; SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City Council has authority to approve this Addendum 18 of the Flagstaff Employee Handbook of Regulations pursuant to the Flagstaff City Charter, Article IV.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Code, Chapter 1-14, *Personnel System,* is amended by adopting amendments (Addendum 10) to the Employee Handbook of Regulations ("Handbook"), as follows.

The Employee Handbook of Regulations, Section 1-10-010.01, *General Definitions (Renumbered),* is hereby amended by as shown below (additions are underlined and in caps, deletions are stricken):

"Emergency Service Employees" shall be a non-exempt employee who holds a position in Fire, Police, Streets, FLEET SERVICES, Airport, Water Reclamation and Water Plants, Water Distribution and Wastewater Collection, Industrial ~~Waste~~PRE-TREATMENT, Parks, Facilities Maintenance, Building Inspection, or other positions designated by the Division Director and approved by the Deputy City Manager.

The Employee Handbook of Regulations, Section 1-10-022, *Grievance Procedure,* is hereby amended by as shown below (additions are underlined and in caps, deletions are stricken):

C. APPEAL PROCESS

G. After receiving the written response from the supervisor, if the employee does not feel the grievance is satisfactorily resolved, the employee may file an appeal with the next level of supervision within five (5) working days in writing and shall include the reason for the appeal and why the previous response was unsatisfactory.

H. The next level of supervision shall discuss the grievance with the employee within five (5) working days, gather information from others involved or having information pertinent to the issue, and then shall provide a written response to all parties within

five (5) working days of the meeting. This appeal process will continue through the chain of command to the City Manager.

1. At each succeeding step the employee shall state in writing the reason for his or her appeal and why the previous response was unsatisfactory.

2. At each succeeding step the supervisor or manager shall respond in writing to the grievance stating the reason and basis for the decision that was rendered.

3. The decision of the City Manager'S OFFICE is final. THE DEPUTY CITY MANAGER AND CITY MANAGER WILL CONSULT AND PROVIDE THE FINAL RULING.

The Employee Handbook of Regulations, Section 1-10-070, *Employee Advisory Committee,* is hereby amended by as shown below (additions are underlined and in caps, deletions are stricken):

1-14-001-0006.5 Structure

A. The Employee Advisory Committee shall consist of the following members, by group, excluding ineligible employees except for the Human Resources Director, or designee, who shall serve as a non-voting member, and shall provide information to the EAC as needed:

1. Administrative Services - (City Manager's Office, Legal, Human Resources, Risk Management, AND City Clerk's Office~~, Real Estate, AND INFORMATION TECHNOLOGY~~) - one (1) member

2. Management Services - (Finance, Revenue, ~~and~~ Purchasing, INFORMATION TECHNOLOGY) – ~~one~~ TWO (~~1~~2) memberS

3. Police - (Commissioned two members and Non-Commissioned one member) - three (3) members

4. Fire - two (2) members

5. Public Works - (Public Works Administration, Solid Waste, Streets, Parks and Recreation, Fleet, Facility Maintenance, Environmental Management, and Sustainability) - three (3) members

6. Community Development - (Planning & Development, Housing, ~~and~~ Engineering, AND REAL ESTATE) - two (2) members

7. Water Services - two (2) members

8. City Court - one (1) member

9. Economic Vitality - (Convention & Visitors Bureau, Airport, Community Investment, and Library) - two (2) members

10. The Human Resources Director, or designee, is a permanent, non-voting member.

The Employee Handbook of Regulations, Section 1-30-061, *Performance Evaluation System,* is hereby amended by as shown below (additions are underlined and in caps, deletions are stricken):

A. EVALUATION PROCESS

1. The supervisor will prepare the evaluation based on the review of the following items:

   a. A comparison of the employee's performance with the performance expectations established upon the employee's date of hire or the previous year's evaluation;

   b. The duties and responsibilities of the employee's position; and

   c. Supervisory notes taken during the evaluation period.

2. The supervisor's evaluation should be based on an employee's actual performance and not on personal prejudice, bias or favoritism.

~~3. The supervisor will notify the employee of their evaluation meeting at least one (1) week in advance.~~

3. The ONLINE EVALUATION SYSTEM, OR THE supervisor, will ~~request~~ NOTIFY the employee TO LOGIN TO THE ONLINE EVALUATION SYSTEM AND complete the pre-review input SECTION OF THE EVALUATION form. This allows the employee an opportunity to present his or her accomplishments for the year and assist the supervisor in completing the performance evaluation.

4. The supervisor will meet with the employee to review the performance evaluation. The supervisor will discuss the employee's strengths, areas of improvement with suggestions for improvement and expectations and goals for the upcoming year.

~~6. Any evaluations completed by a supervisor and signed by the employee will be filed in the employee's personnel file. If the employee refuses to sign the supervisor will write "employee refused to sign" and the evaluation will be filed in the employee's personnel file.~~AN EMPLOYEE WILL LOGIN TO THE ONLINE EVALUATION SYSTEM, SELECT AGREE OR DISAGREE WITH EVALUATION RATING, PROVIDE A WRITTEN STATEMENT AND ELECTRONICALLY SIGN THE EVALUATION. THE EVALUATION WILL BE RETAINED IN THE ONLINE EVALUATION SYSTEM.

~~7. An employee may attach a written statement to any evaluation to be placed in their 201 file.~~

B. PROBATIONARY EVALUATION

1. All non-exempt employees will be evaluated during their probationary period to ensure satisfactory performance based on the following schedule:

a. A non-commissioned non-exempt employee shall be evaluated at three and six months from their date of hire.

b. A non-exempt employee of the Municipal Court shall be evaluated at four, eight and twelve months from their date of hire.

c. A NON-COMMISSIONED NON-EXEMPT POLICE DEPARTMENT EMPLOYEE WORKING IN THE COMMUNICATIONS CENTER SHALL BE EVALUATED AT SIX AND TWELVE MONTHS FROM THEIR DATE OF HIRE.

d. A COMMISSIONED NON-EXEMPT EMPLOYEE OF THE FIRE DEPARTMENT SHALL BE EVALUATED AT THREE, SIX, NINE AND TWELVE MONTHS FROM THEIR DATE OF HIRE.

e. A commissioned non-exempt employee OF THE POLICE DEPARTMENT shall be evaluated at ~~three, six, nine and twelve months from their date of hire. Except Police Officers who shall be evaluated at three,~~ six~~, nine~~ and twelve months after their completion of the Field Training Officer (FTO) Program.

C. ANNUAL EVALUATION

1. After an employee has completed the probationary evaluation or administrative evaluation period, the rating period shall be annually upon the employee's hire or classification date.

2. Exempt evaluations shall be completed ~~by July 1st of each year~~ UPON THE EMPLOYEE'S ANNIVERSARY OR CLASSIFICATION DATE.

3. Upon budgetary approval non-exempt and exempt employees with an overall evaluation score of ~~five (5)~~ MEETS EXPECTATIONS or above will receive a merit increase, except when the employee is at the maximum of the pay range. ~~A non-exempt pay merit increase is movement to the next step in the pay range. An exempt merit increase is equal to 3.2% of the employee's current salary.~~

D. ADMINISTRATIVE EVALUATION

1. Non-exempt and exempt employees who are promoted, demoted, transferred, or voluntarily reassigned to another position are subject to an administrative evaluation based on the following schedule:

a. A non-commissioned non-exempt OR EXEMPT employee shall be evaluated at three and six months from their date of promotion, demotion, transfer, or voluntary reassignment to another position.

b. A non-exempt OR EXEMPT employee of the Municipal Court shall be evaluated at four, eight and twelve months from their date of promotion, demotion, transfer or voluntary reassignment to another position.

c. A NON-EXEMPT POLICE DEPARTMENT EMPLOYEE WORKING IN THE COMMUNICATIONS CENTER SHALL BE EVALUATED AT SIX AND TWELVE MONTHS FROM THEIR DATE OF PROMOTION, DEMOTION, TRANSFER OR VOLUNTARY REASSIGNMENT TO ANOTHER POSITION.

~~d. A NON-EXEMPT OR EXEMPT COMMISSIONED FIRE DEPARTMENT EMPLOYEE SHALL BE EVALUATED AT THREE, SIX, NINE AND TWELVE MONTHS FROM THEIR DATE OF PROMOTION, DEMOTION, TRANSFER, OR VOLUNTARY REASSIGNMENT TO ANOTHER POSITION.~~

e. A commissioned non-exempt OR EXEMPT employee ~~IN THE POLICE DEPARTMENT~~ shall be evaluated at ~~three,~~ six~~, nine~~ and twelve months from their date of promotion, demotion, transfer or voluntary reassignment to another position.

The Employee Handbook of Regulations, Section 1-50-039, *Purchase Day Program,* is hereby amended by as shown below (additions are underlined and in caps, deletions are stricken):

C. PROCEDURE

4. Employees must submit a request to participate ~~between May 1st and May 31st~~ DURING THE ANNUAL OPEN ENROLLMENT PERIOD in order to be eligible to participate the following fiscal year. Employees must re-elect each fiscal year to participate in the purchase day program.

2. The Benefit Eligible Employee may request to participate in the purchase day program by submitting a Purchase Day Program Request form to the employee's immediate supervisor, Section Head, Division Director, Deputy City Manager, Human Resources Director or designee and City Manager or designee.

3. Human Resources will notify the employee of the final approval and the cost of the paid time off the employee wishes to purchase. The cost is based on the employee's current hourly rate of pay times the number of Purchase Days at the time of the request. The total purchase amount is then divided by twenty-four (24) pay periods over the fiscal year.

   a. In the event the employee's salary or hourly rate changes during the fiscal year, the cost of the Purchase Days shall not be adjusted.

   b. The cost may not jeopardize an employee's minimum wage earnings.

4. The deductions will be pre-tax from the employee's paycheck per Section 125 under the Internal Revenue Service code.

   a. The pre-tax election may not be changed during the fiscal year.

   b. THE EMPLOYEE MUST USE ALL ACCRUED VACATION PRIOR TO BEING ELIGIBLE TO USE ANY PURCHASE DAY(S).

c. When the Purchase Day (or approved increments) are used, the cost will be reflected as income in the employee's paycheck and subject to applicable withholdings and deductions.

The Employee Handbook of Regulations, Section 1-60-015, *Use of City Vehicles,* is hereby amended by as shown below (additions are underlined and in caps, deletions are stricken):

B. AUTHORIZED USE

For those employees authorized to take City vehicles home, the following is the City's policy governing usage.

1. Employees must live within a twelve (12) mile radius from City Hall. IN ADDITION TO THE 12-MILE RADIUS FROM CITY HALL AN EMPLOYEE MAY RESIDE with the following additions:

6. City owned vehicles are not to be used to transport anyone other than City employees or people working with or for the City in an official capacity. Employees who are using the City owned vehicle outside of their scope of employment ~~will~~ MAY not be covered by the City's AUTO liability INSURANCE ~~or~~ AND WILL NOT BE COVERED BY THE CITY'S Worker's Compensation insurance. The only time an employee is covered under the City's WORKER'S COMPENSATION insurance polic~~ies~~Y is when acting ~~under~~ IN the COURSE AND scope of their employment. Employee's personal use of City vehicles is restricted to driving to and from work, except for infrequent, de minimus (one day per month) or emergency occurrences. Employees responding to emergency incidents must let any non-City personnel out of the vehicle prior to responding to a work-related emergency. The non-City personnel must then make other transportation arrangements.

SECTION 2. Penalties.

Any person found in violation of any provision of the Handbook may be subject to discipline, as set forth in such Handbook and Flagstaff City Code Section 1-14-001-0001, *Personnel System Adopted*.

SECTION 3. Repeal of Conflicting Ordinances.

All ordinances, parts of ordinances, and any sections of the Handbook in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the Handbook is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of June, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

1-10. GENERAL PROVISIONS

1-10-010.01. GENERAL DEFINITIONS (RENUMBERED)

General Definitions apply to the entire Employee Handbook of Regulations; however, if there is a conflicting specific definition found within a section, then the specific definition will apply to that section.

"Benefit Eligible Employees" are employees who are tenure eligible, tenure granted and Exempt employee who works twenty (20) hours or more per week.

"Classified Employees" shall have the same meaning as Non-Exempt employees.

"Commissioned" means the employee is an active member of the Public Safety Retirement System and the City Police or Fire Department.

"Date of hire" means the date when employment with the City commences.

"Domestic Partner" shall mean a person registered as a domestic partner under the laws of any state or political subdivision, including Flagstaff City Code, Chapter 14-01 (Domestic Partner Registry) for purposes related to leave policies.

"Earned Paid Sick Time" shall mean time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by City to the employee for the purposes described in A.R.S. § 23-373 and incorporated in this Handbook. Earned Paid Sick Time may be referred to as "accrued sick leave", "paid sick leave", or "unused sick leave" in some places in the Handbook.

"Emergency Service Employees" shall be a non-exempt employee who holds a position in Fire, Police, Streets, Fleet Services, Airport, Water Reclamation and Water Plants, Water Distribution and Wastewater Collection, Industrial ~~Waste~~Pre-Treatment, Parks, Facilities Maintenance, Building Inspection, or other positions designated by the Division Director and approved by the Deputy City Manager.

"Exempt Employees" are employees who are exempt from the overtime pay requirements of the Fair Labor Standards Act (FLSA).

"Family Member" shall have the same meaning as set forth in A.R.S. § 23-371.H and means:

1. Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a Domestic Partner, a child to whom the employee stands in Loco Parentis, or an individual to whom the employee stood in Loco Parentis when the individual was a minor;

2. A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or Domestic Partner or a person who stood in Loco Parentis when the employee or employee's spouse or Domestic Partner was a minor child;
3. A person to whom the employee is legally married under the laws of any state, or a Domestic Partner of an employee as registered under the laws of any state or political subdivision;
4. A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or Domestic Partner; or
5. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

"Fire Suppression Employees" are Commissioned, Non-Exempt employees who engage in fire protection activities as defined by the Fair Labor Standards Act 29 U.S.C. § 203(y) and who work over ninety-one (91) hours in a twelve (12) day work period.

"Full-Time" is considered forty (40) hours per week.

"Hours Worked" is time when an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place per the Fair Labor Standards Act Fact Sheet #22.

"Injury, Illness, or Medical Care" shall mean a physical illness, injury or health condition; the need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or a need for preventive medical care.

"In Loco Parentis" is defined as a person who helped raise and had day-to-day responsibilities to care for and financially support the employee as a child, assuming the role of a parent.

"Intermittent Leave" is leave in separate blocks of time.

"Key Employee" is defined as a salaried, Benefit Eligible Employee who is among the highest paid ten (10) percent of all the employees working for the employer within seventy-five (75) miles of the employee's worksite.

"Light Duty" means an employee is able to perform restricted duties and/or schedule per the employee's treating physician. Light duty may include telecommuting or other types of alternate work schedules per policy 1-20-053.

"Non-Exempt Employees" are employees who are paid wages subject to the overtime pay requirements of the Fair Labor Standards Act.

"Part-Time" is considered twenty (20) hours to thirty-nine (39) hours per week.

"Reduced Scheduled" is a reduced number of hours in the employee's usual weekly or daily work schedule.

"Regular Hourly Rate" is the employee's total straight time earnings divided by the number of hours worked.

"Shift Employees" are employees assigned to a position which is staffed at least six (6) days a week, or twenty-four (24) hours a day, and is assigned a designated work schedule that can be either rotating or permanently assigned.

"Temporary Employees" are employees hired by the City for a temporary period and who work less than 20 hours per week. Temporary Employees are not classified as Benefit Eligible Employees

"Tenured Employees" are Non-Exempt employees who have completed their probationary period.

"Unclassified Employees" shall have the same meaning as Exempt employees.

"Work Week" shall begin on Sunday morning at 12:01 a.m. and end the following Saturday at midnight for all employees.

"Working Day" shall be considered equal to 0.38461 percent of the number of working or duty hours in the established work year for each employee (i.e. 2080 x 0.38461% = 7.99 or 8 and 2912 X 0.38461% = 11.19 or 11.2).

(Ord. No. 2013-09, Amended 05/07/13); (Ord. No. 2017-12, Amended 07/01/17); (Ord. No. 2018-18, Amended 06/15/18); (Ord. No. 2018-26, Amended 09/20/18); (Ord. No. 2018-35, Amended 11/06/18)

1-10-022. GRIEVANCE PROCEDURE

Any alleged violation of a specific City provision is subject to review through the grievance procedure, excluding dismissal, demotion and suspension of ten (10) days or more. Dismissal, demotion and suspension of ten (10) days or more are covered by section 1-10-040 Personnel Board.

Employees are encouraged to first discuss an alleged policy violation with their immediate supervisor, as appropriate, before filling a grievance. If the alleged policy violation involves the employee's immediate supervisor or is not resolved with the immediate supervisor, the employee may approach the next level of supervision up to the Division Director without formally filing a grievance in writing. These informal discussions shall not be deemed a grievance.

Once an alleged policy violation is submitted in writing it is considered a grievance.

The time limits specified in the grievance process may be waived at any time by mutual consent of the parties. A grievance may be terminated at any time in the process with a signed written request from the employee.

A. FILING PROCESS

a. An employee initiates the grievance process by submitting the alleged violation in writing to their immediate supervisor. The grievance must be initiated within twenty (20) calendar days of the incident that gave rise to the grievance.

b. The grievance shall be signed by the employee, and must include the following information:

i. A clear and concise statement of the alleged policy violation and the facts upon which it is based;

ii. The section(s) of the City of Flagstaff Employee Handbook of Regulations or other City policy that was violated; and

iii. The remedy requested.

B. RESPONSE PROCESS

1. The supervisor shall notify the Section Head, Division Director and Human Resources Director or designee of the grievance and consult with these parties before their response.

2. The supervisor may meet with the employee prior to the response in order to seek clarification.

3. The response to a grievance shall be in writing, signed by the supervisor, and include the following information:

a. A clear and concise response to the grievance and the facts upon which it is based;

b. The section(s) of the City of Flagstaff Employee Handbook of Regulations or other City policy which apply to the grievance and basis for the decision; and

c. Denial or acceptance of the proposed remedy or alternative. The supervisor shall include information regarding the next steps in the process, if denying the remedy or alternative.

4. The supervisor shall meet with the employee to discuss the grievance response within five (5) working days after the grievance is initiated.

C. APPEAL PROCESS

G. After receiving the written response from the supervisor, if the employee does not feel the grievance is satisfactorily resolved, the employee may file an appeal with the next level of supervision within five (5) working days in writing and shall include the reason for the appeal and why the previous response was unsatisfactory.

H. The next level of supervision shall discuss the grievance with the employee within five (5) working days, gather information from others involved or having information pertinent to the issue, and then shall provide a written response to all parties within five (5) working days of the meeting. This appeal process will continue through the chain of command to the City Manager.

1. At each succeeding step the employee shall state in writing the reason for his or her appeal and why the previous response was unsatisfactory.

2. At each succeeding step the supervisor or manager shall respond in writing to the grievance stating the reason and basis for the decision that was rendered.

3. The decision of the City Manager's office is final. The Deputy City Manager and City Manager will consult and provide the final ruling.

3. All grievance documents should be forwarded to the Human Resources office for record retention.

(Ord. No. 2012-14, Amended, 10/02/12)

1-10-070. EMPLOYEE ADVISORY COMMITTEE

Note: This section of the Employee Handbook of Regulations is copied from Section 1-14-0001-0006 of the Flagstaff City Code. In order to ensure consistency, numbering and formatting of this section matches Section 1-14-001-0006.

1-14-001-0006 EMPLOYEE ADVISORY COMMITTEE

The Employee Advisory Committee (EAC) is hereby established.

1-14-001-0006.1 Definitions

A. "Regular Member" is an eligible employee elected to serve on behalf of that employee's respective group.

B. "Alternate Member" is an eligible employee elected to serve on the EAC when the Regular Member is unable to attend.

C. "Eligible Employee" is defined as any full-time tenured or exempt employee not identified as an "Ineligible Employee."

D. "Ineligible Employee" is defined as any employee appointed, or Deputy City Managers, Division Directors, Section Heads, Human Resources personnel, probationary, part-time or temporary employees.

1-14-001-0006.2 Mission Statement

The mission of the EAC is to form a body of elected members and alternates to represent individual employees, groups of employees, and divisions of the City of Flagstaff with fairness and impartiality.

1-14-001-0006.3 Purpose

The purpose of the EAC is to foster ongoing employee-employer relations by providing a process and forum for employees to recommend changes to the City Manager concerning employment-related policies and procedures, safety, compensation and benefits. The EAC does not make recommendations regarding hiring, employee discipline, promotions, demotions, transfers, voluntary reassignments, suspensions, or dismissal.

The EAC is a body of elected members and alternates established for the purpose of discussing and making recommendations based on the requests received from individual employees, groups of employees and the City of Flagstaff with fairness and impartiality. The EAC is an advisory committee and does not represent individual employees with regard to an individual's personnel issues.

Individual employment issues affecting any employee shall be processed through any of the City's established grievance or appeal procedures. Employees are encouraged to resolve any issue or employment-related concern through the established administrative procedures.

1-14-001-0006.4 Objectives

The objectives of the EAC are to:

A. Work together in the spirit of trust and cooperation in an attempt to reach consensus on matters under discussion.

B. Review and recommend to the City Manager any initiatives or changes to City's policies and procedures which are related to employment, safety, compensation, or benefits prior to submission to the City Council for consideration.

C. Provide a forum for employees to discuss City-wide employee issues as they pertain to employment-related policies and procedures, safety, compensation and benefits.

D. Ensure that each member attends EAC meetings and regularly communicates with the employees in the EAC member's group.

E. Attend, participate and/or provide input and recommendations at City Council budget meetings.

F. Respond to City Manager questions or concerns.

1-14-001-0006.5 Structure

A. The Employee Advisory Committee shall consist of the following members, by group, excluding ineligible employees except for the Human Resources Director, or designee, who shall serve as a non-voting member, and shall provide information to the EAC as needed:

1. Administrative Services - (City Manager's Office, Legal, Human Resources, Risk Management, and City Clerk's Office~~, Real Estate, and Information Technology~~) - one (1) member

2. Management Services - (Finance, Revenue, ~~and~~ Purchasing, and Information Technology) – ~~one~~two (~~1~~2) members

3. Police - (Commissioned two members and Non-Commissioned one member) - three (3) members

4. Fire - two (2) members

5. Public Works - (Public Works Administration, Solid Waste, Streets, Parks and Recreation, Fleet, Facility Maintenance, Environmental Management, and Sustainability) - three (3) members

6. Community Development - (Planning & Development, Housing, ~~and~~ Engineering, and Real Estate) - two (2) members

7. Water Services - two (2) members

8. City Court - one (1) member

9. Economic Vitality - (Convention & Visitors Bureau, Airport, Community Investment, and Library) - two (2) members

10. The Human Resources Director, or designee, is a permanent, non-voting member.

B. Each group will be assigned a number of members based on the number of tenured, tenure-eligible and exempt employees.

1. A group with less than 50 employees is assigned one (1) EAC member.

2. A group with 50 to 100 employees is assigned two (2) EAC members.

3. A group with more than 100 employees is assigned three (3) EAC members.

C. The number of members per group will be evaluated each year and may be reviewed by EAC at other times as required.

1. If the number of members is too high at the time of the election, the regular and alternate members at the end of their term or at the time of resignation will be removed.

2. If the number of members is too low at the time of the election, the appropriate number of regular and alternate members will be added.

D. Members and alternate members will serve a two (2) year term. Memberships will be staggered.

E. There will be an equal number of regular and alternate members.

F. Alternate members are encouraged to attend all meetings; however, alternate members shall only vote when filling in for the regular member.

G. There will be two co-chairs who will serve a one (1) year term. Alternate members are not eligible to serve as co-chair.

H. Any member of the EAC shall not act independently on behalf of EAC without prior approval of an EAC majority vote.

1-14-001-0006.6 Elections and Membership

A. City-wide elections for membership shall be held annually, by July 15, with terms starting during the first meeting in August.

1. Eligible employees shall nominate regular and alternate members who will also be eligible employees as defined in this Chapter.

2. The eligible employee with the most votes will become the regular member and the employee with the next highest will become the alternate member. In the event of a tie, a ballot will be sent out to the division for a formal vote.

B. Elections for special appointments will be conducted during the second meeting in August.

1. Election of two co-chairs.

2. Elect an EAC member to take minutes of the meetings, with a back-up and/or rotation as deemed necessary.

3. Elect an EAC member to attend Budget Committee meetings, when the Budget Committee is discussing any benefit and compensation issues and during the add-back and delete portion of the budget, in an ongoing effort to foster better communication and understanding.

4. Elect two (2) EAC members to attend the Compensation Committee meetings.

5. EAC members may also be elected to serve on special committees or task forces concerning employment-related policies and procedures, safety, compensation and benefits.

C. Newly elected regular and alternate members shall attend an orientation meeting with a co-chair and/or the Human Resources Director after annual elections between August and November.

1-14-001-0006.7 Resignation or Removal

A. EAC members who want to resign from service shall submit their requests in writing to the two co-chairs and the Human Resources Director.

B. When a regular member resigns from service an election will be held and the newly elected member will serve a two (2) year term from the time of the election.

C. If the resigning member is a co-chair, a special election for the appointment of a new co-chair will take place and the newly elected co-chair will finish out the one (1) year term of the previous co-chair.

D. Members with three (3) consecutive unexcused absences may be removed by a majority vote of the EAC.

E. If an employee from a group desires to remove the current EAC member, they must follow criteria listed:

1. Submit a formal complaint in writing explaining the reason for the request to remove the current EAC member to the Human Resources Director.

    a. The complaint may only be filed from the EAC member's group.

    b. Human Resources will relay the complaint information to the current co-chairs.

    c. The co-chair will recuse himself or herself from the process, if the complaint is about them or another EAC member from the same group.

    d. The co-chairs will speak with the EAC member about the complaint to obtain additional information.

    e. The EAC co-chairs, with assistance from the Human Resources Director, may evaluate the information obtained through discussions with the complainant and the EAC member to substantiate the complaint.

        i. If unable to substantiate the complaint, the EAC co-chairs will reply to the complainant.

        ii. If able to substantiate the complaint, the process will continue.

2. There will be a two (2) month period to allow for the EAC member to address the area(s) of concern.

3. The co-chairs will contact the complainant to review any improvements.

    a. If there have been improvements, the co-chairs will provide a written response to the complainant closing the complaint.

    b. If there have been no improvements and the complainant is still dissatisfied, a second complaint will be filed by the co-chairs.

4. If a second complaint is received, the co-chairs, with the assistance of Human Resources, will hold an election to remove the EAC member.

    a. The election must have fifty percent (50%) plus one (1) votes of the EAC member's group for the election to be valid.

b. If the election does not receive enough votes to be considered valid, the EAC member will continue his or her term.

c. If the election does receive enough votes and the majority of employees in the EAC member's group votes to keep the EAC member, then the EAC member will continue his or her term.

d. If the election does receive enough votes and the majority of employees in the EAC member's group votes to remove the EAC member, then the EAC member will not continue his or her term and another election will be held to select another EAC member to serve a two (2) year term from the time of the election.

1-14-001-0006.8 Meetings

A. Meetings of the City EAC shall be held twice per month, or less frequently if approved by a majority vote of the EAC. Dates and times will be determined by the majority vote of the EAC.

B. Special meetings, when required, may be called by the co-chair(s) without a majority vote of the EAC.

C. Regular members shall notify the appropriate group alternate member and the EAC co-chairs, in a timely manner, when they are unable to attend a meeting.

D. Co-chairs may request a meeting with the City Manager as needed, or on a regular basis.

E. When the EAC co-chairs have brought an issue to the attention of the City Manager and the issue is not resolved to the satisfaction of the EAC, a co-chair or EAC designee may address the City Council at a public meeting to review the issue, upon recommendation and majority vote of the EAC.

F. All votes regarding recommendations must be approved by a majority vote of the quorum. A quorum shall be one more than half of the voting membership of the EAC.

G. All votes that are not unanimous shall result in a roll call vote and will be recorded into the meeting minutes.

H. Employees, including ineligible employees, desiring an item to be discussed by the EAC shall contact their group's regular member or any regular EAC member to place the item on the EAC's agenda.

1. Employees may request to keep their names confidential and it will not be part of the EAC's discussion.

2. An employee with an item on the EAC agenda shall be notified by a co-chair of the meeting time and date. Time in attendance at EAC meetings shall constitute hours worked.

I. The City Manager may contact an EAC co-chair to place an item on the EAC agenda.

1-14-001-0006.9 Notice and Procedures for Meetings

A. The EAC agenda will be posted on the internal City of Flagstaff EAC website and at locations approved by the EAC at least twenty-four (24) hours prior to the meeting date and time by EAC members for the group they represent.

B. EAC meeting minutes will be posted on the EAC website and at the approved locations within five (5) calendar days after approval, and emailed to all EAC regular and alternate members.

C. The EAC may adopt procedures for governance of the Committee's meetings.

1-14-001-0006.10 Subcommittees

Subcommittees may be formed to address specific EAC issues to bring to the full EAC for input and approval. Subcommittees are encouraged to meet for one (1) hour, two (2) times per month, and the cessation of the subcommittee will occur once the issue is voted on by the full EAC. Each subcommittee, at its own discretion, or the City Manager, may ask non-EAC members to participate.

1-14-001-0006.11 Attendance and Hours Worked

A. EAC members shall attend EAC meetings, utilizing City time to the degree necessary to conduct EAC business, and such time shall be considered hours worked.

B. Employees who are not members of the EAC, including subcommittee members, may attend EAC meetings or subcommittee meetings during regular work hours for up to four (4) hours per month, with written approval of their immediate supervisors, and such time shall be hours worked.

C. An employee may attend EAC meetings, during non-working hours, and such time shall not be hours worked.

D. The EAC may choose a member to attend the portion of the Leadership meetings when EAC agenda items are scheduled for discussion or upon request of the City Manager, and such time shall be hours worked.

E. The EAC, City Manager, or Human Resources Director may invite any person to attend EAC meetings, and the employee's time shall be considered hours worked.

(Ord. No. 2014-32, Amended, 01/06/15); (Ord. No. 2010-33, Amended, 02/15/11); (Ord. No. 2018-18, Amended, 06/15/18); (Ord. No. 2018-36, Amended, 11/06/18)

1-30. EMPLOYMENT

1-30-061. PERFORMANCE EVALUATION SYSTEM

The performance evaluation system enables the creation of reasonable performance expectations by the supervisor and the employee. The formal evaluations of the employee's work behavior helps the employer and the employee build on the strengths of the employee and identify those areas the employee needs improvement to be more effective and efficient in their job.

A. EVALUATION PROCESS

1. The supervisor will prepare the evaluation based on the review of the following items:

   a. A comparison of the employee's performance with the performance expectations established upon the employee's date of hire or the previous year's evaluation;

   b. The duties and responsibilities of the employee's position; and

   c. Supervisory notes taken during the evaluation period.

2. The supervisor's evaluation should be based on an employee's actual performance and not on personal prejudice, bias or favoritism.

~~3. The supervisor will notify the employee of their evaluation meeting at least one (1) week in advance.~~

~~4.~~3. The online evaluation system, or the supervisor, will ~~request~~ notify the employee to login to the online evaluation system and complete the pre-review input section of the evaluation form. This allows the employee an opportunity to present his or her accomplishments for the year and assist the supervisor in completing the performance evaluation.

~~5.~~4. The supervisor will meet with the employee to review the performance evaluation. The supervisor will discuss the employee's strengths, areas of improvement with suggestions for improvement and expectations and goals for the upcoming year.

6. ~~Any evaluations completed by a supervisor and signed by the employee will be filed in the employee's personnel file. If the employee refuses to sign the supervisor will write "employee refused to sign" and the evaluation will be filed in the employee's personnel file.~~An employee will login to the online evaluation system, select agree or disagree with evaluation rating, provide a written statement and electronically sign the evaluation. The evaluation will be retained in the online evaluation system.

7. ~~An employee may attach a written statement to any evaluation to be placed in their 201 file.~~

B. PROBATIONARY EVALUATION

1. All non-exempt employees will be evaluated during their probationary period to ensure satisfactory performance based on the following schedule:

   a. A non-commissioned non-exempt employee shall be evaluated at three and six months from their date of hire.

   b. A non-exempt employee of the Municipal Court shall be evaluated at four, eight and twelve months from their date of hire.

   c. A non-commissioned non-exempt Police Department employee working in the Communications Center shall be evaluated at six and twelve months from their date of hire.

   d. A commissioned non-exempt employee of the Fire Department shall be evaluated at three, six, nine and twelve months from their date of hire.

   e. A commissioned non-exempt employee of the Police Department shall be evaluated at ~~three, six, nine and twelve months from their date of hire. Except Police Officers who shall be evaluated at three,~~ six~~, nine~~ and twelve months after their completion of the Field Training Officer (FTO) Program.

2. The probationary evaluation schedule may be extended up to six months by completing the following process:

   a. The supervisor submits a request in writing outlining the reason for and length of the probationary period extension and the request is approved

by the Section Head, Division Director, Deputy City Manager and Human Resources Director prior to the end of the probationary period.

b. The supervisor notifies the employee in writing the probationary period has been extended and the employee acknowledges by signing the written document.

c. The employee acknowledgement is filed in the employee's personnel file.

d. Another performance evaluation is completed before the end of the extended probationary period.

3. An employee is deemed to have satisfactorily completed the probationary period when an extension is not requested prior to the end of the probationary period.

4. An employee who does not perform satisfactorily during the probationary evaluation period may be discharged per section 1-40-022 Dismissals of Probationary Employees.

5. Exempt employees do not serve a probationary period; thus, a probationary evaluation is not required.

C. ANNUAL EVALUATION

1. After an employee has completed the probationary evaluation or administrative evaluation period, the rating period shall be annually upon the employee's hire or classification date.

2. Exempt evaluations shall be completed ~~by July 1st of each year~~upon the employee's anniversary or classification date.

3. Upon budgetary approval non-exempt and exempt employees with an overall evaluation score of ~~five (5)~~meets expectations or above will receive a merit increase, except when the employee is at the maximum of the pay range. ~~A non-exempt pay merit increase is movement to the next step in the pay range. An exempt merit increase is equal to 3.2% of the employee's current salary.~~

4. Council appointed employee evaluations shall be completed on the anniversary of and prior to the end of the service agreement.

5. Additional evaluations may be required upon request from the immediate supervisor.

D. ADMINISTRATIVE EVALUATION

1. Non-exempt and exempt employees who are promoted, demoted, transferred, or voluntarily reassigned to another position are subject to an administrative evaluation based on the following schedule:

   a. A non-commissioned non-exempt or exempt employee shall be evaluated at three and six months from their date of promotion, demotion, transfer, or voluntary reassignment to another position.

   b. A non-exempt or exempt employee of the Municipal Court shall be evaluated at four, eight and twelve months from their date of promotion, demotion, transfer or voluntary reassignment to another position.

   c. A non-exempt or exempt Police Department employee working in the Communications Center shall be evaluated at six and twelve months from their promotion, demotion, transfer, or voluntary reassignment to another position.

   d. A non-exempt or exempt commissioned Fire Department employee shall be evaluated at three, six, nine and twelve months from their date of promotion, demotion, transfer, or voluntary reassignment to another position.

   ~~c.~~e. A commissioned non-exempt or exempt employee in the Police Department shall be evaluated at ~~three,~~ six~~, nine~~ and twelve months from their date of promotion, demotion, transfer or voluntary reassignment to another position.

2. An employee who does not perform satisfactorily during the administrative evaluation period may be returned to their previous position, provided a vacancy exists. Should no vacancy exist at the time, the employee shall be recommended for termination. The employee is eligible to request a hearing before the Personnel Board per section 1-10-40.C Personnel Board Request for Hearing.

3. Additional administrative evaluations may be required upon request from the immediate supervisor.

(Ord. No. 2012-14, Amended, 10/02/12)

1-50. LEAVE

1-50-039. PURCHASE DAY PROGRAM

Benefit Eligible Employees may purchase additional paid time off by participating in the purchase day program.

ADDENDUM 18 OF THE EMPLOYEE HANDBOOK OF REGULATIONS

A. DEFINITIONS

"Purchase Days" are paid time off the employee may purchase through a pre-tax payroll deduction. A Purchase Day is equal to one (1) Working Day.

B. ELIGIBILITY

1. A Full-Time Benefit Eligible Employee may purchase up to ten (10) Purchase Days per fiscal year after completing six (6) months of continuous service, if a timely request is submitted.

2. Employees may not purchase partial Purchase Days.

3. Employees may use Purchase Days in fifteen (15) minute increments.

C. PROCEDURE

1. Employees must submit a request to participate ~~between May 1st and May 31st~~during the annual open enrollment period in order to be eligible to participate the following fiscal year. Employees must re-elect each fiscal year to participate in the purchase day program.

2. The Benefit Eligible Employee may request to participate in the purchase day program by submitting a Purchase Day Program Request form to the employee's immediate supervisor, Section Head, Division Director, Deputy City Manager, Human Resources Director or designee and City Manager or designee.

3. Human Resources will notify the employee of the final approval and the cost of the paid time off the employee wishes to purchase. The cost is based on the employee's current hourly rate of pay times the number of Purchase Days at the time of the request. The total purchase amount is then divided by twenty-four (24) pay periods over the fiscal year.

    a. In the event the employee's salary or hourly rate changes during the fiscal year, the cost of the Purchase Days shall not be adjusted.

    b. The cost may not jeopardize an employee's minimum wage earnings.

4. The deductions will be pre-tax from the employee's paycheck per Section 125 under the Internal Revenue Service code.

    a. The pre-tax election may not be changed during the fiscal year.

b. The employee must use all accrued vacation prior to being eligible to use any Purchase Day(s).

c. When the Purchase Day (or approved increments) are used, the cost will be reflected as income in the employee's paycheck and subject to applicable withholdings and deductions.

5. Purchase Days must be used within the fiscal year by June 30th or they will be forfeited.

6. Employees wishing to utilize Purchase Days must request and obtain approval in advance. The supervisor is responsible for authorizing and scheduling employee time off requests while balancing the work program, and may deny use of Purchase Days if not requested sufficient time in advance.

7. An employee shall submit a leave of absence form to the immediate supervisor to record the employee's Purchase Day leave through the City's payroll procedures.

8. Purchase Days are paid at the employee's regular pay rate excluding any type of additional pay.

C. EFFECTS OF TERMINATION OF EMPLOYMENT

1. Employees who leave City service will receive a refund for any Purchase Days not used, which will be reflected as income in the employee's paycheck and subject to applicable withholdings and deductions.

2. Employees who leave City service and who have used Purchase Days not yet paid for will pay for the amount owed from their last paycheck. The last paycheck will show the cost deducted. Any balance not deducted from the employee's last paycheck will be paid to the City within six (6) months after leaving the City's employment. After six (6) months, any unpaid balances will be forwarded to collection and the employee will be responsible for the cost of the collection, including any attorney fees and court costs.

Form(s): Purchase Day Program Request Form

(Ord. No. 2013-09, Amended, 05/07/13)

ARTICLE 1-60. EMPLOYEE RESPONSIBILITIES AND LIMITATIONS

1-60-015. USE OF CITY VEHICLES

This policy and procedure govern the use of City owned vehicles and outlines the circumstances for which employees may take City vehicles home.

A. ELIGIBILITY

City owned vehicles are provided to the employee for business use. Under certain circumstances employees are required to commute in City owned vehicles, which are equipped with communications or other equipment the employee would need if responding to an emergency. Employees are allowed to take home a City owned vehicle at the discretion of the City and it is considered a privilege. The following criteria will be used for requiring employees to commute in City owned vehicles:

a. The employee responds to emergencies, with written approval of the immediate Supervisor, Section Head, Division Director, Deputy City Manager and City Manager, or

b. The employee is required to report from home to either a non-City owned work site, or a City owned site other than the employee's normal work base, with written approval of the immediate Supervisor, Section Head and Division Director, Deputy City Manager and City Manager, or

c. The employee is required to be on-call or call-out during off hours and is called out on a regular basis. The employee must be required to respond directly to the emergency and the vehicle contains special equipment that will be needed at the emergency scene. For definition purposes "regular basis" is defined as an average of more than twice per month.

B. AUTHORIZED USE

For those employees authorized to take City vehicles home, the following is the City's policy governing usage.

1. Employees must live within a twelve (12) mile radius from City Hall. In addition to the 12-mile radius from City Hall an employee may reside with the following additions:

    1. From I-17 and I-40 interchange eastbound for thirty-five (35) miles with a five (5) mile wide (two and half (2.5) miles on each side) corridor;

    2. From I-17 and I-40 interchange westbound for thirty-five (35) miles with a five (5) mile wide (two and half (2.5) miles on each side) corridor;

    3. From I-17 and I-40 interchange southbound for thirty (35) miles with a five (5) mile wide (two and half (2.5) miles on each side) corridor; or

    4. Or ten (10) miles from City Hall along Highway 180 North with a five (5) mile wide corridor (two and half (2.5) miles on each side).

    The five (5) mile wide corridor is designed to limit the number of secondary roads the employee would use to access the main freeway.

2. The Fleet Manager will approve the type of vehicle to insure it is appropriate for the designated use by the employee.

3. Employees must complete a Vehicle Use Authorization Form, approved by the immediate Supervisor, Section Head, Division Director, Deputy City Manager, Fleet Manager and City Manager.

4. City vehicles can only be operated by authorized City personnel or personnel approved through an IGA.

5. Personal use for commuting to and from work will be valued at $1.50 for each one-way commute. If more than one employee commutes in the vehicle, the $1.50 each-way rule applies to each employee. The commuting rule does not apply to qualified non-personal use vehicles such as:

   a. clearly marked police and fire vehicles;

   b. unmarked vehicles used by law enforcement officers if the use if officially authorized;

   c. truck with permanent interior construction, shelves and racks designed to carry tools, equipment, etc.; or

   d. truck with a hydraulic lift gate, permanent tanks or drums, permanent sideboards or panels that materially raise the sides of the truck bed, or other heavy equipment (electric generator, welder, boom, or crane).

6. City owned vehicles are not to be used to transport anyone other than City employees or people working with or for the City in an official capacity. Employees who are using the City owned vehicle outside of their scope of employment ~~will~~ may not be covered by the City's auto liability insurance ~~or~~ and will not be covered by the City's ~~w~~Worker's ~~c~~Compensation insurance. The only time an employee is covered under the City's Worker's Compensation insurance policy~~ies~~ is when acting ~~under~~ in the course and scope of their employment. Employee's personal use of City vehicles is restricted to driving to and from work, except for infrequent, de minimus (one day per month) or emergency occurrences. Employees responding to emergency incidents must let any non-City personnel out of the vehicle prior to responding to a work-related emergency. The non-City personnel must then make other transportation arrangements.

7. The City' s liability insurance may not cover or defend an employee when liability arises out of the personal use of a City vehicle. In conjunction with this, the employee's personal auto insurance may also not cover any liability arising out of the use of any vehicle provided for the employee's regular use. There is no automobile medical payments coverage on City vehicles. Medical coverage for an

employee hurt in a vehicle on City business is covered under the City's Worker's Compensation policy; however, if using a City vehicle for personal uses, an employee may not be covered by Worker's Compensation and may have to apply for the coverage under their own personal City provided medical coverage. Likewise, a passenger that is not covered by their own Worker's Compensation policy will have to pay for their own injuries or prove that the City of Flagstaff was legally liable for any injuries.

8. Employee misconduct, misuse of assigned vehicle, or any violations of this policy are grounds for disciplinary action.

C. MONITORING

1. Employees will submit a monthly vehicle log for all City vehicles that do not qualify as a non-personal use vehicle in order to monitor how the City owned vehicle is being used.

2. Use of a qualified non-personal use vehicle, including commuting, is nontaxable to the employee; and record keeping and substantiation by the employee are not required by the IRS per Reg. § 1.274-5T(k) and § 1.132-5(h).

D. PROCEDURES

1. Fleet division sends the City Manager a list of City employees assigned to City owned vehicles on an annual basis.

2. City Manager's office sends the list out to Division Directors for updated information.

3. The immediate Supervisor completes new Vehicle Use Authorization forms. This is the first step of the process when a new employee is hired.

4. The immediate Supervisor, Section Head, and Division Director approves or denies the Forms and returns all approved Forms to the City Manager's office.

5. The City Manager's office sends the Forms to the Fleet Manager for review of vehicle type and approval or denial.

6. The Fleet Manager returns all approved forms to the City Manager's office for approval or denial. All Forms denied by the Fleet Manager are sent back to the Division Director.

7. The City Manager forwards all approved forms to the Human Resources Division and all denied forms back to the Division Director.

8. Human Resources files the approved form in the employee's personnel file.

9. Payroll collects monthly vehicle log and processes applicable taxes.

FORM(S):

Vehicle Use Authorization Form
Monthly Vehicle Log

(Ord. No. 2018-35, Amended, 11/06/18)

6. D.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Amy Hagin, Public Works - Parks Manager
Date:	05/13/2019
Meeting Date:	05/21/2019

TITLE:

Consideration and Approval of Contract: Approve the Cooperative Purchase Contract with The Public Restroom Company for the Buffalo Park restrooms.

STAFF RECOMMENDED ACTION:

1. Approve the cooperative purchase contract in the amount of $202,506.00 with The Public Restroom Company to purchase and install a turnkey restroom at Buffalo Park through the BuyBoard Cooperative Purchasing Agreement 2019-115, and
2. Authorize the City Manager to execute the necessary documents

Executive Summary:

Approval of this cooperative purchase contract with The Public Restroom Company will allow the City to purchase a turnkey (installed) permanent restroom facility at Buffalo Park. The Park's current restrooms consist of four (4) portable toilets in summer and one to two (1-2) portable toilets in winter at an estimated annual cost of $8,400.

This purchase will provide for a year-round permanent restroom building with three (3) fully accessible units at one of the City's most popular passive recreation parks. Parks staff worked with The Portable Restroom Company to customize standard features to be compliant with goals of the Climate Action and Adaptation Plan (WR-3-B, E-1, EPR-3-B) and the Water Conservation Strategic Plan, including LED motion sensor activated lighting, high-velocity hand dryers to eliminate paper towel waste, efficient radiant in-floor heating, dark sky compliant lighting fixtures, and Water Sense plumbing fixtures.The building also includes a utility chase for maintenance. The wastewater system for the turnkey facility will be an alternative septic system. The restroom exterior features complement the other structures and natural features within the park, including a stone veneer exterior and architectural wood/timber styling.

Financial Impact:

The amount of $202,506.00 is budgeted within account 055-06-158-3312-5-4434.

Policy Impact:

There are no policy impacts.

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

The new restroom supports the Council goals of Transportation and Other Public Infrastructure, Water Conservation, and Environmental and Natural Resources.

Has There Been Previous Council Decision on This:

The City of Flagstaff City Council allocated funds for this project to provide a more permanent solution for restrooms at Buffalo Park during the Fiscal Year 2018 budget process.

Options and Alternatives:

1. Approve the cooperative purchase contract in the amount of $202,506.00 with The Public Restroom Company to purchase and install a turnkey restroom at Buffalo Park through the BuyBoard Cooperative Purchasing Agreement 2019-115, and
2. Authorize the City Manager to execute the necessary documents

Background/History:

In fiscal year (FY) 2018, $300,000 was budgeted within the Recreation portion of the Bed, Board, and Beverage (BBB) Fund for the design, procurement and construction of permanent restrooms for Buffalo Park and Thorpe Park. Design of the restrooms began during FY18 and construction bids were obtained from Job Order Contract (JOC) contractors in FY19. The low bid to construct just the Buffalo Park restroom came in well over budget at $575,000, so staff began researching ways to reduce construction costs. One of the largest expenses was construction of a 1,400 linear foot sewer line that would have been nearly 10-feet deep in some locations. The length and depth of the proposed sewer line, along with the rocky subsurface conditions of the area, made a sewer line cost prohibitive. Staff consulted with internal and external stakeholders, including Water Services Division staff, and determined that an alternate septic system would be the most fiscally responsible way to provide wastewater services to the restrooms.

Staff continued researching additional cost savings and found that the purchase of a turnkey, fully installed and plumbed, permanent restroom such as this proposed purchase from The Public Restroom Company, would be less expensive than building on site with a general contractor. This purchase brings the project within budget, although only restrooms at Buffalo Park will be accomplished with this funding. Staff will continue to fine-tune options for Thorpe Park and bring forward a separate funding request in a future fiscal year.

Key Considerations:

When considering the cost reduction measures that staff has proposed, the most economical way to provide permanent public restrooms at Buffalo Park is the turnkey structure along with the septic system. All three restroom units within the structure will be fully accessible, producing a more functional restroom facility for the high use, passive park.

The turnkey restroom is designed with both Climate Action and Adaptation Plan and Water Conservation considerations, including low flow Water Sense toilets and faucets, high-velocity hand dryers to eliminate the need for paper towels, motion sensor activated LED light fixtures, and radiant in-floor heating that will reduce the overall heating requirements of the structure. The exterior lighting will meet dark skies goals and the structure will include exterior elements that complement those already at Buffalo Park.

Parks staff currently use a private security company to close and lock all public restrooms after the parks close after dark. Parks staff then reopens the restrooms each morning. The new restrooms at Buffalo Park will be added to this service. Additionally, as with large events at other parks with permanent restrooms, special event producers may be asked to provide portable restrooms to alleviate overuse of the permanent facility. Event producers will also be asked to restock the restroom and ensure its general

cleanliness at the end of the event.

Community Benefits and Considerations:

Buffalo Park is a highly utilized passive park and is currently only serviced with portable restrooms.The new permanent restroom structure will provide for year-round restroom usage within the park grounds for the community.

Attachments:

2019-115 Contract - PRC
Exhibit A
Exhibit B
Restroom Rendering
Vicinity Map
Buffalo Park presentation

COOPERATIVE PURCHASE CONTRACT
Contract No. 2019-115

This Cooperative Purchase Contract is made and entered into this _____ day of _____, 20_____by and between the City of Flagstaff, Arizona, a political subdivision of the State of Arizona ("City") and Public Restroom Company ("Contractor").

RECITALS:

A. Contractor has a Local Government Purchasing Cooperative Contract 512-16 with BuyBoard Cooperative Purchasing to supply materials and/or services ("Agency Contract"), which was awarded through a competitive and open procurement process; and

B. The City has authority to enter into a cooperative purchase contract with Contractor utilizing the Agency Contract.

AGREEMENT:

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Materials and or Services Purchased: Contractor shall provide to City the materials and or services, as specified in the Purchase Order(s) submitted by the City in accordance with the Agency Contract. General description of materials and or services being purchased:

Restroom Building, Delivery and Turnkey Installation of the Building

2. Specific Requirements of City: Contractor shall comply with all specific purchase and delivery requirements and/or options of City, as specified in the Purchase Order(s) submitted to Contractor or *Exhibit A* attached hereto and incorporated by reference.

3. Payment: Payment to the Contractor for the materials and or services provided shall be forty-two hundred two thousand five hundred six dollars and zero cents ($202,506.00) made in accordance with the price list and terms set forth in the Agency Contract.

4. Terms and Conditions of Agency Contract Apply: All provisions of the Agency Contract documents, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. The Agency Contract documents are set forth in *Exhibit B* attached hereto and incorporated by reference. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract.

5. Certificates of Insurance: All insurance provisions of the Agency Contract shall apply, including any requirement to name the City as an additional insured. Prior to commencing performance under this Contract, Contractor shall furnish City with a copy of the current Certificate of Insurance required by the Agency Contract.

6. Term: This Cooperative Purchase Contract shall commence upon execution by the parties and shall continue until expiration or termination of the underlying Agency Contract, unless sooner terminated by City in writing.

7. Renewal: This Cooperative Purchase Contract shall be automatically renewed if the underlying Agency Contract is renewed, for the same renewal period, unless City provides advance written notice to Contractor of its intention to non-renew.

CONTRACTOR:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

EXHIBIT A
SPECIFIC REQUIREMENTS OF CITY

Price: "Per Purchase Order" and "Scope of Work"

Specifications: "Per Purchase Order" and "Scope of Work"

Schedule of performance: "Per Purchase Order"

Delivery location "Per Purchase Order" and "Scope of Work"

Notices: All notices to City shall be sent to:

Matthew Luhman
Senior Procurement Specialist
Purchasing Department
211 W. Aspen Ave.
Flagstaff, Arizona 86001
(928) 213-2278
mluhman@flagstaffaz.gov

Attach: Certificate of Insurance

EXHIBIT B
AGENCY CONTRACT

- Contract Number: 512-16
- Contract Extension through 09/30/2019

Price Proposal: **Buffalo Park Restroom Building, Flagstaff, AZ**
Date: **March 27, 2019**
Reference: **10610-3/27/2019-2**
BuyBoard Contract #: **512-16**

Our Offer to Sell:

1. **Restroom Building delivered to site @ $ 172,792**
   Public Restroom Company herein bids to *furnish (building only per plans and specifications, delivered to site with all costs except installation including applicable taxes excluding retention.* (Retention is not allowed as this is materials or a product fully assembled before shipment to the site and therefore not subject to retention.)

2. **Installation: Turnkey Installation of the Building above @ $ 29,714 with retention allowed.**
   Public Restroom Company also includes in this two-part quotation our turnkey installation package for this building. Our national factory authorized installation team will:
   a. Arrive onsite to confirm and verify the owner provided scope of work in preparation for installation including access to the site.
   b. Verify the building pad size, building corners, finished slab elevation, utility depth and location, meter size and distance from building, and compaction compliance.
   c. Excavate the utility trenches for placement of our prefabricated underground piping tree for plumbing and electrical, set the kit in place, provide the water test for inspection before backfilling, and then place the site adjacent coarse sand you provide to us alongside the building pad and screed it level for final building placement. We will need onsite water availability for wetting the sand bed before building placement to consolidate the pad.
   d. Set the building on the site pad.
   e. Connect the utility piping stub ups to the building piping stub down building points of connection for water, sewer, and electrical conduit to the building internal electrical panel.

3. **Owner Final Tie In of Utilities and other site work:**
   The exterior utility connections for water, sewer and electrical 6' or less from the footprint of the building are by owner.

4. **Total Cost of building and installation @ $ 202,506**

OWNER SCOPE OF WORK WITH/WITHOUT FOOTINGS:

Owner Scope of Work Background:
Owner shall survey the site, establish survey for the building pad and prefabricated building slab elevation and front corners, excavate for building footings (if required), locate footing sleeves for electrical, waste, and water, pour the footings (if required), furnish sand base adjacent to subgrade pad, and provide location for utility POC's nominally 6' outside the foundation.

Preparation of Building Pad:
Owner is responsible for providing the building subgrade pad or when required footings to frost depth per Public Restroom Company design specifications. PRC will provide detailed drawings for the subgrade building pad, utilities POC's, and if required the footings, attached to this scope of work.

Subgrade Pad/Foundation Requirements:

1. Owner shall survey the building site and provide a finished slab elevation for the prefabricated building. The building pad size we require is larger than the final actual building footprint. Provide building front corner stakes with 10' offsets.
2. Excavate the existing site to the depth of the required footings to local code if required.
3. Furnish coarse concrete sand adjacent to subgrade pad so PRC can cut the utility trenches, install underground utilities, and screed sand.

Owner verification of site access to allow Building Delivery:

1. You certify to PRC that suitable delivery access to the proposed building site is available. Suitable access is defined as 14' minimum width, 16' minimum height, and sufficient turning radius for a crane and 70' tractor-trailer.
2. Our cost is based upon the crane we provide being able to get within 35' from the building center and for the delivery truck to be no more than 35' from the crane center picking point.
3. If the path to the building site traverses curbs, underground utilities, landscaping, sidewalks, or other obstacles that could be damaged, it is the Owner's responsibility for repair and all costs, if damage occurs.
4. If trench plating is required, it shall be the cost responsibility of the Owner.
5. If unseen obstacles are present when site installation begins, it is the Owner's responsibility to properly mark them and verbally notify PRC before installation.

Installation Notice and Site Availability:
PRC will provide sufficient notice of delivery of the prefabricated building. The Owner shall make the site available during the delivery period. During the delivery period, on an improved site, Owner should stop site watering several days before delivery to minimize the impact on the soils for the heavy equipment needed for installation.

Caution:
If site is not ready for our field crew to perform their installation and if no notice of delay in readiness from Owner is received, PRC will provide a change order for re-mobilization on a daily basis until the site is ready for us. Ready means that the site pad is completed, the corner required survey stakes are in place, the slab elevation stakes are in place, the location of the front of the building is confirmed on site, and access to the site is available from an improved roadway. Owner shall sign the change order before we will continue delivery.

Public Restroom Company will "turn-key" set the buildings including the hook up of utilities inside the building (only) when they are available. PRC will use its own factory trained staff for the installation.

Utility Connections:
1. The Owner is responsible for flushing all water service lines before final connection.
2. The **Owner** is responsible for the **final connections** of water, sewer, and electrical at the exterior of building POC's.
3. PRC provides a POC for water, a POC DWV waste line with a clean out your service connection, and an electrical schedule 80 PVC sleeve at an exterior POC.
4. PRC provides and connects the interior building utility connections and the Owner or their subcontractor makes the exterior connections to POC's for services.

Special Conditions, Permits, and Inspection Fees:
Follow any published specifications governing local building procedures for applicable building permit fees, health department fees, all inspection fees, site concrete testing fees, and compaction tests, if required by Owner. PRC is responsible for all required State inspections and final State insignia certification of the building, if applicable.

Jurisdiction for Off-site Work:
Jurisdiction, for permitting and inspection of this building shall be either the State agency who manages prefabricated building compliance in the state or the local CBO (when the State does not provide certification.) If the responsibility for building inspection is the local CBO, we will provide a certified plan set, calculations, and a third-party engineer inspection report for any and all closed work the local official cannot see.

PUBLIC RESTROOM COMPANY SCOPE OF WORK:

Our In Plant/Off-Site Construction Scheduling System:
PRC has several off-site manufacturing centers in the United States, strategically located, with the proper equipment and trained staff to fabricate our custom buildings to our high-quality fit and finish standards. PRC manages quality control in our off-site production facility to comply with the approved drawings and provides an inspection certification and photos as required. When proprietary materials, which we have designed and fabricated, are part of the project, PRC supplies the manufacturing centers with these proprietary PRC components. We then schedule the in-plant construction process to coordinate with your delivery date through our Operations Division field staff. We guaranty on time at cost delivery weather permitting.

Special Payment and Billing Terms:
We will invoice for our design, engineering, and architectural plans upon our submittal to you. Then, we invoice on a monthly in plant percentage of completion supported by photographs, State third party inspection reports, and State certification.

In the event of project stoppage, additional fees may be assessed for re-mobilization, storage, crane costs, etc. ***Our discounted project costs are based upon timely payments. Delays in payment could change delivery schedules and project costs.***

Delivery and Installation:

Site Inspection:
PRC staff, upon site arrival, will verify the required dimensions of the building pad and the corner locations/elevation. We will also verify the delivery path from an accessible road or street and install the underground utilities to the point of connection nominally 6' from the exterior of the building.

Installation:
PRC will install the building turn-key, except for any exclusion (listed under "Exclusions," herein.)

Installation of Utilities under the Prefabricated Building:
We fabricate off-site an underground utilities (water, and DWV piping and fittings) preassembled plumbing and electrical tree. Our site staff will set the underground tree in the excavated trench (excavation by owner to the proper depth per local code) into code depth excavated trenches and our staff will install the coarse concrete sand to bed the piping per our submitted drawing.

Your utility POC's start nominally 6' from the building footprint where we pick up the task and connect your services to the building stub downs. We provide all the under-slab piping (including the driven electrical ground rod or lightning rod, if applicable.) The owner brings utility services to within 6' of the pad.

Connection of Utilities Post Building Placement:
After placement of the building on the pad by PRC, our field staff will tie in the water and sewer connection "inside" the building only and terminate at a point of connection (POC) outside the building clearly marked for each utility service. The Owner is responsible for final utility point of service connections at the nominal 6' from building locations.

Electrical:
PRC provides the electrical conduit to the POC 6' from the building. The Owner pulls the wire and ties it off on the electrical panel.

Plumbing:
PRC provides the POC up to 6' from the building footprint and the Owner connects the water to our stub out location.

Sewer:
Some sites depending on the local jurisdiction will require an outside house trap which Owner shall install if needed. PRC will provide you with a sewer point of connection including a clean out to which Owner will terminate the site sewer service.

Testing of Water, Sewer, and Electrical in Plant and Final Site Utility Connection:
Before the building leaves the manufacturing center, PRC certifies a pressure water piping test, DWV, and the electrical connections for compliance with code. While the building is fully tested for leaks at the plant before shipment, road vibration may loosen some plumbing slip fittings and require tightening once the building services (water) is completed. Owner is responsible for minor fitting tightening to handle small slip fitting leaks caused by transportation.

Time of Completion:
PRC estimates a 180 calendar day schedule to complete our scope of work from receipt of written notice to proceed together with signed approved architectural submittals from all authorities required to approve them.

Exclusions/Exceptions:

1. **Access issues for delivery of the building by a clear unobstructed path of travel from an improved roadway to the final installation pad or foundation may cause**

site delays and extra cost at each site. This exclusion covers sites whose access is limited by trees, inaccessible roadways, overhead power lines at location where crane will lift building, grade changes disallowing our delivery trailers with only 4" of clearance to grade, berms, or uneven site grades, or when the path of travel is over improvements such as sidewalks, all of which are not within the scope of work by PRC. On some sites without on-site storage availability for buildings that cannot be set, relocation to a proximal crane yard and later relocated to the site for installation, will incur additional fees at rates that vary depending on local rates. PRC will provide written costs for this additional work by change order.

2. If weather on site causes site delivery issues, the delivery may have to be diverted to an off-site location and the additional costs will be a change order to the bid. Our staff works with the Owner/General Contractor in advance to make sure sound decisions for delivery are made to avoid this issue. But sometimes Owner/General Contractor take risks for weather, but this risk is clearly at the Owner/General Contractor risk, not PRC.
3. Sidewalks outside the building footprint.
4. Trench plates or matting needed for protection of site soils, sidewalks, hardscaping, or site utilities shall be the responsibility of the Owner/General Contractor. Any site soils damage or other site improvements if damaged during installation shall be the responsibility of the Owner/General Contractor.
5. Survey, location of building corners, finish floor elevation, excavation, and construction of subgrade building pad and footings (if required) per PRC plans.
6. Soil conditions not suitable for bearing a minimum of 1500 PSF with compaction to 90% maximum dry density shall require Owner/General Contractor correction before building placement. If no soils testing report is available before bid, Owner/General Contractor must verify site supporting soils at a minimum of 1500 PSF because that is the least we can place our structures on or Owner/General Contractor or engineer of record must design a foundation system to meet the imposed loads of site placement.
7. Improper water pressure, an undersized meter, or improper water volume flow to the building may necessitate a change order for installation of a building internal diaphragm tank to provide the minimum flow rate and static pressure of up to 60 PSI and a minimum of 40 PSI to properly flush the fixtures. Building water service chlorination, post installation, shall be by Owner/General Contractor.
8. Our bid included crane costs are based on a maximum 35' radius from the center pin of the crane (10' back from the rear of the crane) to the building center point of the furthest building module roof. If additional distance requires a larger crane, additional costs will be assessed by change order to the Owner/General Contractor.

9. **Bonds, building permits, a site survey, special inspection fees, minor trash removal (nominally one pickup truck of shipping materials), final utility connections to the on-site water, sewer and electrical are by the Owner/General Contractor. Since the building is fully inspected and tested in plant, minor plumbing leaks (if water is not available when building site work installation is completed) is by the Owner/ General Contractor.**
10. **Site Traffic Control, if applicable, shall be by Owner/ General Contractor, not PRC.**

Insurance and Prevailing Wage Certification:
PRC shall comply with the required insurance requirements, wage reports, and safety requirements for the project, including OSHA regulations.

Special Insurance to protect the Building before acceptance:
As PRC requires payment for each month of off-site construction, and since the building is not on owner property where their insurance will cover the building, we maintain a special policy that insures the property even when paid for off-site until the building is finally accepted by the owner. This special policy protects the Owner's custom ordered materials to be used in the fabrication of the building during this period. PRC provides this Stock Throughput Policy to cover the building materials from supplier to manufacturer, while it is being built off-site, while in transit to the job site, during and after it is installed on-site until final acceptance. This special policy has a $1,000,000 coverage limit. This exceeds the cost of any single building we have offered for sale herein.

Errors and Omissions Insurance:
Our firm employs licensed architects, engineers, and drafting staff to provide design of our buildings. Since these buildings are required to meet accessibility standards and building codes on site, and since we are the designer, we carry Errors and Omissions Insurance (E & O) to protect our clients from any errors. The policy covers a limit of up to $2,000,000 per occurrence and is more clearly explained in the insurance certificates we provide after receipt of a purchase order.

WARRANTY
PUBLIC RESTROOM COMPANY (Company) herein warrants that all work under this contract will be free from faulty materials and improper workmanship, except from proper and usual wear, and agrees to replace or repair, without cost to the Owner, all work found to be improper or imperfect, upon proper notice to the address stated below. Our Warranty is valid for 5 years from date of acceptance but shall be extended to 20 years for structural failure.

Our extended warranties shall have no effect on any required Performance and Payment Bonds whose Surety shall assume no liability to the Company, the Owner, or any third parties should

the Company fail for any reason to deliver acceptable maintenance warranties beyond the one year period. The warranty extension is solely between the owner and PRC and not the owner, bonding company, or architect/engineer of record.

Our warranty is enforceable only if all work performed by Company has been fully paid, including change orders, if applicable. Company has no responsibility for vandalism, neglect, abuse, or improper maintenance of the final completed building.

The warranties expressed herein are exclusive, and are in lieu of all other warranties expressed or implied, including those of merchantability and fitness. There are no warranties which extend beyond those described on the face of this Warranty. The foregoing shall constitute the full liability of the Company and be the sole remedy to the Owner.

Term of Offer to Sell and Owner's Acceptance:
This offer is valid for acceptance within 30 days, or when a part of a public bid for the applicable duration imposed within the Owner's bid documents. Acceptance is by approving our post bid preliminary notice to begin drawings subject to final owner approval of our submittals and receipt of a contract or a purchase order/contract.

Special Notice of Possible Project Cost Increases as a Result of Late Payments:
In the event of delayed or late payment, PRC shall have the right to remedies including late charges, overall project total cost increases, and other damages as allowed by applicable law. The contract price quoted herein is a discounted price based upon our receipt of progress payments as invoiced on the agreed billing schedule of PRC. In the event of non-payment, PRC will provide a 5 day written notice to cure and if payment is still not received, the discounted price for the payment due may increase, to an undetermined amount, to cover work stoppage, remobilization, cancellation of materials and subsequent restocking charges, resale of the contracted building to another party, storage fees, additional crane fees, travel and per diem costs for field crews, and any other cost applicable to the project, as allowed by law. Interest if applicable to non-payment will be assessed at the maximum amount allowed by law or 18% whichever is greater.

Venue for Contract Jurisdiction:
Public Restroom Company requires all contracts accepted by our firm to hold that the venue for legal jurisdiction for this contract offer and acceptance shall be Douglas County, Nevada. In the event of your default, PRC shall be entitled to the full amount due including reasonable attorney fees, costs, storage, expenses of physical recovery, and statutory interest, as allowed by law.

No modifications to this offer shall be authorized unless confirmed in writing by the President of PRC.

Offered by: Public Restroom Company by _____
Charles E. Kaufman IV, Vice President

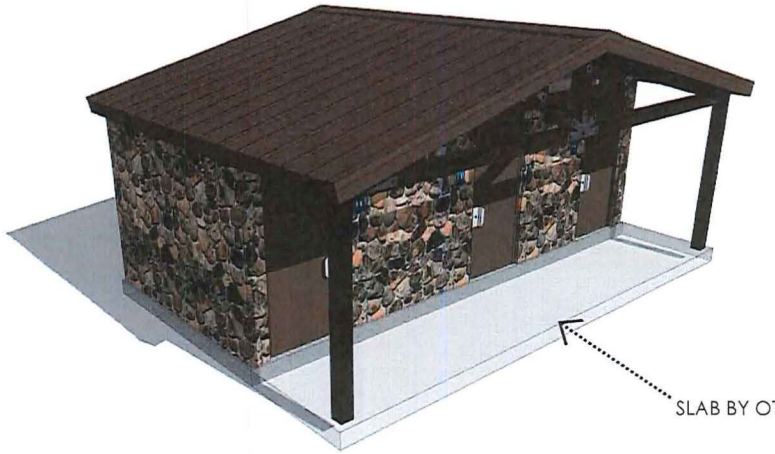
This provides conditional acceptance of this preliminary purchase order for this building subject to acceptance of the submittals, furnished by Public Restroom Company. Once you accept the preliminary submittals, this shall become a final purchase agreement or at your discretion the final purchase order or a contract may be substituted with this attached.

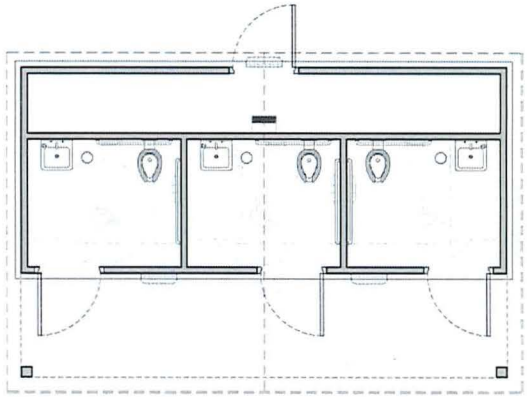
Accepted by:

_____ _____
Authorized Signature **Date**

_____ _____
Printed Name **Legal Entity Name and Address**

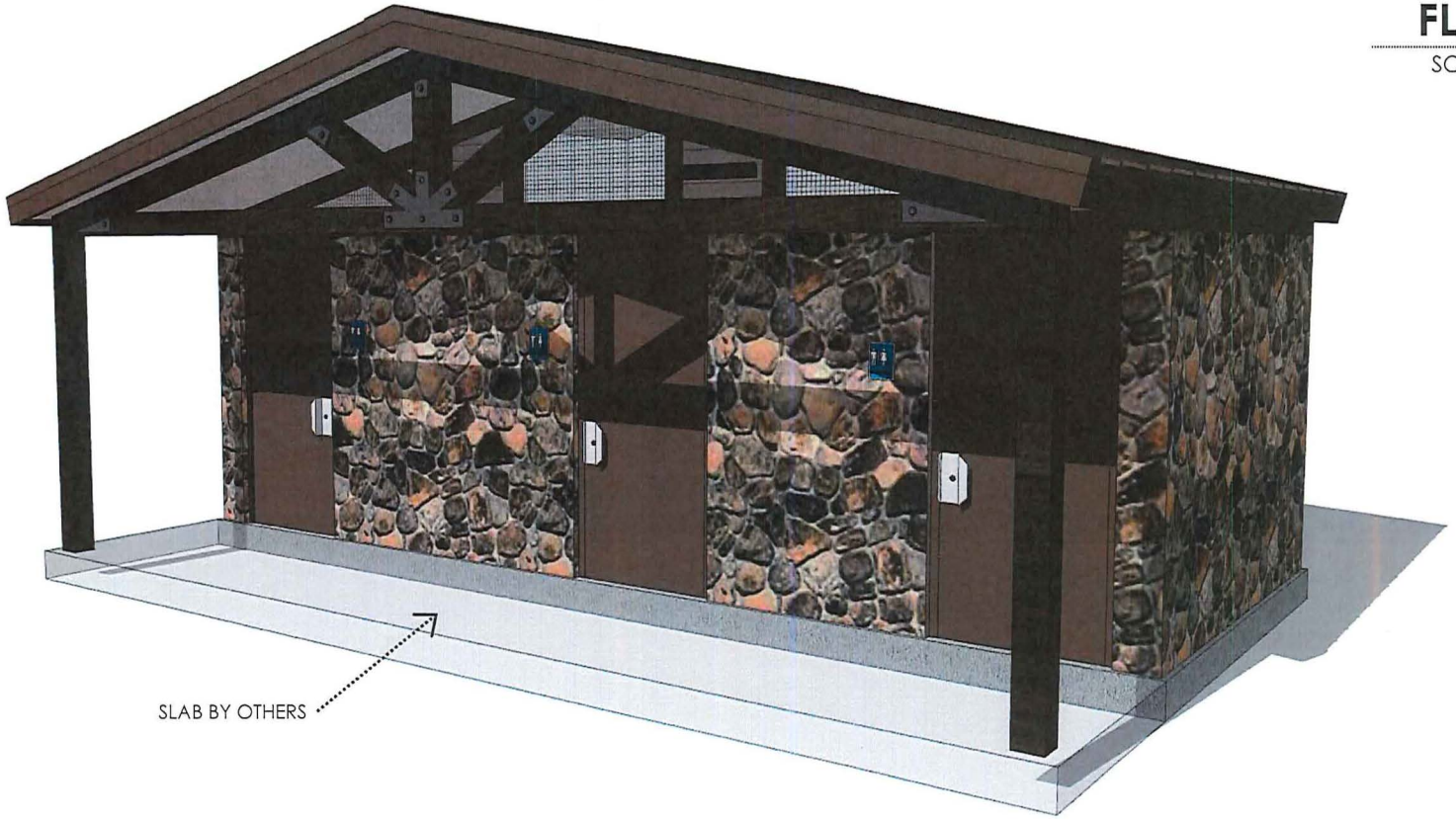
PROJECT REF#: 10610-3/27/2019-2





FLOOR PLAN

SCALE: NOT TO SCALE



BUFFALO PARK

CITY OF FLAGSTAFF, ARIZONA

RESTROOM BUILDING

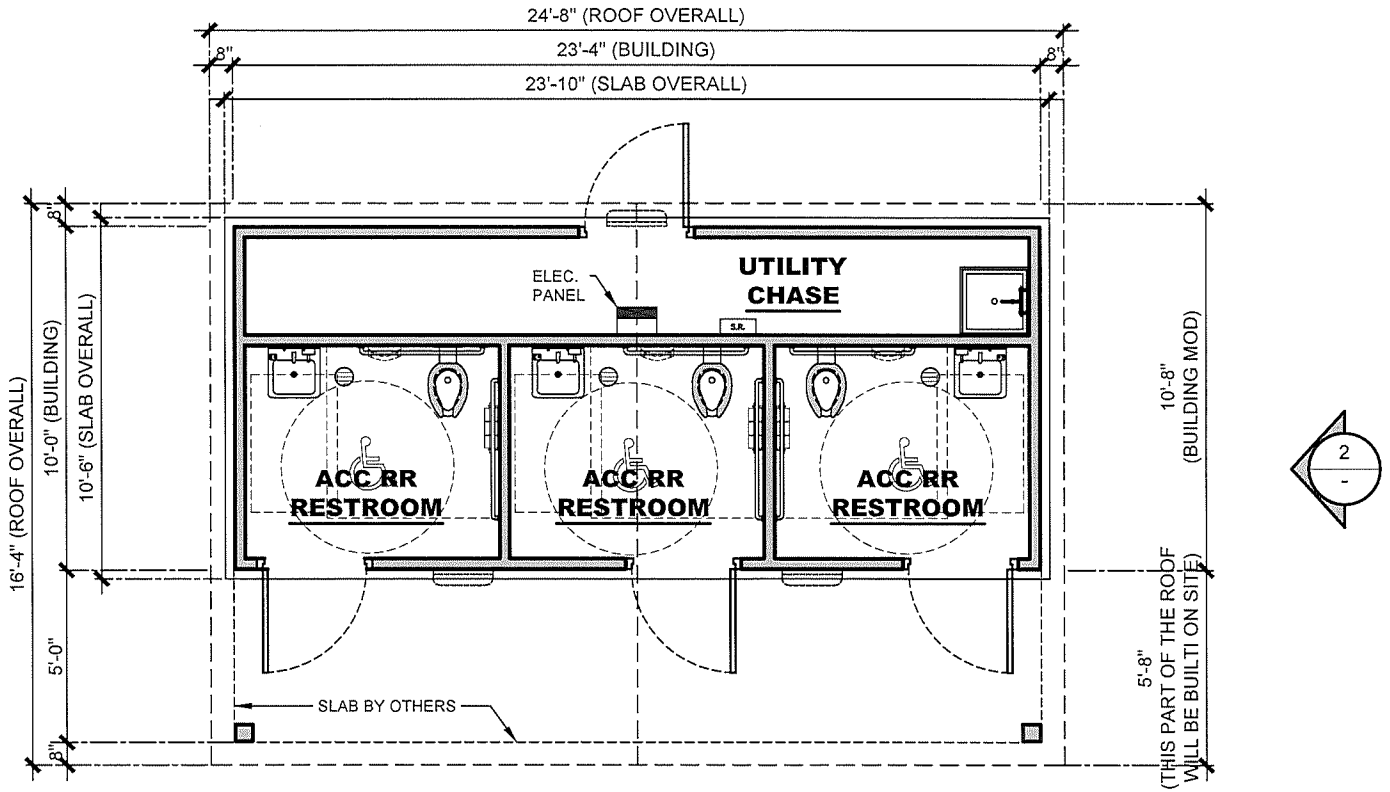
ARTIST IMPRESSION: 3D RENDERING ONLY FOR REPRESENTATION. COLORS AND MATERIALS ARE SUBJECT TO CHANGE

COPYRIGHT 2017, PUBLIC RESTROOM COMPANY THIS MATERIAL IS THE EXCLUSIVE PROPERTY OF PUBLIC RESTROOM COMPANY AND SHALL NOT BE REPRODUCED, USED OR DISCLOSED TO OTHERS EXCEPT AS AUTHORIZED BY THE WRITTEN PERMISSION OF PUBLIC RESTROOM COMPANY.

PUBLIC RESTROOM COMPANY
Building Better Places To Go.℠

www.PublicRestroomCompany.com
2587 BUSINESS PARKWAY
MINDEN NEVADA 89423
P: 888-888-2060 F: 888-888-1448

PROJECT REF#: 10610-3/27/2019-2



FLOOR PLAN

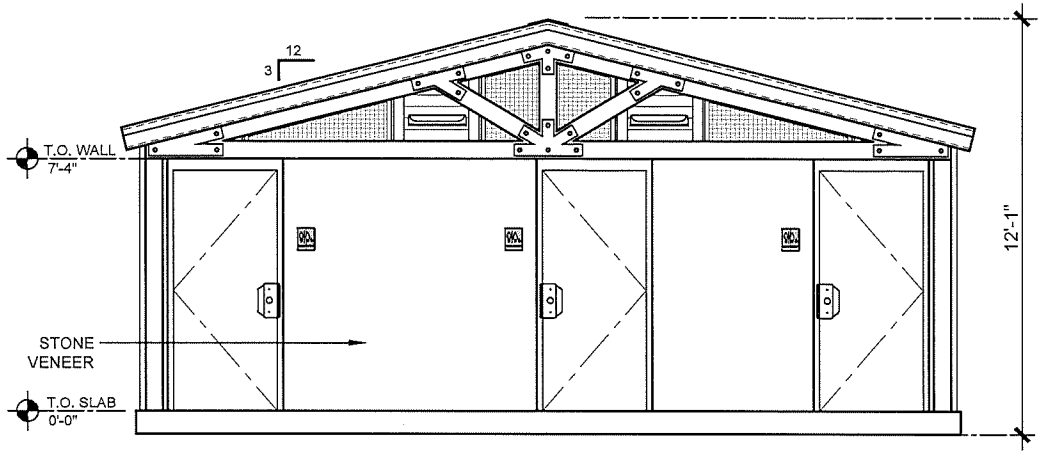
SCALE: 3/16"=1'0"

PUBLIC RESTROOM COMPANY Building Better Places To Go.SM	BUILDING TYPE: **RESTROOM BUILDING**	REVISION # **2**	REVISION DATE: **3/27/2019**	SHEET# **A-1**	
	PROJECT: **BUFFALO PARK FLAGSTAFF, AZ**	PROJECT #: **10610**	DRAWN BY: EOR		
			START DATE: **2/27/2019**	MAX. PERSON / HOUR: **135 S**	
			DRAWN BY: EOR		

COPYRIGHT 2019, PUBLIC RESTROOM COMPANY THIS MATERIAL IS THE EXCLUSIVE PROPERTY OF PUBLIC RESTROOM COMPANY AND SHALL NOT BE REPRODUCED, USED, OR DISCLOSED TO OTHERS EXCEPT AS AUTHORIZED BY THE WRITTEN PERMISSION OF PUBLIC RESTROOM COMPANY.

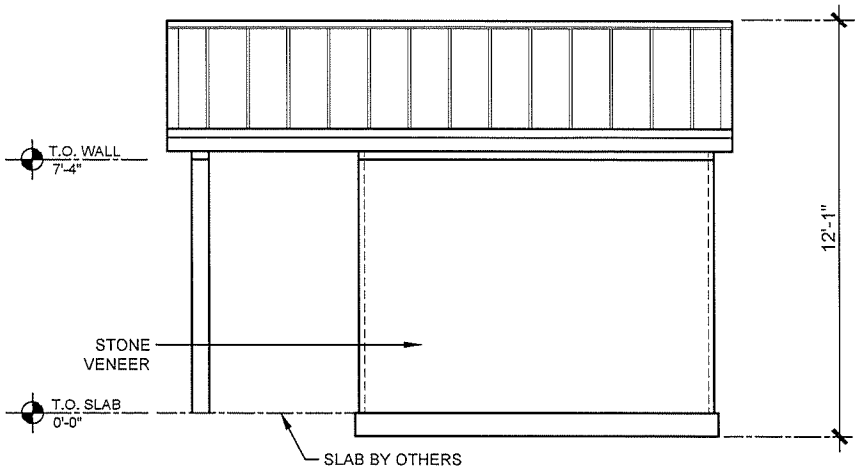
Ph: 888-888-2060 | Fax: 888-888-1448

~NOT FOR CONSTRUCTION ~ PRELIMINARY DESIGN DRAWING ONLY ~ DO NOT SCALE, DIMENSIONS PRESIDE



ELEVATION 1

SCALE: 3/16"=1'-0"



ELEVATION 2

SCALE: 3/16"=1'-0"

PUBLIC RESTROOM COMPANY
Building Better Places To Go.℠

COPYRIGHT 2019, PUBLIC RESTROOM COMPANY THIS MATERIAL IS THE EXCLUSIVE PROPERTY OF PUBLIC RESTROOM COMPANY AND SHALL NOT BE REPRODUCED, USED, OR DISCLOSED TO OTHERS EXCEPT AS AUTHORIZED BY THE WRITTEN PERMISSION OF PUBLIC RESTROOM COMPANY.

BUILDING TYPE: **RESTROOM BUILDING**

PROJECT: **BUFFALO PARK**
FLAGSTAFF, AZ

REVISION #	REVISION DATE: 3/27/2019	SHEET#
2	DRAWN BY: EOR	A-2
PROJECT #: 10610	START DATE: 2/27/2019	MAX. PERSON / HOUR: 135 S
	DRAWN BY: EOR	

Ph: 888-888-2060 | Fax: 888-888-1448

~NOT FOR CONSTRUCTION ~ PRELIMINARY DESIGN DRAWING ONLY ~ DO NOT SCALE, DIMENSIONS PRESIDE

P.O. Box 400
Austin, TX 78767-0400
800.695.2919 | 512.467.0222 | Fax: 800.211.5454
buyboard.com

August 16, 2018

Sent via Email to:katie@publicrestroomcompany.com

Katie Sherin
Public Restroom Company
2587 Business Parkway
Minden NV 89423

Re: Parks & Recreation Equipment, Field Lighting Products, & Installation
BuyBoard Contract 512-16

The Local Government Purchasing Cooperative d/b/a BuyBoard® (Cooperative) awarded your company a contract under Parks & Recreation Equipment, Field Lighting Products, & Installation, Contract 512-16, for which the current term is set to expire September 30, 2018. At this time, we are renewing your contract through September 30, 2019. This will be the final renewal of this contract.

All discounts, terms, and conditions of your contract will remain the same. If you agree with the renewal, there is nothing you need to do. However, if you do not agree to this renewal, you must notify me immediately via email at connie.burkett@tasb.org.

Reminder: All purchase orders must be processed through the BuyBoard. Except as expressly authorized in writing by the Cooperative's administrator, you are not authorized to process a purchase order received directly from a Cooperative member. Accepting orders directly from a member entity without Cooperative authorization is a violation of the terms of your contract. We request your assistance in immediately forwarding any orders received directly from member entities. Purchase orders may be sent to us either by fax (800-211-5454) or by email (info@buyboard.com). If by chance an order sent directly to you has been unintentionally processed, please forward it to the Cooperative and note it as **RECORD ONLY** to prevent duplication.

If you have questions or comments concerning this renewal, please contact me as soon as possible at connie.burkett@tasb.org. We appreciate your interest and participation in The Local Government Purchasing Cooperative.

Sincerely,

Connie W. Burkett

Connie W Burkett, *CTSBS*
Contract Administrator

P.O. Box 400
Austin, TX 78767-0400
800.695.2919 | 512.467.0222 | Fax: 800.211.5454
buyboard.com

July 28, 2016

Sent Via E-mail: marie@publicrestroomcompany.com

Marie Caliger
Public Restroom Company
2587 Business Parkway
Minden, NV 89423

Re: *Notice of The Local Government Purchasing Cooperative Award*
Proposal Name and Number: Parks and Recreation Equipment and Field Lighting Products and Installation, Proposal No. 512-16

Congratulations, The Local Government Purchasing Cooperative (Cooperative) has awarded your company a BuyBoard® contract based on the above-referenced Proposal. The contract is effective 10/1/2016 through 9/30/2017, with two possible one-year renewals. The contract documents are those identified in Section 3 of the General Terms and Conditions of the specifications.

To view the items your company has been awarded, please review the proposal tabulation No. 512-16 on the following web-site: www.buyboard.com/vendor. Only items marked as awarded to your company can be sold through the BuyBoard contract. In addition, on this website you will find the membership list which will provide you with the names of all entities with membership in our purchasing cooperative.

Enclosed with this letter you will find the following documents:

- Vendor Quick Reference Sheet
- Electronic Catalog Format Instructions
- Vendor Billing Procedures

You are advised that receipt of a purchase order directly from a Cooperative member is not within the guidelines of the Cooperative. Accepting purchase orders directly from Cooperative members may result in a violation of the State of Texas competitive bid statute and termination of this Cooperative BuyBoard contract. **Therefore, all purchase orders must be processed through the BuyBoard in order to comply**. Please forward by fax (1-800-211-5454) any order received directly from a Cooperative member. If you inadvertently process a purchase order sent directly to you by a Cooperative member, please fax the order to the above number and note it as **RECORD ONLY** to prevent duplication.

Per proposal specifications, awarded vendors will have 30 days or sooner to submit their electronic catalog including pricing. If the electronic data is not provided within 30 days or sooner of notice of award, we reserve the right to inactivate any company's award information from the BuyBoard until such time the electronic data is received.

On behalf of the Texas Association of School Boards, we appreciate your interest in the Cooperative and we are looking forward to your participation in the program. If you have any questions, please contact **BuyBoard Procurement Staff** at 800-695-2919.

Sincerely,

Arturo Salinas
BuyBoard Procurement Director

v.12.15

10841

BuyBoard® Cooperative Purchasing

12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

PROPOSER'S AGREEMENT AND SIGNATURE

Proposal Name: Parks and Recreation Equipment and Field Lighting Products and Installation

Proposal Opening Date and Time: March 15, 2016 at 2:00 PM

Location of Proposal Opening:
Texas Association of School Boards, Inc.
BuyBoard Department
12007 Research Blvd.
Austin, TX 78759

Proposal Number: 512-16

Anticipated Cooperative Board Meeting Date: July 2016

Contract Time Period: October 1, 2016 through September 30, 2017 with two (2) possible one-year renewals.

Public Restroom Company	03/08/16
Name of Proposing Company	Date
2587 Business Parkway	Chas E. Kaufman/As President
Street Address	Signature of Authorized Company Official
Minden, NV 89423	Chuck Kaufman
City, State, Zip	Printed Name of Authorized Company Official
888-888-2060	President
Telephone Number of Authorized Company Official	Position or Title of Authorized Company Official
888-888-2060	48-1289691
Fax Number of Authorized Company Official	Federal ID Number

The proposing company ("you" or "your") hereby acknowledges and agrees as follows:

1. You have carefully examined and understand all Cooperative information and documentation associated with this Proposal Invitation, including the Instructions, General Terms and Conditions, Attachments/Forms, Item Specifications, and Line Items (collectively "Requirements");
2. By your response ("Proposal") to this Proposal Invitation, you propose to supply the products or services submitted at the prices quoted in your Proposal and in strict compliance with the Requirements, unless specific deviations or exceptions are noted in the Proposal;
3. Any and all deviations and exceptions to the Requirements have been noted in your Proposal and no others will be claimed;

HN
N-4

CONST.V.11.18.15

Pricelist

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

4. If the Cooperative accepts any part of your Proposal and awards you a contract, you will furnish all awarded products or services at the prices quoted and in strict compliance with the Requirements (unless specific exceptions are noted in the Proposal), including without limitation the Requirements related to:
    a. conducting business with Cooperative members, including offering pricing to members that is the best you offer compared to similar customers;
    b. payment of a service fee in the amount specified and as provided for in this Proposal Invitation;
    c. the **possible** award of a piggy-back contract by another governmental entity, in which event you will offer the awarded goods and services in accordance with the Requirements; and
    d. submitting price sheets or catalogs in the proper format for posting on the BuyBoard as a prerequisite to activation of your contract;
5. You have clearly identified any information in your Proposal that you believe to be confidential or proprietary or that you do not consider to be public information subject to public disclosure under a Texas Public Information Act request or similar public information law;
6. The individual signing this Agreement is duly authorized to enter into the contractual relationship represented by this Proposal Invitation on your behalf and bind you to the Requirements, and such individual (and any individual signing a Form) is authorized and has the requisite knowledge to provide the information and make the representations and certifications required in the Requirements;
7. You have carefully reviewed your Proposal, and certify that all information provided is true, complete and accurate, and you authorize the Cooperative to take such action as it deems appropriate to verify such information; and
8. Any misstatement, falsification, or omission in your Proposal, whenever or however discovered, may disqualify you from consideration for a contract award under this Proposal Invitation or result in termination of an award or any other remedy or action provided for in the General Terms and Conditions or by law.

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

VENDOR PURCHASE ORDER, REQUEST FOR QUOTES, AND INVOICE RECEIPT OPTIONS

Company: Public Restroom Company General Contact Name: Marie Caliger

Purchase Orders: Purchase orders from Cooperative members will be available through the Internet or by facsimile.

Option 1: **Internet**. Vendors need Internet access and at least one e-mail address so that notification of new orders can be sent to the Internet contact when a new purchase order arrives. An information guide will be provided to vendors that choose this option to assist them with retrieving their orders.

Option 2: **Fax**. Vendors need a designated fax line available at all times to receive purchase orders.

Please choose only one (1) of the following options for receipt of purchase orders and provide the requested information:

☒ I will use the **INTERNET** to receive purchase orders.

E-mail Address: marie@publicrestroomcompany.com

Internet Contact: Marie Caliger Phone: 888-888-2060 ext 102

Alternate E-mail Address: chad@publicrestroomcompany.com ext 109

Alternate Internet Contact: jill@publicrestroomcompany.com Phone: 888-888-2060 ext126

☐ I will receive purchase orders via **FAX.**

Fax Number: _____

Fax Contact: _____ Phone: _____

Request for Quotes ("RFQ"): Cooperative members will send RFQs to you by e-mail. Please provide e-mail addresses for the receipt of RFQs:

E-mail Address: marie@publicrestroomcompany.com

Alternate E-mail Address: chad@publicrestroomcompany.com

Invoices: Your company will be billed monthly for the service fee due under a contract awarded under this Proposal Invitation. **All invoices are available on the BuyBoard website and e-mail notifications will be sent when they are ready to be retrieved.** Please provide the following address, contact and e-mail information for receipt of service fee invoices and related communications:

Mailing address: 2587 Business Parkway **Department:** sales

City: Minden **State:** NV **Zip Code:** 89423

Contact Name: Marie Caliger **Phone:** 888-888-2060

Fax: 888-888-1448 **E-mail Address:** marie@publicrestroomcompany.com

Alternative E-mail Address: edna@publicrestroomcompany.com

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

FELONY CONVICTION DISCLOSURE AND DEBARMENT CERTIFICATION

FELONY CONVICTION DISCLOSURE

Subsection (a) of Section 44.034 of the Texas Education Code (Notification of Criminal History of Contractor) states: "A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Section 44.034 further states in Subsection (b): "A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

Please check (√) one of the following:

☐ My company is a publicly-held corporation. (Advance notice requirement does not apply to publicly-held corporation.)
☒ My company is not owned or operated by anyone who has been convicted of a felony.
☐ My company is owned/operated by the following individual(s) who has/have been convicted o a felony:

Name of Felon(s): _____

Details of Conviction(s): _____

_____

By signature below, I certify that the above information is true, complete and accurate and that I am authorized by my company to make this certification.

Public Restroom Company
Company Name

Chas E Kaufman / As President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

DEBARMENT CERTIFICATION

Neither my company nor an owner or principal of my company has been debarred, suspended or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension," as described in the Federal Register and Rules and Regulations.

By signature below, I certify that the above is true, complete and accurate and that I am authorized by my company to make this certification.

Public Restroom Company.com
Company Name

Chas E. Kaufman as President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

RESIDENT/NONRESIDENT CERTIFICATION

Chapter 2252, Subchapter A, of the Texas Government Code establishes certain requirements applicable to proposers who are not Texas residents. Under the statute, a "resident" proposer is a person whose principal place of business is in Texas, including a person whose ultimate parent company or majority owner has its principal place of business in Texas. A "nonresident" proposer is a person who is not a Texas resident. Please indicate the status of your company as a "resident" proposer or a "nonresident" proposer under these definitions. Please check (√) one of the following.

☐ I certify that my company is a **Resident Proposer.**

☒ I certify that my company is a **Nonresident Proposer.**

If your company is a Nonresident Proposer, you must provide the following information for your resident state (the state in which your company's principal place of business is located):

Public Restroom Company	2587 Business Parkway	
Company Name	Address	
Minden	NV	89423
City	State	Zip Code

A. Does your resident state require a proposer whose principal place of business is in Texas to under-price proposers whose resident state is the same as yours by a prescribed amount or percentage to receive a comparable contract?
☐ Yes ☒ No

B. What is the prescribed amount or percentage? $_____ or _____%

VENDOR EMPLOYMENT CERTIFICATION

Section 44.031(b) of the Texas Education Code establishes certain criteria that a school district must consider when determining to whom to award a contract. Among the criteria for certain contracts is whether the vendor or the vendor's ultimate parent or majority owner (i) has its principal place of business in Texas; or (ii) employs at least 500 people in Texas.

If neither your company nor the ultimate parent company or majority owner has its principal place of business in Texas, does your company, ultimate parent company, or majority owner employ at least 500 people in Texas? Please check (√) one of the following.

☐ Yes ☒ No

By signature below, I certify that the information in Sections 1 (*Resident/Nonresident Certification)* and 2 *(Vendor Employment Certification)* above is true, complete and accurate and that I am authorized by my company to make this certification.

Public Restroom Company
Company Name

Chas E Kaufman as President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

HISTORICALLY UNDERUTILIZED BUSINESS CERTIFICATION

A proposer that has been certified as a Historically Underutilized Business (also known as a Minority/Women Business Enterprise or "MWBE" and all referred to in this form as a "HUB") is encouraged to indicate its HUB certification status when responding to this Proposal Invitation. The electronic catalogs will indicate HUB certifications for vendors that properly indicate and document their HUB certification on this form.

Please check (√) all that apply

☐ I certify that my company has been certified as a HUB in the following categories:

- ☐ **Minority Owned Business**
- ☐ **Women Owned Business**
- ☐ **Service-Disabled Veteran Owned Business (veteran defined by 38 U.S.C. §101(2), who has a service-connected disability as defined by U.S.C. § 101(16), and who has a disability rating of 20% or more as determined by the U. S. Department of Veterans Affairs or Department of Defense)**

Certification Number:

_____

Name of Certifying Agency:

_____

☒ My company has **NOT** been certified as a HUB.

By signature below, I certify that the above is true, complete and accurate and that I am authorized by my company to make this certification.

Public Restroom Company
Company Name

Chas E Kaufman as President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

AFFIRMATION REGARDING CONSTRUCTION-RELATED GOODS AND SERVICES

A contract awarded under this Proposal Invitation covers only the specific goods and services awarded by the BuyBoard. As explained in the BuyBoard Construction Related Goods and Services Advisory for Texas Members ("Advisory"), **Texas law prohibits the procurement of architecture or engineering services through a purchasing cooperative. This BuyBoard contract does not include such services. Architecture or engineering services must be procured by a Cooperative member separately, in accordance with the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code) and other applicable law and local policy.**

The Advisory, attached to this Form F, provides an overview of certain legal requirements that are potentially relevant to a Cooperative member's procurement of construction or construction-related goods and services, including those for projects that may involve or require architecture, engineering or independent testing services.

By signature below, the undersigned affirms that Proposer has read and understands the Advisory attached to this Form F and is authorized by Proposer to make this affirmation. If Proposer sells construction-related goods or services to a Cooperative member under a BuyBoard contract awarded under this Proposal Invitation, Proposer will comply with the Advisory and applicable legal requirements, make a good faith effort to make its Cooperative member customers or potential Cooperative member customers aware of such requirements, and provide a Cooperative member with a copy of the Advisory before executing a Member Construction Contract with the member or accepting the member's purchase order for construction-related goods or services, whichever comes first.

Public Restroom Company
Company Name

Chas E Kaufman President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

3/8/16
Date

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

BUYBOARD PROCUREMENT AND CONSTRUCTION-RELATED GOODS AND SERVICES ADVISORY FOR TEXAS MEMBERS

Why make purchases using BuyBoard? Purchasing through a cooperative or "interlocal contract" satisfies the requirement of local governments to seek competitive procurement for the purchase of goods or services.[1] Therefore, you may purchase goods and services from a vendor through BuyBoard without having to conduct your own competitive procurement. If, however, you are procuring construction-related services through a BuyBoard Job Order Contract (JOC) or contract for the installation of equipment or materials (e.g., athletic fields and surfaces, kitchen equipment, HVAC, playground equipment, or modular buildings), you may, as explained in this Advisory, need to procure certain aspects of these services using a separate procurement process outside of the BuyBoard and should consult your procurement officer and/or legal advisor for specific advice.

What is BuyBoard's Procurement Process? The BuyBoard uses a competitive procurement process to award contracts to vendors for goods and services that the BuyBoard determines, based on an evaluation of multiple criteria, represents the best value for its members.

How does BuyBoard award a contract to a vendor? As a condition of being awarded a BuyBoard contract, a vendor is bound by and must agree to comply with all the terms of the BuyBoard's proposal invitation (or specifications), the vendor's proposal response, and any additional contract terms negotiated with the BuyBoard member. Among other things, the vendor must honor the pricing submitted in the vendor's proposal. THE PRICE YOU PAY FOR THE GOODS AND SERVICES COVERED BY THE BUYBOARD CONTRACT MAY BE LESS THAN THE AWARDED PRICING, BUT CANNOT BE MORE. Additionally, the vendor must comply with the BuyBoard contract's general terms and conditions, and any additional terms and conditions that apply to the specific BuyBoard contract, as set out in the proposal invitation.

How does a BuyBoard member make purchases through the BuyBoard contract? You utilize the awarded BuyBoard contract by issuing a signed purchase order through the BuyBoard online application to procure the selected goods or services. Although BuyBoard must receive a copy of the signed purchase order, BuyBoard does not review or approve the purchase order or other supplemental agreement that you obtain – this is a matter between you and the vendor. If construction-related services are procured through the BuyBoard, additional contracts with professionals and the contractor may be required, depending on the nature and scope of the services. As stated above, you should consult your procurement officer and/or legal advisor for specific advice.

How do I know that my entity has made a purchase through the BuyBoard?
BuyBoard must have a copy of the purchase order in order for the purchase to be considered a BuyBoard procurement. To ensure that your entity has satisfied state law requirements for competitive procurement, make sure that the BuyBoard has your purchase order. Do not rely on the vendor to submit the purchase order on your behalf; it is your responsibility to make sure that the BuyBoard has the signed purchase order. You may log in to www.buyboard.com using your member I.D. and password to view the Purchase Order Status Report to confirm that the purchase order is in the BuyBoard system.

What should BuyBoard members consider when using BuyBoard for construction-related purchases? While purchasing goods and services through BuyBoard satisfies your legal requirement to competitively procure a good or service, as a general matter you must keep in mind other legal requirements that may relate to the purchase, especially when using BuyBoard for construction-related procurement.

CQK

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

When making construction-related purchases through a BuyBoard contract, BuyBoard members must consider the following:

- **Best value determination.** In compliance with Texas law and any local policy, your entity must first determine that purchasing through an interlocal contract or purchasing cooperative is the procurement method that will provide best value.[ii] This is done by the governing body (e.g., board of trustees, council, commissioners' court, etc.) or may be delegated by the governing body to an individual or committee, with written notice.

- **Products or services not covered by the BuyBoard contract.** The BuyBoard contract covers only the specific goods and services awarded by the BuyBoard. If you want to purchase from a BuyBoard vendor goods or services from a BuyBoard vendor that are not covered by the vendor's BuyBoard contract, such as architectural, design, or engineering services, you must procure them separately in accordance with state law and local policy.

- **Architectural or Engineering and Independent Testing services.** If your procurement includes a construction component that requires architectural or engineering services, you must procure those services separately. YOU MAY NOT PROCURE ARCHITECTURAL OR ENGINEERING SERVICES THROUGH A BUYBOARD CONTRACT. Texas law requires architectural and engineering services to be obtained in accordance with the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code) and prohibits them from being procured through a purchasing cooperative.[iii]

  - **Architecture.** A new building owned by a political subdivision having construction costs exceeding $100,000 or an alteration or addition to an existing building having construction costs exceeding $50,000 must have architectural plans and specifications prepared by an architect.[iv] (An "alteration" or "addition" for purposes of this requirement requires the removal, relocation, or addition of a wall or partition or the alteration or addition of an exit.)

  - **Engineering.** If the goods or services procured through the BuyBoard will involve engineering in which the public health, welfare, or safety is involved, the plans for structural, mechanical, electrical, electronic, fire suppression, geotechnical systems, foundation design, surface water drainage, plumbing and certain roof modifications and associated estimates must be prepared by an engineer, and the engineering construction must be performed under the direct supervision of an engineer.[v] The Engineering Practice Act provides two exceptions to this rule – no engineer is required if (1) the project involves mechanical or electrical engineering and will cost $8,000 or less, or (2) the project does not require mechanical or electrical engineering and will cost $20,000 or less.[vi]

  - **Independent Testing**. If acceptance of a facility by a public entity involves independent testing of construction materials engineering and/or verification testing services, the testing services should be procured under the Professional Services Procurement Act, and may not be procured under a BuyBoard contract.

  - **Written Certification.** Effective 09/01/2013, a local governmental entity purchasing construction-related goods and services through a cooperative in an amount that exceeds $50,000 must designate a person to certify in writing that the project does not require the preparation of plans or specifications by an architect or engineer OR that an architect or engineer has prepared the plans or specifications.[vii]

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

- **Bonds.** You must also consider whether the vendor is required to provide a payment or performance bond. A payment bond is required for contracts that exceed $25,000 to protect subcontractors who supply labor or materials for the project. A performance bond is required for a contract that exceeds $100,000, to protect the local government if a contractor fails to complete the project. [viii] Without payment and performance bonds, if the contractor fails to pay its subcontractors or to complete the project, the public entity that entered the contract can be held responsible for payment claims or costs to complete.

- **Construction Contract.** Even though the procurement of construction or construction-related services may be through the BuyBoard, your construction contract is between your entity and the contractor. The BuyBoard contract's general terms and conditions, standing alone, are not sufficient to document your entity's specific transaction. THEREFORE, YOU SHOULD USE AN APPROPRIATE FORM OF CONSTRUCTION CONTRACT JUST AS YOU WOULD DO IF YOU PROCURED CONSTRUCTION SERVICES INDEPENDENTLY, USING COMPETITIVE SEALED PROPOSALS. The contract must contain provisions required by state law including: performance and payment bonds, requirements for payment of prevailing wages to all construction workers, workers' compensation coverage for all workers and, on projects where contractor employees may have direct contact with students, criminal history record checks. Other provisions which should be considered in the construction contract are retainage, contingency, liquidated damages and dispute resolution, among others. By supplementing the BuyBoard contract with an appropriate form of construction contract, you ensure that your entity's unique interests are addressed and that your entity can enforce the contract directly.

- **Legal advice.** Because of the variety of laws that relate to construction-related purchasing and the potential risk of high exposure, you are well-advised to consult with your entity's legal counsel before procuring construction-related goods and services under any procurement method, including a purchasing cooperative.

This Advisory is provided for educational purposes only to facilitate a general understanding of the law. This Advisory is neither an exhaustive treatment on the subject nor is it intended to substitute for the advice of an attorney.

For more information about BuyBoard, contact us at 800-695-2919.

---

i. Tex. Gov't Code §791.025 and Tex. Local Gov't Code §271.102.
ii. Tex. Ed. Code §44.031(a) (school districts); Tex. Local Gov't Code §252.043(a)(municipalities) and §262.022(5-a) and §262.027(counties)
iii. Tex. Gov't Code §2254.004 and §791.011(h)
iv. Tex. Occ. Code §1051.703
v. Tex. Occ. Code §1001.0031(c)
vi. Tex. Occ. Code §1001.053
vii. Tex. Gov't Code §791.011(j), effective September 1, 2013
viii. Tex. Gov't Code §2253.021(a)

Issued March 31, 2014

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

DEVIATION AND COMPLIANCE SIGNATURE FORM

If your company intends to deviate from the General Terms and Conditions, Item Specifications or other requirements associated with this Proposal Invitation, you must list all such deviations on this form, and provide complete and detailed information regarding the deviations on this form, an attachment to this form, or elsewhere in your Proposal. (If you do not provide the information on or as an attachment to this form, the information must be clearly identified in your Proposal.) The Cooperative will consider any deviations in its contract award decision, and reserves the right to accept or reject a proposal based upon any submitted deviation.

In the absence of any deviation identified and described in accordance with the above, your company must fully comply with the General Terms and Conditions, Item Specifications and all other requirements associated with this Proposal Invitation if awarded a contract under this Proposal Invitation.

☒ **No**; Deviations
☐ **Yes**; Deviations

List and fully explain any deviations you are submitting:

PLEASE PROVIDE THE FOLLOWING INFORMATION:

1. Shipping Via: ☒ Common Carrier ☐ Company Truck ☐ Prepaid and Add to Invoice ☐ Other:

2. Payment Terms: ☒ Net 30 days ☐ 1% in 10/Net 30 days ☐ Other:

3. Number of Days for Delivery: 90-120 ARO

4. Vendor Reference/Quote Number: PRC

5. State your return policy: No Return Policy
N/A

6. Are electronic payments acceptable? ☒ Yes ☐ No

7. Are credit card payments acceptable? ☐ Yes ☒ No

Public Restroom Company
Company Name

Chas E Kaufman / President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

DEALERSHIP LISTINGS

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary.

not applicable
Company Name

Address

City | State | Zip

Phone Number | Fax Number

Contact Person

Company Name

Address

City | State | Zip

Phone Number | Fax Number

Contact Person

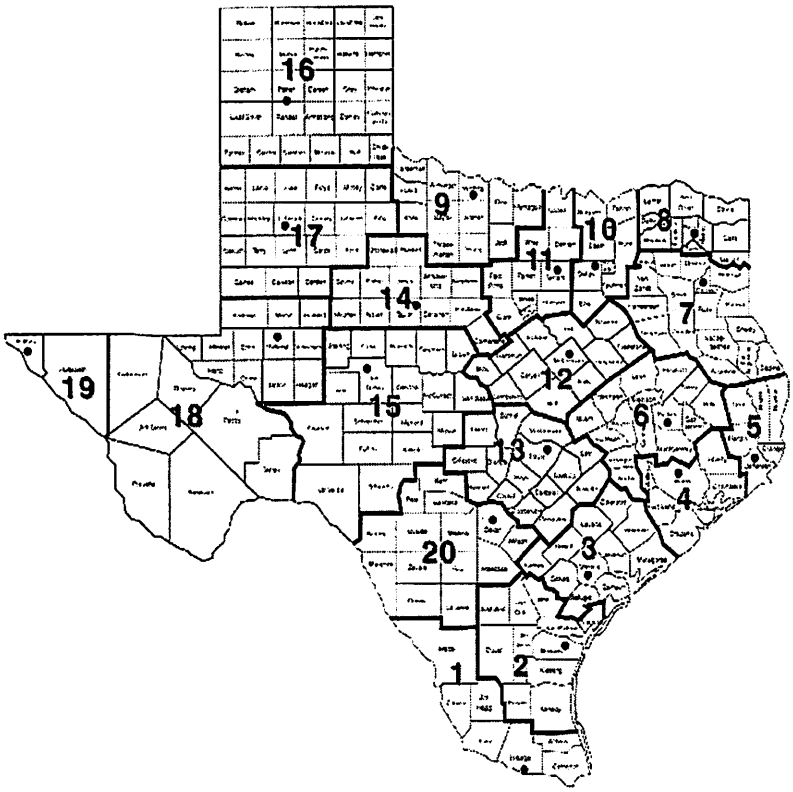
BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

TEXAS REGIONAL SERVICE DESIGNATION

Unless you designate otherwise on this form, you agree to service members of The Local Government Purchasing Cooperative statewide!

The Cooperative *(referred to as "Texas Cooperative" in this form and in the State Service Designation form)* offers vendors the opportunity to service its members throughout the entire State of Texas. If you do not plan to service all Texas Cooperative members statewide, you **must** indicate the specific regions you will service on this form. Additionally, if you do not plan to service Texas Cooperative members *(i.e., if you will service only states other than Texas)*, you must so indicate on this form.

Regional Education Service Centers



Public Restroom Company
Company Name

Chas E Kaufman / President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

☒ **I will service Texas Cooperative members statewide.**

☐ **I will not service Texas Cooperative members statewide. I will only service members in the regions checked below:**

	Region	Headquarters
☐	1	Edinburg
☐	2	Corpus Christi
☐	3	Victoria
☐	4	Houston
☐	5	Beaumont
☐	6	Huntsville
☐	7	Kilgore
☐	8	Mount Pleasant
☐	9	Wichita Falls
☐	10	Richardson
☐	11	Fort Worth
☐	12	Waco
☐	13	Austin
☐	14	Abilene
☐	15	San Angelo
☐	16	Amarillo
☐	17	Lubbock
☐	18	Midland
☐	19	El Paso
☐	20	San Antonio

☐ I will not service members of the Texas Cooperative.

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

STATE SERVICE DESIGNATION

The Cooperative offers vendors the opportunity to service other governmental entities in the United States, including intergovernmental purchasing cooperatives such as the National Purchasing Cooperative BuyBoard. You must complete this form if you plan to service the entire United States, or will service only the specific states indicated. *(Note: If you plan to service Texas Cooperative members, be sure that you complete the Texas Regional Service Designation form.)*

☒ I will service all states in the United States.

☐ I will not service all states in the United States. I will service only the states checked below:

- ☐ Alabama
- ☐ Alaska
- ☐ Arizona
- ☐ Arkansas
- ☐ California (Public Contract Code 20118 & 20652)
- ☐ Colorado
- ☐ Connecticut
- ☐ Delaware
- ☐ District of Columbia
- ☐ Florida
- ☐ Georgia
- ☐ Hawaii
- ☐ Idaho
- ☐ Illinois
- ☐ Indiana
- ☐ Iowa
- ☐ Kansas
- ☐ Kentucky
- ☐ Louisiana
- ☐ Maine
- ☐ Maryland
- ☐ Massachusetts
- ☐ Michigan
- ☐ Minnesota
- ☐ Mississippi
- ☐ Missouri
- ☐ Montana
- ☐ Nebraska
- ☐ Nevada
- ☐ New Hampshire
- ☐ New Jersey
- ☐ New Mexico
- ☐ New York
- ☐ North Carolina
- ☐ North Dakota
- ☐ Ohio
- ☐ Oklahoma
- ☐ Oregon
- ☐ Pennsylvania
- ☐ Rhode Island
- ☐ South Carolina
- ☐ South Dakota
- ☐ Tennessee
- ☐ Texas
- ☐ Utah
- ☐ Vermont
- ☐ Virginia
- ☐ Washington
- ☐ West Virginia
- ☐ Wisconsin
- ☐ Wyoming

This form will be used to ensure that you can service other governmental entities throughout the United States as indicated. Your signature below confirms that you understand your service commitments during the term of a contract awarded under this proposal.

Public Restroom Company
Company Name

Chas E Kaufman as President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

NATIONAL PURCHASING COOPERATIVE VENDOR AWARD AGREEMENT

In accordance with the Terms and Conditions associated with this Proposal Invitation, a contract awarded under this Proposal Invitation may be "piggy-backed" by another governmental entity. The National Purchasing Cooperative is an intergovernmental purchasing cooperative formed by certain school districts outside of Texas to serve its members throughout the United States. If you agree to be considered for a piggy-back award by the National Purchasing Cooperative, you agree to the following terms and agree to serve National Purchasing Cooperative members in the states you have indicated on the State Service Designation form, in your Proposal.

By signing this form, Proposer (referred to in this Agreement as "Vendor") agrees as follows:

1. Vendor acknowledges that if The Local Government Purchasing Cooperative ("Texas Cooperative") awards Vendor a contract under this Proposal Invitation ("Underlying Award"), the National Purchasing Cooperative ("National Cooperative") may - but is not required to - "piggy-back" on or re-award all or a portion of that Underlying Award ("Piggy-Back Award"). By signing this National Cooperative Vendor Award Agreement ("Agreement"), Vendor accepts and agrees to be bound by any such Piggy-Back Award as provided for herein.

2. In the event National Cooperative awards Vendor a Piggy-Back Award, the National Cooperative Administrator ("BuyBoard Administrator") will notify Vendor in writing of such Piggy-Back Award, which award shall commence on the effective date stated in the Notice and end on the expiration date of the Underlying Award, subject to annual renewals as authorized in writing by the BuyBoard Administrator. Vendor agrees that no further signature or other action is required of Vendor in order for the Piggy-Back Award and this Agreement to be binding upon Vendor. Vendor further agrees that no interlineations or changes to this Agreement by Vendor will be binding on National Cooperative, unless such changes are agreed to by its BuyBoard Administrator in writing.

3. Vendor agrees that it shall offer its goods and services to National Cooperative members at the same unit pricing and same general terms and conditions, subject to applicable state laws in the state of purchase, as required by the Underlying Award. However, nothing in this Agreement prevents Vendor from offering National Cooperative members better (i.e., lower) competitive pricing and more favorable terms and conditions than those in the Underlying Award.

4. Vendor hereby agrees and confirms that it will serve those states it has designated on the State Service Designation Form of this Proposal Invitation. Any changes to the states designated on the State Service Designation Form must be approved in writing by the BuyBoard Administrator.

5. Vendor agrees to pay National Cooperative the service fee provided for in the Underlying Award based on the amount of purchases generated from National Cooperative members through the Piggy-Back Award. Vendor shall remit payment to National Cooperative on such schedule as it specifies (which shall not be more often than monthly). Further, upon request, Vendor shall provide National Cooperative with copies of all purchase orders generated from National Cooperative members for purposes of reviewing and verifying purchase activity. Vendor further agrees that National Cooperative shall have the right, upon reasonable written notice, to review Vendor's records pertaining to purchases made by National Cooperative members in order to verify the accuracy of service fees.

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

6. Vendor agrees that the Underlying Award, including its General Terms and Conditions, are adopted by reference to the fullest extent such provisions can reasonably apply to the post-proposal/contract award phase. The rights and responsibilities that would ordinarily inure to the Texas Cooperative pursuant to the Underlying Award shall inure to National Cooperative; and, conversely, the rights and responsibilities that would ordinarily inure to Vendor in the Underlying Award shall inure to Vendor in this Agreement. Vendor recognizes and agrees that Vendor and National Cooperative are the only parties to this Agreement, and that nothing in this Agreement has application to other third parties, including the Texas Cooperative. In the event of conflict between this Agreement and the terms of the Underlying Award, the terms of this Agreement shall control, and then only to the extent necessary to reconcile the conflict.

7. This Agreement shall be governed and construed in accordance with the laws of the State of Rhode Island and venue for any dispute shall lie in the federal district court of Alexandria, Virginia.

8. Vendor acknowledges and agrees that the award of a Piggy-Back Award is within the sole discretion of National Cooperative, and that this Agreement does not take effect unless and until National Cooperative awards Vendor a Piggy-Back Award and the BuyBoard Administrator notifies Vendor in writing of such Piggy-Back Award as provided for herein.

WHEREFORE, by signing below Vendor agrees to the foregoing and warrants that it has the authority to enter into this Agreement.

Public Restroom Company
Name of Vendor

512-16
Proposal Invitation Number

Chas. E. Vaughan as President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name of Authorized Company Official

03/08/16
Date

BuyBoard® Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

FEDERAL AND STATE/PURCHASING COOPERATIVE DISCOUNT COMPARISON FORM

The Cooperative strives to provide its members with the best services and products at the best prices available. The Cooperative determines whether prices/discounts are fair and reasonable by comparing prices/discounts stated in your Proposal with prices/discounts you offer federal and state entities and other interlocal purchasing cooperatives (collectively referred to as "purchasing cooperative" in this form). Please respond to the following questions.

1. Provide the dollar value of sales to or through purchasing cooperatives at or based on an established catalog or market price during the previous 12-month period or the last fiscal year: $ 1,230,812. (The period of the 12 month period is 1/2015 / 12/2015). In the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item(s).

2. Based on your written discounting policies are the discounts you offer the Cooperative equal to or better than the best price you offer other purchasing cooperatives acquiring the same items regardless of quantity or terms and conditions?

   YES☒ NO☐

3. Based on your written discounting policies, provide the information requested below for other purchasing cooperatives, either in the chart below or in an equivalent format. Rows should be added to accommodate as many purchasing cooperatives as required.

PURCHASING GROUP	DISCOUNT (%)	QUANTITY/VOLUME	FOB TERM
1. Federal General Services Adm.	0		
2. T-PASS	0		
3. U.S. Communities Purchasing Alliance	0	NONE	
4. The Cooperative Purchasing Network	0		
5. Houston-Galveston Area Council	0		
6. Other	0		

☒ **MY COMPANY DOES NOT CURRENTLY HAVE ANY OF THE ABOVE OR SIMILAR TYPE CONTRACTS.**

CURRENT BUYBOARD VENDORS

If you are a current BuyBoard vendor, indicate the discount for your current BuyBoard contract and the proposed discount in this Proposal. Explain any difference between your current and proposed discounts.

Current Discount (%): 5% **Proposed Discount (%):** 5%

Explanation: _____

By signature below, I certify that the above is true, complete and accurate and that I am authorized by my company to make this certification.

Public Restroom Company
Company Name

Chas. E. Kaufman President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

FORM L

CONST.V.11.18.15

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

GOVERNMENTAL REFERENCES AND PRICE/DISCOUNT INFORMATION

For your Proposal to be considered, you must supply a minimum of five (5) individual governmental entity references. Provide the information requested below, including the existing price/discounts you offer each customer. The Cooperative determines whether prices/discounts are fair and reasonable by comparing prices/discounts stated in your Proposal with the prices/discounts you offer other governmental customers. Attach additional pages if necessary.

Entity Name	Contact	Phone#	Discount	Quantity/ Volume	FOB Term

1. City of Victoria TX , Colby Van Gundy, 361-485-3200 , 5%, 1, Net 30

2. City of of Placentia, CA , Stephen Pischel, 714-993-8142, 5%, 1, net 30

3. City of Riverside, CA, Ewina Lau, 951-826-2021, 5% 1, net 30

4. City of Odessa, TX Steve Patton, 432-368-3548, %% 1, Net 30

5. Hayward Area Rec & Park District, CA, Dan Giamonna, 510-881-6716, 5% 1 net 30

Do you ever modify your written policies or standard governmental sales practices as identified in the above chart to give better discounts (lower prices) than indicated? **YES** ☐ **NO** ■ If YES, please explain:

By signature below, I certify that the above is true and correct and that I am authorized by my company to make this certification.

Public Restroom Company
Company Name

Chas E Kaufman
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

MARKETING STRATEGY

For your Proposal to be considered, you must submit the Marketing Strategy you will use if the Cooperative accepts all or part of your Proposal. *(Example: How your company will initially inform Cooperative members of your BuyBoard contract, and how you will continue to support the BuyBoard for the duration of the contract period.)*

Attach additional pages if necessary.

Public Restroom Company uses a variety of marketing methods to promote the Buyboard. We have a corporate website and collateral marketing material with the Buyboard logos displayed prominently. We advertise in trade publications at the national and state levels. Also, during business/personal visits our sales representatives raise awareness of the purchasing opportunities via the BuyBoard. We attend, International, national, and state trade show conventions where we display the Buyboard logo for ease of procurement and money saving opportunities.

Public Restroom Company
Company Name

Signature of Authorized Company Official

Chuck Kaufman
Printed Name

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

CONFIDENTIAL/PROPRIETARY INFORMATION FORM

A. Public Disclosure Laws

All Proposals, forms, documentation, or other materials submitted by Vendor to the Cooperative in response to this Proposal Invitation may be subject to the disclosure requirements of the Texas Public Information Act (Texas Government Code chapter 552.001, *et. seq.*) or similar disclosure law. Proposer must clearly identify on this form any information in its Proposal (including forms, documentation, or other materials submitted with the Proposal) that Proposer considers proprietary or confidential. If Proposer fails to properly identify the information, the Cooperative shall have no obligation to seek protection of such information from public disclosure should a member of the public or other third party request access to the information under the Texas Public Information Act or similar disclosure law. Proposer will be notified of any third party request for information in a Proposal that Proposer has identified in this form as proprietary or confidential.

Does your Proposal (including forms, documentation, or other materials submitted with the Proposal) contain information which Vendor considers proprietary or confidential?

Please check (√) one of the following:

☐ **NO**, I certify that none of the information included with this Proposal is considered confidential or proprietary.

☒ **YES**, I certify that this Proposal contains information considered confidential or proprietary and all such information is specifically identified on this form.

If you responded "YES", you must identify below the specific information you consider confidential or proprietary. List each page number, form number, or other information sufficient to make the information readily identifiable. The Cooperative and its Administrator will not be responsible for a Proposer's failure to clearly identify information considered confidential or proprietary. Further, by submitting a Proposal, Proposer acknowledges that the Cooperative and its Administrator will disclose information when required by law, even if such information has been identified herein as information the vendor considers confidential or proprietary.

Confidential / Proprietary Information:

Pricing

(Attach additional sheets if needed.)

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

B. Copyright Information

Does your Proposal (including forms, documentation, or other materials submitted with the Proposal) contain copyright information?

Please check (√) one of the following:

☒ **NO,** Proposal (including forms, documentation, or other materials submitted with the Proposal) does not contain copyright information.

☐ **YES,** Proposal (including forms, documentation, or other materials submitted with the Proposal) does contain copyright information.

If you responded "YES", identify below the specific documents or pages containing copyright information.

Copyright Information: _____

_____

_____

(Attach additional sheets if needed.)

C. Consent to Release Confidential/Proprietary/Copyright Information to BuyBoard Members

BuyBoard members (Cooperative and nonprofit members) seeking to make purchases through the BuyBoard may wish to view information included in the Proposals of awarded Vendors. If you identified information on this form as confidential, proprietary, or subject to copyright, and you are awarded a BuyBoard contract, your acceptance of the BuyBoard contract award constitutes your consent to the disclosure of such information to BuyBoard members, including posting of such information on the secure BuyBoard website for members. Note: Neither the Cooperative nor its Administrator will be responsible for the use or distribution of information by BuyBoard members or any other party.

By signature below, I certify that the information in this form is true, complete, and accurate and that I am authorized by my company to make this certification and all consents and agreements contained herein.

Public Restroom Company
Company Name

Chuck E Kaufman / President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

03/08/16
Date

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

VENDOR BUSINESS NAME FORM

By submitting a Proposal, Proposer is seeking to enter into a legal contract with the Cooperative. As such, a Proposer must be an individual or legal business entity capable of entering into a binding contract. Proposers, must completely and accurately provide the information requested below or your Proposal may be deemed non-responsive.

Name of Proposing Company: Public Restroom Company

*(List the **legal** name of the company seeking to contract with the Cooperative. Do NOT list an assumed name, dba, aka, etc. here. Such information may be provided below. If you are submitting a joint proposal with another entity to provide the same proposed goods or services, each submitting entity should complete a separate vendor information form. Separately operating legal business entities, even if affiliated entities, which propose to provide goods or services separately must submit their own Proposals.)*

Please check (√) one of the following:

Type of Business:

Individual/Sole Proprietor	
Corporation	100
Limited Liability Company	
Partnership	
Other	

If other, identify _____

State of Incorporation (if applicable): Nevada

Federal Employer Identification Number: 48-1289691

(Vendor must include a completed IRS W-9 form with their proposal)

List the Name(s) by which Vendor, if awarded, wishes to be identified on the BuyBoard: *(Note: If different than the Name of Proposing Company listed above, only valid trade names (dba, aka, etc.) of the Proposing Company may be used and a copy of your Assumed Name Certificate(s), if applicable, must be attached.)*

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
PUBLIC RESTROOM COMPANY

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:
☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☑ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶
Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.
☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any)
Exemption from FATCA reporting code (if any)
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)
2587 BUSINESS PKWY

Requester's name and address (optional)

6 City, state, and ZIP code
MINDEN, NV 89423

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number
			-			-				

or

Employer identification number
4	8	-	1	2	8	9	6	9	1

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here | Signature of U.S. person ▶ Chas E. Kaufman / President | Date ▶ 1/6/15

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

EDGAR VENDOR CERTIFICATION FORM

(2 CFR Part 200 and Appendix II)

When a Cooperative member seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (sometimes referred to as the "Uniform Guidance" or new "EDGAR"). All Vendors submitting proposals must complete this EDGAR Certification Form regarding Vendor's willingness and ability to comply with certain requirements which ***may*** be applicable to specific Cooperative member purchases using federal grant funds. This completed form will be made available to Cooperative members for their use while considering their purchasing options when using federal grant funds. Cooperative members may also require Vendors to enter into ancillary agreements, in addition to the BuyBoard contract's general terms and conditions, to address the member's specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

For <u>each</u> of the items below, Vendor should certify Vendor's agreement and ability to comply, where applicable, by having Vendor's authorized representative check and initial the applicable boxes and sign the acknowledgment at the end of this form. If you fail to complete any item in this form, the Cooperative will consider and may list the Vendor's response on the BuyBoard as "NO," the Vendor is unable or unwilling to comply. A "NO" response to any of the items may, if applicable, impact the ability of a Cooperative member to purchase from the Vendor using federal funds.

1. Vendor Violation or Breach of Contract Terms:

Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 USC 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Provisions regarding Vendor default are included in the BuyBoard General Terms and Conditions, including Section E.18, Remedies for Default and Termination of Contract. Any Contract award will be subject to such BuyBoard General Terms and Conditions, as well as any additional terms and conditions in any Purchase Order, Cooperative member ancillary contract, or Member Construction Contract agreed upon by Vendor and the Cooperative member which must be consistent with and protect the Cooperative member at least to the same extent as the BuyBoard Terms and Conditions.

The remedies under the Contract are in addition to any other remedies that may be available under law or in equity.

By submitting a Proposal, you agree to these Vendor violation and breach of contract terms.

Vendor Certification, Item 1 (Vendor Violation or Breach of Contract Terms)

☒ **YES, I <u>agree</u> to the above.** (Initial: CEV)

☐ **NO, I do <u>NOT</u> agree to the above.** (Initial: _____)

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

2. Termination for Cause or Convenience:

For any Cooperative member purchase or contract in excess of $10,000 made using federal funds, you agree that the following term and condition shall apply:

The Cooperative member may terminate or cancel any purchase order under this Contract at any time, with or without cause, by providing seven (7) business days advance written notice to the Vendor. If this Agreement is terminated in accordance with this Paragraph, the Cooperative member shall only be required to pay Vendor for goods or services delivered to the Cooperative member prior to the termination and not otherwise returned in accordance with Vendor's return policy. If the Cooperative member has paid Vendor for goods or services not yet provided as of the date of termination, Vendor shall immediately refund such payment(s).

If an alternate provision for termination of a Cooperative member purchase for cause and convenience, including the manner by which it will be effected and the basis for settlement, is included in the Cooperative member's purchase order, ancillary agreement, or Member Construction Contract agreed to by the Vendor, the Cooperative member's provision shall control.

Vendor Certification, Item 2 (Termination for Cause or Convenience):

☒ **YES, I ~~agree~~ to the above.** (Initial: _____) CEL Our product is built a kit and it only partially finished upon termination we may not be able to deliver it to site

☒ **NO, I do NOT agree to the above.** (Initial: CEL)

3. Equal Employment Opportunity:

Except as otherwise provided under 41 CFR Part 60, all Cooperative member purchases or contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall be deemed to include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Vendor agrees that such provision applies to any Cooperative member purchase or contract that meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and Vendor agrees that it shall comply with such provision.

Vendor Certification, Item 3 (Equal Employment Opportunity):

☒ **YES, I agree to the above.** (Initial: CEL)

☐ **NO, I do NOT agree to the above.** (Initial: _____)

BuyBoard® Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

4. Davis-Bacon Act:

When required by Federal program legislation, Vendor agrees that, for all Cooperative member prime construction contracts/purchases in excess of $2,000, Vendor shall comply with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Vendor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determinate made by the Secretary of Labor. In addition, Vendor shall pay wages not less than once a week.

Current prevailing wage determinations issued by the Department of Labor are available at www.wdol.gov. Vendor agrees that, for any purchase to which this requirement applies, the award of the purchase to the Vendor is conditioned upon Vendor's acceptance of the wage determination.

Vendor further agrees that it shall also comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Vendor Certification, Item 4 (Davis-Bacon Act):

☒ **YES, I agree to the above.** (Initial: CGM)

☐ **NO, I do NOT agree to the above.** (Initial: _____)

---

5. Contract Work Hours and Safety Standards Act:

Where applicable, for all Cooperative member contracts or purchases in excess of $100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 USC 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 USC 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Vendor Certification, Item 5 (Contract Work Hours and Safety Standards Act):

☒ **YES, I agree to the above.** (Initial: CGM)

☐ **NO, I do NOT agree to the above.** (Initial: _____)

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

6. Right to Inventions Made Under a Contract or Agreement:

If the Cooperative member's Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Vendor agrees to comply with the above requirements when applicable.

Vendor Certification, Item 6 (Right to Inventions Made Under a Contract or Agreement):

☒ **YES, I agree to the above.** (Initial: CEW)

☐ **NO, I do NOT agree to the above.** (Initial: _____)

---

7. Clean Air Act and Federal Water Pollution Control Act:

Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 USC 1251-1387), as amended – Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

When required, Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

Vendor Certification, Item 7 (Clean Air Act and Federal Water Pollution Control Act):

☒ **YES, I agree to the above.** (Initial: CEW)

☐ **NO, I do NOT agree to the above.** (Initial: _____)

---

8. Debarment and Suspension:

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

BuyBoard® Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

Vendor certifies that Vendor is not currently listed on the government-wide exclusions in SAM, is not debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor further agrees to immediately notify the Cooperative and all Cooperative members with pending purchases or seeking to purchase from Vendor if Vendor is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Vendor Certification, Item 8 (Debarment and Suspension):

☒ **YES, I agree / certify to the above.** (Initial: CEVL)

☐ **NO, I do NOT agree / certify to the above.** (Initial: _____)

---

9. Byrd Anti-Lobbying Amendment:

Byrd Anti-Lobbying Amendment (31 USC 1352) -- Vendors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

As applicable, Vendor agrees to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352).

Vendor Certification, Item 9 (Byrd Anti-Lobbying Amendment):

☒ **YES, I agree to the above.** (Initial: CEVL)

☐ **NO, I do NOT agree to the above.** (Initial: _____)

---

10. Procurement of Recovered Materials:

For Cooperative member purchases utilizing Federal funds, Vendor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and provide such information and certifications as a Cooperative member may require to confirm estimates and otherwise comply. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

Vendor Certification, Item 10 (Procurement of Recovered Materials):

☒ **YES, I agree to the above.** (Initial: CEK)

☐ **NO, I do NOT agree to the above.** (Initial: _____)

---

11. Profit as a Separate Element of Price

For purchases using federal funds in excess of $150,000, a Cooperative member may be required to negotiate profit as a separate element of the price. *See*, 2 CFR 200.323(b). When required by a Cooperative member, Vendor agrees to provide information and negotiate with the Cooperative member regarding profit as a separate element of the price for a particular purchase. However, Vendor agrees that the total price, including profit, charged by Vendor to the Cooperative member shall not exceed the awarded pricing, including any applicable discount, under Vendor's Cooperative Contract.

Vendor Certification, Item 11 (Profit as Separate Element of Price):

~~☒ YES, I agree to the above. (Initial: _____)~~

☒ **NO, I do NOT agree to the above.** (Initial: CEK)

12. General Compliance and Cooperation with Cooperative Members

In addition to the foregoing specific requirements, Vendor agrees, in accepting any Purchase Order from a Cooperative member, it shall make a good faith effort to work with Cooperative members to provide such information and to satisfy such requirements as may apply to a particular Cooperative member purchase or purchases including, but not limited to, applicable recordkeeping and record retention requirements.

Vendor Certification, Item 12 (General Compliance and Cooperation with Cooperative Members):

☒ **YES, I agree to the above.** (Initial: CEK)

☐ **NO, I do NOT agree to the above.** (Initial: _____)

By signature below, I certify that the information in this form is true, complete, and accurate and that I am authorized by my company to make this certification and all consents and agreements contained herein.

Public Restroom Company
Company Name

Chas E Kaufman / President
Signature of Authorized Company Official

Chuck Kaufman
Printed Name

BuyBoard® Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

REQUIRED FORMS CHECKLIST

(Please check (√) the following)

- [x] Completed: **Proposer's Agreement and Signature** (Form A)
- [x] Completed: **Vendor Purchase Order, Request for Quotes, and Invoice Receipt Options** (Form B)
- [x] Completed: **Felony Conviction Disclosure and Debarment Certification** (Form C)
- [x] Completed: **Resident/Nonresident Certification** (Form D)
- [x] Completed: **Historically Underutilized Business (HUB) Certification** (Form E)
- [x] Completed: **Affirmation Regarding Construction Related Goods and Services** (Form F)
- [x] Completed: **Deviation/Compliance Signature Form** (Form G)
- [x] Completed: **Dealership Listings** (Form H)
- [x] Completed: **Texas Regional Service Designation** (Form I)
- [x] Completed: **State Service Designation** (Form J)
- [x] Completed: **National Purchasing Cooperative Vendor Award Agreement** (Form K)
- [x] Completed: **Federal and State/Purchasing Cooperative Discount Comparison Form** (Form L)
- [x] Completed: **Governmental References and Price/Discount Information** (Form M)
- [x] Completed: **Marketing Strategy** (Form N)
- [x] Completed: **Confidential/Proprietary Information Form** (Form O)
- [x] Completed: **Vendor Business Name Form with IRS Form W-9** (Form P)
- [x] Completed: **EDGAR Vendor Certification Form** (Form Q)
- [x] Completed: **Forms Checklist** (Form R)
- [x] Completed: **Proposal Specification Form with Catalogs/Pricelists, Manufacturer Letters, and Proposal Invitation Questionnaire** (Form S)
  **Catalogs/Pricelists must be submitted with proposal response or response will not be considered.*

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.vendor.buyboard.com

PROPOSAL INVITATION QUESTIONNAIRE

Proposal Invitation No. 512-16 Parks and Recreation Equipment and Field Lighting Products and Installation

In your proposal, does your company propose to provide installation or repair services under ANY of the following Specification Items: 17 through 47? If so, see below.

Please check (√) one of the following:

☒ **NO,** my company does NOT propose to provide installation or repair services under any of the Specification Items 17 through 47.

☐ **YES,** my company does propose to provide installation or repair services under one or more of Specification Items: 17 through 47.

If you answered YES to the question above, you must include with your proposal responses to the questions below. The Cooperative will use your responses to the questions below in evaluating your Proposal to provide the goods and perform the construction or construction-related services ("work") under the BuyBoard contract contemplated by this Proposal Invitation ("contract"). You must fully answer each question, numbering your responses to correspond to the questions/numbers below. **You must attach your responses to this questionnaire**, sign where indicated below, and submit the signed questionnaire and your responses to all questions in one document with your Proposal. **You must submit the signed questionnaire and responses with your Proposal or the Proposal will not be considered.**

1. Describe Proposer's direct experience (not as a subcontractor) performing the work proposed under this contact. Include a brief description of the projects you have completed for Texas governmental entities in the last 5 years, and include for each the project name, scope, value, and date, and the name of the procuring government entity and entity contact person. Identify the contracts that best represent Proposer's capabilities relative to this contract.

2. Describe the resources Proposer has to manage, staff and successfully perform the work contemplated under this contract. State the number and summarize the experience of company personnel who may be utilized for the work, including those who will be available to Cooperative members for assistance with project development, technical issues, and product selection for work associated with this contract.

3. The contract does not include architectural or engineering services, which must be procured separately, outside of the Cooperative, in accordance with Chapter 2254 of the Texas Government Code (Professional Services Procurement Act). If you are performing work under the contract on a project that requires the services of an architect or professional engineer, how will you work with a Cooperative member and its designated architect or engineer with respect to services that must be procured outside the contract.

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.vendor.buyboard.com

4. Describe the tasks and functions that can be completed by Proposer in-house without the use of a subcontractor or other third party.

5. Describe Proposer's financial capability to perform the contract. State or describe the firm's financial strength and rating, bonding capacity, and insurance coverage limits. State whether the firm, or any of the firm's past or present owners, principal shareholders or stockholders, or officers, have been a debtor party to a bankruptcy, receivership, or insolvency proceeding in the last 7 years, and identify any such debtor party by name and relationship to or position with your firm.

6. List all contracts, if any, in the last 10 years on which Proposer has defaulted or that have been terminated for any reason and for each provide the project name, scope, value and date and the name of the procuring governmental entity. Fully explain the circumstances of the default or termination.

7. List all litigation or other legal proceedings, if any, in the last 10 years brought against your firm, or any of the firm's past or present owners, principal shareholders or stockholders, officers, agents or employees, that relates to or arises from a contract similar to this contract or the work contemplated under this contract. (The list should include the contractor as well as the product supplier.). Provide the style of the lawsuit or proceeding (name of parties and court or tribunal in which filed), nature of the claim, and resolution or current status.

8. Describe in detail the quality control system Proposer will use, including third party auditing certification, to support the long-term performance and structural strength of the products to be used in a project under the contract.

9. If the work will require Proposer to tender performance and payment bonds, provide the name of the bonding company or surety that will issue such bonds.

10. Describe in detail all documented safety issues, if any, that have involved Proposer in the last 3 years related to the type of work contemplated under this contract. Provide a 3-year history of your firm's workers compensation experience modifier.

By signature below, I certify that the information attached to this Proposal Invitation Questionnaire in response to the above questions is true and correct and that I am authorized by my company to make this certification.

Public Restroom Company

Company Name

Chas. E. Kaufman

Signature of Authorized Company Official

Buy Board: Bid Scope of Work by Party:

GENERAL CONTRACTOR SCOPE OF WORK WITH/WITHOUT FOOTINGS:

General Scope of Work Background:
General Contractor or Owner shall survey the site, establish survey for the building pad and prefabricated building slab elevation and front corners, excavate for building footings (if required), locate footing sleeves for electrical, waste, and water, pour the footings (if required), furnish sand base adjacent to subgrade pad, and provide location for utility POC's nominally 6' outside the foundation.

Preparation of Building Pad:
General Contractor or Owner is responsible for providing the building subgrade pad or when required footings to frost depth per Public Restroom Company design specifications. PRC will provide detailed drawings for the subgrade building pad, utilities POC's, and if required the footings, attached to this scope of work.

Subgrade Pad/Foundation Requirements:

1. General Contractor or Owner shall survey the building site and provide a finished slab elevation for the prefabricated building. The building pad size we require is larger than the final actual building footprint. Provide building front corner stakes with 10' offsets.
2. Excavate the existing site to the depth of the required footings to local code if required.
3. Furnish coarse concrete sand adjacent to subgrade pad so PRC can cut the utility trenches, install underground utilities, and screed sand.

General/Owner verification of site access to allow Building Delivery:

1. You certify to PRC that suitable delivery access to the proposed building site is available. Suitable access is defined as 14' minimum width, 16' minimum height, and sufficient turning radius for a crane and 70' tractor-trailer.
2. Our cost is based upon the crane we provide being able to get within 35' from the building center and for the delivery truck to be no more than 35' from the crane center picking point.
3. If the path to the building site traverses curbs, underground utilities, landscaping, sidewalks, or other obstacles that could be damaged, it is the General/Owner's responsibility for repair and all costs, if damage occurs.
4. If trench plating is required, it shall be the cost responsibility of the General/Owner.
5. If unseen obstacles are present when site installation begins, it is the General/Owner's responsibility to properly mark them and verbally notify PRC before installation.

Installation Notice and Site Availability:
PRC will provide sufficient notice of delivery of the prefabricated building. The Owner shall make the site available during the delivery period. During the delivery period, on an improved

site, Owner should stop site watering several days before delivery to minimize the impact on the soils for the heavy equipment needed for installation.

Caution:
If site is not ready for our field crew to perform their installation and if no notice of delay in readiness from GeneralOwner is received, PRC will provide a change order for re-mobilization on a daily basis until the site is ready for us. Ready means that the site pad is completed, the corner required survey stakes are in place, the slab elevation stakes are in place, the location of the front of the building is confirmed on site, and access to the site is available from an improved roadway. General/Owenr shall sign the change order before we will continue delivery.

Public Restroom Company will "turn-key" set the buildings including the hook up of utilities inside the building (only) when they are available. PRC will use its own factory trained staff for the installation.

Utility Connections:

1. The General/Owner is responsible for flushing all water service lines before final connection.
2. The **General/Owner** is responsible for the **final connections** of water, sewer, and electrical at the exterior of building POC's.
3. PRC provides a POC for water, a POC DWV waste line with a clean out your service connection, and an electrical schedule 80 PVC sleeve at an exterior POC.
4. PRC provides and connects the interior building utility connections and the General/Owner or their subcontractor makes the exterior connections to POC's for services.

Special Conditions, Permits, and Inspection Fees:
Follow any published specifications governing local building procedures for applicable building permit fees, health department fees, all inspection fees, site concrete testing fees, and compaction tests, if required by Generer/Owner. PRC is responsible for all required State inspections and final State insignia certification of the building, if applicable.

Jurisdiction for Off-site Work:
Jurisdiction, for permitting and inspection of this building shall be either the State agency who manages prefabricated building compliance in the state or the local CBO (when the State does not provide certification.) If the responsibility for building inspection is the local CBO, we will provide a certified plan set, calculations, and a third party engineer inspection report for any and all closed work the local official cannot see.

PUBLIC RESTROOM COMPANY SCOPE OF WORK:

Our In Plant/Off-Site Construction Scheduling System:
PRC has several off-site manufacturing centers in the United States, strategically located, that have the proper equipment and trained staff to fabricate our custom buildings to our high quality fit and finish standards. PRC manages quality control in our off-site production facility to comply with the approved drawings and provides an inspection certification and photos as required. When proprietary materials, which we have designed and fabricated, are part of the project, PRC supplies the manufacturing centers with these special parts or chemicals. We then schedule the in plant construction process to coordinate with your delivery date through our Operations Division field staff. We guaranty on time at cost delivery weather permitting.

Delivery and Installation:

Site Inspection:
PRC staff, upon site arrival, will verify the required dimensions of the building pad and the corner locations/elevation. We will also verify the delivery path from an accessible road or street and install the underground utilities to the point of connection nominally 6' from the exterior of the building.

Installation:
PRC will install the building turn-key, except for any exclusion (listed under "Exclusions," herein.)

Installation of Utilities Under the Prefabricated Building:
We fabricate off-site an underground utilities (water, and DWV piping and fittings) preassembled plumbing and electrical tree. Our site staff will set the underground tree in the excavated trench (excavation by general to the proper depth per local code) into code depth excavated trenches and our staff will install the coarse concrete sand to bed the piping per our submitted drawing..

Your utility POC's start nominally 6' from the building footprint where we pick up the task and connect your services to the building stub downs. We provide all the under slab piping (including the driven electrical ground rod or lightning rod, if applicable.) The General/Owner brings utility services to within 6' of the pad.

Connection of Utilities Post Building Placement:
After placement of the building on the pad by PRC, our field staff will tie in the water and sewer connection "inside" the building only and terminate at a point of connection (POC) outside the building clearly marked for each utility service. The General/Owner is responsible for final utility point of service connections at the nominal 6' from building locations.

Electrical:
PRC provides the electrical conduit to the POC 6' from the building. The General/Owner pulls the wire and ties it off on the electrical panel.

Plumbing:
PRC provides the POC up to 6' from the building footprint and the General/Owner connects the water to our stub out location.

Sewer:
Some sites depending on the local jurisdiction will require an outside house trap which General/Owner shall install if needed. PRC will provide you with a sewer point of connection including a clean out to which General/Owner will terminate the site sewer service.

Testing of Water, Sewer, and Electrical in Plant and Final Site Utility Connection:
Before the building leaves the manufacturing center, PRC certifies a pressure water piping test, DWV, and the electrical connections for compliance with code. While the building is fully tested for leaks at the plant before shipment, road vibration may loosen some plumbing slip fittings and require tightening once the building services (water) is completed. General/Owner is responsible for minor fitting tightening to handle small slip fitting leaks caused by transportation.

Time of Completion:
PRC estimates a schedule to complete our scope of work from receipt of written notice to proceed together with signed approved architectural submittals from all authorities required to approve them. The time of completion is listed on the final quotation sheet.

Exclusions/Exceptions:

1. Access issues for delivery of the building when the general contractor/owner has not provided a proper path to the final site. This exclusion covers sites whose access is limited by trees, inaccessible roadways, overhead power lines at location where crane will lift building, grade changes, berms, or uneven site grades, or when the path of travel is over improvements such as sidewalks, all of which are not within the scope of work by PRC. Traffic control requirements coordinated by the Owner.
2. Any trench plates needed for protection of site soils, sidewalks, or site utilities.
3. Sidewalks outside the building footprint.
4. Survey, excavation, and installation of the building pad and footings (if required) per our attached plans.
5. Soil conditions not suitable for bearing 1500 psf.
6. Improper water pressure, an undersized meter, or improper water flow to the building.
7. Building chlorination is by general.
8. Bonds, building permits, site survey, special inspection fees, minor trash removal, final utility connections, minor plumbing leaks if water is not available when building site work installation is complete, site soils or improvements if damaged during installation, landscaping.

9. Our crane costs, which are included herein, are based on a maximum 35' radius from the center pin of the crane to center point of the furthest building module roof. If additional distance requires a larger crane, additional costs will be assessed by change order to you.
10. The General/Owner shall be responsible for minor site debris removal or a location for placement on site, (nominally one pickup truck of shipping materials.)

Insurance and Prevailing Wage Certification:
PRC shall comply with the required insurance requirements, wage reports, and safety requirements for the project, including OSHA regulations.

Special Insurance to protect the Building before acceptance:
As PRC requires payment for each month of off-site construction, and since the building is not on owner property where their insurance will cover the building, we provide a special policy that insures the property even when paid for off-site until the building is finally accepted by the owner. The policy provides the owner and general contractor as additional insured during this period.

PRC provides the General and Owner a policy rider to cover the building while it is being built off-site, while in transit to the job site, during and after it is installed on-site until final acceptance. This special policy covers each building module (section) for up to $200,000. This exceeds the cost of any building module we have offered for sale herein.

Errors and Omissions Insurance:
Our firm employs licensed architects, engineers, and drafting staff to provide design of our buildings. Since these buildings are required to meet accessibility standards and building codes on site, and since we are the designer, we carry Errors and Omissions Insurance (E & O) to protect our clients from any errors. The policy covers a limit of up to $2,000,000 per occurrence and is more clearly explained in the insurance certificates we provide after receipt of a purchase order.

WARRANTY
All work performed by PUBLIC RESTROOM COMPANY (called "Company") shall be warranted to the Owner to be of commercial quality, free of faults and defects in material, workmanship, and title for 5 years from last date of installation if building is installed by Company or 1 year if building is installed by Owner or Owner's agent without on-site supervision by Company. PRC will furnish a 20 year warranty on the structural components of each building.

Company will repair or replace at their sole option any defects in work upon proper notice to the below stated address. This warranty applies only if all work performed by Company has been fully paid for, including change orders if applicable. Company has no responsibility for any neglect, abuse, or improper handling of building product.

The warranties expressed herein are exclusive, and are in lieu of all other warranties expressed or implied, including those of merchantability and fitness. There are no warranties which extend beyond those described on the face of this Warranty. The foregoing shall constitute the full liability of the Company and be the sole remedy to the Owner.

Term of Offer to Sell and General Contractor/Owner's Acceptance:
This offer is valid for acceptance within 30 days, or when a part of a public bid for the applicable duration imposed within the Owner's bid documents. Acceptance is by approving our post bid preliminary notice to begin drawings subject to final owner approval of our submittals and general contractor/owner receipt of a contract from the owner or a purchase order/contract.

Special Notice of Possible Project Cost Increases as a Result of Late Payments:
In the event of delayed or late payment, PRC shall have the right to remedies including late charges, overall project total cost increases, and other damages as allowed by applicable law. The contract price quoted herein is a discounted price based upon our receipt of progress payments as invoiced on the agreed billing schedule of PRC. In the event of non-payment, PRC will provide a 5 day written notice to cure and if payment is still not received, the discounted price for the payment due may increase, to an undetermined amount, to cover work stoppage, remobilization, cancellation of materials and subsequent restocking charges, resale of the contracted building to another party, storage fees, additional crane fees, travel and per diem costs for field crews, and any other cost applicable to the project, as allowed by law. Interest if applicable to non-payment will be assessed at the maximum amount allowed by law or 18% whichever is greater.

No modifications to this offer shall be authorized unless confirmed in writing by the President of PRC.

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard · Austin, Texas 78759-2439
PH: 800-695-2919 · FAX: 800-211-5454 · www.vendor.buyboard.com

THE LOCAL GOVERNMENT PURCHASING COOPERATIVE
ADDENDUM NO. 1

Proposal Invitation No. 512-16 – Parks and Recreation Equipment and Field Lighting Products

The detailed specifications for line item No. 5 on the Proposal Specification Form (Form S) has been amended as follows. The following information becomes a permanent part of the Proposal Invitation document.

Item No.	Short Description	Full Description	State Discount Percent (%) off Catalog/ Pricelist[1]	State Name of Catalog/ Pricelist[1]	Exceptions to Discount Percent (%)
Section I: Parks and Recreation Products					
5	Discount (%) Off Catalog/Pricelist for Portable Restrooms, Portable Park Buildings and Shelters	Discount (%) Off Catalog/Pricelist for **Portable Restrooms, Prefabricated Park Buildings and Shelters (picnic shelters, cabins, pavilions and similar related park buildings).** **Catalog/Pricelist MUST be included or proposal will not be considered.**	5% %	PRC	~~N/A~~ None

Please sign and return one copy of the addendum with proposal as verification of receipt and compliance with addendum information.

Company Name: Public Restroom Company

Address: 2587 Business Parkway, Minden, NV 89423

Signature of Authorized Company Official: Chas E Vaughn/President Title: President

Telephone Number: 888-888-2060 Date: 3/8/16

P.O. Box 400
Austin, TX 78767-0400
800.695.2919 | 512.467.0222 | Fax: 800.211.5454
buyboard.com

PRICE SHEET ADVISORY

The following pages were presented as part of the proposal response from the vendor.

These pages were used as part of the evaluation of the vendor's proposal, and are included here as reference items only.

The pricing shown on these pages may or may not be in effect during the contract.

Connie W Burkett
Contract Administrator
BuyBoard

PUBLIC RESTROOM COMPANY

Building Better Places To Go.℠

PLAYGROUND SERIES					
Plan	Model	Building Price*	Optional: Drinking Fountain in an Alcove	Optional: Pedestal Drinking Fountain	Optional: Stainless Steel Fixtures
Playground Series	PS-011	$65,252	$5,643		$2,452
Playground Series	PS-111	$69,377	$5,643		$4,234
Playground Series	PS-022	$87,128	$5,643		$4,904
Playground Series	PS-022-CE	$94,997	$5,643		$4,904
Playground Series	PS-022-CE-ST	$109,360	n/a	$3,960	$4,904
Playground Series	PS-122	$92,593	$5,643		$6,686
Playground Series	PS-033	$100,926	$5,643		$7,355
Playground Series	PS-133 (Frnt)	$112,627	n/a	$3,960	$9,362

SPORTS PARK SERIES					
Plan	Model	Building Price*	Optional: Drinking Fountain in an Alcove	Optional: Pedestal Drinking Fountain	Optional: Stainless Steel Fixtures
Sports Park Series	SP-132 (Frnt, Sd, Rd)	$116,030	n/a	$3,960	$7,857
Sports Park Series	SP-132-SD	$118,709	n/a	$3,960	$8,082
Sports Park Series	SP-132-FT	$118,804	n/a	$3,960	$8,082
Sports Park Series	SP-132-2M	$121,886	$5,643		$7,633
Sports Park Series	SP-132-2M-ST	$150,868	$5,643		$7,633
Sports Park Series	SP-044	$129,680	$5,643		$9,808
Sports Park Series	SP-244	$139,342	$5,643		$13,372

STADIUM SERIES					
Plan	Model	Building Price*	Optional: Drinking Fountain in an Alcove	Optional: Pedestal Drinking Fountain	Optional: Stainless Steel Fixtures
Stadium Series	SS-242	$138,145	$5,643		$10,362
Stadium Series	SS-264	$174.160	$5,643		$15,266
Stadium Series	SS-396	$218,257	$5,643		$22,899

FAMILY SERIES					
Plan	Model	Building Price*	Optional: Drinking Fountain in an Alcove	Optional: Pedestal Drinking Fountain	Optional: Stainless Steel Fixtures
Family Series	FAM-154	$166,103	$5,643		$11,032
Family Series	FAM-154-2FAM	$178,045	$5,643		$9,527
Family Series	FAM-164-2FAM-ST	$203,343	$5,643		$10,475
Family Series	FAM-275-ST	$224,013	$5,643		$16,213

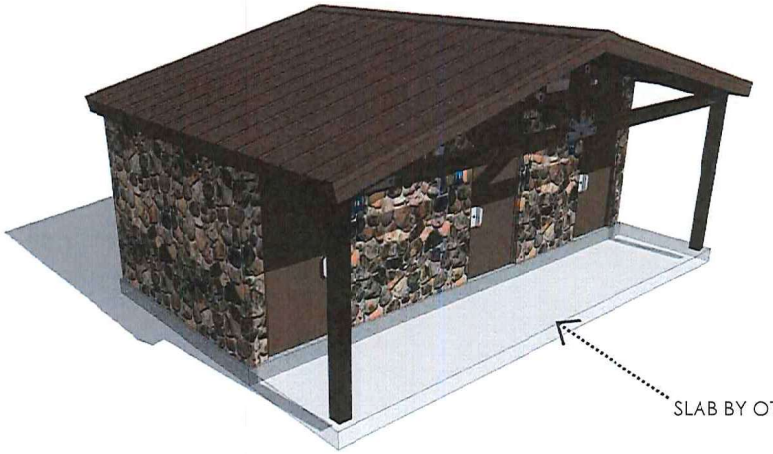
ADD-ON CONCESSION BUILDINGS				
Plan	Model	Building Price*	Category of items	Optional:
Concession	CN-1	$92,915	Pre-Packaged Foods Only	n/a
Concession	CN-2	$101,337	Open-Food – No Cooking	n/a
Concession	CN-3	$191,748	Full Cooking Kitchen	n/a

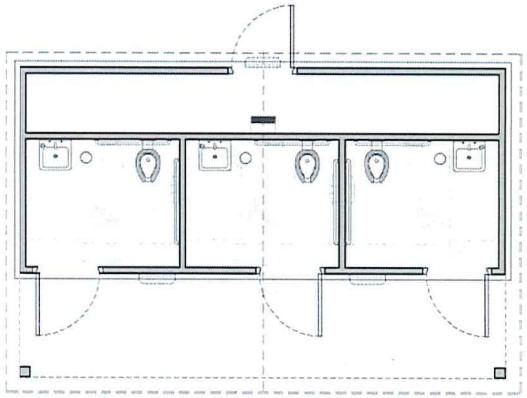
ADD-ON SHOWER BUILDINGS				
Plan	Model	Building Price*	c	Optional:
Shower	SH-1	$79,061	Two (2) Shower Stalls	n/a
Shower	SH-2	$119,314	Four (4) Shower Stalls	n/a

WATERLESS VAULT BUILDINGS				
Plan	Model	Building Price*	Category of items	Optional:
Single Vault	SV-010	$57,444	One (1) Unisex Waterless Vault Restroom	n/a
Double Vault	DV-020	$65,892	Two (2) Unisex Waterless Vault Restrooms	n/a
Double Vault + Stor.	DV-220-ST	$79,337	Two (2) Unisex Vault Restrooms + Storage	n/a

*Prices include turn-key building
*Prices do not include freight and installation costs *(see Scope of Work for more information)*
*See building specifications for standard items included with building

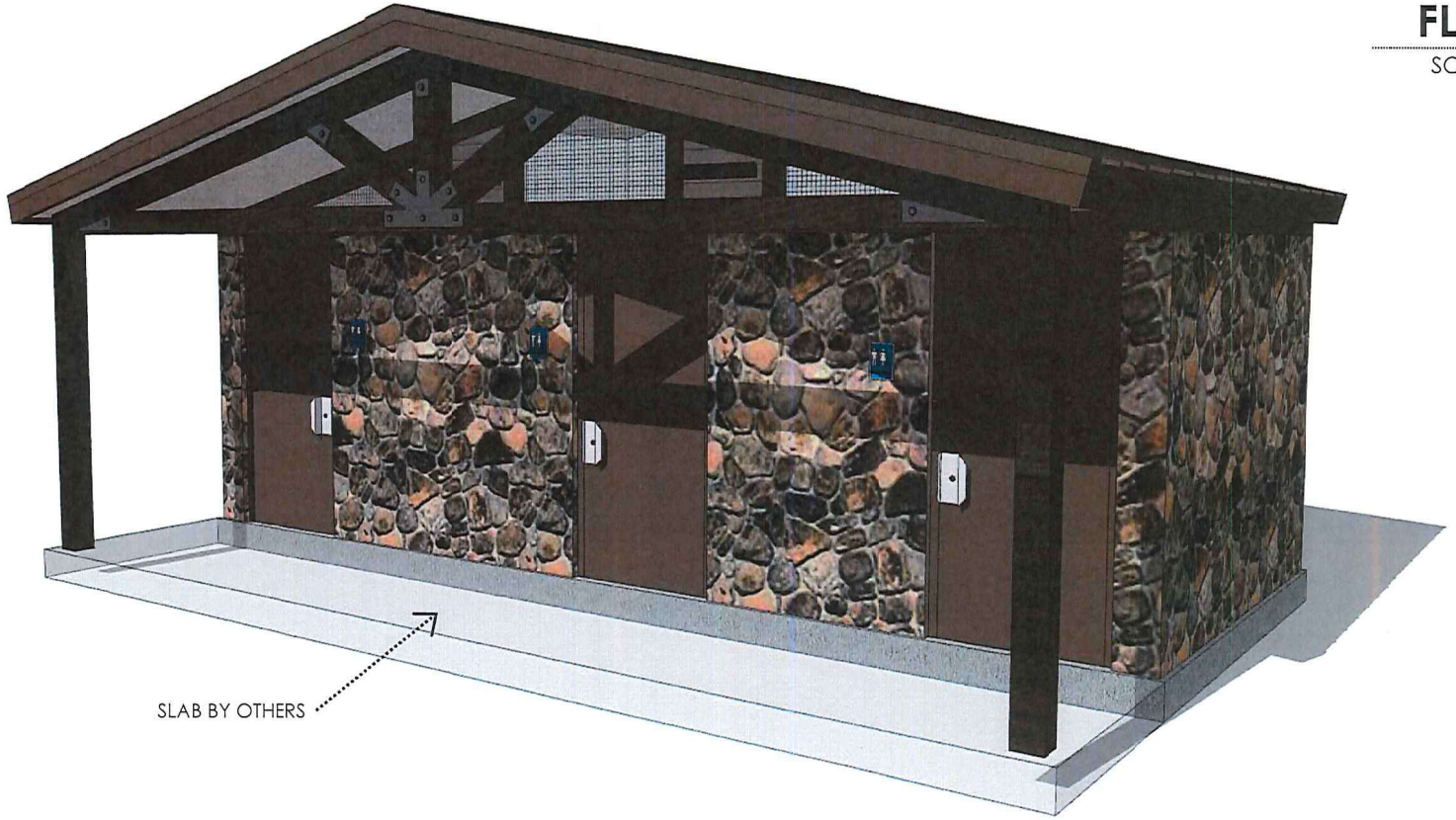
PROJECT REF#: 10610-3/27/2019-2





FLOOR PLAN

SCALE: NOT TO SCALE



BUFFALO PARK

CITY OF FLAGSTAFF, ARIZONA

RESTROOM BUILDING

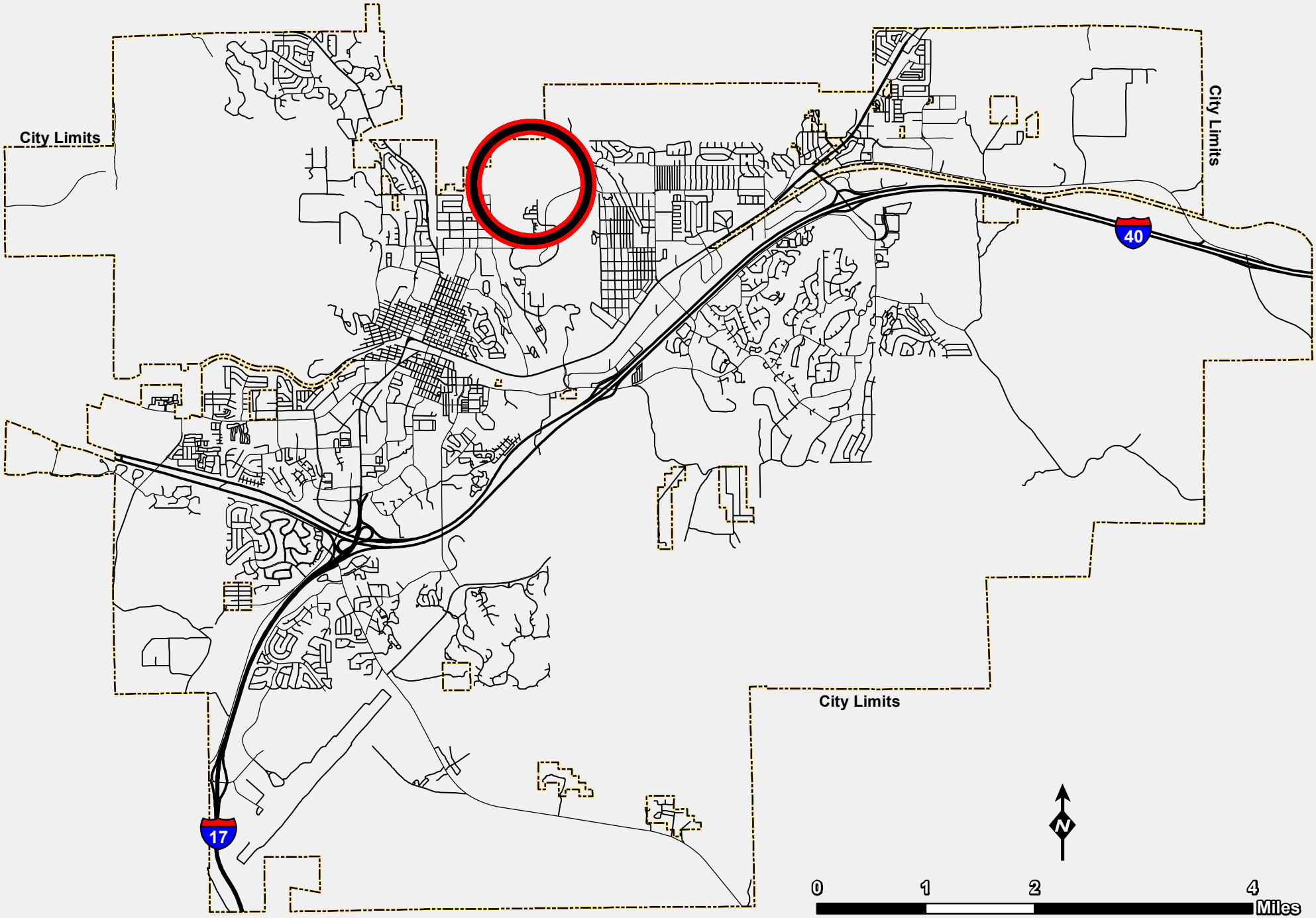
ARTIST IMPRESSION: 3D RENDERING ONLY FOR REPRESENTATION. COLORS AND MATERIALS ARE SUBJECT TO CHANGE

COPYRIGHT 2017, PUBLIC RESTROOM COMPANY THIS MATERIAL IS THE EXCLUSIVE PROPERTY OF PUBLIC RESTROOM COMPANY AND SHALL NOT BE REPRODUCED, USED OR DISCLOSED TO OTHERS EXCEPT AS AUTHORIZED BY THE WRITTEN PERMISSION OF PUBLIC RESTROOM COMPANY.

PUBLIC RESTROOM COMPANY
Building Better Places To Go.℠

www.PublicRestroomCompany.com
2587 BUSINESS PARKWAY
MINDEN NEVADA 89423
P: 888-888-2060 F: 888-888-1448

Buffalo Park Restroom

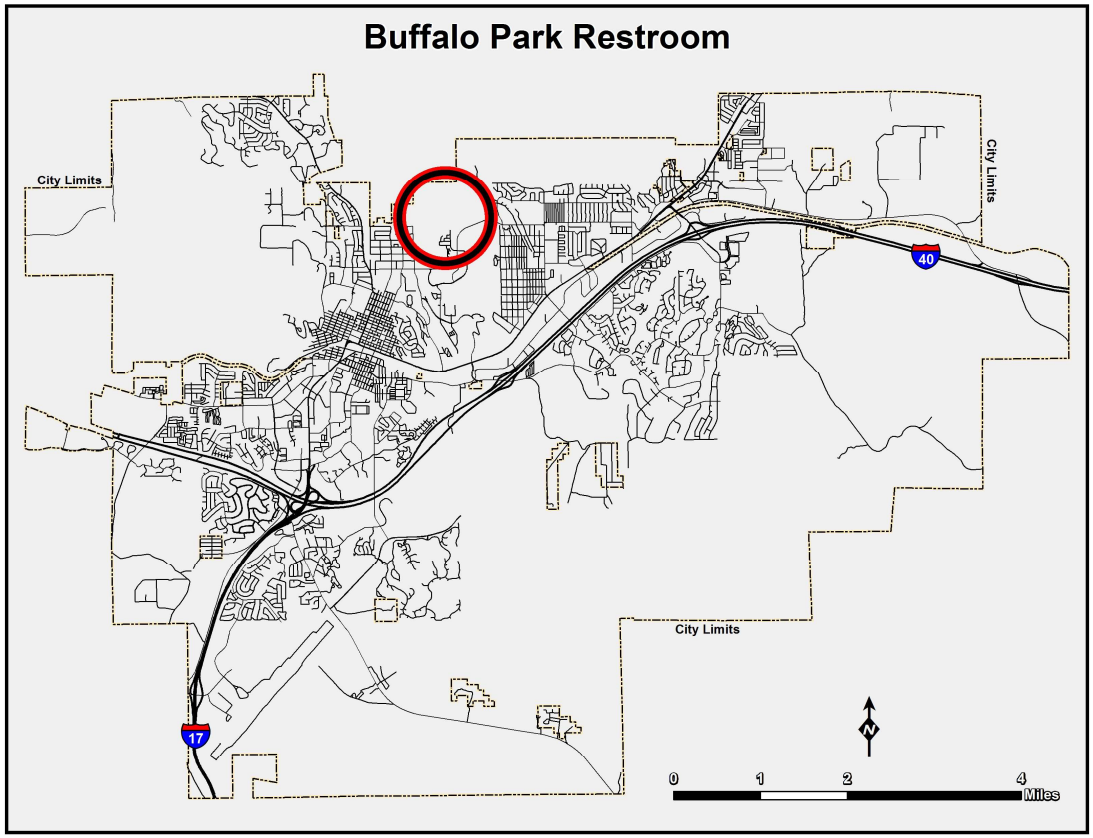



Buffalo Park
Restroom
CITY OF FLAGSTAFF
ARIZONA
ESTABLISHED 1882
TEAM FLAGSTAFF
WE MAKE THE
CITY BETTER

Buffalo Park Restroom

Map, History, Rendering

- Vicinity Map



Buffalo Park Restroom

Map, History, Rendering

- History

In FY 18, BBB Recreation funded $300,000 for restrooms at both Buffalo Park and Thorpe Park

Parks identified a turnkey restroom company to provide a restroom for Buffalo Park within budget for $202,506 for the restroom structure

Buffalo Park Restroom

Map, History, Rendering

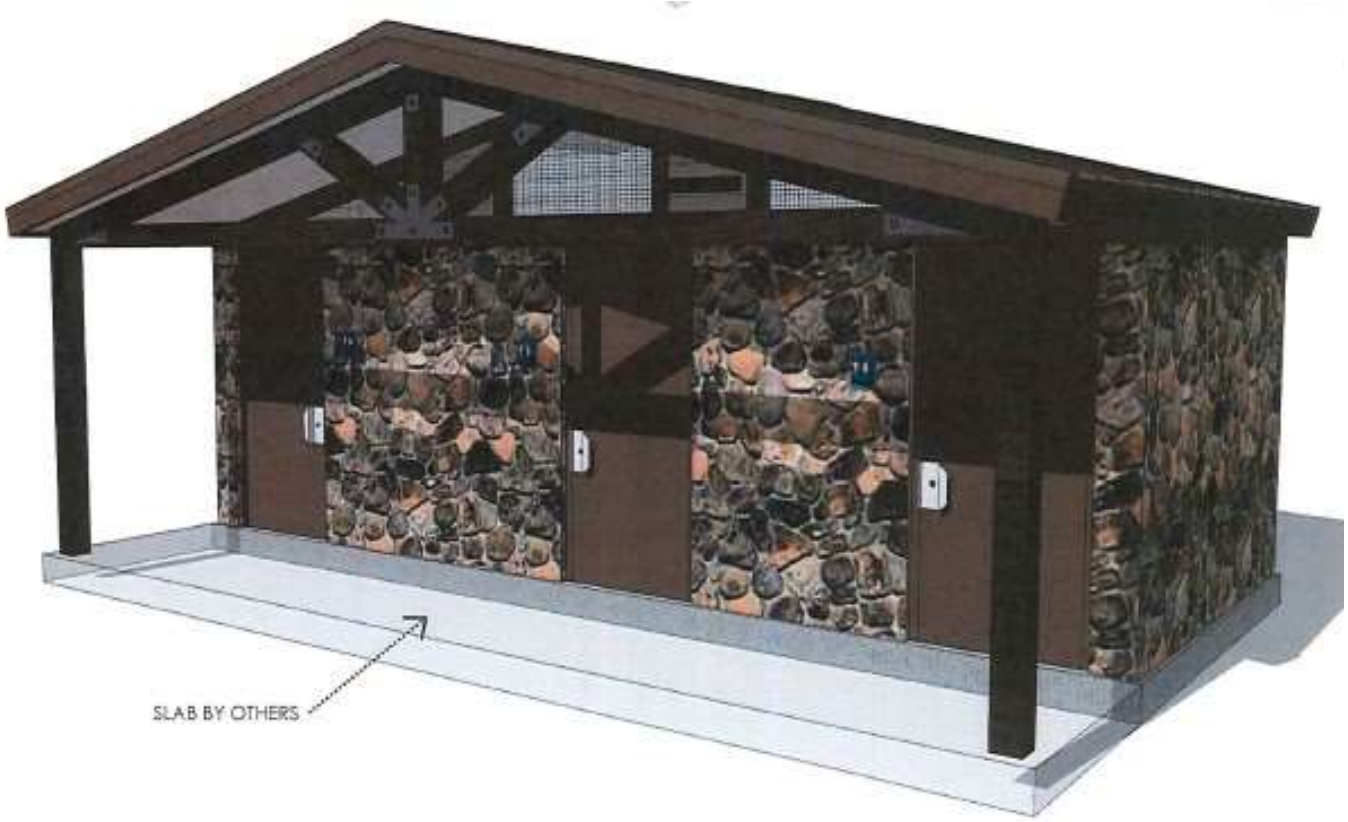
- Rendering

A custom restroom facility was created by Parks staff to include features that meet the Climate Adaptation Action Plan as well as the Water Conservation Strategic Plan to bring permanent restrooms to Buffalo Park

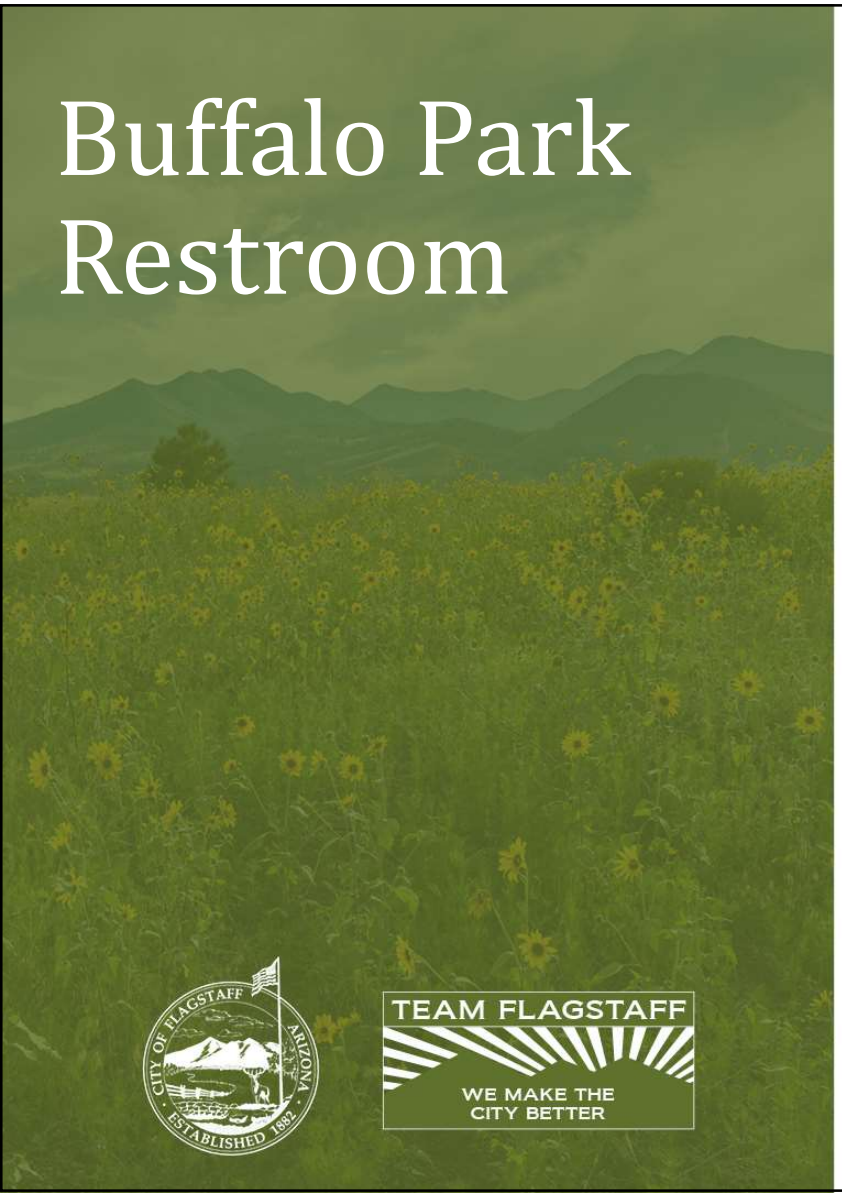
Exterior features of the structure compliment those of Buffalo Park with stone and wood timber elements

Buffalo Park Restroom

Map, History, Rendering



Buffalo Park Restroom



Questions?

Amy Hagin, Parks Manager

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Rick Tadder, Management Services Director

Co-Submitter: Shane Dille, Deputy City Manager and Cliff Bryson, Management Analyst

Date: 05/13/2019

Meeting Date: 05/21/2019

TITLE:

Consideration and Approval of Contract: Sole Source License and Hosting Agreement with Resource Exploration, LLC in the amount not to exceed $165,000 for consulting and software service for the implementation of Priority Based Budgeting.

STAFF RECOMMENDED ACTION:

1. Approve the Sole Source License and Hosting Agreement with Resource Exploration, LLC for Priority Based Budgeting for an amount not to exceed $165,000.00; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The Sole Source License and Hosting Agreement with Resource Exploration, LLC (ResourceX) will provide consulting and software services to implement Priority Based Budgeting for the City of Flagstaff. This is one of the steps the City will take to move toward a High Performing Government. ResourceX is the only company that provides a Priority Based Budgeting software solution. The initial implementation cost will be $50,000 plus applicable taxes for the first year. The contract is for a five-year period with annual software renewal costs of $25,000 plus applicable taxes. Additional training costs or software features may be considered in the implementation year.

Financial Impact:

The initial cost of implementing the program will be $50,000 to which includes the use of the software for the online Priority Based Budgeting platform, on-site regional training, and 150 hours of support. Funding has been designated in the Fiscal Year 2019 and 2020 budget under account number 001-09-402-1314-1-4206.

Policy Impact:

N/A

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

This software solution will be used during the annual budget process. Decisions made during the budget process support Council Goals, Regional Plan and Team Flagstaff Strategic Plans.

Has There Been Previous Council Decision on This:

At the January 16, 2019, Council Budget Retreat, staff presented the topic of High Performing Government. This included consideration for changing budget processes to a priority-based system. At the April 2019 Council Budget Retreat, staff presented a budget which included funding for Priority Based Budgeting.

Options and Alternatives:

1. Approve the License and Hosting Agreement with Resource Exploration, LLC for software and consulting services for a term of five years; or
2. Amend the License and Hosting Agreement with Resources Exploration, LLC at Council Direction; or
3. Do not approve the License and Hosting Agreement with Resource Exploration, LLC for software and consulting services.

Background/History:

The City of Flagstaff currently uses a Base Budgeting approach for the annual budgeting process. This approach allows Divisions to begin each budget cycle with a base budget consisting of ongoing resources for personnel, contracts and commodities. Then each Division submits requests for increased funding for their programs and services that will maintain or enhance the service levels they provide.

There are several other methodologies for budgeting that are used by cities across the United States. Some of these include Budgeting for Outcomes, Performance Based Budgeting, Zero Based Budgeting, and Priority Based Budgeting. Over the last several years, staff has been considering options for changing our budget process at the City. Most recently staff attended training opportunities related to Priority Based Budgeting.

Priority Based Budgeting was developed by a company named the Center for Priority Based Budgeting and worked with serval cities, the Government Finance Officers' Association (GFOA), and Alliance for Innovation to develop a budgeting solution. GFOA has since recognized Priority Based Budgeting as a best practice for local governments. The company ResourceX was founded to grow the Priority Based Budgeting community using unique tools that enable more organizations to adopt this best practice.

Priority Based Budgeting is a leading best practice in local government and a powerful lever for change. ResourceX provides the software solution and powerful analytic tools to implement a Priority Based Budget using data and evidence to transparently and exponentially improve results for citizens and the community.

The underlying philosophy of priority-driven budgeting is about how a government entity should invest resources to meet its stated objectives. It helps us to better articulate why the services we offer exist, what is the price we pay for them, and, consequently, what value they offer citizens. The principles associated with this philosophy of budgeting are: to prioritize services, do the important things well, look at and evaluate past patterns of spending, spend within the organization's means, know the true cost of doing business, provide transparency of community priorities, provide transparency of service impacts and to be accountable for the results.

Key Considerations:

N/A

Expanded Financial Considerations:

N/A

Community Benefits and Considerations:

Changing the City's budget process to a Priority Based Budget allows the City to prioritize programs and deliver services to the community based on those priorities. Resources may be reallocated to programs to better serve the community.

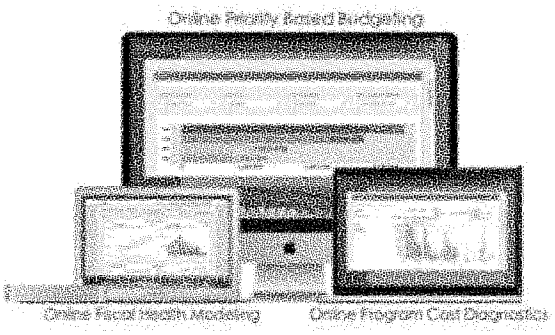
Community Involvement:

Inform: By awarding the License and Hosting Agreement to ResourceX the City is informing the community it is seeking a new budgeting approach.
Involve: Staff will involve community members in the process of ranking and prioritizing the programs and services provided by the City.

Expanded Options and Alternatives:

N/A

Attachments: Contract
Contact Amendment
Flagstaff Sole Source Justification
Sole Source Information



ONLINE PRIORITY BASED BUDGETING
POWERED BY:
resourceX
reinventing fiscal analytics

Priority Based Budgeting
Tools and Implementation

Document Overview:

I. Agreement Summary, and Contact Information
II. Scope of Work
III. Contract Terms, Renewal Period, and Signatures
IV. Timeline and Work Plan
V. Appendix A: End User License Agreement
VI. Appendix B: Catalogue of Products and Services Available

I. Agreement Summary, Contact Information, and ResourceX Specialists

BASIC INFORMATION	
Organization name:	**City of Flagstaff, Arizona**
Project Lead:	Rick Tadder, Management Services Director
Telephone number/email:	rtadder@flagstaffaz.gov
Start Date	June 2019
Target Completion Date	October 2019
Total Project Cost Year 1.	$ 50,000
Subsequent Annual Support Cost	$ 25,000
ResourceX Implementation Specialist	Santina Reichow, sreichow@resourcex.net
ResourceX Project Support	Steve Seman, sseman@resourcex.net
ResourceX VP of Client Success	Eric Keck, ekeck@resourcex.net

II. Scope of Work

CHOOSE FROM SEVERAL IMPLEMENTATION OPTIONS + BUNDLE YOUR SOFTWARE

WHICH PBB IMPLEMENTATION IS RIGHT FOR YOU?

	A. Project Preparation, Data Loading, and Kick-off		Fiscal Health	Program Budgeting	Full PBB
	Webinar Training – Fiscal Health ONLY	$1,000	X		
	Send up to 5 Staff to Denver, CO for On-boarding	$5,000		X	X
☑	On-site Project Kick-off (including project prep, data loading)	$10,000		X	X

	B. Ongoing Support and Training		Fiscal Health	Program Budgeting	Full PBB
☑	***150-hr Package of On-going Support**** Bi-weekly project implementation support meetings, user training and access, training webinars and implementation support	$15,000		X	X
	Additional 50-hr Package of On-going Support Bi-weekly project implementation support meetings, user training and access, training webinars and implementation support	$10,000	X	X	X
☑	***On-going Webinars + Slack*** Classroom Style Group Webinars of Ongoing Training & Quarterly Contact	Free w/ Project	X	X	X

	C. Software Tools**		Fiscal Health	Program Budgeting	Full PBB
	Fiscal Health Diagnostic	$10,000	X		
☑	Online Priority Based Budgeting	$25,000		X	X
	Bundle: Fiscal Health + Online Priority Based Budgeting	$30,000	X	X	X

	D. Additional Software Applications		Fiscal Health	Program Budgeting	Full PBB
	OpenPBBData	$10,000			X
	Program Metrics	$10,000	X	X	X

	E. Optional Consulting Engagements		Fiscal Health	Program Budgeting	Full PBB
	On-site Visit for Staff, Council, Citizens (per day)	$5,000	X	X	X
	Advanced Consulting: Partnerships, Rate Evaluation, Sourcing	TBD***		X	X

* 150 hours of support is recommended for full PBB implementation. Additional support packages available.
** Ongoing annual renewal rates are offered at the rate of your software subscription
*** Advanced consulting quotes may be developed for your organization upon request.

III. Renewal Terms and Contract Signatures

COST SUMMARY	
Implementation Set-up Total – Breakdown described in section II	$50,000
Software Renewal Rate – Fixed for 3 renewals	$25,000
Subscription Period – Reoccurring annually	June 1st to May 31st
Initial Invoice Amount – Software + one-time set up.	$50,000
Initial Invoice Date – Due upon receipt	June 1st, 2019
Renewal Invoice Amount	$25,000
Renewal Invoice Dates – Due upon receipt	June 1st, 2020 June 1st 2021 June 1st 2022

Annual Renewal Terms: Annual renewal rate of $25,000 will be set for 5 years. Each year an invoice will be sent June 1st for continued access to the Online Priority Based Budgeting tools. Either party may terminate this agreement, at any time, with a minimum of a written 30-day notice prior to the renewal year (with the ability to re-subscribe again at any time, subject to the current subscription rates at that time).

1. **Client Success Meeting:** Each renewal year, you will get an annual "Customer Success Meeting" during which we will talk about what's working really well, where your organization needs improvement, and most importantly your goals and aspirations for the renewal year ahead, so that we may scope to your success.
2. **Project Charter:** Your renewal year goals and the ResourceX scope to support you will be documented in an annual Project Charter – a simple tool to clarify the customized and specific goals and deliverables we are striving to achieve together.
3. **Standard Support:** Without any changes to this agreement, you are entitled to up to 50 hours of support from ResourceX and ongoing annual access to the software you've subscribed to. This standard supply of support hours will be used to deliver on the agreed upon scope of work that we will create together during your Client Success meeting. Note, these hours are good only for your renewal year (they do not roll over).

THIS AGREEMENT is made and effective as of ***June 1, 2019***, between ***City of Flagstaff, AZ and Resource Exploration, LLC.*** The parties agree as follows:

Resource Exploration **City of Flagstaff, AZ**

_ Date: 5-10-2019
By: Mike Seman
Co-Founder

_ Date: 5-10-2019
By: Chris Fabian
Co-Founder

IV. Timeline

Timeline Considerations

Your organization's timeline for implementation is in your control. ResourceX will help you design your timeline to meet the needs of the organization. Overall, your PBB training and roll-out can be completed in a 3-month period, from beginning to end. If you have a more pressing need to implement PBB in less time, please let us know and our team will help design a path that will accommodate your schedule.

Ideally, your organization will want to set a goal for Model Completion that synchs with your budget process. ResourceX will being our timeline discussion by asking: "by when do you want your PBB model complete, in order to influence budget decisions?"

Based on conversations with your team, the following "draft" timeline is proposed:

May:
- decision is made to proceed (pending Council meeting in May)
- contracting process
- "Project Charter" web-meeting led by Eric Keck
- ResourceX gathers Flagstaff financial information and pre-loads tools

June:
- Program Inventory phase is launched
- On-site Project Kick-off with departments (1-2 days)
- Program Inventory development moves to completion
- Program Costing phase is launched

July:
- ResourceX facilitates development of Results and Result Definitions (tbd in Charter)
- Program Costing concludes:
- Program Scoring phase is launched
- *Highly recommend that City staff member(s) attend annual PBB Summit in Denver, Aug 7th-9th to learn from leading implementers across the Country

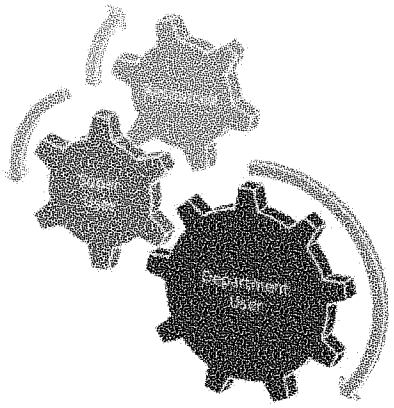
August:
- Program Scoring phase concludes
- Peer Review phase is launched

September:
- Peer Review phase concludes
- ResourceX completes Final Model development
- On-site Final Model presentation (departments, council, project team)
- On-site training on "Taking Action on the Data" (how to use the PBB data to inform the budget process)

October:
- PBB Implementation is complete (often a celebration, or brief pause in the action is a great milestone)
- Departments underway with "Program Reviews" and Budget Development recommendations using PBB data
- Departments continue developing program recommendations using PBB data into the new year

Identifying Super Users

One of the key objectives of our first meeting will be to identify the "Super User(s)" in your organization who will be the primary resource to coordinate with our team for the management of the project. The Super User(s) will gain the benefit of being trained on all aspects of the OnlinePBB software, and achieve mastery of Priority Based Budgeting concepts, sufficient to lead the process in future years.



Milestone Review:

Identification of Programs/Services – in PBB, the organization identifies it's individual programs and services. In it's unique database, ResourceX has identified over 125,000 individual government programs. Programs are the foundational unit for decision-making, and every program has a "future" – a future where the plan for the organization is either to increase investment in the program, to divest itself of support for the program, or perhaps status quo.

Costing of Programs/Services – for every program, a price for delivery is determined. PBB software integrates data from the organization's financial systems and human resources systems (or ERP) and allows for resource allocation of budget and actual data, to programs and projects. Personnel costs are allocated based on the amount of time that the organization's human resources support the program, and non-personnel line-item costs are also allocated for a true cost of doing business.

Integration of Results and Result Definitions – the software integrates the organization's PBB Results and Result Definitions. In it's unique database, ResourceX has accumulated key Result areas from over 200 organizations, as well as the key performance metrics that help an organization define their Results.

Scoring Evaluation of Programs/Services – the software facilitates a unique evaluation process whereby programs are numerically scored relative to the organization's Results, as well as key "Basic Program Attributes" (degree of mandate, size of population served, cost recovery, reliance upon the organization by it's citizens, etc).

Prioritization Ranking Algorithm – the software applies a unique scoring and ranking algorithm that places programs in priority levels (four specific "quartile rankings"), based on the programs influence on societal objectives and basic program attributes.

Resource Alignment Diagnostic (RAD) Modeling – the software facilitates exploration of the data based on unique analytics drawn from the scoring process, allowing the organization to understand and act upon insights such as: which programs are ideal for public/public partnership; which programs are ideal for public/private partnerships; which programs are charging a fee, where the fee is less than the true cost of providing the program; which programs are best served by another source; which programs are the organization's most influential to achieving Results, etc

ResourceX Support Plan:

Line Item Budget Review and Program Inventory
PBB Prep Course -Learn the process start to finish and what to expect. Courses are held once per quarter in Denver, CO.
Line Item Budget Review - We will meet via webinar 3 times to establish the line item costs to be loaded into ResourceX's Online tool.
Program Inventory - We will meet over webinar 3 times to establish working program inventories for each of your departments. These inventories will be used during onsite costing and training.
Site Activation and Cost Loading - Superusers are given access to the tool and your site is live.
Milestone - Total Line item budget amount comfirmation.

Onsite Program Costing
On-site Program Costing - Our highly experienced team will lead your departments through training to allocate line item costs to programs using online tools. Training includes reasons and motivation for priority based budgeting.
Deliverable - The results of the onsite costing will be shown online. The remaining work to be completed will be identified.

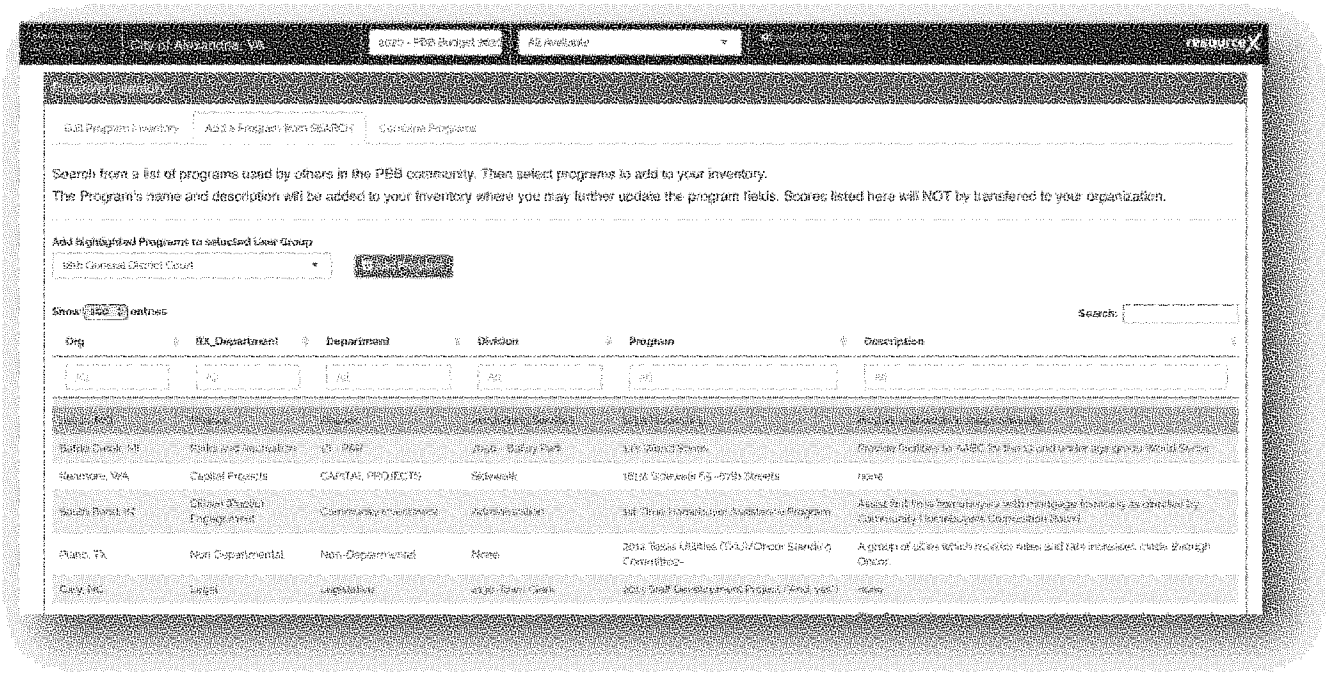
Program Costing Follow-up
Program Costing Finalization - 4 weekly meetings or office hours with super users or to complete program costing.
Deliverable - With all costs allocated to programs we have completed your Program Costing online tool for analyzing program costs. Timeline is one month from our Program costing on-site.

Program Scoring (and Peer Review)
Program Scoring and Peer Review - Our highly experienced team will lead your departments through training to allocate line item costs to programs using online tools. Training includes reasons and motivation for priority based budgeting.
Deliverable - With all programs scored, we can prioritize programs and move towards a final model. Timeline is one month from our Program costing on-site.

Final Model Delivery
Final Model Delivery - typically via an on-site training (or webinar) we deliver your final model and begin training on how to use it in the budget process
Deliverable - Complete loaded final PBB model for use in the budget process

Program Budgeting Development (Program Inventory and Program Budgeting)

ResourceX provides a "starter program inventory" for the departments to work from and a training on how to identify "programs" at a level most effective for PBB. The "starter program inventory" is built from the PBB Database of over 125,000 programs, customized to match with their department, and significantly easing the workload for departments to complete this first task. Each department will be responsible for refining and completing their Program Inventory and submitting this to ResourceX.



Differentiating programs and services offered by the organization to the community, as opposed to drawing only a comparison between each of the individual departments that provide services to the community, builds a common understanding of exactly what the entire organization offers to its constituents (and what those programs cost) and leads to a more effective means of making discrete resource allocation decisions through the Priority Based Budgeting process.

One of the key objectives that your organization will achieve with this process is the identification of programs and services it offers, as well as the cost for these programs. The "Program Inventory" will clarify the breadth of services provided by your organization, and highlight key characteristics of each program (e.g., the full cost of providing the program and level of revenues that program directly generates to support its operations). The inventory is a tremendously valuable tool in and of itself, but is also the basis for discussion of prioritizing resources – programs are prioritized based on their influence on Results.

Many organizations attempt to "prioritize" their spending by comparing one department or division against another rather than determining which of the typically hundreds of programs and services offered across the organization are more highly valued than others. By developing a comprehensive list of programs offered by the organization and identifying the costs of those services, your organization

will be able to better understand at a more discrete level what programs it provides and how much it costs to provide them.

ResourceX wrote the guidelines for developing a "Program Inventory", as published by the Government Finance Officers' Association (GFOA) white paper on Priority Based Budgeting, entitled **"Anatomy of a Priority Based Budgeting Process" (GFOA, 2011**). These guidelines form the basis for developing a "Program Inventory". Critical to this process is finding the right level of detail when identifying discrete programs. If a program is too big or encompasses too much, it will not provide sufficient perspective and information – that is, it will be very difficult to describe the precise value the program creates, or to use program cost information in decision making. However, if program definitions are too small, decision makers can become overwhelmed with detail and be unable to see the big picture. ResourceX will work with your organization to establish the right level of discretion in the creation of "Program Inventories".

With respect to identifying costs for each of the programs identified, ResourceX will provide a webinar workshop in order to train staff on how to derive these program costs, as well as serve as an ongoing resource to staff in providing assistance in the estimation of these costs. ResourceX will provide guidance and coaching that will offer your organization techniques and methodologies used in calculating indirect and direct program costs and identifying the number of staff associated with each program offered.
ResourceX will provide a Program Costing training session to staff who will be responsible for filling in the data into the online Program Cost Allocation portal. ResourceX will provide customized Program



Costing templates for each of the Organization's departments (or divisions), as well as a recorded version of the webinar the Organization can refer to.

Specifically, ResourceX will help your organization IDENTIFY and COST ONGOING PROGRAMS and SERVICES by:

- Providing a webinar workshop to help department heads and other identified staff gain a better understanding of how to define and identity the individual programs and services that are offered by each individual department and to provide guidance in distinguishing between a task (too small to be considered a program) and a department/division (oftentimes too large to be considered a program).
- Sharing an illustrative listing of program examples gathered from other organizations that have worked with CPBB to use in developing and/or refining its own "Program Inventory".

- Providing worksheets, feedback and coaching in support of the organization's overall efforts in developing individual department's "Program Inventory" listings.
- Providing a webinar workshop to help department heads and other identified staff gain a better understanding of how to utilize CPBB's "Program Costing Tool" to determine program costs.
- Developing individualized department and/or division "Program Costing Tool" templates to assist in the determination of program costs and associated FTE needed to provide the program; effectively "flipping" your line item budget to a program budget.
- Providing guidance and coaching to department heads, division directors, managers and/or supervisors to train them on techniques and methodologies used in calculating program costs (including direct and indirect costs) and identifying the number of staff associated with each program offered (if desired).

Results Setting and Result Definitions

ResourceX works with the organization's elected officials and/or staff to identify, or to validate "Results" that the organization has already established. Priorities establish the foundation for Priority Based Budgeting.

Results help to identify the very fundamental reasons that a local government exists – articulating all the ways it serves the needs of the community (*as opposed to a list of specific projects or initiatives that need to be considered during the next budget cycle*). They are meant to answer the questions, "***Why to we, as an organization, exist in the eyes of the community" and "What are we in business to do?***" *Results* are more overarching in nature and will "*stand the test of time*," as opposed to more short-term needs or tasks that normally have a targeted "*finish-line*." Finally, *Results* are truly unique to your community, in that they attempt to determine the role of your local government to determine "***why***" it exists and "***why***" it offers the types of unique services it does to the community.

As *Results* are identified, there is a distinction made between ***"Community-oriented Results",*** which help define why certain programs are offered directly to the community, and ***"Governance-oriented Results***", which help define why internally focused programs are offered by various support functions such as Finance, Human Resources, and Information Technology. Through its research and work with other local governments, ***ResourceX*** has found it imperative in achieving the best outcomes from its ***PBB*** process that an organization distinguish between "*Community Programs*" (i.e. programs that directly serve the community) and *"Governance Programs*" (i.e. programs that are more internal in nature and generally support the administration, elected officials and departments within the organization). In order to understand the relevance of *Governance Programs*, we need to evaluate them against different *Results* than *Community Programs*, because *Governance Programs* exist within the organization for fundamentally different reasons than do the *Community Programs*. Even though the scoring criteria might be different for each of these two types of programs, the process allows you to ultimately look at all offered programs from an overall Organization-wide perspective in the eventual program prioritization array.

The main deliverable includes the identification and articulation of *Results* for both "*Community-oriented*" programs and "*Governance-oriented*" programs, which will be fully utilized as the ***Priority Based Budgeting*** process unfolds. ***ResourceX*** will review the ***Organization's*** existing strategic documents included its Vision, Mission and Values Statements, Strategic Plan, Strategic Council Goals and/or Community Survey Responses to determine how to leverage these efforts in identifying *Results* for the ***PBB*** process.

Specifically, ResourceX will help your organization IDENTIFY RESULTS by:

- Determining both a "starting place" for its Results and the most appropriate way to validate those Results with its elected officials.
- If determined to be the best approach, conducting a "Results Validation" exercise to confirm that the Organization Council believes the Results that have been identified are complete, comprehensive and clearly articulate "why" the Organization exists and "what" it is there to accomplish for it's residents, businesses and visitors.

Program Scoring and Peer Review

With the right Results, and with clear definitions of those Results, the organization is then ready to more accurately place a value on individual programs (and potentially one-time initiatives) relative to its influence on achieving the organization's stated Results.

In *Program Evaluation or Scoring* phase, it is essential to give departments the opportunity to first score their own programs, relative to your organization's *Results* and demonstrate why they believe their programs are influential in achieving those *Results*. This gives departments the chance to provide their own unique intelligence on their own programs which no one else but the program providers would have known. Not only does this help solidify organizational buy-in but at the same time provides a more thorough and complete understanding about everything the organization does and how those programs help achieve the identified *Results* (i.*e. "why" we offer the program*).

The *Peer Review* phase then provides for an authentication process to validate (*and perhaps question*) the department's belief that their programs are indeed relevant to your organization's *Results*. Several organizations have commented that, unlike other more conventional approaches to performance measures, *Peer Review* provides a forum for a far better discussion that leads to a clearer understanding of how programs truly influence *Results*. Furthermore, departments gain an organization-wide perspective about programs being offered across your organization, which has led to the uncovering of program redundancies. This step in the process has led to cross-departmental collaboration, as departments find out that they provide similar programs to other departments. This process has also contributed to changes in organizational culture as departments are tasked with the duty of objectively analyzing programs that aren't their own (i.*e. a "jury of their peers").*

The effect of *Peer Review* has been remarkable, not only for the purposes of *PBB*, but for bringing an organization together to look at the programs they offer in the context of how they collectively achieve the *Results* that citizens find meaningful. In a sense, *Peer Review* begins to break down the old departmental "*silos*" and lets staff see the world from a more global perspective. Ultimately, it is through this step that more accurate *program* scores emerge, that a better understanding of *programs* is developed, and an assurance that the outcome of the entire process is objective and valid. For the long-term, this phase in the process sparks the discussion of how to determine what measure or metric will substantiate the fact that a program's desired outcome is achieving that objective.

Specifically, ResourceX will help your organization VALUE ONGOING PROGRAMS BASED ON RESULTS by:

- Providing a webinar workshop for department heads, division directors, managers and/or supervisors to train them on the how to evaluate programs against the identified Results and Basic Program Attributes in the Program Scoring phase.

- Creating individual departmental "Program Scorecards" that facilitate the organization's effort to score programs based on the program's influence on Results and on the identified "Basic Program Attributes".
- Providing coaching and support to the departments as program scoring is completed.
- Providing guidance and assistance in the development of Peer Review Teams to ensure they are cross-functional in nature and maintain the level of objectivity needed to make this phase of the process successful. This is another part of the process where including elected officials and/or external stakeholders from the community is a potential area of interest.
- Providing coaching and support to the Peer Review Teams in the evaluation of program scores, encouraging them to interview program managers to hear evidence that justify assigned program scores, and then recommending program score adjustments where appropriate.
- Offering suggestions as to the incorporation of existing performance measures as an evaluation criteria in the Peer Review process as well as the development of key indicators for use in future years.
- Accumulating the information provided through the program scoring and peer review phases into a "Master Program Scorecard".
- Developing an "Impact of Peer Review Report" to identify the impact of changes to the department's initial program scored made by the Peer Review Teams.

Final Model Delivery

Ultimately, the Results identified and defined by the organization and the programs that are the most highly valued in terms of achieving those Results become clearly articulated in the budget through a process in which resource allocation decisions are linked to the prioritization of those individual programs and services.

Once programs have been scored against the *Results* and a relative value determined, the entire list of your organization's offered services can be arranged in order of "*highest priority*" (those programs most relevant in achieving the organization's stated *Results*) to "*lowest priority*" (those programs that are less relevant in achieving those *Results*). The programs are then grouped into four "***Quartiles***" based on the similarity of the scoring ranges, with *Quartile 1* representing those programs of the highest priority and *Quartile 4* including those programs of the lowest priority.

Individual costs are then associated with each program in order to develop a final "*Spending Array by Quartile*." ***ResourceX*** takes this information and develops a customized "***Resource Alignment Diagnostic Tool"*** that can be utilized by the Organization in 1) assessing its spending profile in terms of aligning resources with identified priorities; 2) developing "*target budgets*" for departments based on their individual prioritized spending profile and 3) analyzing programs using the "***Resource Alignment Diagnostic Tool's"*** unique filtering capabilities.

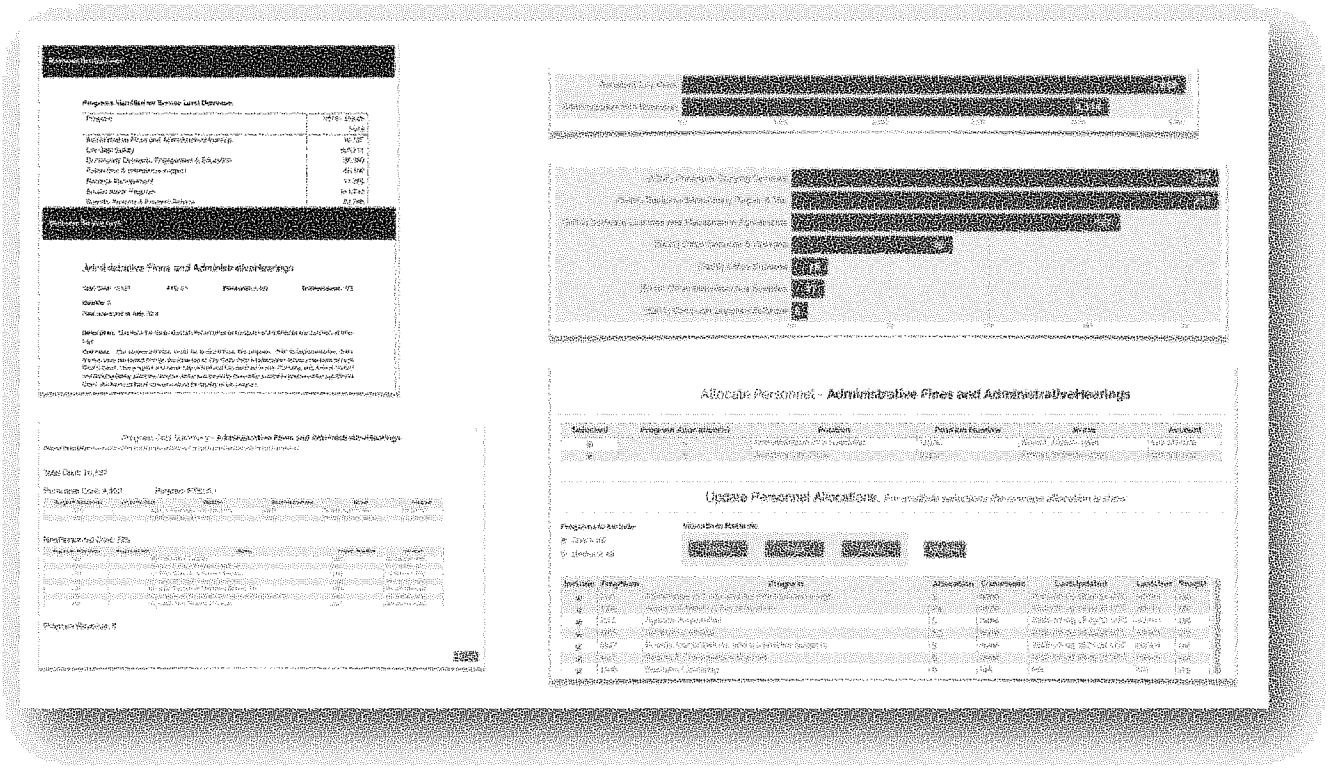
With the "***Resource Alignment Diagnostic Tool"***, your Organization will have a "*unique lens*" to see your programs not only in terms of their relevance to *Results*, but also in light of mandates, fee structures, citizens' reliance and community partnerships. This *unique lens* allows staff to efficiently analyze programs and gain insights into areas such as:

- Programs supported by specific user-fees **VS**. those funded through general government revenues (taxes)
- Stringently mandated services **VS.** programs without any legislative requirement

- Programs that the community depends exclusively upon the local government to provide **VS**. programs offered by other entities in the community (private, non-profit, etc.)
- Programs that are benefit the majority of the community's stakeholders **VS**. programs that serve only a small constituency
- Programs that are experiencing an increase in demand from the community **VS.** programs that are experiencing a lesser demand than before
- Programs that highly achieve one or more of the local government's stated Results **VS.** those programs that do not help to achieve any of those Results.

In addition, the "***Resource Alignment Diagnostic Tool"*** provides staff and the ***Organization's*** elected officials with a way to engage in more powerful and meaningful discussions that address questions such as:

- What services are truly mandated to be provided by the local government, and how much does it cost to fulfill those mandates?
- What programs are most appropriate to consider a discussion about establishing or increasing user-fees?
- What programs are most appropriate for discussions about partnerships with other service providers in the community?
- What services might the organization consider "getting out of" the business of providing altogether?
- Where are there apparent duplications in services offered across the organization that might lead to a meaningful efficiency discussion?
- How can succession planning be incorporated to focus on training staff providing lower priority programs to fill the positions left vacant in higher priority programs?



Specifically, ResourceX will help your organization ALLOCATE RESOURCES BASED ON PRIORITIES by:

- Calculating final program scores and developing the quartile rankings for all the organization's programs and services based on their relative score.

- Associating program costs and associated FTE counts with the scored programs to develop a final calculation of the organization's total budget by quartile ranking (the "Spending Array by Quartile" – a summation of program costs by quartile ranking).
- Providing the organization with an interactive "Resource Alignment Diagnostic Tool" that will guide all resource allocation decisions based on the prioritization of programs (allowing allocations to be summarized by Fund, Department, Division etc.).
- Training staff on how to use the "Resource Alignment Diagnostic Tool", providing them with the ability to more effectively analyze programs by way of the filtering capabilities of the "Tool", offering a unique perspective on the organization's programs, which leads to more powerful and meaningful discussions about how resources can be effectively utilized to achieve the desired Results for the community.
- Offering guidance in using the "Resource Alignment Diagnostic Tool" to identify which of the Organization's highly relevant programs should be evaluated in terms of effectiveness and efficiency and how to use the PBB process to continuously refine performance metrics to ensure the identified Results are being achieved.
- Providing a high level interpretive analysis of the data available in the "Resource Alignment Diagnostic Tool" and identifying opportunity areas for discussion related to programs and their continued relevance to the organization.
- Offering suggestions on how to use the "Resource Alignment Diagnostic Tool" in the calculation of departmental "target budgets" based on the availability of ongoing revenues and the individual department's prioritization profile.
- Recommending ways to incorporate PBB into the Organization's current budget development process as well as providing "Budget Transmittal Form" templates to guide departments in communicating their recommended program level budgets within the context of PBB and to demonstrate the allocation of general government resources is being focused on higher-priority programs. (if desired).
- Presenting the final "Resource Alignment Diagnostic Tool" to Organization staff and, if desired, to the Organization Council.

Appendix A

End User License Agreement

V. Appendix A: End User License Agreement

ONLINEPBB® LICENSE AND HOSTING AGREEMENT

IMPORTANT - BY UTILIZING ONLINEPBB SOFTWARE, YOU ARE ACCEPTING THE TERMS AND CONDITIONS OF THIS AGREEMENT. PLEASE READ THE FOLLOWING CAREFULLY BEFORE PROCEEDING.

This Agreement is a legal agreement between you (City of Flagstaff, AZ) and Resource Exploration, LLC, the licensor of OnlinePBB software and associated on-line documentation that you access using this internet website (together referred in this Agreement as "OnlinePBB").

I. OnlinePBB License. Subject to the terms of this Agreement, Resource Exploration, LLC, grants you a non-exclusive, non-transferable license to access OnlinePBB remotely via browser on the server used by Resource Exploration, LLC, to operate this website (the "Server") solely for purposes of creating and maintaining on the Server any interactive website developed using this website and with respect to which all required fees payable under this Agreement have been paid by you (each, a "Website").

2. Restrictions. You may not download or otherwise copy all or any portion of OnlinePBB software. You may not sell, rent, license, lend, transfer or otherwise grant access to OnlinePBB to any other person or entity except as contemplated by the license granted to you above. You must comply with all applicable laws and regulations in your use of OnlinePBB. You may not modify, translate, reverse engineer, decompile disassemble or otherwise attempt to obtain or derive source code from all or any portion of OnlinePBB.

3. Proprietary Rights. Resource Exploration, LLC and its supplier's reserve all rights to OnlinePBB not expressly granted in this Agreement. Resource Exploration, LLC and its suppliers own OnlinePBB and all associated patent, copyright, trade secrets and other proprietary rights in OnlinePBB. No title or ownership of OnlinePBB or any associated proprietary rights are transferred to you or any other person by this Agreement.

4. Disclosure and Ownership of Data. a.) All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by your organization or at its expense, will be kept

confidential by Resource Exploration, LLC and will not be disclosed to any other party without your organization's prior written consent. b.) The materials used by Resource Exploration, LLC for work performed under this Agreement are specific and unique methods of fiscal management and budget prioritization. As such, these materials are protected by copyright. You agree and understands that these materials and all methods, models and applications resulting from the use of said materials are the sole, complete and absolute property of Resource Exploration, LLC. As such, any use, future use or application or any publication (either oral or written) of these materials by your organization will be at the discretion of Resource Exploration, LLC and in any event will not occur without the express and prior written permission of Resource Exploration, LLC. All legal rights and protections afforded by copyright and Resource Exploration, LLC's ownership of all the underlying intellectual property associated with these fiscal management and budget prioritization materials are retained and reserved exclusively by Resource Exploration, LLC, reserving all legal rights and remedies incident to its ownership of these materials. It is understood that your organization may utilize these methods, models and applications for their own specific use but are not free to share these methods, models and applications with other individuals or entities. Nothing herein precludes disclosures required by law.

5. U.S. Government Restricted Rights. If OnlinePBB is accessed or used by any agency or other part of the U.S. Government, the U.S. Government acknowledges that (i) OnlinePBB and accompanying materials constitute "commercial computer software" or "commercial computer software documentation" for purposes of 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-3, as applicable, and (ii) the U.S. Government's rights relating to OnlinePBB and accompanying materials are limited to those specifically granted in this Agreement.

6. Data - Data Security. The OnlinePBB web-application provides data security via SSL encryption, and is accessed via https - this protects and secures the client's data from outside the organization, protecting the client and CPBB. Additionally, data is protected within the client's organization by way of individual user accounts and user passwords, and varying levels of permission and access, to give the client control over data accessibility.

7. Data - Data Storage. The OnlinePBB web-application utilizes Amazon Web Services (AWS) for best-in-class data storage.

8. Data - Data Protection/backups. Resource Exploration performs complete back-ups of all OnlinePBB data at a frequency of once per night.

9. Service Availability - Disaster recovery/business continuity. To support the organization in the case of disaster, Resource Exploration performs complete back- ups of all OnlinePBB data at a frequency of once per night. The organization may also download their own data files on a more frequent basis, in order to perform complete data restoration - restoring from any point in time, from previously saved data, completely in control of the City. Data files are stored in DropBox, as well as Resource Exploration headquarters to provide additional redundancy.

10. Service Levels - System Availability / performance. The OnlinePBB web- application is provided and available 24 hours per day, 7 days per week. Resource Exploration reserves the right to perform regularly scheduled updates and maintenance, during which time the organization may experience brief periods of downtime for server restarts to make updates available. Scheduled updates take place after 6pm EST Monday-Friday, and the organization will be made aware ahead of schedule, to the greatest extent possible. It should be noted that Resource Exploration reserves the right to restart the web server at any time, but will provide the organization as much advanced awareness as possible. Resource Exploration uses all reasonable business means to ensure the application is available for the organization's use.

11. Insurance - Vendor insurance and liability. Resource Exploration agrees to procure and maintain in force during the term of this Agreement, at its own cost, cyber insurance coverage.

12. Mutual Indemnification - From third party claims. Each party will indemnify and hold harmless the other party from any and all claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees) caused by the other party's negligence, breach of warranty or contract or wrongful conduct.

13. Independent Contractors. The parties agree that Resource Exploration, LLC, is an independent contractor as that term is commonly used and Resource Exploration, LLC's employees are not and shall not be considered subcontractors or employees of the City and has no authority to bind the City in any manner. Contractor shall be solely responsible for the withholding and reporting of all federal, state, and local income and employment taxes. Contractor acknowledges that it is not insured in any manner through the City for any bodily injury, personal injury, or property loss whatsoever.

14. Limitation of Liability. Except for indemnification and those matters

required to be insured pursuant to this Addendum, neither party shall be liable to the other, or any of their respective agents, representatives, or employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

15. Liability Insurance. Resource Exploration, LLC, shall obtain and maintain in full force and effect during the entire term of this agreement a policy of comprehensive general liability insurance, including an acknowledgement of and coverage for the indemnity provision of this Addendum, with limits of liability of not less than $1 million and workers disability compensation insurance in compliance with Missouri's statutory limits, and shall provide a certificate of insurance to the City naming the City as a certificate holder, which certificate shall provide that the City shall receive at least 30 days prior written notice of cancellation or nonrenewal of such insurance. Said insurance shall cover any claims arising out of, occurring during, or accruing during the term of this agreement and shall survive the term and termination of this agreement and shall be primary without right of contribution against the City.

16. Non-Assignment. The parties agree that there shall be no authority on the part of Resource Exploration, LLC, to subcontract, assign, or otherwise dispose of any portion of the services to be performed herein without the prior written approval of the City. In the event that the City approves a subcontract, assignment, or disposition, Resource Exploration, LLC, solely shall be responsible for managing, directing and paying the subcontractors or assignees, and the City shall have no obligations whatsoever toward said subcontractors or assignees. Consent to subcontract, assign, or otherwise dispose of any portion of this Agreement shall not be construed to relieve Contractor of any responsibility for the fulfillment of this Agreement.

17. Completeness of Agreement. This Agreement constitutes the entire agreement between your organization and Resource Exploration regarding OnlinePBB, the hosting of the Website and your use of the website. Resource Exploration will not be bound by any provision in any purchase order, receipt, acceptance, confirmation, correspondence or otherwise unless Resource Exploration specifically agrees in writing to such provision.

18. CANCELLATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511): The City may cancel this End User License Agreement pursuant to A.R.S. § 38-511 within three (3) years after its execution, without penalty or further liability to Contractor.

19. CONFIDENTIAL INFORMATION: The City will comply with the End User License Agreement, Paragraph 4, *Disclosure and Ownership of Data*, to the extent permitted by and consistent with the requirements of Arizona Public Records Law.

CITY OF FLAGSTAFF
ADDENDUM

1. **CANCELLATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511):** The City may cancel this Agreement pursuant to A.R.S. § 38-511 within three (3) years after its execution, without penalty or further liability to Contractor.

2. **CONFIDENTIAL INFORMATION:** The Customer will comply with this Section to the extent permitted by and consistent with the requirements of Arizona Public Records Law.

Contractor (Please Initial)	**City of Flagstaff (Please Initial)**

Form Addendum. Revised May 1, 2018

CITY OF FLAGSTAFF
SOLE SOURCE PROCUREMENT REQUEST
(Divisions/Sections Requesting Sole Source Purchase Must Complete This Form)

TO: Purchasing Section Buyer

PREPARER: Rick Tadder **DEPARTMENT**: Finance

REQUISITION NUMBER: _____ **DATE SUBMITTED:** __May 7, 2019__

Check one:

__X__ ***Is this a sole source procurement?*** "Sole Source" is defined as a product or service available from only one known source. *Please answer the 4 questions below and attach all documentation and sign.*

__X__ ***Is this a proprietary procurement?*** A proprietary specification restricts the acceptable product(s) or service(s) to one manufacturer or vendor. A common example would be specification by brand name which excludes consideration of approved "equals". Although all sole source specifications are proprietary, all proprietary specifications are not necessarily sole source. Proprietary items may be available from several distributors. If available, please attach a list of proprietary suppliers which might assist in expediting this procurement. *Please answer the 4 questions below and attach all documentation and sign.*

City Policy is to maximize competition in the procurement process. Exceptions to competition (sole source/propriety procurement) must be fully justified, documented, and pre-approved. The following is a list of questions which will substantiate a Sole Source or Proprietary Procurement. It will help expedite processing if you provide thorough and sufficient detail when answering each of these questions. Please use additional sheets and attach all additional information to this form if necessary.

1. Briefly, what is the scope of the project in which this product or service will be used.

   - ResourceX provides the only known software and consulting services for an organization to implement a Priority Based Budgeting system. The software allows the City to identify programs and services, cost the programs/services out, score and evaluate the programs/services, and prioritize the programs/services for the City. This is all completed within the software specifically developed by ResouceX.

2. Who is the identified vendor and why is this the only product or service that can meet the City's requirements? Uniqueness? Compatibility? Integral component? Availability? Delivery Date? If purchase qualifies as proprietary and there are multiple Distributors, why is this the only Distributor who can satisfy the City's purchasing request?

   - Priority Based Budgeting consulting services, software implementation and ongoing software license, support and maintenance services. ResourceX is the only vendor that offers a software solution for the recognized best practice of Priority Based Budgeting. Based upon their documented due-diligence, there is no equivalent.

3. Why is this vendor the only available source from which to obtain this product or service? You must provide clear and convincing evidence.

   - ResourceX, is the owner and developer of this Priority Based Budgeting software and no other company develops or distributes comparable software products with the same functionality.

4. What efforts have been made to obtain the best price possible? Why do you feel this price is fair and reasonable?

   - Staff researched other budgeting options such as base line budgeting, performance-based budgeting and budgeting for outcomes. Of these methodologies, staff chose the priority-based budgeting and feel it would be successful for this organization. We researched for companies that provide a software solution to help the City be most successful. There was no other software found. The initial discussion with ResourceX provided a cost of $63,000 for implementing. Within the current contract we are looking at approximately $50,000 with the potential of some enhanced services should the City choose.

Rick Tilden 5/7/2019
Authorized Departmental Signature Date

5/7/19
Purchasing Section Buyer's Signature Date

5/7/19
Director of Purchasing Signature Date

Priority Based Budgeting

Online Software and Services

For Purposes of "Sole-source" Agreements

Background: Priority Based Budgeting is a methodology created by Chris Fabian, and set of data-analytic tools created by Michael Seman and Chris Fabian. Chris Fabian founded the Center for Priority Based Budgeting (CPBB) in 2008, and co-founded Resource Exploration (ResourceX) with Michael Seman in 2015. ResourceX acquired the Center for Priority Based Budgeting in 2017.

First Appearance: Priority Based Budgeting was first recognized and written about in the International City/County Management Association's (ICMA) Public Management Magazine, in June 2008. Since then PBB has been the subject of a Government Finance Officer's Association (GFOA) White Paper and several Government Finance Review (GFR) journal articles.

Sole Source Agreements – "no equivalent" justification: as of 2018, 131 local government organizations across twenty-nine states in the United States, and two provinces in Canada have sole-sourced the implementation of Priority Based Budgeting to the Center for Priority Based Budgeting and/or ResourceX. These agreements are for Priority Based Budgeting consulting services, software implementation and ongoing software license, support and maintenance services. ResourceX is the only vendor that offers a software solution for the recognized best practice of Priority Based Budgeting. Based upon their documented due-diligence, there is no equivalent.

Washington (6)
- City of Bainbridge Island
- City of Kenmore
- City of Tacoma
- City of Tukwila
- Clark County
- Town of Maple Valley

Oregon (3)
- City of Salem
- City of Tualatin
- City of Springfield

California (16)
- City of Oxnard
- City of Sacramento
- City of Walnut Creek
- City of Pacifica
- City of Fairfield
- City of Monterey
- City of Salinas
- City of Seaside
- City of Mission Viejo
- City of San Jose
- City of Hermosa Beach
- City of Temple City
- City of Palo Alto
- City of Brisbane
- Town of Placentia
- City of Tracy

Arizona (6)
- City of Goodyear
- City of Chandler
- Town of Queen Creek
- Alliance for Innovation
- City of Lake Havasu City
- Navajo County

Nevada (3)
- Washoe County School District
- Douglas County
- City of Henderson

Colorado (28)
- City of Littleton
- City of Englewood
- City of Boulder
- City of Ft Collins
- Town of Parker
- City of Wheat Ridge
- City of Longmont
- City of Greeley
- City of Loveland
- Highlands Ranch Metro District
- Town of Fruita
- Pueblo West Metro District
- Clear Creek County
- Moffat County
- Routt County
- Mountain View Fire Protection District
- City of Thornton
- Town of Jamestown
- Town of Johnstown
- Denver Int'l Airport
- St Dominic Catholic Parish
- Jefferson County
- Town of Buena Vista
- Town of Mead
- City of Trinidad
- Town of Manitou Springs
- Jefferson County Schools

Idaho (4)
- City of Boise
- City of Meriden
- City of Idaho Falls
- Clark Post Falls

Montana (1)
- City of Billings

Wyoming (1)
- City of Green River

Utah (1)
- City of South Jordan City

New Mexico (3)
- San Juan County
- City of Rio Rancho
- Village of Los Lunas

South Dakota (1)
- City of Rapid City

Nebraska (1)
- City of Grand Island

Kansas (4)
- City of Shawnee
- Finney County
- City of Lawrence
- Unified Government of Wyandotte and Kansas City

Texas (3)
- City of Plano
- City of Corpus Christi
- City of South Lake
- Woodlands, TX sp. district

Minnesota (2)
- City of Duluth
- Scott County

Wisconsin (4)
- Washington County
- Marathon County
- Jefferson County
- City of Monroe

Michigan (2)
- City of Kalamazoo
- City of Battle Creek

Indiana (1)
- City of South Bend

Ohio (2)
- City of Blue Ash
- City of Toledo

Missouri (4)
- **City of Kansas City**
- **City of Branson**
- **City of Joplin**

Alabama (1)
- **City of Birmingham**

Georgia (4)
- City of Roswell
- City of Chamblee
- Cobb County
- City of East Point

Pennsylvania (2)
- Lehigh County
- City of Duquesne

Massachusetts (1)
- Town of Bourne

Virginia (3)
- City of Alexandria
- City of Chesapeake
- Town of Christiansburg

North Carolina (5)
- City of Asheville
- Gaston County
- Town of Cary
- Town of Garner
- Town of Weaverville

South Carolina (2)
- City of Columbia
- Town of Beaufort

Florida (7)
- Town of Lakeland
- Town of Jupiter
- Pasco County
- Broward County
- City of Delray Beach
- City of New Smyrna Beach
- City of Plantation

Canada (9)
- City of Edmonton, AB
- City of Grande Prairie
- Town of Beaumont, AB
- Strathcona County, AB
- City of St Albert, AB
- City of Lethbridge, AB
- Town of Humboldt, SK
- Alberta Health, Alberta Prov
- Edmonton Police Services

Helpful examples of sole source justification from our clients:

- City of Boise, Idaho boisecityid.iqm2.com/Citizens/FileOpen.aspx?Type=4&ID=11784
- Clark County, Washington https://www.clark.wa.gov/sites/default/files/dept/files/contracts-grid/PriorityBasedBudgeting(1).pdf

Establishment of Industry Best Practice: In 2012, in response to the Great Recession, the Association that represents city and county managers from across the US and Internationally (the International City/County Management Association), in partnership with the Alliance for Innovation (a research-based "think tank" who studies emerging innovations across all sectors of local government) identified Priority Based Budgeting as a Best Practice in local government – encouraging every local government to migrate towards the implementation of PBB. This was based on 3 criteria:

- **1.) Repeatable methodology** to follow – PBB has a step by step process that any organization can follow, and expect to achieve the same results as another implementer.
- **2.) Scalable process** – PBB doesn't just work for large organizations (like those who have implemented in Edmonton Alberta, Cincinnati Ohio, or Sacramento CA) or small organizations (like Victor Colorado, population 300 people), but any organization of any size, type, political complexity, or demographic.
- **3.) Measureable outcomes** – any community can look back on their work and actually measure what has changed as a direct result of implementation.

Since then, Priority Based Budgeting has become a recognized "best practice" by the leading professional associations who credential and educate local government practitioners:

- City/County Managers - the International City/County Management Association (ICMA)
- Government Finance Officers – the Government Finance Officer's Association (GFOA)
- Elected Officials – the National League of Cities (NLC)
- Innovation in Public Administration – the Alliance for Innovation

Priority Based Budgeting in Professional Literature – Journal Articles and White Papers Published:

- Public Management Magazine, ICMA, 2008 http://webapps.icma.org/pm/9005/public/cover.cfm?author=chris%20fabian%2C%20scott%20collins%2C%20and%20jon%20johnson&title=getting%20your%20priorities%20straight
- Government Finance Officer's Association, White Paper, http://m.gfoa.org/anatomy-priority-driven-budget-process
- Master's Thesis, Sheryl Mitchell, "An Exploratory Study of Priority Based Budgeting" 2014, https://books.google.com/books/about/An_Exploratory_Study_of_Priority_Based_B.html?id=UbGDoAEACAAJ

Differentiation of Software Tools: Online Priority Based Budgeting software has been characterized as:

- Business Intelligence (BI) software
- Decision Support System (DSS) software
- Budgeting software

While there are other BI, DSS and budgeting software tools, as the City of Boise, Idaho publicly reported in their due diligence report this is the only software specific to the best practice of Priority Based Budgeting:

> This is the only vendor that offers a software solution for priority based budgeting. Priority based budgeted is a recognized best practice by several organizations across the nation included the Government Finance Officers Association, and ICMA. Both of these organizations refer companies to the Center for Priority Based Budgeting for the software and implementation to execute this recommended best practice.

Key differentiators of the best practice of Priority Based Budgeting process include the following:

- **Integration of Programs/Services** – in PBB, the organization identifies it's individual programs and services. In it's unique database, ResourceX has identified over 90,000 individual government programs.
- **Pricing of Programs/Services** – the software integrates data from the organization's financial systems and human resources systems (or ERP) and allows for resource allocation of budget and actual data, to programs and projects.
- **Integration of Results and Result Definitions** – the software integrates the organization's PBB Results and Result Definitions. In it's unique database, ResourceX has accumulated key Result areas from over 170 organizations, as well as the key performance metrics that help an organization define their Results.
- **Scoring Evaluation of Programs/Services** – the software facilitates a unique evaluation process whereby programs are numerically scored relative to the organization's Results, as well as key "Basic Program Attributes" (degree of mandate, size of population served, cost recovery, reliance upon the organization by it's citizens, etc).
- **Ranking Algorithm** – the software applies a unique scoring and ranking algorithm that places programs in priority levels (four specific "quartile rankings"), based on the programs influence on societal objectives and basic program attributes.
- **Resource Alignment Diagnostic (RAD) Modeling** – the software facilitates exploration of the data based on unique analytics drawn from the scoring process, allowing the organization to understand and act upon insights such as: which programs are ideal for public/public partnership; which programs are ideal for public/private partnerships; which programs are charging a fee, where the fee is less than the true cost of providing the program; which programs are best served by another source; which programs are the organization's most influential to achieving Results, etc

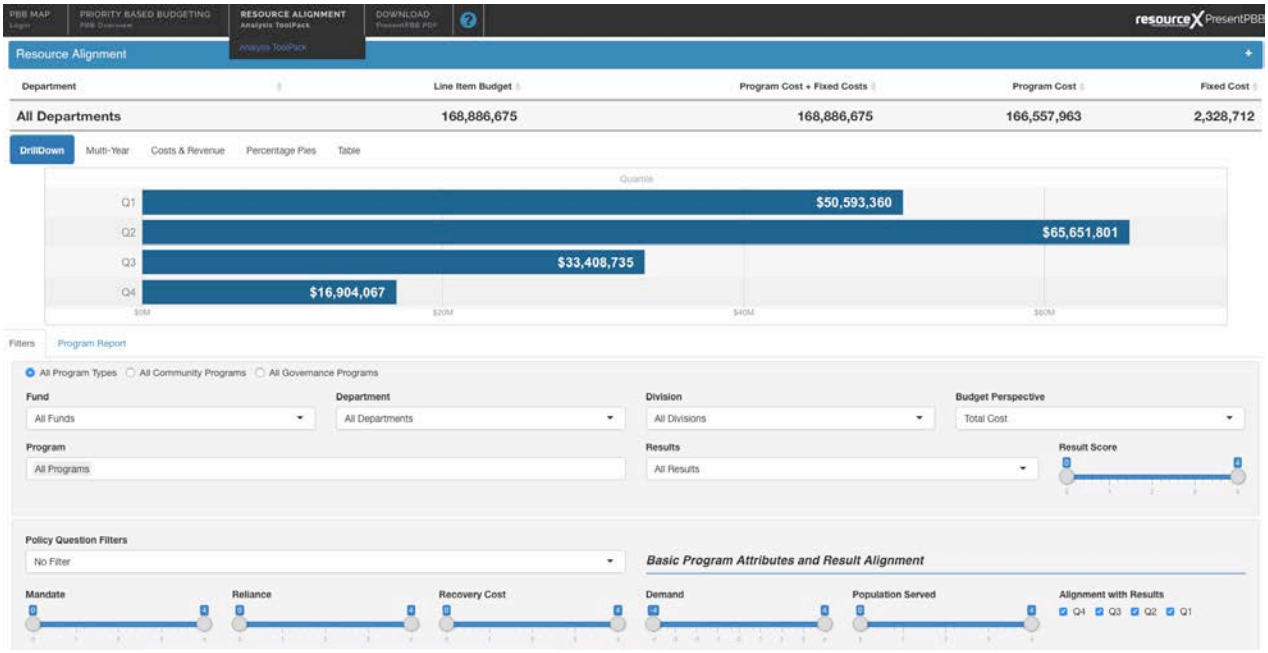


Figure 1: the City of South Bend, Indiana's Resource Alignment Diagnostic (RAD) model, showing total resource allocation by quartile, across the City

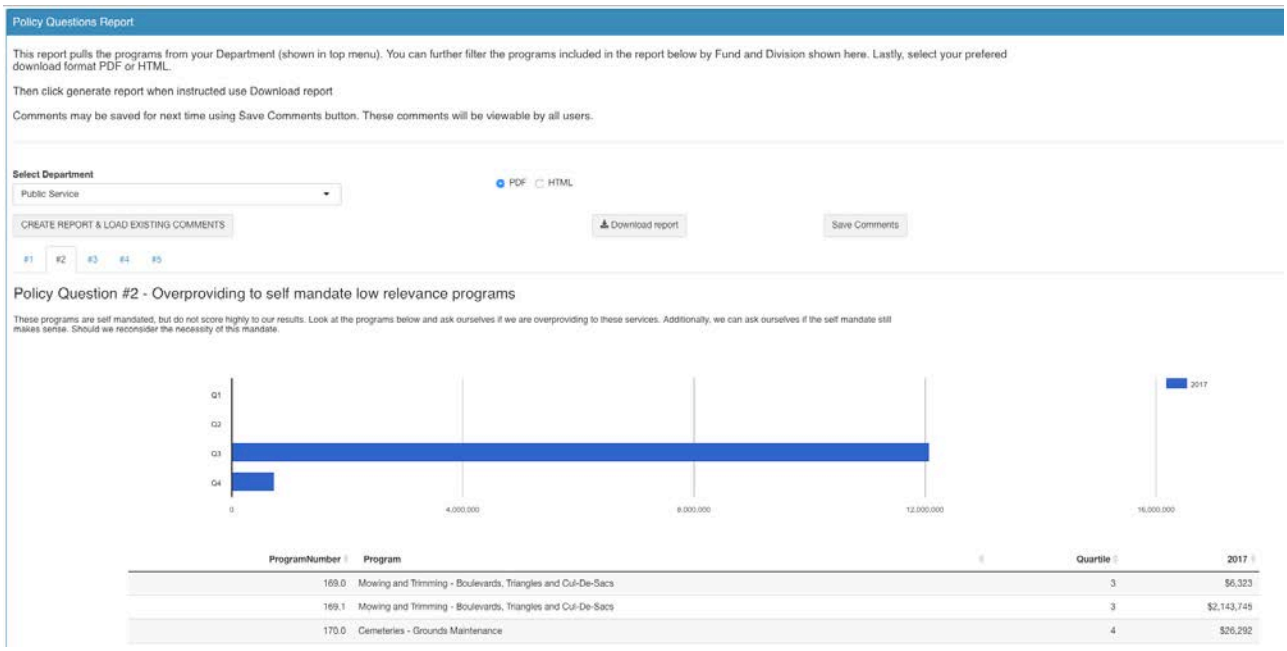


Figure 2: the City of Toledo, Ohio's Policy Question report, within the Department Dashboard, pointing the Department of Public Services to resource reallocation opportunities where the City's self-imposed policies may be outdated, as they are requiring the department to provide programs of low influence on the City's Results. This is one of the "5 Policy Questions"

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Randall Groth, Project Manager
Co-Submitter:	Rick Barrett
Date:	05/13/2019
Meeting Date:	05/21/2019

TITLE:

Consideration and Approval of a Contract: Material Testing Professional Services

STAFF RECOMMENDED ACTION:

1. Approve the Professional Services Contract with ATL, Inc. dba CMT Engineering Laboratories for an estimated annual amount of $220,500.00; and
2. Authorize the City Manager to execute the necessary documents

Executive Summary:

The Professional Services Contract will authorize annual material testing services, which provides quality assurance for all permitted City infrastructure improvements. The contracted private sector firm, CMT Engineering Laboratories, is managed by the Office of the City Engineer and reports directly to assigned City staff. The Professional Services Contract will be for a term of three (3) years with two (2) additional one-year renewal options. ~~Payment will be~~ The annual contract renewals are contingent upon a successful performance review at the discretion of the City.

Financial Impact:

The contract is funded by Engineering Permit Fee revenues with an FY19 budget authorization of $243,798 (account 001-05-102-0314-4-4206). The agreement is an estimated annual amount of $220,500.

Policy Impact:

None.

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

Council Goal: (2017 – 2019) Transportation and Other Public Infrastructure
Deliver quality community assets and continue to advocate and implement a highly performing multi-modal transportation system.

Regional Plan: Policy WR 2.2
Maintain and develop facilities to provide reliable, safe and cost-effective water, wastewater, and reclaimed water services.

Team Flagstaff Strategic Plan: Priority 3
Deliver outstanding services through a healthy environment, resources, and infrastructure.

Has There Been Previous Council Decision on This:

The Engineering Permit Fee was originally established by Ordinance 2013-17 in July 2013. The current Materials Testing fee is 3% of the public improvement construction cost.

Options and Alternatives:

1. Approve the Professional Services Contract as recommended. Approval of the contract will allow CMT Engineering Laboratories to set up operational activities for material testing work; or
2. Reject the Professional Services Contract and provide additional direction to staff. This option would impact the ability of the City to perform quality assurance testing for infrastructure improvements in 2019.

Background/History:

The elimination of the City's in-house materials testing personnel and laboratory in 2014 initiated the need to hire a private sector firm. The current contract agreement with the private sector firm will end in mid-2019.

Key Considerations:

Three firms submitted Statements of Qualification for performing materials testing. A five-person evaluation committee independently reviewed each submittal and scored the firms on the following criteria; the firm and their assigned personnel's qualifications, expertise, knowledge, experience and service strategies as related to materials testing.

The scoring results are shown below.
463 CMT Engineering Laboratories
435 Speedie & Associates
410 Western Technologies, Inc.

Expanded Financial Considerations:

N/A

Community Benefits and Considerations:

Infrastructure improvements that become property of the City are built to standards established by the Office of the City Engineer. The quality assurance verifies that these improvements comply with the City's established standards and is achieved using materials testing protocols, trained personnel and approved laboratory testing methodologies.

Community Involvement:

None.

Expanded Options and Alternatives:

1. Approve the Professional Services Contract as recommended. Approval of the award will allow CMT Engineering Laboratories to setup operational activities for material testing work and begin quality assurance activities; or
2. Reject the Professional Services Contract and provide additional direction to staff. This option would impact the ability of the City to perform quality assurance testing for infrastructure improvements in 2019.

Attachments: Professional Services Agreement
Contract Exhibit A - Price Schedule

Professional Services Contract for Materials Testing

Contract No. 2019-55

This Contract is entered into this _____ day of _____, 20___ by and between the City of Flagstaff, a political subdivision of the State or Arizona ("City"), and ATL, Inc. dba CMT Engineering Laboratories, a Utah corporation ("Contractor").

WHEREAS, the City of Flagstaff desires to receive and Contractor is able to provide professional services;

NOW THEREFORE, in consideration for the mutual promises contained herein, the City and Contractor (the "parties") agree as follows:

SERVICES

1. Scope of Work: Contractor shall provide the professional services generally described as follows:

Materials Testing Professional Services

and as more specifically described in the scope of work attached hereto as *Exhibit A.*

2. Schedule of Services: Contractor shall perform all work per the schedule set forth in *Exhibit A.*

3. Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached hereto as *Exhibit B* are hereby incorporated by reference by reference and shall apply to performance of this Contract, except to the extent modified in *Exhibit A.*

4. Key Personnel/Subcontractors: Contractor's Key Personnel, Subcontractors (if any), and contact information are designated in Exhibit A. Key Personnel are those employees whose license number and signature will be placed on key documents and those employees who have significant responsibilities for completion of the services. The City Representative for this contract has the right to approve any proposed substitution of Key Personnel or Subcontractors.

CITY RESPONSIBILITIES

5. City Representative: The City Representative is Randall Groth, Capital Projects Manager or his/her designee. All communications to the City shall be through the City Representative. City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the City Buyer, Matthew Luhman, Senior Procurement Specialist.

6. City Cooperation: City will cooperate with Contractor by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for Contractor's performance of this Contract.

CONTRACT TERM

7. Contract Term: The Contract shall be effective as of the date signed by both parties. Performance shall commence within ten (10) days from the City's issuance of the Notice to Proceed, and shall be in force for an initial term of three (3) consecutive years.

8. Renewal: This Contract may be renewed for up to two (2) additional one-year terms by mutual written consent of the parties. The City Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.

9. Termination: This Contract may be terminated pursuant to the Standard Terms and Conditions attached hereto.

PAYMENT

10. Compensation: Contractor shall be paid an estimated annual amount of two hundred twenty thousand five hundred dollars ($220,500) over the three (3) year contract term in accordance with the Compensation Schedule attached hereto as part of *Exhibit A.* Payment will be contingent upon a successful performance review at the discretion of the City.

11. Price Adjustment: If price adjustments are permitted (see *Exhibit A*), any price adjustment must be approved by the City in writing as a formal Contract Amendment. The City Council must approve the price adjustment if the annual contract price exceeds $50,000; otherwise the City Manager or his designee (the Purchasing Director) shall have authority to approve a price adjustment on behalf of the City.

DATA AND RECORDS

12. City Ownership of Document and Data: Any original documents prepared or collected by Contractor in performance of this Contract such as models, samples, reports, test plans, survey results, graphics, tables, charts, plans, maps, specifications, surveys, computations and other data shall be the property of City ("City's work product"), unless otherwise agreed by the parties in writing. Contractor agrees that all materials prepared under this Contract are "works for hire" within the meaning of the copyright laws of the United States and hereby assigns to the City all rights and interests Contractor may have in the materials it prepares under this Contract, including any right to derivative use of the material.

13. Re-Use: City may use City's work product without further compensation to Contractor; provided, however, City's reuse without written verification or adaption by Contractor for purposes other than contemplated herein is at City's sole risk and without liability to Contractor. Contractor shall not engage in any conflict of interest nor appropriate any portion of City's work product for the benefit of Contractor or any third parties without City's prior written consent.

14. Delivery of Document and Data: Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Contractor shall immediately deliver to City copies all of City's work product and any other documents and data accumulated by Contractor in performance of this Contract, whether complete or in process.

INSURANCE

15. Insurance: Contractor shall meet insurance requirements of the City, set forth in *Exhibit C.*

MISCELLANEOUS

16. Notice: Any notice concerning this Contract shall be in writing and sent by certified mail and email as follows:

To the City:

Matthew Luhman, MBA, CPP
Senior Procurement Specialist
City of Flagstaff
211 W. Aspen
Flagstaff, Arizona 86001
mluhman@flagstaffaz.gov

To Contractor:

Michael River, Sr.
Project Manager
CMT Engineering Laboratories
2355 N. Steve's Blvd., Suite B
Flagstaff, Arizona 86004

With a copy to:

Randall Groth
Capital Projects Manager
City of Flagstaff
211 W. Aspen
Flagstaff, Arizona 86001
rgroth@flagstaffaz.gov

With a copy to:

17. Authority. Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

(Please sign in blue ink. Submit original signatures – photocopies not accepted)

CMT ENGINEERING LABORATORIES

_____

Print name:_____

Title:_____

CITY OF FLAGSTAFF

_____

Print name:_____

Title:_____

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

EXHIBIT A
SCOPE OF WORK and PRICE SCHEDULE

Scope of Work

1. Equipment and Laboratory

    a. All laboratory equipment shall be calibrated annually. Verification of calibration is required. Ongoing maintenance of equipment is required. The City reserves the right to inspect laboratory facilities at any time.
    b. Nuclear densometers are required for determining field density, moisture content and oil content and shall always be stored and operated in strict adherence to State of Arizona radiation regulatory agency requirements.

2. Personnel Qualifications and Personnel Performance

    a. The City requires that field personnel have ACI certification, NICET and/or ATTI certifications. These certifications ensure the personnel can perform the required tasks as warranted.
    b. Ability to maintain strict adherence to industry accepted testing procedures and requirements when conducting and reporting test results.
    c. Field personnel are required to meet a one-hour maximum response time between various project locations.
    d. Perform critical tests and sampling for asphalt (*e.g.* Marshall plug, oil content, gradation, stability/flow and voids) and to report lab results to the assigned City Inspector within four (4) hours of taking the sample.
    e. Perform critical tests and sampling for soils and aggregate base course (*e.g.* proctor, sieve, plasticity index and gradation) following initial testing and to report lab results to the assigned City Inspector within four (4) hours of taking the sample.
    f. Field personnel shall have received safety training, competency in confined space entry, flagging and traffic control, trench excavations and general work zone safety.
    g. Materials testing field personnel shall have the ability to:
        i. Accept direction from the City's Construction Manager and/or designee.
        ii. Function as a team member.
        iii. Provide excellent customer service in all situations that arise on a construction site.
        iv. Perform duties as an extension of City staff.
        v. Accept direction from City Inspectors as to frequency and location of tests and how to report failing tests to the City's customers.
        vi. Read construction plans and specifications.
        vii. Identify issues and to communicate concerns to the City Inspector.

3. Contractor's Criteria

    a. All laboratory materials testing shall be conducted under the direct supervision of a Professional Engineer registered in the State of Arizona.
    b. Staff must be skilled, knowledgeable and well trained in materials testing processes and protocols.
    c. Contractors must be able to maintain a fully integrated training and quality control program, independently from the City.
    d. Quality control is the responsibility of the Contractor. The Contractor shall provide quality assurance testing, solely on the City's behalf, for improvements performed under City permit(s).
    e. Contractor shall perform testing accurately with attention to detail in both the laboratory and in the field.

f. A minimum of two (2) materials testing field personnel shall be provided, solely dedicated to the City's projects from April 15 to December 15. The personnel shall be available to respond on an as need basis with a twenty-four (24) hour notice from December 15 through April 15
g. Contractor must adjust staffing level to accommodate fluctuations in workloads.
h. Regular attendance is a mandatory requirement of the service provided. Staff must be able to work weekends, holidays and night shifts.
i. Field personnel must have adequate construction site transportation, cell phones, necessary field-testing equipment and safety clothing.
j. Maintain accurate and complete records and reports. Submittal of test results to the City on a weekly basis.

Price Schedule: Attached

EXHIBIT B
CITY OF FLAGSTAFF STANDARD TERMS AND CONDITIONS

IN GENERAL

1. **NOTICE TO PROCEED:** Contractor shall not commence performance until after City has issued a Notice to Proceed.

2. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract, and provide copies to City upon request.

3. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of this Contract.

4. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, this Contract is non-exclusive and the City reserves the right to contract with others for materials or services.

5. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

MATERIALS

6. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.

7. **QUALITY:** Contractor warrants that all materials supplied under this Contract will be new and free from defects in material or workmanship. The materials will conform to any statements made on the containers or labels or advertisements for the materials, and will be safe and appropriate for use as normally used. City's inspection, testing, acceptance or use of materials shall not serve to waive these quality requirements. This warranty shall survive termination or expiration of the Contract.

8. **ACCEPTANCE:** All materials and services provided by Contract are subject to final inspection and acceptance by the City. Materials and services failing to conform to the Contract specifications may be rejected in whole or part. If rejected, Contractor is responsible for all costs associated arising from rejection.

9. **MANUFACTURER'S WARRANTIES:** Contractor shall deliver all Manufacturer's Warranties to City upon City's acceptance of the materials.

10. **PACKING AND SHIPPING:** Contractor shall be responsible for industry standard packing which conforms to requirements of carrier's tariff and ICC regulations. Containers shall be clearly marked as to lot number, destination, address and purchase order number. All shipments shall be F.O.B. Destination, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001, unless otherwise specified by the City. C.O.D. shipments will not be accepted.

11. **TITLE AND RISK OF LOSS:** The title and risk of loss of material shall not pass to the City until the City actually receives the material at the point of delivery, and the City has completed inspection and has accepted the material, unless the City has expressly provided otherwise in the Contract.

12. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender without prior written approval from the City.

13. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor and may not substitute nonconforming materials, or services. Delivery of nonconforming materials, and/or services, or a default of any nature, at the option of the City, shall constitute shall deliver conforming materials, or services, in each installment or lot of the contract a breach of the contract as a whole.

14. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials.

15. **LIENS:** All materials and other deliverables supplied to the City shall be free of all liens other than the security interest held by Contractor until payment in full is made by the City. Upon request of the City, Contractor shall provide a formal release of all liens.

16. **CHANGES IN ORDERS:** The City reserves the right at any time to make changes in any one or more of the following: (a) methods of shipment or packing; (b) place of delivery; and (c) quantities. If any change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be evidenced in writing and approved by the City Purchasing Director prior to the institution of the change.

PAYMENT

17. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number, and dates when goods were shipped or work performed. Invoices shall be sent within 30 days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.

18. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.

19. **TAXES:** Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of this Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

    Exception: The City will pay any taxes which are specifically identified as a line item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.

20. **FEDERAL EXCISE TAXES:** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.

21. **FUEL CHARGES:** Contractor at its own expense is liable for all fuel costs related to performance. No fuel surcharges will be accepted or paid by City.

22. **DISCOUNTS:** If the Contract provides for payment discounts, payment discounts will be computed from the later date of the following: (a) when correct invoice is received by the City; or (b) when acceptable materials and/or materials were received by City.

23. **AMOUNTS DUE TO THE CITY:** Contractor must be current and remain current in all obligations due to the City during performance. Payments to Contractor may be offset by any delinquent amounts due to City or fees and charges owed to City under this Contract.

24. **OFAC:** No City payments may be made to any person in violation of Office of Foreign Assets Control regulations, 31 C.F.R. Part 501.

SERVICES

25. **INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.
26. **CONTROL:** Contractor shall be responsible for the control of the work.
27. **WORK SITE:** Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.
28. **SAFEGUARDING PROPERTY:** Contractor shall responsible for any damage to real property of the City or adjacent property in performance of the work and safeguard the worksite.
29. **QUALITY:** All work shall be of good quality and free of defects, performed in a diligent and professional manner.
30. **ACCEPTANCE:** If work is rejected by the City due to noncompliance with the Contract, The City, after notifying Contractor in writing, may require Contractor to correct the deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.
31. **WARRANTY:** Contractor warrants all work for a period of one (1) year following final acceptance by the City. Upon receipt of written notice from the City, Contractor at its own expense shall promptly correct work rejected as defective or as failing to conform to the Contract, whether observed before or after acceptance, and whether or not fabricated, installed or completed by Contractor, and shall bear all costs of correction. If Contractor does not correct deficiencies within a reasonable time specified in the written notice from the City, the City may perform the work and Contractor shall be liable for the costs. This one-year warranty is in addition to, and does not limit Contractor's other obligations herein. This warranty shall survive termination or expiration of the Contract.

INSPECTION, RECORDS, ADMINISTRATION

32. **RECORDS:** The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five (5) years after completion of the Contract.
33. **RIGHT TO INSPECT BUSINESS:** The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.
34. **PUBLIC RECORDS:** This Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law, A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.
35. **CONTRACT ADMINISTRATION:** Contractor will be required to participate in the City's Contract Administration Process. Contractor will be closely monitored for contract compliance and will be required to promptly correct any deficiencies.

INDEMNIFICATION, INSURANCE

36. **GENERAL INDEMNIFICATION:** Contractor shall indemnify, defend and hold harmless the City, its council, boards and commissions, officers, employees from all losses, claims, suits, payments and judgments, demands, expenses, attorney's fees or actions of any kind resulting from personal injury to any person, including employees, subcontractors or agents of Contractor or damages to any property arising or alleged to have arisen out of the negligent performance of the Contract, except any such

injury or damages arising out of the sole negligence of the City, its officers, agents or employees. This indemnification provision shall survive termination or expiration of the Contract. This indemnification clause shall not apply, if a different indemnification clause is included in the City's Specific Terms and Conditions.

37. **INSURANCE:** Contractor shall maintain all insurance coverage required by the City, including public liability and worker's compensation.

38. **INTELLECTUAL PROPERTY INDEMNIFICATION:** Contractor shall indemnify and hold harmless the City against any liability, including costs and expenses, for infringement of any patent, trademark or copyright or other proprietary rights of any third parties arising out of contract performance or use by the City of materials furnished or work performed under this Contract. Contractor shall promptly assume full responsibility for the defense of any suit or proceeding which is, has been, or may be brought against the City and its agents for alleged infringement, or alleged unfair competition resulting from similarity in design, trademark or appearance of goods, and indemnify the City against any and all expenses, losses, royalties, profits and damages, attorneys fees and costs resulting from such proceedings or settlement thereof. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

39. **PRICE INCREASES:** Except as expressly provided for in the Contract, no price increases will be approved.

40. **COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the parties.

41. **AMENDMENTS:** This Contract may be amended by written agreement of the parties.

42. **SEVERABILITY:** If any term or provision of this Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted, and the remainder of this Contract shall remain in full force and effect.

43. **NO WAIVER:** Each party has the right insist upon strict performance of the Contract, and the prior failure of a party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.

44. **ASSIGNMENT:** This Contract may be assigned by Contractor with prior written consent of the City, which will not be unreasonably withheld. Any assignment without such consent shall be null and void. Unless expressly provided for in a separately executed Consent to Assignment, no assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to City. The Purchasing Director shall have authority to consent to an assignment on behalf of City.

45. **BINDING EFFECT:** This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

46. **SUBCONTRACTING:** Contractor may subcontract work in whole or in part with the City's advance written consent. City reserves the right to withhold consent if subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.

47. **NONDISCRIMINATION:** Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin,

disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition any Contractor located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02Civil Rights which also prohibits discrimination based on sexual orientation, or gender identity or expression.

48. **DRUG FREE WORKPLACE:** The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor personnel shall abstain from use or possession of illegal drugs while engaged in performance of this Contract.

49. **IMMIGRATION LAWS:** Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all State and Federal Immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty"). A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City. The City retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on this Contract to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections. The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any subcontractors to ensure compliance with Contractor's Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or subcontractor if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

DEFAULT AND TERMINATION

50. **TERMINATION FOR DEFAULT:** Prior to terminating this Contract for a material breach, the non-defaulting party shall give the defaulting party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting party in writing. In the event the breach is not timely cured, or in the event of a series of repeated breaches the non-defaulting party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the parties may execute all remedies available at law in addition Contract remedies provided for herein.

51. **CITY REMEDIES:** In the event of Contractor's default, City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.

52. **CONTRACTOR REMEDIES:** In the event of City's default, Contractor may pursue all remedies available at law, except as provided for herein.

53. **SPECIAL DAMAGES:** In the event of default, neither party shall be liable for incidental, special, or consequential damages.

54. **TERMINATION FOR NONAPPROPRIATION OF FUNDS:** The City may terminate all or a portion of this Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.

55. **TERMINATION FOR CONVENIENCE:** Unless expressly provided for otherwise in the Contract, this Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written

notice, without further penalty or liability to Contractor. If this Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by City before the effective date of termination.

56. **TERMINATION DUE TO INSOLVENCY:** If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate this Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.

57. **PAYMENT UPON TERMINATION:** Upon termination of this Contract, City will pay Contractor for satisfactory performance up until the effective date of termination. City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.

58. **CANCELLATION FOR GRATUITIES:** The City may cancel this Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant ("Gratuities") in connection with award or performance of the Contract.

59. **CANCELLATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511):** The City may cancel this Contract within three (3) years after its execution, without penalty or further liability to Contractor.

MISCELLANEOUS

60. **ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with City, without the prior written consent of the City.

61. **NOTICES:** All notices given pursuant to this Contract shall be delivered at the addresses as specified in the Contract, or updated by Notice to the other party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four (4) days after being sent; (c) or sent by overnight courier, with receipt deemed effective two (2) days after being sent Notice may be sent by email as a secondary form of notice.

62. **THIRD PARTY BENEFICIARIES:** This Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.

63. **GOVERNING LAW:** This Contract shall be construed in accordance with the laws of Arizona.

64. **FORUM:** In the event of litigation relating to this Contract, any action at law or in equity shall be filed in Coconino County, Arizona.

65. **ATTORNEYS FEES:** If any action at law or in equity is necessary to enforce the terms of this Contract, the prevailing party shall be entitled to recover its reasonable attorneys fees, costs, professional fees and expenses.

EXHIBIT C
INSURANCE

1. In General. Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with this Contract by the Contractor, its agents, representatives, employees or contractors.

2. Requirement to Procure and Maintain. Each insurance policy required by this Contract shall be in effect at, or before, commencement of work under this Contract and shall remain in effect until all Contractor's obligations under this Contract have been met, including any warranty periods. The Contractor's failure to maintain the insurance policies as required by this Contract or to provide timely evidence of renewal will be considered a material breach of this Contract.

3. Minimum Scope and Limits of Insurance. The following insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City does not represent or warrant that the minimum limits set forth in this Contract are sufficient to protect the Contractor from liabilities that might arise out of this Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

   Contractor shall provide coverage at least as broad and with limits not less than those stated below.

   a. Commercial General Liability - Occurrence Form

General Aggregate	$2,000,000
Products/Completed Operations	$1,000,000
Each Occurrence	$1,000,000

   b. Umbrella Coverage $2,000,000

   c. Automobile Liability – Any Automobile or Owned, Hired and Non-owned Vehicles Combined Single Limit Per Accident for Bodily Injury & Property Damage $1,000,000

   d. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	$500,000
Disease - Each Employee	$500,000
Disease - Policy Limit	$500,000

   e. Professional Liability $2,000,000

4. Self-Insured Retention. Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that the insurer reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and volunteers. Contractor shall be solely responsible for any self-insured retention amounts. City at its option

may require Contractor to secure payment of such self insured retention by a surety bond or irrevocable and unconditional letter of credit.

5. Other Insurance Requirements. The policies shall contain, or be endorsed to contain, the following provisions:

   a. Additional Insured. In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents and employees shall be named and endorsed as additional insureds with respect to liability arising out of this Contract and activities performed by or on behalf of the Contractor, including products and completed operations of the Contractor, and automobiles owned, leased, hired or borrowed by the Contractor.

   b. Broad Form. The Contractor's insurance shall contain broad form contractual liability coverage.

   c. Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, agents and employees, shall be in excess of the coverage of the Contractor's insurance and shall not contribute to it.

   d. Each Insured. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

   e. Not Limited. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

   f. Waiver of Subrogation. The policies shall contain a waiver of subrogation against the City, its officers, officials, agents and employees for losses arising from work performed by Contractor for the City.

6. Notice of Cancellation. Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, cancelled, reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Buyer listed in the original Solicitation and shall reference the Contract Number:

   Attention: Matthew Luhman, MBA, CPP
   Senior Procurement Specialist
   Contract No. 2019-55
   Purchasing Department
   City of Flagstaff
   211 W. Aspen Avenue
   Flagstaff, Arizona 86001.

7. Acceptability of Insurers. Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A-: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

8. Certificates of Insurance. The Contractor shall furnish the City with certificates of insurance (ACORD form) as required by this Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City project/contract number and project description shall be noted on the certificates of insurance. The City must receive and approve all certificates of insurance and endorsements before the Contractor commences work.

9. Policies. The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by this Contract at any time. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under this Contract.

10. Modifications. Any modification or variation from the insurance requirements in this Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.

CMT ENGINEERING LABORATORIES

Construction • Materials • Technologies
Geotechnical, Environmental, & Materials Engineering/Testing/Research

EXHIBIT A

LABOR	Proposed Rate	2018 Total MH's	Total Estimated Cost
Clerical	$ 45.00	0.00	0.00
Field Technician	$ 72.00	2,120.75	152,694.00
Project Tech 4	$ 78.00	24.25	1,891.50
Project Manager	$ 100.00	104.25	10,425.00
Professional Engineer	$ 150.00	0.00	0.00
			165,010.50
Estimated Overtime		5,000	5,000.00
		Subtotal Labor	**170,010.50**

TESTS		2018 Total Tests	
Concrete	$ 18.00	580	10,440.00
Ignition Gradation	$ 125.00	57	7,125.00
AC Moisture	$ 18.00	57	1,026.00
Marshall	$ 110.00	57	6,270.00
Rice	$ 72.00	57	4,104.00
Marshall Stability & Flow	$ 110.00	57	6,270.00
Asphalt Binder	$ 765.00	2	1,530.00
Soundness	$ 15.00	1	15.00
LA Abrasion	$ 150.00	5	750.00
Gradation	$ 70.00	63	4,410.00
Atterberg	$ 65.00	20	1,300.00
Std. Proctor	$ 125.00	58	7,250.00
		Subtotal Testing	**50,490.00**

Total Estimated Cost ***$ 220,500.50***

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Leah Bloom, Housing and Grants Administrator

Co-Submitter:

Date: 05/13/2019

Meeting Date: 05/21/2019

TITLE:

Amendment to Contract No. 2019-03: Amend Contract 2019-03 between the City of Flagstaff and Housing Solutions of Northern Arizona for the City of Flagstaff Employer Assisted Housing (COF-EAH) program to clarify employee eligibility criteria.

STAFF RECOMMENDED ACTION:

Approve the recommended contract amendment to clarify employee eligibility criteria for the City of Flagstaff Employer Assisted Housing (COF-EAH) program

Executive Summary:

The City of Flagstaff Housing Section is requesting an amendment to Contract No. 2019-03 between the City of Flagstaff and Housing Solutions of Northern Arizona, Inc. (HSNA). The amendment will clarify a recently-identified ambiguity related to employee eligibility requirements. This amendment will clarify that the months of employment in a contract employee capacity count towards the required 12 months of service enabling that employee to receive housing assistance upon transfer to a position funded with ongoing dollars. The Housing Section believes this amendment upholds the intent of the program to recruit and retain the City of Flagstaff employees.

If the amendment is adopted, the Scope of Work outlining COF-EAH eligibility criteria will be amended as follows:

Current contract eligibility criteria

2.1.2 Eligible buyers must meet employment guidelines, have worked for the City of Flagstaff in a non-temporary position for a minimum of twelve (12) consecutive months, have the most recent performance evaluation demonstrate work performance meeting or exceeding expectations, and not be on a performance work plan.

Requested contract amendment for eligibility criteria

2.1.2 Eligible buyers must: (1) meet employment guidelines as established by the City of Flagstaff Housing Section; (2) currently be employed by the City of Flagstaff in an ongoing funded position classified by Human Resources as Employment Status Exempt (E), FT Tenure Eligible (TE), FT Tenure Granted (TG), PT Tenure Eligible (PE), or PT Tenure Granted (PG); (3) have worked for the City of Flagstaff in a~~non-temporary~~ position classified by Human Resources as Contract (CN), E, TE, TG, PE, or PG for a minimum of the previous twelve (12) consecutive months, (4) have the most recent performance evaluation demonstrate work performance meeting or exceeding expectations, and (5) not

be on a performance work plan.

*****A PowerPoint presentation is attached*****

Financial Impact:

This amendment will not have any financial impact.

Policy Impact:

None.

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

Affordable Housing Goal

Pursue financing strategies for affordable housing to create additional rental and ownership housing opportunities.

Regional Plan: Goal NH.3. Make available a variety of housing types at different price points, to provide housing opportunity for all economic sectors. Policy NH.3.3. Increase the availability of affordable housing for very low-income persons, through innovative and effective funding mechanisms.

Personnel Goal

Expand the Housing Assistance Program for all City Staff.

Has There Been Previous Council Decision on This:

On July 14, 2015, HSNA was selected as a qualified respondent through a Request for Statement of Qualifications process and Council approved the Flagstaff Police Department Employer Assisted Housing FPD-EAH program.

On July 14, 2015, HSNA was selected as a qualified respondent through a Request for Statement of Qualifications process and Council approved the FPD-EAH program.

On November 7, 2017, Council amended the FPD-EAH pilot program by broadening the assistance to be available to all eligible City of Flagstaff employees, known as the City of Flagstaff Employer Assisted Housing Program (COF-EAH).

On November 6, 2018, Council approved Contract 2019-03 allowing HSNA to continue the administration of the City of Flagstaff Employer Assisted Housing (COF-EAH) program available to all eligible City of Flagstaff employees and to administer the new Community Homebuyer Assistance Program (CHAP) available to Flagstaff citizens. This procurement process was conducted through a Request for Proposal (RFP). HSNA was the single respondent to the RFP and was deemed the successful bidder.

Options and Alternatives:

1. Approve the contract amendment as recommended, and authorize the City Manager to execute the contract amendment.
2. Approve the contract amendment with modifications, and authorize the City Manager to execute the contract amendment.
3. Do not approve the contract amendment.

Background/History:

The COF-EAH was designed to provide all eligible households with the opportunity for homeownership by providing funds toward the down payment on a home. The goals of the COF-EAH Program were not only to add a housing-based benefit but to also promote recruitment and retention of City of Flagstaff employees.

The COF-EAH program is effectively being administered by HSNA. To date, the program has opened the doors to homeownership for thirteen (13) first-time Flagstaff homebuyers who are employees of the City of Flagstaff. Currently, HSNA is working with an additional three (3) City of Flagstaff employee households who are under contract to purchase.

The program has proven successful to recruit and retain members of Team Flagstaff.

Key Considerations:

Current parameters of the COF-EAH program include:

- Must be an employee of the City of Flagstaff for at least a year at the time of assistance.
- There are no income restrictions.
- The program is a 1:1 match up to $10,000.
- Eligible Buyers must occupy the home as their principal residence.
- The interest-free loan is forgiven over 10 years if the employee occupies their home.
- Funding is restricted to homes purchased within a prescribed area for Flagstaff emergency employees.
- Eligible buyers must be first-time Flagstaff homebuyers.
- Eligible buyers must complete an online homebuyer education course and one-on-one housing counseling through HSNA prior to closing on their home.
- Loan assistance is recorded in the second position behind the primary mortgage.
- Administrative fees to HSNA are $1,250 per loan, paid at the point of closing.

If approved by City Council, the amendment will clarify that months of service in a contract employee position count toward the 12-month employment requirement once the employee transitions to a permanent position funded with ongoing funds.

Expanded Financial Considerations:

None.

Community Benefits and Considerations:

COF-EAH focuses on a stable local workforce and a healthy economy. Employee assisted housing enhances employee recruitment, employee retention, neighborhood revitalization, and community relations.

Mortgage lenders, realtors, employers, social service agencies and the community at large greatly contribute to, and benefit from, the success of housing assistance programs; again, providing stability for our community.

Community Involvement:

Initial notification of the original RFP was provided through PlanetBids. The RFP in the Arizona Daily Sun on July 8 and July 15, 2018. The RFP was issued on July 5, 2018, and due on July 26, 2018. HSNA was the only respondent and was deemed the successful bidder. No additional public outreach has occurred following the contract award.

To date, thirteen (13) City of Flagstaff employees who were first time Flagstaff homebuyers benefited from the COF-EAH. Currently, there are three (3) City of Flagstaff employee households under contract to purchase planning to utilize COF-EAH.

Expanded Options and Alternatives:

None.

Attachments:

First Time Flagstaff Homebuyers Assistance Programs & Housing Education and Counseling Administration

Amendment 1 to Contract 2019-03

COF-EAH Exhibit A Amendment (Redline)

COF-EAH Exhibit A Amendment (Clean)

COF-EAH Contract Amendment PowerPoint

ATTACHMENT A
AGREEMENT FOR PROFESSIONAL SERVICES
Contract No. 2019-03

This Contract is entered into this 21ST day of NOVEMBER 2018 by and between the City of Flagstaff, a political subdivision of the State or Arizona ("City"), and Housing Solutions of Northern Arizona, Inc., an Arizona nonprofit corporation ("Provider").

RECITALS

WHEREAS, the City of Flagstaff desires to enter into this Contract to obtain services related to housing assistance and Provider is able to provide those services;

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

SERVICES

1. Scope of Work: Provider shall provide the services generally described as follows:

FIRST TIME FLAGSTAFF HOMEBUYERS ASSISTANCE PROGRAMS & HOUSING EDUCATION AND COUNSELING ADMINISTRATION

and as more specifically described in the scope of work attached hereto as *Exhibit A.*

2. Schedule of Services: Provider shall perform all work per the schedule set forth in *Exhibit A.*

3. Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached hereto as *Exhibit B,* are hereby incorporated by reference and shall apply to performance of this Contract, except to the extent modified in Exhibit A.

4. Key Personnel/Subcontractors: Provider's Key Personnel, Subcontractors (if any), and contact information are designated in Exhibit A. Key Personnel are those employees whose license number and signature will be placed on key documents and those employees who have significant responsibilities for completion of the services. The City Representative for this Contract has the right to approve any proposed substitution of Key Personnel or Subcontractors.

CITY RESPONSIBILITIES

5. City Representative: The City Representative is Sarah Darr, Housing Director or her designee. All communications to the City shall be through the City Representative. City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the City Buyer.

6. City Cooperation: City will cooperate with Provider by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for Provider's performance of this Contract.

CONTRACT TERM

7. Contract Term: The Contract shall be effective as of the date signed by both parties for a term of one (1) year. Performance shall commence within ten (10) days from the City's issuance of

the Notice to Proceed, and shall be completed on or before _____, consistent with the Schedule of Services.

8. Renewal: This Contract may be renewed for four (4) additional one (1) year terms, upon the same terms by mutual written consent of the parties. The City Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.

9. Termination: This Contract may be terminated pursuant to the Standard Terms and Conditions attached hereto.

PAYMENT

10. Compensation: Provider shall be paid for satisfactory performance of the work, in accordance with the Compensation Schedule attached hereto as part of *Exhibit A.*

11. Price Adjustment: If price adjustments are permitted (see Exhibit A), any price adjustment must be approved by the City in writing as a formal Contract Amendment. The City Council must approve the price adjustment if the annual contract price exceeds $50,000; otherwise the City Manager or his designee (the Purchasing Director) shall have authority to approve a price adjustment on behalf of the City.

DATA AND RECORDS

12. City Ownership of Document and Data: Any original documents prepared or collected by Provider in performance of this Contract such as models, samples, reports, test plans, survey results, graphics, tables, charts, plans, maps, specifications, surveys, computations and other data shall be the property of City ("City's work product"), unless otherwise agreed by the parties in writing. Provider agrees that all materials prepared under this Contract are "works for hire" within the meaning of the copyright laws of the United States and hereby assigns to the City all rights and interests Provider may have in the materials it prepares under this Contract, including any right to derivative use of the material.

13. Re-Use. City may use City's work product without further compensation to Provider; provided, however, City's reuse without written verification or adaption by Provider for purposes other than contemplated herein is at City's sole risk and without liability to Provider. Provider shall not engage in any conflict of interest nor appropriate any portion of City's work product for the benefit of Provider or any third parties without City's prior written consent.

14. Delivery of Document and Data: Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Provider shall immediately deliver to City copies all of City's work product and any other documents and data accumulated by Provider in performance of this Contract, whether complete or in process.

INSURANCE

15. Insurance: Provider shall meet insurance requirements of the City, set forth in *Exhibit C.*

MISCELLANEOUS

16. Monthly Reports to City. During the entire Contract period, the Provider shall prepare and submit to the City by the second (2nd) Friday of each month a Monthly Performance Report. If the scope of the Contract has been fully completed and implemented, no further updates will be required. When the scope of this Contract is complete, Provider will provide a final report. The

final report should be marked as final and should be inclusive of all necessary and pertinent information regarding the Contract as deemed necessary by the City. Notwithstanding anything to the contrary, the Provider shall not be required to provide any of the Provider's confidential or proprietary information in reports provided to the City, including without limitation, any information regarding research collaborators, research plans or any data, results or other information resulting from Provider's performance of research or any other activities relating thereto.

17. Notice: Any notice concerning this Contract shall be in writing and sent by certified mail and email as follows:

City of Flagstaff:
Patrick Brown, C.P.M. CPPB
City of Flagstaff
211 W. Aspen
Flagstaff, AZ 86001
pbrown@flagstaffaz.gov

To Provider:
Devonna McLaughlin
Housing Solutions of Northern Arizona
2304 N 3rd Street
Flagstaff, AZ 86004
devonnam@housingnaz.org

Copy to:
Leah Bloom
City of Flagstaff
211 W. Aspen
Flagstaff, AZ 86001
lbloom@flagstaffaz.gov
Phone: (928) 213-2752

Copy to:

18. Authority: Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

HOUSING SOLUTIONS OR NORHTERN ARIZONA, INC.

_____

Print name: Devonna McLaughlin

Title: Chief Executive Officer

CITY OF FLAGSTAFF

_____

Print name: BARBARA GOODRICH

Title: CITY MANAGER

Attest: _____ FOR

City Clerk

Approved as to form:

City Attorney's Office

Notice to Proceed issued:_____, 2018

EXHIBIT A
SCOPE OF WORK

Community Homebuyer Assistance Program

1. SCOPE OF WORK

The intent of the City of Flagstaff's Community Homebuyer Assistance Program (CHAP) is to make homeownership possible for citizens in the City of Flagstaff. CHAP is a one-time benefit per eligible household. This program will assist households with the up-front costs of homeownership who are mortgage eligible based on credit and income, but lack the cash necessary for the down payment and closing costs associated with purchasing a home. Housing Solutions of Northern Arizona, Inc. (HSNA), a local HUD-approved housing counseling agency and nonprofit organization, has been selected by the City of Flagstaff through a competitive RFP process to administer the program. HSNA will determine eligibility for program participation, provide one-on-one housing counseling and general homebuyer education services, and administer the financial assistance at the time of purchase.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA

2.1 City of Flagstaff CHAP buyer eligibility criteria is as follows:

2.1.1 To be eligible such homebuyers must be US Citizens or legal permanent residents of the United States.

2.1.2 Eligible Buyers must be first-time homebuyers as defined by the Department of Housing and Urban Development (HUD). The definition is as follows "FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

"A FTHB includes any individual that has only owned with a former spouse while married.

"A FTHB would also include an individual who has only owned a principal residence not permanently affixed to a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure."

2.1.3 Eligible Buyers must complete online homebuyer education course and one-on-one housing counseling through HSNA prior to closing on their home.

2.1.4 Eligible Buyers must occupy the home purchase with CHAP funds as their principal place of residence.

2.1.5 Eligible Buyers must meet income guidelines, demonstrating that total household income for all members of the household does not exceed 125% of the area median income, based on household size. This income information is published by the City of Flagstaff Housing Section, based on calculations from HUD annually. HSNA will utilize the "Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition," or its successor, or another methodology agreed-to by HSNA and the City of Flagstaff Housing Section, to determine household income.

2.2 CHAP housing unit eligibility is as follows:

2.2.1 Home to be purchased must be located within the City of Flagstaff. Eligible housing types include single family detached, townhouses, and condominiums. Manufactured homes that meet FHA requirements and that are permanently affixed to and purchased with real property are eligible.

2.2.2 Home purchase price may not exceed 125% of the FHA 203(b) mortgage insurance limit for Coconino County.

2.2.3 The home must be livable, passing lender guidelines for occupancy and purchase.

2.2.4 Home purchase must be an arms-length transaction.

2.2.5 Buyers must obtain a professional, impartial third-party home inspection by a licensed inspector.

2.3 Agency shall document and retain all eligibility with client records. Client records will be transferred to the City of Flagstaff Housing Section within 60 days of home purchase for ongoing loan servicing.

3. ASSISTANCE LEVELS AND LENDING PARAMETERS

3.1 The intent of the City's CHAP program is to provide citizens of Flagstaff with up-front financial assistance to enable creditworthy first-time homebuyers to open the door to homeownership.

The maximum assistance provided through the CHAP program is as follows:

3.1.1 Maximum amount of financial assistance is $15,000.00 per household.

3.1.2 Total amount of financial assistance provided will be based on household contribution. The program will match household contribution to the home purchase on a 3 to 1 basis with up to $5,000.00 of household funds matched with up to $15,000.00 of CHAP funds.

3.1.3 Households must contribute at least 1% of the purchase price through documented buyer funds. The remaining household contribution may come from gifts from immediate family members, as documented.

3.1.4 CHAP financial assistance will be repaid based on an **equity-share model**. CHAP funds will NEVER be forgiven. Repayment will be triggered when one of the following occurs: (1) home is sold; (2) home is no longer owner-occupied; (3) household refinances home to access home equity – refinance with no cash-out is permitted and CHAP assistance will subordinate; or (4) information provided to HSNA or City of Flagstaff at time of assistance is determined to be fraudulent.

3.1.5 In order to ensure affordability and long-term sustainability for the household, his/her housing ratio cannot exceed 35% of gross monthly income (unless lender guidelines or layered assistance program has more conservative requirements).

3.1.6 Debt-to-Income Ratio does not exceed 45% of gross monthly income. Exceptions to affordability requirements may be made on a case-by-case basis, as recommended by the HSNA Homebuyer Assistance Programs Committee, and based on compensating factors.

3.1.7 Mortgage is a 30-year fixed-rate mortgage with competitive interest rate.

3.1.8 Closing costs are reasonable and consistent with industry norms.

3.1.9 CHAP assistance is recorded in second position behind the primary mortgage, unless approved to subordinate behind another subordinate deed of trust.

3.2 The Agency may, with City staff approval, vary slightly from the above loan parameters on a case-by-case basis to assist with a particular hardship or when doing so can derive some other program benefit.

4. LOAN TERMS

The financial assistance loans will be secured on each property by a Deed of Trust and Promissory Note payable to the City of Flagstaff. The original recorded Deed of Trust and Promissory Note will be delivered to the City of Flagstaff Housing Section within 60 days of purchase, as part of the client file. The Note will never be forgiven. When the household repays CHAP assistance, the City of Flagstaff Housing Section will record with Coconino County Recorder's Office a Deed of Release and Reconveyance. The City of Flagstaff Housing Section will process payoff requests from the Title Company. The City of Flagstaff will subordinate to a second lien position to a primary mortgage lender. The City of Flagstaff, at its own discretion, may decide to subordinate to a third lien position. Refinancing to obtain a lower payment only and no cash out (no cash is borrowed) will be allowed. The City reserves the right to review each subordination as a lender. Prior to subordination, borrower will complete housing counseling with HSNA to ensure they understand costs associated with the refinance. HSNA will provide refinance housing counseling at no additional charge to the City of Flagstaff.

5. LOAN SERVICING

The City of Flagstaff will service the loans. When client loan files are transferred to the City of Flagstaff, the files will contain, at a minimum, a copy of the recorded Deed of Trust, the Promissory Note and all other pertinent documents necessary to service the loans.

6. CLIENT AND PROGRAM FILES

HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Original Deeds of Trust and Promissory Notes will be submitted to the City of Flagstaff as part of the client file within 60 days of client purchase. Client files will be available to HSNA, if requested, for HUD or grant funder audits.

7. HOMEBUYER COUNSELING & EDUCATION

7.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.

7.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. HSNA offers a discount code to homebuyers who participate in one-on-one housing counseling – the discounted cost of the course is $50 per household. The workshop fee will be paid by the household at the time of course registration.

7.3 Throughout the home-buying process, clients are encouraged to meet one-on-one with a certified homebuyer counselor who will help them navigate the home-buying process, determine their individual housing needs and wants, and overcome challenges to make homeownership feasible. The counselor will also help clients understand and access additional available financial assistance programs including WISH and EAH.

7.4 Financial assistance available through the City's CHAP program will be committed on a first come, first served basis. Clients will be determined to be eligible for funds when they meet the following criteria: (1) have an accepted purchase contract with a closing date within 60 days; (2) have loan approval from a lender, demonstrating their loan meets HSNA's

guidelines; (3) have completed one-on-one homebuyer counseling and the required pre-purchase education class; (4) have provided all required documentation to the counselor to determine eligibility. Once a client is determined to be eligible for financial assistance, the HSNA Homebuyer Assistance Programs committee, comprised of experts in the lending field, will review the purchase, loan and financial assistance package to determine if the client is eligible to receive financial assistance.

7.5 The HSNA's homebuyer counselor will prepare loan documents and draw funds in preparation for close of escrow.

8. GENERATING MORTGAGE RESOURCES
Agency agrees that the Eligible Buyers shall obtain the mortgage financing from the lender of their choice and shall choose the title company of their choice. The Agency shall use its best efforts to generate mortgage resources for Eligible Buyers through (1) relationships with lending institutions; and (2) gaining approval of "soft second" mortgage products by the Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Veterans Administration (VA).

9. PROGRAM MARKETING
The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

10. PROJECT ADMINISTRATION
Administrative fees to HSNA are $1,250 per matching loan, to be at the point of closing. The Agency will provide all of the necessary services to carry out the daily tasks of ensuring that the project progresses satisfactorily and that all of the administrative functions associated with the project are properly executed in accordance with the contract. Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

Employer Assisted Housing (EAH) Program

1. SCOPE OF WORK
The intent of the City of Flagstaff's Employer Assisted Housing Program (EAH) is to make homeownership possible for all eligible personnel working for the City of Flagstaff. EAH is a one-time benefit per household. This program will assist employees with the up-front costs of homeownership who are mortgage eligible based on credit and income, but lack the cash necessary for the down payment and closing costs associated with purchasing a home. Housing Solutions of Northern Arizona, Inc. (HSNA), a local HUD-approved housing counseling agency and nonprofit organization, has been selected by the City of Flagstaff through a competitive RFP process to administer the program. HSNA will determine eligibility for program participation, provide one-on-one housing counseling and general homebuyer education services, and administer the financial assistance at the time of purchase.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA

2.1 City of Flagstaff EAH buyer eligibility criteria is as follows:

2.1.1 To be eligible such homebuyers must be employed by the City of Flagstaff.

2.1.2 Eligible buyers must meet employment guidelines, have worked for the City of Flagstaff in a non-temporary position for a minimum of twelve (12) consecutive months, have the most recent performance evaluation demonstrate work performance meeting or exceeding expectations, and not be on a performance work plan.

2.1.3 Eligible Buyers must not have owned a home within the Flagstaff Metropolitan Planning Organization (FMPO) boundary within the last three years and be a first-time homebuyer in Flagstaff, Arizona, defined by the Department of Housing and Urban Development (HUD). The definition is as follows "FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

A FTHB includes any individual that has only owned with a former spouse while married.

A FTHB would also include an individual who has only owned a principal residence not permanently affixed to a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure."

2.1.4 Eligible Buyers must complete online homebuyer education course and one-on-one housing counseling through HSNA prior to closing on their home.

2.1.5 Eligible Buyers must occupy the home purchase with EAH funds as their principal place of residence.

2.2 EAH housing unit eligibility is as follows:

2.2.1 Home to be purchased must be located within a prescribed area of Flagstaff. The prescribed area shall be defined as a 12-mile radius from City Hall or 35 miles eastbound, westbound and southbound from the 1-17 and I-40 exchanges with a five-mile-wide corridor (2 ½ miles on each side). Eligible housing types include single family detached, townhouses, and condominiums. Manufactured homes that meet FHA requirements and that are permanently affixed to and purchased with real property are eligible.

2.2.2 Home purchase price may not exceed 125% of the FHA 203(b) mortgage insurance limit for Coconino County.

2.2.3 The home must be livable, passing lender guidelines for occupancy and purchase.

2.2.4 Home purchase must be an arms-length transaction.

2.2.5 Buyers must obtain a professional, impartial third-party home inspection by a licensed inspector.

2.3 Agency shall document and retain all eligibility with client records. Client records will be transferred to the City of Flagstaff Housing Section within 60 days of home purchase for ongoing loan servicing.

3. ASSISTANCE LEVELS AND LENDING PARAMETERS

3.1 The intent of the City's EAH program is to provide an employee benefit to eligible employees, helping them to open the door to homeownership. The EAH program is an employee retention and attraction tool. The purpose of this program is to enhance recruitment efforts and improve retention of identified personnel.

The maximum assistance provided through the EAH program is as follows:

3.1.1 Maximum amount of financial assistance is $10,000.00 per household.

3.1.2 Total amount of financial assistance provided will be based on employee contribution. The program will match employee contribution to the home purchase on a 1 to 1 basis with up to $10,000.00 of employee funds matched with up to $10,000.00 of EAH funds. The EAH program will also match gifts from immediate family members, as documented

3.1.3 EAH financial assistance will be forgiven over a 10-year period. Financial assistance will be immediately repaid on a pro-rated basis by the employee if any of the following were to occur: (1) employment with City of Flagstaff terminates for any reason; (2) home is no longer owner-occupied; (3) employee refinances home to access home equity – refinance with no cash-out is permitted and EAH assistance will subordinate; (4) information provided to HSNA or City of Flagstaff at time of assistance is determined to be fraudulent.

3.1.4 In order to ensure affordability and long-term sustainability for the employee, his/her housing ratio cannot exceed 35% of gross monthly income (unless lender guidelines or layered assistance program has more conservative requirements).

3.1.5 Debt-to-Income Ratio does not exceed 45% of gross monthly income. Exceptions to affordability requirements may be made on a case-by-case basis, as recommended by the HSNA Homebuyer Assistance Programs Committee, and based on compensating factors.

3.1.6 Mortgage is a 30-year fixed-rate mortgage with competitive interest rate.

3.1.7 Closing costs are reasonable and consistent with industry norms.

3.1.8 EAH assistance is recorded in second position behind the primary mortgage, unless approved to subordinate behind another subordinate deed of trust.

3.2 The Agency may, with City staff approval, vary slightly from the above loan parameters on a case-by-case basis to assist with a particular hardship or when doing so can derive some other program benefit.

4. LOAN TERMS

The financial assistance loans will be secured on each property by a Deed of trust and Promissory Note payable to the City of Flagstaff. The original recorded Deed of Trust and Promissory Note will be delivered to the City of Flagstaff Housing Section within 60 days of purchase, as part of the client file. The Note will be forgiven over a ten-year period. At the end of ten years, the City of Flagstaff Housing Section will record with Coconino County Recorder's Office a Deed of Release and Reconveyance. If repayment is triggered prior to the ten-year recapture period, the City of Flagstaff Housing Section will process payoff requests from the Title Company. Assistance is forgiven on a pro-rated basis over the ten-year life of the loan. The City of Flagstaff will subordinate to a second lien position to a primary mortgage lender. The City of Flagstaff, at its own discretion, may decide to subordinate to a third lien position. Refinancing to obtain a lower payment only and no cash out (no cash is borrowed) will be allowed. The City reserves the right to review each subordination as a lender. Prior to subordination, borrower will complete housing counseling with HSNA to ensure they understand costs associated with the refinance. HSNA will provide refinance housing counseling at no additional charge to the City of Flagstaff.

5. LOAN SERVICING
The City of Flagstaff will service the loans. When client loan files are transferred to the City of Flagstaff, the files will contain, at a minimum, a copy of the recorded Deed of Trust, the Promissory Note and all other pertinent documents necessary to service the loans.

6. CLIENT AND PROGRAM FILES
HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Original Deeds of Trust and Promissory Notes will be submitted to the City of Flagstaff as part of the client file within 60 days of client purchase. Client files will be available to HSNA, if requested, for HUD or grant funder audits.

7. HOMEBUYER COUNSELING & EDUCATION
   7.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.
   7.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. The workshop fee will be paid by the City of Flagstaff as part of the EAH contract. The City of Flagstaff employee will not be charged for that course and will be provided with a coupon code to enter, making the course free of charge to the employee participant.
   7.3 Throughout the home-buying process, clients are encouraged to meet one-on-one with a certified homebuyer counselor who will help them navigate the home-buying process, determine their individual housing needs and wants, and overcome challenges to make homeownership feasible. The counselor will also help clients understand and access additional available financial assistance programs including WISH and CHAP.
   7.4 Financial assistance available through the City's EAH program will be committed on a first come, first served basis. Clients will be determined to be eligible for funds when they meet the following criteria: (1) have an accepted purchase contract with a closing date within 60 days; (2) have loan approval from a lender, demonstrating their loan meets HSNA's guidelines; (3) have completed one-on-one homebuyer counseling and the required pre-purchase education class; (4) have provided all required documentation to the counselor to determine eligibility. Once a client is determined to be eligible for financial assistance, the HSNA Homebuyer Assistance Programs committee, comprised of experts in the lending field, will review the purchase, loan and financial assistance package to determine if the client is eligible to receive financial assistance.
   7.5 The HSNA's homebuyer counselor will prepare loan documents and draw funds in preparation for close of escrow.

8. GENERATING MORTGAGE RESOURCES
Agency agrees that the Eligible Buyers shall obtain the mortgage financing from the lender of their choice and shall choose the title company of their choice. The Agency shall use its best efforts to generate mortgage resources for Eligible Buyers through (1) relationships with lending institutions; and (2) gaining approval of "soft second" mortgage products by the Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Veterans Administration (VA).

9. PROGRAM MARKETING

The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

10. PROJECT ADMINISTRATION

Administrative fees to HSNA are $1,250 per matching loan, to be at the point of closing. The Agency will provide all of the necessary services to carry out the daily tasks of ensuring that the project progresses satisfactorily and that all of the administrative functions associated with the project are properly executed in accordance with the contract. Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

Additional Miscellaneous Household Eligibility Determination

1. SCOPE OF WORK

City of Flagstaff Homebuyer Programs have identified eligibility criteria to ensure low- and moderate-income benefit. Programs such as the City of Flagstaff Community Land Trust Program (CLT), work to ensure low- and moderate-income households can purchase a home below market-rate with restricted future resale requirements that create ongoing community benefit. It is the responsibility of the City of Flagstaff Housing Section to ensure ongoing program compliance. From time to time, the City of Flagstaff may outsource eligibility determination for programs such as the City's CLT program.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA

2.1 City of Flagstaff eligibility criteria to purchase a restricted homeownership unit is as follows:

2.1.1 Homebuyer households must be first-time homebuyers, as defined by the Department of Housing and Urban Development (HUD). The definition is as follows "FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

"A FTHB includes any individual that has only owned with a former spouse while married.

"A FTHB would also include an individual who has only owned a principal residence not permanently affixed to a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure."

2.1.2 Clients must be income-eligible for the home they are seeking to purchase, based on income limits outlined in resale restriction documents, development agreements or City of Flagstaff program documents. HSNA will utilize the "Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition," or its successor, or another methodology agreed-to by HSNA and the City of Flagstaff Housing Section, to determine household income.

2.1.3 Clients must be US Citizens or legal permanent residents, unless the specific program does not have this requirement.

2.1.4 Clients may need to meet affordability requirements, demonstrating that the proposed monthly housing costs and total debt-to-income ratios do not exceed advertised limits.

2.1.5 Eligible buyers must occupy the home purchased through the City of Flagstaff homeownership program as their principal place of residence.

3. CLIENT AND PROGRAM FILES

HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Client files will be transferred to the City of Flagstaff Housing Section within 60 days of eligibility determination. If client is also receiving City of Flagstaff down payment assistance, City of Flagstaff may, at its discretion, allow HSNA to retain client file until home purchase, transferring client file to the City Housing Section within 60 days of home purchase.

4. HOMEBUYER COUNSELING & EDUCATION

4.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.

4.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. HSNA offers a discount code to homebuyers who participate in one-on-one housing counseling – the discounted cost of the course is $50 per household. The workshop fee will be paid by the household at the time of course registration.

4.3 Pre-purchase housing counseling is offered to clients in-person or via telephone. Throughout the home-buying process, clients are encouraged to meet one-on-one with a certified homebuyer counselor who will help them navigate the home-buying process, determine their individual housing needs and wants, and overcome challenges to make homeownership feasible. The counselor will also help clients understand and access additional available financial assistance programs including WISH, CHAP and EAH.

4.4 As required by HUD, all clients receiving one-on-one housing counseling will have documented follow-up.

5. GENERATING MORTGAGE RESOURCES

As it furthers their mission to provide housing resources to the community, HSNA will work with the City of Flagstaff to identify and educate first mortgage lenders who can provide mortgage financing to homebuyers purchasing a CLT or deed restricted home. The Agency shall use its best efforts to generate mortgage resources for Eligible Buyers through (1) relationships with lending institutions; and (2) gaining approval of CLT mortgage products by the Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Veterans Administration (VA).

6. PROGRAM MARKETING

The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

7. PROJECT ADMINISTRATION

Administrative fees to HSNA are $250 per household referred to HSNA by the City of Flagstaff and screened for eligibility for a City of Flagstaff Homebuyer Program.

Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

Homebuyer Counseling & Education

1. SCOPE OF WORK

The intent of the City of Flagstaff's Homebuyer Counseling and Education Program (HCEP) is to ensure potential first-time homebuyers in the City of Flagstaff are educated about the home-buying process, have resources to overcome barriers to homeownership and make informed decisions regarding their housing choices. Potential buyers will also be educated about financial assistance programs available in the community to first-time homebuyers. Housing Solutions of Northern Arizona, Inc. (HSNA), a local HUD-approved housing counseling agency and nonprofit organization, has been selected by the City of Flagstaff through a competitive RFP process to administer the program. HSNA will conduct one-on-one homebuyer counseling and online education, advertise services to the community and build relationships with community partners such as lenders and Realtors to ensure buyers and potential buyers are aware of program services.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA

2.1 City of Flagstaff HCEP eligibility criteria is as follows:

2.1.1 Clients identify as potential or future first-time homebuyers, as defined by the Department of Housing and Urban Development (HUD). The definition is as follows "FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

"A FTHB includes any individual that has only owned with a former spouse while married.

"A FTHB would also include an individual who has only owned a principal residence not permanently affixed to a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure."

2.1.2 Clients have a current address is the Flagstaff FMPO boundaries and have expressed an interest in living in the greater Flagstaff area.

3. CLIENT AND PROGRAM FILES

HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Client files will be "closed out" for two reasons: (1) client purchases a first home; or (2) client file is closed and client does not purchase a first home. Client files can be closed if the client determines homeownership is not feasible or desirable, client does not follow action plan to become home

purchase ready or client fails to follow up or discontinues contact with the Agency. If a client purchases a home, original Deeds of Trust and Promissory Notes will be submitted to the City of Flagstaff as part of the client file within 60 days of client purchase. Client files will be available to HSNA, if requested, for HUD or grant funder audits. If a client file is closed and the client does not purchase a first home, HSNA will retain the client file in electronic or hard-copy form, for a minimum of three years from the date of file termination. This record retention is consistent with HUD Housing Counseling requirements.

4. HOMEBUYER COUNSELING & EDUCATION
   - 4.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.
   - 4.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. HSNA offers a discount code to homebuyers who participate in one-on-one housing counseling – the discounted cost of the course is $50 per household. The workshop fee will be paid by the household at the time of course registration.
   - 4.3 Pre-purchase housing counseling is offered to clients in-person or via telephone. The purpose of housing counseling is to address the specific questions, concerns and barriers a household may face in purchasing a first home. Housing Counselors follow HUD guidelines for pre-purchase housing counseling, completing a financial and budget analysis, a personalized action plan for the client and covering important home purchase topics such as federal consumer protection and fair housing laws, the home purchase process, how to maintain homeownership, etc. The housing counselor will explain available financial assistance programs such as WISH, EAH and CHAP.
   - 4.4 As required by HUD, all clients receiving one-on-one housing counseling will have documented follow-up.

5. PROGRAM MARKETING
   The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

6. PROJECT ADMINISTRATION
   Administrative fees to HSNA are $150 per eligible household receiving one-on-one housing counseling. Households will be required to pay for the online homebuyer education course themselves. They will also be required to pay for tri-merge credit reports, if they elect to have HSNA pull credit. The cost of a credit report is $14.50 per individual. The fee charged to clients for a tri-merge credit report is a cost-recovery fee to cover the cost incurred by HSNA to pull the credit report. All client-paid fees are disclosed to clients up-front by HSNA, in accordance with HUD requirements.

   Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process

is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

EXHIBIT B
CITY OF FLAGSTAFF STANDARD TERMS AND CONDITIONS

IN GENERAL

1. **NOTICE TO PROCEED:** Contractor shall not commence performance until after City has issued a Notice to Proceed.

2. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract, and provide copies to City upon request.

3. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of this Contract.

4. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, this Contract is non-exclusive and the City reserves the right to contract with others for materials or services.

5. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

MATERIALS

6. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.

7. **QUALITY:** Contractor warrants that all materials supplied under this Contract will be new and free from defects in material or workmanship. The materials will conform to any statements made on the containers or labels or advertisements for the materials, and will be safe and appropriate for use as normally used. City's inspection, testing, acceptance or use of materials shall not serve to waive these quality requirements. This warranty shall survive termination or expiration of the Contract.

8. **ACCEPTANCE:** All materials and services provided by Contract are subject to final inspection and acceptance by the City. Materials and services failing to conform to the Contract specifications may be rejected in whole or part. If rejected, Contractor is responsible for all costs associated arising from rejection.

9. **MANUFACTURER'S WARRANTIES:** Contractor shall deliver all Manufacturer's Warranties to City upon City's acceptance of the materials.

10. **PACKING AND SHIPPING:** Contractor shall be responsible for industry standard packing which conforms to requirements of carrier's tariff and ICC regulations. Containers shall be clearly marked as to lot number, destination, address and purchase order number. All shipments shall be F.O.B. Destination, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001, unless otherwise specified by the City. C.O.D. shipments will not be accepted.

11. **TITLE AND RISK OF LOSS:** The title and risk of loss of material shall not pass to the City until the City actually receives the material at the point of delivery, and the City has completed inspection and has accepted the material, unless the City has expressly provided otherwise in the Contract.

12. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender without prior written approval from the City.

13. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor and may not substitute nonconforming materials, or services. Delivery of nonconforming materials, and/or services, or a default of any nature, at the option of the City, shall constitute shall deliver conforming materials, or services, in each installment or lot of the contract a breach of the contract as a whole.

14. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials.

15. **LIENS:** All materials and other deliverables supplied to the City shall be free of all liens other than the security interest held by Contractor until payment in full is made by the City. Upon request of the City, Contractor shall provide a formal release of all liens.

16. **CHANGES IN ORDERS:** The City reserves the right at any time to make changes in any one or more of the following: (a) methods of shipment or packing; (b) place of delivery; and (c) quantities. If any change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be evidenced in writing and approved by the City Purchasing Director prior to the institution of the change.

PAYMENT

17. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number, and dates when goods were shipped or work performed. Invoices shall be sent within 30 days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.

18. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.

19. **TAXES:** Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of this Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

    Exception: The City will pay any taxes which are specifically identified as a line item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.

20. **FEDERAL EXCISE TAXES:** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.

21. **FUEL CHARGES:** Contractor at its own expense is liable for all fuel costs related to performance. No fuel surcharges will be accepted or paid by City.

22. **DISCOUNTS:** If the Contract provides for payment discounts, payment discounts will be computed from the later date of the following: (a) when correct invoice is received by the City; or (b) when acceptable materials and/or materials were received by City.

23. **AMOUNTS DUE TO THE CITY:** Contractor must be current and remain current in all obligations due to the City during performance. Payments to Contractor may be offset by any delinquent amounts due to City or fees and charges owed to City under this Contract.

24. **OFAC:** No City payments may be made to any person in violation of Office of Foreign Assets Control regulations, 31 C.F.R. Part 501.

SERVICES

25. **INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.

26. **CONTROL:** Contractor shall be responsible for the control of the worksite.

27. **WORK SITE:** Contractor shall inspect the worksite and notify the City in writing of any deficiencies or needs prior to commencing work.

28. **SAFEGUARDING PROPERTY:** Contractor shall responsible for any damage to real property of the City or adjacent property in performance of the work and safeguard the worksite.

29. **QUALITY:** All work shall be of good quality and free of defects, performed in a diligent and professional manner.

30. **ACCEPTANCE:** If work is rejected by the City due to noncompliance with the Contract, The City, after notifying Contractor in writing, may require Contractor to correct the deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.

31. **WARRANTY:** Contractor warrants all work for a period of one (1) year following final acceptance by the City. Upon receipt of written notice from the City, Contractor at its own expense shall promptly correct work rejected as defective or as failing to conform to the Contract, whether observed before or after acceptance, and whether or not fabricated, installed or completed by Contractor, and shall bear all costs of correction. If Contractor does not correct deficiencies within a reasonable time specified in the written notice from the City, the City may perform the work and Contractor shall be liable for the costs. This one-year warranty is in addition to, and does not limit Contractor's other obligations herein. This warranty shall survive termination or expiration of the Contract.

INSPECTION, RECORDS, ADMINISTRATION

32. **RECORDS:** The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five (5) years after completion of the Contract.

33. **RIGHT TO INSPECT BUSINESS:** The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.

34. **PUBLIC RECORDS:** This Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law, A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.

35. **CONTRACT ADMINISTRATION:** Contractor will be required to participate in the City's Contract Administration Process. Contractor will be closely monitored for contract compliance and will be required to promptly correct any deficiencies.

INDEMNIFICATION, INSURANCE

36. **GENERAL INDEMNIFICATION:** Contractor shall indemnify, defend and hold harmless the City, its council, boards and commissions, officers, employees from all losses, claims, suits, payments and judgments, demands, expenses, attorney's fees or actions of any kind resulting from personal injury to any person, including employees, subcontractors or agents of Contractor or damages to any property arising or alleged to have arisen out of the negligent performance of the Contract, except any such injury or damages arising out of the sole negligence of the City, its officers, agents or employees. This indemnification provision shall survive termination or expiration of the Contract. This indemnification clause shall not apply, if a different indemnification clause is included in the City's Specific Terms and Conditions.

37. **INSURANCE:** Contractor shall maintain all insurance coverage required by the City, including public liability and worker's compensation.

38. **INTELLECTUAL PROPERTY INDEMNIFICATION:** Contractor shall indemnify and hold harmless the City against any liability, including costs and expenses, for infringement of any patent, trademark or copyright or other proprietary rights of any third parties arising out of contract performance or use by the City of materials furnished or work performed under this Contract. Contractor shall promptly assume full responsibility for the defense of any suit or proceeding which is, has been, or may be brought against the City and its agents for alleged infringement, or alleged unfair competition resulting from similarity in design, trademark or appearance of goods, and indemnify the City against any and all expenses, losses, royalties, profits and damages, attorneys fees and costs resulting from such proceedings or settlement thereof. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

39. **PRICE INCREASES:** Except as expressly provided for in the Contract, no price increases will be approved.

40. **COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the parties.

41. **AMENDMENTS:** This Contract may be amended by written agreement of the parties.

42. **SEVERABILITY:** If any term or provision of this Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted, and the remainder of this Contract shall remain in full force and effect.

43. **NO WAIVER:** Each party has the right insist upon strict performance of the Contract, and the prior failure of a party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.

44. **ASSIGNMENT:** This Contract may be assigned by Contractor with prior written consent of the City, which will not be unreasonably withheld. Any assignment without such consent shall be null and void. Unless expressly provided for in a separately executed Consent to Assignment, no assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to City. The Purchasing Director shall have authority to consent to an assignment on behalf of City.

45. **BINDING EFFECT:** This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

46. **SUBCONTRACTING:** Contractor may subcontract work in whole or in part with the City's advance written consent. City reserves the right to withhold consent if subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.

47. **NONDISCRIMINATION:** Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition any Contractor located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02Civil Rights which also prohibits discrimination based on sexual orientation, or gender identity or expression.

48. **DRUG FREE WORKPLACE:** The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor personnel shall abstain from use or possession of illegal drugs while engaged in performance of this Contract.

49. **IMMIGRATION LAWS:** Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all State and Federal Immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty"). A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City. The City retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on this Contract to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections. The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any subcontractors to ensure compliance with Contractor's Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or subcontractor if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

DEFAULT AND TERMINATION

50. **TERMINATION FOR DEFAULT:** Prior to terminating this Contract for a material breach, the non-defaulting party shall give the defaulting party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting party in writing. In the event the breach is not timely cured, or in the event of a series of repeated breaches the non-defaulting party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the parties may execute all remedies available at law in addition Contract remedies provided for herein.

51. **CITY REMEDIES:** In the event of Contractor's default, City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.

52. **CONTRACTOR REMEDIES:** In the event of City's default, Contractor may pursue all remedies available at law, except as provided for herein.

53. **SPECIAL DAMAGES:** In the event of default, neither party shall be liable for incidental, special, or consequential damages.

54. **TERMINATION FOR NONAPPROPRIATION OF FUNDS:** The City may terminate all or a portion of this Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.

55. **TERMINATION FOR CONVENIENCE:** Unless expressly provided for otherwise in the Contract, this Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If this Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by City before the effective date of termination.

56. **TERMINATION DUE TO INSOLVENCY:** If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate this Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.

57. **PAYMENT UPON TERMINATION:** Upon termination of this Contract, City will pay Contractor for satisfactory performance up until the effective date of termination. City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.

58. **CANCELLATION FOR GRATUITIES:** The City may cancel this Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant ("Gratuities") in connection with award or performance of the Contract.

59. **CANCELLATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511):** The City may cancel this Contract within three (3) years after its execution, without penalty or further liability to Contractor.

MISCELLANEOUS

60. **ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with City, without the prior written consent of the City.

61. **NOTICES:** All notices given pursuant to this Contract shall be delivered at the addresses as specified in the Contract, or updated by Notice to the other party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four (4) days after being sent; (c) or sent by overnight courier, with receipt deemed effective two (2) days after being sent Notice may be sent by email as a secondary form of notice.

62. **THIRD PARTY BENEFICIARIES:** This Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.

63. **GOVERNING LAW:** This Contract shall be construed in accordance with the laws of Arizona.

64. **FORUM:** In the event of litigation relating to this Contract, any action at law or in equity shall be filed in Coconino County, Arizona.

65. **ATTORNEYS FEES:** If any action at law or in equity is necessary to enforce the terms of this Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, professional fees and expenses.

66. **NO BOYCOTT OF ISRAEL:** Pursuant to A.R.S. §§ 35-393 and 35-393.01, the parties certify that they are not currently engaged in and agree, for the duration of the agreement, not to engage in a boycott of Israel.

EXHIBIT C
CITY OF FLAGSTAFF STANDARD INSURANCE REQUIREMENTS

1. In General. Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with this Contract by the Contractor, its agents, representatives, employees or contractors.

2. Requirement to Procure and Maintain. Each insurance policy required by this Contract shall be in effect at, or before, commencement of work under this Contract and shall remain in effect until all Contractor's obligations under this Contract have been met, including any warranty periods. The Contractor's failure to maintain the insurance policies as required by this Contract or to provide timely evidence of renewal will be considered a material breach of this Contract.

3. Minimum Scope and Limits of Insurance. The following insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City does not represent or warrant that the minimum limits set forth in this Contract are sufficient to protect the Contractor from liabilities that might arise out of this Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

   Contractor shall provide coverage at least as broad and with limits not less than those stated below.

   a. Commercial General Liability - Occurrence Form

General Aggregate	$2,000,000
Products/Completed Operations	$1,000,000
Each Occurrence	$1,000,000

   b. Umbrella Coverage $2,000,000

   c. Automobile Liability –
   Any Automobile or Owned, Hired
   and Non-owned Vehicles
   Combined Single Limit Per Accident
   for Bodily Injury & Property Damage $1,000,000

   d. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	$500,000
Disease - Each Employee	$500,000
Disease - Policy Limit	$500,000

   [OPTION: e. Professional Liability $2,000,000]

4. Self-Insured Retention. Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that the insurer reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and volunteers. Contractor shall be solely responsible for any self-insured retention amounts. City at its option may require Contractor to secure payment of such self insured retention by a surety bond or irrevocable and unconditional letter of credit.

5. Other Insurance Requirements. The policies shall contain, or be endorsed to contain, the following provisions:

a. Additional Insured. In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents and employees shall be named and endorsed as additional insureds with respect to liability arising out of this Contract and activities performed by or on behalf of the Contractor, including products and completed operations of the Contractor, and automobiles owned, leased, hired or borrowed by the Contractor.

b. Broad Form. The Contractor's insurance shall contain broad form contractual liability coverage.

c. Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, agents and employees, shall be in excess of the coverage of the Contractor's insurance and shall not contribute to it.

d. Each Insured. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

e. Not Limited. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

f. Waiver of Subrogation. The policies shall contain a waiver of subrogation against the City, its officers, officials, agents and employees for losses arising from work performed by Contractor for the City.

6. Notice of Cancellation. Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, cancelled, reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Buyer listed in the original Solicitation and shall reference the Contract Number:

   Attention: Patrick Brown, Purchasing Manager
   Contract No. 2019-03
   Purchasing Section
   City of Flagstaff,
   211 W. Aspen Avenue
   Flagstaff, Arizona 86001

7. Acceptability of Insurers. Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

8. Certificates of Insurance. The Contractor shall furnish the City with certificates of insurance (ACORD form) as required by this Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City project/contract number and project description shall be noted on the certificates of insurance. The City must receive and approve all certificates of insurance and endorsements before the Contractor commences work.

9. Policies. The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by this Contract at any time. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's policies or

endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under this Contract.

10. Modifications. Any modification or variation from the insurance requirements in this Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.

AMENDMENT NO. 1

This Amendment No. 1 is entered into by and between the City of Flagstaff, a political subdivision of the State of Arizona ("City") and Housing Solutions of Northern Arizona, Inc., an Arizona nonprofit corporation ("Contractor"), and amends the Contract No. 2019-03, Agreement for Professional Services, dated November 21, 2018 (hereafter referred to as the "Contract").

For valid consideration, the receipt of which is hereby acknowledged, the parties hereby amend the Contract as follows:

1. Exhibit A of the Contract is deleted in its entirety and replaced by **Exhibit A** attached hereto in order to clarify EAH eligibility criteria.

2. This Amendment shall be effective from and after May 21, 2019.

3. All other terms and conditions of the Contract shall remain in full force and effect.

CONTRACTOR:

By:_____

Title:_____
Its authorized representative

CITY OF FLAGSTAFF

By:_____

Title:_____ Date:_____

Attest:

By: _____
City Clerk

Approved as to form:

By:_____
City Attorney's Office

EXHIBIT A
SCOPE OF WORK

Community Homebuyer Assistance Program

1. SCOPE OF WORK

The intent of the City of Flagstaff's Community Homebuyer Assistance Program (CHAP) is to make homeownership possible for citizens in the City of Flagstaff. CHAP is a one-time benefit per eligible household. This program will assist households with the up-front costs of homeownership who are mortgage eligible based on credit and income, but lack the cash necessary for the down payment and closing costs associated with purchasing a home. Housing Solutions of Northern Arizona, Inc. (HSNA), a local HUD-approved housing counseling agency and nonprofit organization, has been selected by the City of Flagstaff through a competitive RFP process to administer the program. HSNA will determine eligibility for program participation, provide one-on-one housing counseling and general homebuyer education services, and administer the financial assistance at the time of purchase.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA

2.1 City of Flagstaff CHAP buyer eligibility criteria is as follows:

2.1.1 To be eligible such homebuyers must be US Citizens or legal permanent residents of the United States.

2.1.2 Eligible Buyers must be first-time homebuyers as defined by the Department of Housing and Urban Development (HUD). The definition is as follows "FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

"A FTHB includes any individual that has only owned with a former spouse while married.

"A FTHB would also include an individual who has only owned a principal residence not permanently affixed to the a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure."

2.1.3 Eligible Buyers must complete online homebuyer education course and one-on-one housing counseling through HSNA prior to closing on their home.

2.1.4 Eligible Buyers must occupy the home purchase with CHAP funds as their principal place of residence.

2.1.5 Eligible Buyers must meet income guidelines, demonstrating that total household income for all members of the household does not exceed 125% of the area median income, based on household size. This income information is published by the City of Flagstaff Housing Section, based on calculations from HUD annually. HSNA will utilize the "Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition," or its successor, or another methodology agreed-to by HSNA and the City of Flagstaff Housing Section, to determine household income.

2.2 CHAP housing unit eligibility is as follows:

2.2.1 Home to be purchased must be located within a prescribed area of Flagstaff. The prescribed area shall be defined as a 12-mile radius from City Hall or 35 miles eastbound, westbound and southbound from the 1-17 and I-40 exchanges with a five mile wide corridor (2 ½ miles on each side). Eligible housing types include single family detached, townhouses, and condominiums. Manufactured homes that meet FHA requirements and that are permanently affixed to and purchased with real property are eligible.

2.2.2 Home purchase price may not exceed 125% of the FHA 203(b) mortgage insurance limit for Coconino County.

2.2.3 The home must be livable, passing lender guidelines for occupancy and purchase.

2.2.4 Home purchase must be an arms-length transaction.

2.2.5 Although the Agency and City of Flagstaff highly recommend the buyers obtain a professional, impartial third-party home inspection by a licensed inspector, this is not a requirement of the program. However, the buyer will sign a Hold Harmless agreement at the time of purchase, ensuring they will not hold HSNA or the City of Flagstaff responsible for the condition of the home.

2.3 Agency shall document and retain all eligibility with client records. Client records will be transferred to the City of Flagstaff Housing Section within 60 days of home purchase for ongoing loan servicing.

3. ASSISTANCE LEVELS AND LENDING PARAMETERS

3.1 The intent of the City's CHAP program is to provide citizens of Flagstaff with up-front financial assistance to enable creditworthy first time homebuyers to open the door to homeownership.

The maximum assistance provided through the CHAP program is as follows:

3.1.1 Maximum amount of financial assistance is $15,000.00 per household.

3.1.2 Total amount of financial assistance provided will be based on household contribution. The program will match household contribution to the home purchase on a 3 to 1 basis with up to $5,000.00 of household funds matched with up to $15,000.00 of CHAP funds.

3.1.3 Households must contribute at least 1% of the purchase price through documented buyer funds. The remaining household contribution may come from gifts from immediate family members, as documented.

3.1.4 CHAP financial assistance will be repaid based on an **equity-share model**. CHAP funds will NEVER be forgiven. Repayment will be triggered when one of the following occurs: (1) home is sold; (2) home is no longer owner-occupied; (3) household refinances home to access home equity – refinance with no cash-out is permitted and CHAP assistance will subordinate; or (4) information provided to HSNA or City of Flagstaff at time of assistance is determined to be fraudulent.

3.1.5 In order to ensure affordability and long-term sustainability for the household, his/her housing ratio cannot exceed 35% of gross monthly income (unless lender guidelines or layered assistance program has more conservative requirements).

3.1.6 Debt-to-Income Ratio does not exceed 45% of gross monthly income. Exceptions to affordability requirements may be made on a case-by-case basis, as recommended by the HSNA Homebuyer Assistance Programs Committee, and based on compensating factors.

3.1.7 Mortgage is a 30-year fixed-rate mortgage with competitive interest rate.
3.1.8 Closing costs are reasonable and consistent with industry norms.
3.1.9 CHAP assistance is recorded in second position behind the primary mortgage, unless approved to subordinate behind another subordinate deed of trust.

3.2 The Agency may, with City staff approval, vary slightly from the above loan parameters on a case-by-case basis to assist with a particular hardship or when doing so can derive some other program benefit.

4. LOAN TERMS

The financial assistance loans will be secured on each property by a Deed of Trust and Promissory Note payable to the City of Flagstaff. The original recorded Deed of Trust and Promissory Note will be delivered to the City of Flagstaff Housing Section within 60 days of purchase, as part of the client file. The Note will never be forgiven. When the household repays CHAP assistance, the City of Flagstaff Housing Section will record with Coconino County Recorder's Office a Deed of Release and Reconveyance. The City of Flagstaff Housing Section will process payoff requests from the Title Company. Assistance requires no payment and no interest. The City of Flagstaff will subordinate to a second lien position to a primary mortgage lender. The City of Flagstaff, at its own discretion, may decide to subordinate to a third lien position. Refinancing to obtain a lower payment only and no cash out (no cash is borrowed) will be allowed. The City reserves the right to review each subordination as a lender. Prior to subordination, borrower will complete housing counseling with HSNA to ensure they understand costs associated with the refinance. HSNA will provide refinance housing counseling at no additional charge to the City of Flagstaff.

5. LOAN SERVICING

The City of Flagstaff will service the loans. When client loan files are transferred to the City of Flagstaff, the files will contain, at a minimum, a copy of the recorded Deed of Trust, the Promissory Note and all other pertinent documents necessary to service the loans.

6. CLIENT AND PROGRAM FILES

HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Original Deeds of Trust and Promissory Notes will be submitted to the City of Flagstaff as part of the client file within 60 days of client purchase. Client files will be available to HSNA, if requested, for HUD or grant funder audits.

7. HOMEBUYER COUNSELING & EDUCATION

7.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.

7.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. HSNA offers a discount code to homebuyers who participate in one-on-one housing counseling – the discounted cost of the course is $50 per household. The workshop fee will be paid by the household at the time of course registration.

7.3 Throughout the home-buying process, clients are encouraged to meet one-on-one with a certified homebuyer counselor who will help them navigate the home-buying process, determine their individual housing needs and wants, and overcome challenges to make

homeownership feasible. The counselor will also help clients understand and access additional available financial assistance programs including WISH and EAH.

7.4 Financial assistance available through the City's CHAP program will be committed on a first come, first served basis. Clients will be determined to be eligible for funds when they meet the following criteria: (1) have an accepted purchase contract with a closing date within 60 days; (2) have loan approval from a lender, demonstrating their loan meets HSNA's guidelines; (3) have completed one-on-one homebuyer counseling and the required pre-purchase education class; (4) have provided all required documentation to the counselor to determine eligibility. Once a client is determined to be eligible for financial assistance, the HSNA Homebuyer Assistance Programs committee, comprised of experts in the lending field, will review the purchase, loan and financial assistance package to determine if the client is eligible to receive financial assistance.

7.5 The HSNA's homebuyer counselor will prepare loan documents and draw funds in preparation for close of escrow.

8. GENERATING MORTGAGE RESOURCES

Agency agrees that the Eligible Buyers shall obtain the mortgage financing from the lender of their choice and shall choose the title company of their choice. The Agency shall use its best efforts to generate mortgage resources for Eligible Buyers through (1) relationships with lending institutions; and (2) gaining approval of "soft second" mortgage products by the Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Veterans Administration (VA).

9. PROGRAM MARKETING

The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

10. PROJECT ADMINISTRATION

Administrative fees to HSNA are $1,250 per matching loan, to be at the point of closing. The Agency will provide all of the necessary services to carry out the daily tasks of ensuring that the project progresses satisfactorily and that all of the administrative functions associated with the project are properly executed in accordance with the contract. Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

Employer Assisted Housing (EAH) Program

1. SCOPE OF WORK

The intent of the City of Flagstaff's Employer Assisted Housing Program (EAH) is to make homeownership possible for all eligible personnel working for the City of Flagstaff. EAH is a one-time benefit per household. This program will assist employees with the up-front costs of homeownership who are mortgage eligible based on credit and income, but lack the cash necessary for the down payment and closing costs associated with purchasing a home. Housing Solutions of Northern Arizona, Inc. (HSNA), a local HUD-approved housing counseling agency and nonprofit organization, has been selected by the City of Flagstaff through a competitive RFP

process to administer the program. HSNA will determine eligibility for program participation, provide one-on-one housing counseling and general homebuyer education services, and administer the financial assistance at the time of purchase.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA

2.1 City of Flagstaff EAH buyer eligibility criteria is as follows:

2.1.1 To be eligible such homebuyers must be employed by the City of Flagstaff.

2.1.2 ~~Eligible buyers must meet employment guidelines, have worked for the City of Flagstaff in a non-temporary position for a minimum of twelve (12) consecutive months, have the most recent performance evaluation demonstrate work performance meeting or exceeding expectations, and not be on a performance work plan.~~

ELIGIBLE BUYERS MUST: (1) MEET EMPLOYMENT GUIDELINES AS ESTABLISHED BY THE CITY OF FLAGSTAFF HOUSING SECTION; (2) CURRENTLY BE EMPLOYED BY THE CITY OF FLAGSTAFF IN AN ONGOING FUNDED POSITION CLASSIFIED BY HUMAN RESOURCES AS EMPLOYMENT STATUS EXEMPT (E), FT TENURE ELIGIBLE (TE), FT TENURE GRANTED (TG), PT TENURE ELIGIBLE (PE), OR PT TENURE GRANTED (PG); (3) HAVE WORKED FOR THE CITY OF FLAGSTAFF IN A POSITION CLASSIFIED BY HUMAN RESOURCES AS CONTRACT (CN), E, TE, TG, PE, OR PG FOR A MINIMUM OF THE PREVIOUS TWELVE (12) CONSECUTIVE MONTHS, (4) HAVE THE MOST RECENT PERFORMANCE EVALUATION DEMONSTRATE WORK PERFORMANCE MEETING OR EXCEEDING EXPECTATIONS, AND (5) NOT BE ON A PERFORMANCE WORK PLAN.

2.1.3 Eligible Buyers must not have owned a home within the Flagstaff Metropolitan Planning Organization (FMPO) boundary within the last three years and be a first-time homebuyer in Flagstaff, Arizona, defined by the Department of Housing and Urban Development (HUD). The definition is as follows “FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

A FTHB includes any individual that has only owned with a former spouse while married.

A FTHB would also include an individual who has only owned a principal residence not permanently affixed to the a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure.”

2.1.4 Eligible Buyers must complete online homebuyer education course and one-on-one housing counseling through HSNA prior to closing on their home.

2.1.5 Eligible Buyers must occupy the home purchase with EAH funds as their principal place of residence.

2.1 EAH housing unit eligibility is as follows:

2.1.2 Home to be purchased must be located within a prescribed area of Flagstaff. The prescribed area shall be defined as a 12-mile radius from City Hall or 35 miles eastbound, westbound and southbound from the 1-17 and I-40

exchanges with a five mile wide corridor (2 ½ miles on each side). Eligible housing types include single family detached, townhouses, and condominiums. Manufactured homes that meet FHA requirements and that are permanently affixed to and purchased with real property are eligible.

2.1.3 Home purchase price may not exceed 125% of the FHA 203(b) mortgage insurance limit for Coconino County.

2.1.4 The home must be livable, passing lender guidelines for occupancy and purchase.

2.1.5 Home purchase must be an arms-length transaction.

2.1.6 Although the Agency and City of Flagstaff highly recommend the buyers obtain a professional, impartial third-party home inspection by a licensed inspector, this is not a requirement of the program. However, the buyer will sign a Hold Harmless agreement at the time of purchase, ensuring they will not hold HSNA or the City of Flagstaff responsible for the condition of the home.

2.2 Agency shall document and retain all eligibility with client records. Client records will be transferred to the City of Flagstaff Housing Section within 60 days of home purchase for ongoing loan servicing.

3 ASSISTANCE LEVELS AND LENDING PARAMETERS

3.1 The intent of the City's EAH program is to provide an employee benefit to eligible employees, helping them to open the door to homeownership. The EAH program is an employee retention and attraction tool. The purpose of this program is to enhance recruitment efforts and improve retention of identified personnel.

The maximum assistance provided through the EAH program is as follows:

3.1.2 Maximum amount of financial assistance is $10,000.00 per household.

3.1.3 Total amount of financial assistance provided will be based on employee contribution. The program will match employee contribution to the home purchase on a 1 to 1 basis with up to $10,000.00 of employee funds matched with up to $10,000.00 of EAH funds. The EAH program will also match gifts from immediate family members, as documented

3.1.4 EAH financial assistance will be forgiven over a 10-year period. Financial assistance will be immediately repaid on a pro-rated basis by the employee if any of the following were to occur: (1) employment with City of Flagstaff terminates for any reason; (2) home is no longer owner-occupied; (3) employee refinances home to access home equity – refinance with no cash-out is permitted and EAH assistance will subordinate; (4) information provided to HSNA or City of Flagstaff at time of assistance is determined to be fraudulent.

3.1.5 In order to ensure affordability and long-term sustainability for the employee, his/her housing ratio cannot exceed 35% of gross monthly income (unless lender guidelines or layered assistance program has more conservative requirements).

3.1.6 Debt-to-Income Ratio does not exceed 45% of gross monthly income. Exceptions to affordability requirements may be made on a case-by-case basis, as recommended by the HSNA Homebuyer Assistance Programs Committee, and based on compensating factors.

3.1.7 Mortgage is a 30-year fixed-rate mortgage with competitive interest rate.
3.1.8 Closing costs are reasonable and consistent with industry norms.
3.1.9 EAH assistance is recorded in second position behind the primary mortgage, unless approved to subordinate behind another subordinate deed of trust.

3.2 The Agency may, with City staff approval, vary slightly from the above loan parameters on a case-by-case basis to assist with a particular hardship or when doing so can derive some other program benefit.

4 LOAN TERMS

The financial assistance loans will be secured on each property by a Deed of trust and Promissory Note payable to the City of Flagstaff. The original recorded Deed of Trust and Promissory Note will be delivered to the City of Flagstaff Housing Section within 60 days of purchase, as part of the client file. The Note will be forgiven over a ten year period. At the end of ten years, the City of Flagstaff Housing Section will record with Coconino County Recorder's Office a Deed of Release and Reconveyance. If repayment is triggered prior to the ten-year recapture period, the City of Flagstaff Housing Section will process payoff requests from the Title Company. Assistance is forgiven on a pro-rated basis over the ten year life of the loan. Assistance requires no payment and no interest. The City of Flagstaff will subordinate to a second lien position to a primary mortgage lender. The City of Flagstaff, at its own discretion, may decide to subordinate to a third lien position. Refinancing to obtain a lower payment only and no cash out (no cash is borrowed) will be allowed. The City reserves the right to review each subordination as a lender. Prior to subordination, borrower will complete housing counseling with HSNA to ensure they understand costs associated with the refinance. HSNA will provide refinance housing counseling at no additional charge to the City of Flagstaff.

5 LOAN SERVICING

The City of Flagstaff will service the loans. When client loan files are transferred to the City of Flagstaff, the files will contain, at a minimum, a copy of the recorded Deed of Trust, the Promissory Note and all other pertinent documents necessary to service the loans.

6 CLIENT AND PROGRAM FILES

HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Original Deeds of Trust and Promissory Notes will be submitted to the City of Flagstaff as part of the client file within 60 days of client purchase. Client files will be available to HSNA, if requested, for HUD or grant funder audits.

7 HOMEBUYER COUNSELING & EDUCATION

7.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.

7.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. The workshop fee will be paid by the City of Flagstaff as part of the EAH contract. The City of Flagstaff employee will not be charged for that course and will be provided with a coupon code to enter, making the course free of charge to the employee participant.

7.3 Throughout the home-buying process, clients are encouraged to meet one-on-one with a certified homebuyer counselor who will help them navigate the home-buying process, determine their individual housing needs and wants, and overcome challenges to make homeownership feasible. The counselor will also help clients understand and access additional available financial assistance programs including WISH and CHAP.

7.4 Financial assistance available through the City's EAH program will be committed on a first come, first served basis. Clients will be determined to be eligible for funds when they meet the following criteria: (1) have an accepted purchase contract with a closing date within 60 days; (2) have loan approval from a lender, demonstrating their loan meets HSNA's guidelines; (3) have completed one-on-one homebuyer counseling and the required pre-purchase education class; (4) have provided all required documentation to the counselor to determine eligibility. Once a client is determined to be eligible for financial assistance, the HSNA Homebuyer Assistance Programs committee, comprised of experts in the lending field, will review the purchase, loan and financial assistance package to determine if the client is eligible to receive financial assistance.

7.5 The HSNA's homebuyer counselor will prepare loan documents and draw funds in preparation for close of escrow.

8 GENERATING MORTGAGE RESOURCES

Agency agrees that the Eligible Buyers shall obtain the mortgage financing from the lender of their choice and shall choose the title company of their choice. The Agency shall use its best efforts to generate mortgage resources for Eligible Buyers through (1) relationships with lending institutions; and (2) gaining approval of "soft second" mortgage products by the Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Veterans Administration (VA).

9 PROGRAM MARKETING

The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

10 PROJECT ADMINISTRATION

Administrative fees to HSNA are $1,250 per matching loan, to be at the point of closing. The Agency will provide all of the necessary services to carry out the daily tasks of ensuring that the project progresses satisfactorily and that all of the administrative functions associated with the project are properly executed in accordance with the contract. Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

Household Eligibility Determination

1. SCOPE OF WORK

City of Flagstaff Homebuyer Programs have identified eligibility criteria to ensure low- and moderate-income benefit. Programs such as the City of Flagstaff Community Land Trust Program (CLT), work to ensure low- and moderate-income households can purchase a home below market-rate with restricted future resale requirements that create ongoing community benefit. It is the

responsibility of the City of Flagstaff Housing Section to ensure ongoing program compliance. From time to time, the City of Flagstaff may outsource eligibility determination for programs such as the City's CLT program, as eligibility determination for the CLT program is similar to eligibility determination for down payment assistance programs.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA
   2.1 City of Flagstaff eligibility criteria to purchase a restricted homeownership unit is as follows:
      2.1.1 Homebuyer households must be first-time homebuyers, as defined by the Department of Housing and Urban Development (HUD). The definition is as follows "FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

      "A FTHB includes any individual that has only owned with a former spouse while married.

      "A FTHB would also include an individual who has only owned a principal residence not permanently affixed to the a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure."
      2.1.2 Clients must be income-eligible for the home they are seeking to purchase, based on income limits outlined in resale restriction documents, development agreements or City of Flagstaff program documents. HSNA will utilize the "Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition," or its successor, or another methodology agreed-to by HSNA and the City of Flagstaff Housing Section, to determine household income.
      2.1.3 Clients must be US Citizens or legal permanent residents, unless the specific program does not have this requirement.
      2.1.4 Clients may need to meet affordability requirements, demonstrating that the proposed monthly housing costs and total debt-to-income ratios do not exceed advertised limits.
      2.1.5 Eligible buyers must occupy the home purchased through the City of Flagstaff homeownership program as their principal place of residence.

3. CLIENT AND PROGRAM FILES
   HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Client files will be transferred to the City of Flagstaff Housing Section within 60 days of eligibility determination. If client is also receiving City of Flagstaff down payment assistance, City of Flagstaff may, at its discretion, allow HSNA to retain client file until home purchase, transferring client file to the City Housing Section within 60 days of home purchase.

4. HOMEBUYER COUNSELING & EDUCATION
   4.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.

4.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. HSNA offers a discount code to homebuyers who participate in one-on-one housing counseling – the discounted cost of the course is $50 per household. The workshop fee will be paid by the household at the time of course registration.

4.3 Pre-purchase housing counseling is offered to clients in-person or via telephone. Throughout the home-buying process, clients are encouraged to meet one-on-one with a certified homebuyer counselor who will help them navigate the home-buying process, determine their individual housing needs and wants, and overcome challenges to make homeownership feasible. The counselor will also help clients understand and access additional available financial assistance programs including WISH, CHAP and EAH.

4.4 As required by HUD, all clients receiving one-on-one housing counseling will have documented follow-up.

5. GENERATING MORTGAGE RESOURCES

As it furthers their mission to provide housing resources to the community, HSNA will work with the City of Flagstaff to identify and educate first mortgage lenders who can provide mortgage financing to homebuyers purchasing a CLT or deed restricted home. The Agency shall use its best efforts to generate mortgage resources for Eligible Buyers through (1) relationships with lending institutions; and (2) gaining approval of CLT mortgage products by the Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Veterans Administration (VA).

6. PROGRAM MARKETING

The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

7. PROJECT ADMINISTRATION

Administrative fees to HSNA are $250 per household referred to HSNA by the City of Flagstaff and screened for eligibility for a City of Flagstaff Homebuyer Program.

Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

Homebuyer Counseling & Education

1. SCOPE OF WORK

The intent of the City of Flagstaff's Homebuyer Counseling and Education Program (HCEP) is to ensure potential first-time homebuyers in the City of Flagstaff are educated about the home-buying process, have resources to overcome barriers to homeownership and make informed decisions regarding their housing choices. Potential buyers will also be educated about financial assistance programs available in the community to first-time homebuyers. Housing Solutions of Northern Arizona, Inc. (HSNA), a local HUD-approved housing counseling agency and nonprofit organization, has been selected by the City of Flagstaff through a competitive RFP process to administer the program. HSNA will conduct one-on-one homebuyer counseling and online education, advertise

services to the community and build relationships with community partners such as lenders and Realtors to ensure buyers and potential buyers are aware of program services.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA
   2.1 City of Flagstaff HCEP eligibility criteria is as follows:
      2.1.1 Clients identify as potential or future first-time homebuyers, as defined by the Department of Housing and Urban Development (HUD). The definition is as follows "FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

      "A FTHB includes any individual that has only owned with a former spouse while married.

      "A FTHB would also include an individual who has only owned a principal residence not permanently affixed to the a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure."
      2.1.2 Clients have a current address is the Flagstaff FMPO boundaries and have expressed an interest in living in the greater Flagstaff area.

3. CLIENT AND PROGRAM FILES
   HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Client files will be "closed out" for two reasons: (1) client purchases a first home; or (2) client file is closed and client does not purchase a first home. Client files can be closed if the client determines homeownership is not feasible or desirable, client does not follow action plan to become home purchase ready or client fails to follow up or discontinues contact with the Agency. If a client purchases a home, original Deeds of Trust and Promissory Notes will be submitted to the City of Flagstaff as part of the client file within 60 days of client purchase. Client files will be available to HSNA, if requested, for HUD or grant funder audits. If a client file is closed and the client does not purchase a first home, HSNA will retain the client file in electronic or hard-copy form, for a minimum of three years from the date of file termination. This record retention is consistent with HUD Housing Counseling requirements.

4. HOMEBUYER COUNSELING & EDUCATION
   4.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.
   4.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. HSNA offers a discount code to homebuyers who participate in one-on-one housing counseling – the discounted cost of the course is $50 per household. The workshop fee will be paid by the household at the time of course registration.
   4.3 Pre-purchase housing counseling is offered to clients in-person or via telephone. The purpose of housing counseling is to address the specific questions, concerns and barriers a household may face in purchasing a first home. Housing Counselors follow HUD guidelines

for pre-purchase housing counseling, completing a financial and budget analysis, a personalized action plan for the client and covering important home purchase topics such as federal consumer protection and fair housing laws, the home purchase process, how to maintain homeownership, etc. The housing counselor will explain available financial assistance programs such as WISH, EAH and CHAP.

4.4 As required by HUD, all clients receiving one-on-one housing counseling will have documented follow-up.

5. PROGRAM MARKETING

The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

6. PROJECT ADMINISTRATION

Administrative fees to HSNA are $150 per eligible household receiving one-on-one housing counseling. Households will be required to pay for the online homebuyer education course themselves. They will also be required to pay for tri-merge credit reports, if they elect to have HSNA pull credit. The cost of a credit report is $14.50 per individual. The fee charged to clients for a tri-merge credit report is a cost-recovery fee to cover the cost incurred by HSNA to pull the credit report. All client-paid fees are disclosed to clients up-front by HSNA, in accordance with HUD requirements.

Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

EXHIBIT A
SCOPE OF WORK

Community Homebuyer Assistance Program

1. SCOPE OF WORK

The intent of the City of Flagstaff's Community Homebuyer Assistance Program (CHAP) is to make homeownership possible for citizens in the City of Flagstaff. CHAP is a one-time benefit per eligible household. This program will assist households with the up-front costs of homeownership who are mortgage eligible based on credit and income, but lack the cash necessary for the down payment and closing costs associated with purchasing a home. Housing Solutions of Northern Arizona, Inc. (HSNA), a local HUD-approved housing counseling agency and nonprofit organization, has been selected by the City of Flagstaff through a competitive RFP process to administer the program. HSNA will determine eligibility for program participation, provide one-on-one housing counseling and general homebuyer education services, and administer the financial assistance at the time of purchase.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA

2.1 City of Flagstaff CHAP buyer eligibility criteria is as follows:

2.1.1 To be eligible such homebuyers must be US Citizens or legal permanent residents of the United States.

2.1.2 Eligible Buyers must be first-time homebuyers as defined by the Department of Housing and Urban Development (HUD). The definition is as follows "FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

"A FTHB includes any individual that has only owned with a former spouse while married.

"A FTHB would also include an individual who has only owned a principal residence not permanently affixed to the a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure."

2.1.3 Eligible Buyers must complete online homebuyer education course and one-on-one housing counseling through HSNA prior to closing on their home.

2.1.4 Eligible Buyers must occupy the home purchase with CHAP funds as their principal place of residence.

2.1.5 Eligible Buyers must meet income guidelines, demonstrating that total household income for all members of the household does not exceed 125% of the area median income, based on household size. This income information is published by the City of Flagstaff Housing Section, based on calculations from HUD annually. HSNA will utilize the "Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition," or its successor, or another methodology agreed-to by HSNA and the City of Flagstaff Housing Section, to determine household income.

2.2 CHAP housing unit eligibility is as follows:

2.2.1 Home to be purchased must be located within a prescribed area of Flagstaff. The prescribed area shall be defined as a 12-mile radius from City Hall or 35 miles eastbound, westbound and southbound from the 1-17 and I-40 exchanges with a five mile wide corridor (2 ½ miles on each side). Eligible housing types include single family detached, townhouses, and condominiums. Manufactured homes that meet FHA requirements and that are permanently affixed to and purchased with real property are eligible.

2.2.2 Home purchase price may not exceed 125% of the FHA 203(b) mortgage insurance limit for Coconino County.

2.2.3 The home must be livable, passing lender guidelines for occupancy and purchase.

2.2.4 Home purchase must be an arms-length transaction.

2.2.5 Although the Agency and City of Flagstaff highly recommend the buyers obtain a professional, impartial third-party home inspection by a licensed inspector, this is not a requirement of the program. However, the buyer will sign a Hold Harmless agreement at the time of purchase, ensuring they will not hold HSNA or the City of Flagstaff responsible for the condition of the home.

2.3 Agency shall document and retain all eligibility with client records. Client records will be transferred to the City of Flagstaff Housing Section within 60 days of home purchase for ongoing loan servicing.

3. ASSISTANCE LEVELS AND LENDING PARAMETERS

3.1 The intent of the City's CHAP program is to provide citizens of Flagstaff with up-front financial assistance to enable creditworthy first time homebuyers to open the door to homeownership.

The maximum assistance provided through the CHAP program is as follows:

3.1.1 Maximum amount of financial assistance is $15,000.00 per household.

3.1.2 Total amount of financial assistance provided will be based on household contribution. The program will match household contribution to the home purchase on a 3 to 1 basis with up to $5,000.00 of household funds matched with up to $15,000.00 of CHAP funds.

3.1.3 Households must contribute at least 1% of the purchase price through documented buyer funds. The remaining household contribution may come from gifts from immediate family members, as documented.

3.1.4 CHAP financial assistance will be repaid based on an **equity-share model**. CHAP funds will NEVER be forgiven. Repayment will be triggered when one of the following occurs: (1) home is sold; (2) home is no longer owner-occupied; (3) household refinances home to access home equity – refinance with no cash-out is permitted and CHAP assistance will subordinate; or (4) information provided to HSNA or City of Flagstaff at time of assistance is determined to be fraudulent.

3.1.5 In order to ensure affordability and long-term sustainability for the household, his/her housing ratio cannot exceed 35% of gross monthly income (unless lender guidelines or layered assistance program has more conservative requirements).

3.1.6 Debt-to-Income Ratio does not exceed 45% of gross monthly income. Exceptions to affordability requirements may be made on a case-by-case basis, as recommended by the HSNA Homebuyer Assistance Programs Committee, and based on compensating factors.

3.1.7 Mortgage is a 30-year fixed-rate mortgage with competitive interest rate.
3.1.8 Closing costs are reasonable and consistent with industry norms.
3.1.9 CHAP assistance is recorded in second position behind the primary mortgage, unless approved to subordinate behind another subordinate deed of trust.

3.2 The Agency may, with City staff approval, vary slightly from the above loan parameters on a case-by-case basis to assist with a particular hardship or when doing so can derive some other program benefit.

4. LOAN TERMS

The financial assistance loans will be secured on each property by a Deed of Trust and Promissory Note payable to the City of Flagstaff. The original recorded Deed of Trust and Promissory Note will be delivered to the City of Flagstaff Housing Section within 60 days of purchase, as part of the client file. The Note will never be forgiven. When the household repays CHAP assistance, the City of Flagstaff Housing Section will record with Coconino County Recorder's Office a Deed of Release and Reconveyance. The City of Flagstaff Housing Section will process payoff requests from the Title Company. Assistance requires no payment and no interest. The City of Flagstaff will subordinate to a second lien position to a primary mortgage lender. The City of Flagstaff, at its own discretion, may decide to subordinate to a third lien position. Refinancing to obtain a lower payment only and no cash out (no cash is borrowed) will be allowed. The City reserves the right to review each subordination as a lender. Prior to subordination, borrower will complete housing counseling with HSNA to ensure they understand costs associated with the refinance. HSNA will provide refinance housing counseling at no additional charge to the City of Flagstaff.

5. LOAN SERVICING

The City of Flagstaff will service the loans. When client loan files are transferred to the City of Flagstaff, the files will contain, at a minimum, a copy of the recorded Deed of Trust, the Promissory Note and all other pertinent documents necessary to service the loans.

6. CLIENT AND PROGRAM FILES

HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Original Deeds of Trust and Promissory Notes will be submitted to the City of Flagstaff as part of the client file within 60 days of client purchase. Client files will be available to HSNA, if requested, for HUD or grant funder audits.

7. HOMEBUYER COUNSELING & EDUCATION

7.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.

7.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. HSNA offers a discount code to homebuyers who participate in one-on-one housing counseling – the discounted cost of the course is $50 per household. The workshop fee will be paid by the household at the time of course registration.

7.3 Throughout the home-buying process, clients are encouraged to meet one-on-one with a certified homebuyer counselor who will help them navigate the home-buying process, determine their individual housing needs and wants, and overcome challenges to make

homeownership feasible. The counselor will also help clients understand and access additional available financial assistance programs including WISH and EAH.

7.4 Financial assistance available through the City's CHAP program will be committed on a first come, first served basis. Clients will be determined to be eligible for funds when they meet the following criteria: (1) have an accepted purchase contract with a closing date within 60 days; (2) have loan approval from a lender, demonstrating their loan meets HSNA's guidelines; (3) have completed one-on-one homebuyer counseling and the required pre-purchase education class; (4) have provided all required documentation to the counselor to determine eligibility. Once a client is determined to be eligible for financial assistance, the HSNA Homebuyer Assistance Programs committee, comprised of experts in the lending field, will review the purchase, loan and financial assistance package to determine if the client is eligible to receive financial assistance.

7.5 The HSNA's homebuyer counselor will prepare loan documents and draw funds in preparation for close of escrow.

8. GENERATING MORTGAGE RESOURCES

Agency agrees that the Eligible Buyers shall obtain the mortgage financing from the lender of their choice and shall choose the title company of their choice. The Agency shall use its best efforts to generate mortgage resources for Eligible Buyers through (1) relationships with lending institutions; and (2) gaining approval of "soft second" mortgage products by the Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Veterans Administration (VA).

9. PROGRAM MARKETING

The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

10. PROJECT ADMINISTRATION

Administrative fees to HSNA are $1,250 per matching loan, to be at the point of closing. The Agency will provide all of the necessary services to carry out the daily tasks of ensuring that the project progresses satisfactorily and that all of the administrative functions associated with the project are properly executed in accordance with the contract. Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

Employer Assisted Housing (EAH) Program

1. SCOPE OF WORK

The intent of the City of Flagstaff's Employer Assisted Housing Program (EAH) is to make homeownership possible for all eligible personnel working for the City of Flagstaff. EAH is a one-time benefit per household. This program will assist employees with the up-front costs of homeownership who are mortgage eligible based on credit and income, but lack the cash necessary for the down payment and closing costs associated with purchasing a home. Housing Solutions of Northern Arizona, Inc. (HSNA), a local HUD-approved housing counseling agency and nonprofit organization, has been selected by the City of Flagstaff through a competitive RFP

process to administer the program. HSNA will determine eligibility for program participation, provide one-on-one housing counseling and general homebuyer education services, and administer the financial assistance at the time of purchase.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA

2.1 City of Flagstaff EAH buyer eligibility criteria is as follows:

2.1.1 To be eligible such homebuyers must be employed by the City of Flagstaff.

2.1.2 Eligible buyers must: (1) meet employment guidelines as established by the City of Flagstaff Housing Section; (2) currently be employed by the City of Flagstaff in an ongoing funded position classified by Human Resources as Employment Status Exempt (E), FT Tenure Eligible (TE), FT Tenure Granted (TG), PT Tenure Eligible (PE), or PT Tenure Granted (PG); (3) have worked for the City of Flagstaff in a position classified by Human Resources as Contract (CN), E, TE, TG, PE, or PG for a minimum of the previous twelve (12) consecutive months, (4) have the most recent performance evaluation demonstrate work performance meeting or exceeding expectations, and (5) not be on a performance work plan.

2.1.3 Eligible Buyers must not have owned a home within the Flagstaff Metropolitan Planning Organization (FMPO) boundary within the last three years and be a first-time homebuyer in Flagstaff, Arizona, defined by the Department of Housing and Urban Development (HUD). The definition is as follows “FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

A FTHB includes any individual that has only owned with a former spouse while married.

A FTHB would also include an individual who has only owned a principal residence not permanently affixed to the a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure.”

2.1.4 Eligible Buyers must complete online homebuyer education course and one-on-one housing counseling through HSNA prior to closing on their home.

2.1.5 Eligible Buyers must occupy the home purchase with EAH funds as their principal place of residence.

2.2 EAH housing unit eligibility is as follows:

2.2.1 Home to be purchased must be located within a prescribed area of Flagstaff. The prescribed area shall be defined as a 12-mile radius from City Hall or 35 miles eastbound, westbound and southbound from the 1-17 and I-40 exchanges with a five mile wide corridor (2 ½ miles on each side). Eligible housing types include single family detached, townhouses, and condominiums. Manufactured homes that meet FHA requirements and that are permanently affixed to and purchased with real property are eligible.

2.2.2 Home purchase price may not exceed 125% of the FHA 203(b) mortgage insurance limit for Coconino County.

2.2.3 The home must be livable, passing lender guidelines for occupancy and purchase.

2.2.4 Home purchase must be an arms-length transaction.

2.2.5 Although the Agency and City of Flagstaff highly recommend the buyers obtain a professional, impartial third-party home inspection by a licensed inspector, this is not a requirement of the program. However, the buyer will sign a Hold Harmless agreement at the time of purchase, ensuring they will not hold HSNA or the City of Flagstaff responsible for the condition of the home.

2.3 Agency shall document and retain all eligibility with client records. Client records will be transferred to the City of Flagstaff Housing Section within 60 days of home purchase for ongoing loan servicing.

3. ASSISTANCE LEVELS AND LENDING PARAMETERS

3.1 The intent of the City's EAH program is to provide an employee benefit to eligible employees, helping them to open the door to homeownership. The EAH program is an employee retention and attraction tool. The purpose of this program is to enhance recruitment efforts and improve retention of identified personnel.

The maximum assistance provided through the EAH program is as follows:

3.1.1 Maximum amount of financial assistance is $10,000.00 per household.

3.1.2 Total amount of financial assistance provided will be based on employee contribution. The program will match employee contribution to the home purchase on a 1 to 1 basis with up to $10,000.00 of employee funds matched with up to $10,000.00 of EAH funds. The EAH program will also match gifts from immediate family members, as documented

3.1.3 EAH financial assistance will be forgiven over a 10-year period. Financial assistance will be immediately repaid on a pro-rated basis by the employee if any of the following were to occur: (1) employment with City of Flagstaff terminates for any reason; (2) home is no longer owner-occupied; (3) employee refinances home to access home equity – refinance with no cash-out is permitted and EAH assistance will subordinate; (4) information provided to HSNA or City of Flagstaff at time of assistance is determined to be fraudulent.

3.1.4 In order to ensure affordability and long-term sustainability for the employee, his/her housing ratio cannot exceed 35% of gross monthly income (unless lender guidelines or layered assistance program has more conservative requirements).

3.1.5 Debt-to-Income Ratio does not exceed 45% of gross monthly income. Exceptions to affordability requirements may be made on a case-by-case basis, as recommended by the HSNA Homebuyer Assistance Programs Committee, and based on compensating factors.

3.1.6 Mortgage is a 30-year fixed-rate mortgage with competitive interest rate.

3.1.7 Closing costs are reasonable and consistent with industry norms.

3.1.8 EAH assistance is recorded in second position behind the primary mortgage, unless approved to subordinate behind another subordinate deed of trust.

3.2 The Agency may, with City staff approval, vary slightly from the above loan parameters on a case-by-case basis to assist with a particular hardship or when doing so can derive some other program benefit.

4. LOAN TERMS

The financial assistance loans will be secured on each property by a Deed of trust and Promissory Note payable to the City of Flagstaff. The original recorded Deed of Trust and

Promissory Note will be delivered to the City of Flagstaff Housing Section within 60 days of purchase, as part of the client file. The Note will be forgiven over a ten year period. At the end of ten years, the City of Flagstaff Housing Section will record with Coconino County Recorder's Office a Deed of Release and Reconveyance. If repayment is triggered prior to the ten-year recapture period, the City of Flagstaff Housing Section will process payoff requests from the Title Company. Assistance is forgiven on a pro-rated basis over the ten year life of the loan. Assistance requires no payment and no interest. The City of Flagstaff will subordinate to a second lien position to a primary mortgage lender. The City of Flagstaff, at its own discretion, may decide to subordinate to a third lien position. Refinancing to obtain a lower payment only and no cash out (no cash is borrowed) will be allowed. The City reserves the right to review each subordination as a lender. Prior to subordination, borrower will complete housing counseling with HSNA to ensure they understand costs associated with the refinance. HSNA will provide refinance housing counseling at no additional charge to the City of Flagstaff.

5. LOAN SERVICING

   The City of Flagstaff will service the loans. When client loan files are transferred to the City of Flagstaff, the files will contain, at a minimum, a copy of the recorded Deed of Trust, the Promissory Note and all other pertinent documents necessary to service the loans.

6. CLIENT AND PROGRAM FILES

   HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Original Deeds of Trust and Promissory Notes will be submitted to the City of Flagstaff as part of the client file within 60 days of client purchase. Client files will be available to HSNA, if requested, for HUD or grant funder audits.

7. HOMEBUYER COUNSELING & EDUCATION

   7.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.

   7.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. The workshop fee will be paid by the City of Flagstaff as part of the EAH contract. The City of Flagstaff employee will not be charged for that course and will be provided with a coupon code to enter, making the course free of charge to the employee participant.

   7.3 Throughout the home-buying process, clients are encouraged to meet one-on-one with a certified homebuyer counselor who will help them navigate the home-buying process, determine their individual housing needs and wants, and overcome challenges to make homeownership feasible. The counselor will also help clients understand and access additional available financial assistance programs including WISH and CHAP.

   7.4 Financial assistance available through the City's EAH program will be committed on a first come, first served basis. Clients will be determined to be eligible for funds when they meet the following criteria: (1) have an accepted purchase contract with a closing date within 60 days; (2) have loan approval from a lender, demonstrating their loan meets HSNA's guidelines; (3) have completed one-on-one homebuyer counseling and the required pre-purchase education class; (4) have provided all required documentation to the counselor to determine eligibility. Once a client is determined to be eligible for financial assistance, the HSNA Homebuyer Assistance Programs committee, comprised of experts in the lending

field, will review the purchase, loan and financial assistance package to determine if the client is eligible to receive financial assistance.

7.5 The HSNA's homebuyer counselor will prepare loan documents and draw funds in preparation for close of escrow.

8. GENERATING MORTGAGE RESOURCES

Agency agrees that the Eligible Buyers shall obtain the mortgage financing from the lender of their choice and shall choose the title company of their choice. The Agency shall use its best efforts to generate mortgage resources for Eligible Buyers through (1) relationships with lending institutions; and (2) gaining approval of "soft second" mortgage products by the Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Veterans Administration (VA).

9. PROGRAM MARKETING

The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

10. PROJECT ADMINISTRATION

Administrative fees to HSNA are $1,250 per matching loan, to be at the point of closing. The Agency will provide all of the necessary services to carry out the daily tasks of ensuring that the project progresses satisfactorily and that all of the administrative functions associated with the project are properly executed in accordance with the contract. Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

Household Eligibility Determination

1. SCOPE OF WORK

City of Flagstaff Homebuyer Programs have identified eligibility criteria to ensure low- and moderate-income benefit. Programs such as the City of Flagstaff Community Land Trust Program (CLT), work to ensure low- and moderate-income households can purchase a home below market-rate with restricted future resale requirements that create ongoing community benefit. It is the responsibility of the City of Flagstaff Housing Section to ensure ongoing program compliance. From time to time, the City of Flagstaff may outsource eligibility determination for programs such as the City's CLT program, as eligibility determination for the CLT program is similar to eligibility determination for down payment assistance programs.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA

2.1 City of Flagstaff eligibility criteria to purchase a restricted homeownership unit is as follows:

2.1.1 Homebuyer households must be first-time homebuyers, as defined by the Department of Housing and Urban Development (HUD). The definition is as follows "FHA defines First-Time Homebuyer (FTHB) as an individual who has had no

ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

"A FTHB includes any individual that has only owned with a former spouse while married.

"A FTHB would also include an individual who has only owned a principal residence not permanently affixed to the a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure."

2.1.2 Clients must be income-eligible for the home they are seeking to purchase, based on income limits outlined in resale restriction documents, development agreements or City of Flagstaff program documents. HSNA will utilize the "Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition," or its successor, or another methodology agreed-to by HSNA and the City of Flagstaff Housing Section, to determine household income.

2.1.3 Clients must be US Citizens or legal permanent residents, unless the specific program does not have this requirement.

2.1.4 Clients may need to meet affordability requirements, demonstrating that the proposed monthly housing costs and total debt-to-income ratios do not exceed advertised limits.

2.1.5 Eligible buyers must occupy the home purchased through the City of Flagstaff homeownership program as their principal place of residence.

3. CLIENT AND PROGRAM FILES

HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Client files will be transferred to the City of Flagstaff Housing Section within 60 days of eligibility determination. If client is also receiving City of Flagstaff down payment assistance, City of Flagstaff may, at its discretion, allow HSNA to retain client file until home purchase, transferring client file to the City Housing Section within 60 days of home purchase.

4. HOMEBUYER COUNSELING & EDUCATION

4.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.

4.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. HSNA offers a discount code to homebuyers who participate in one-on-one housing counseling – the discounted cost of the course is $50 per household. The workshop fee will be paid by the household at the time of course registration.

4.3 Pre-purchase housing counseling is offered to clients in-person or via telephone. Throughout the home-buying process, clients are encouraged to meet one-on-one with a certified homebuyer counselor who will help them navigate the home-buying process, determine their individual housing needs and wants, and overcome challenges to make homeownership feasible. The counselor will also help clients understand and access additional available financial assistance programs including WISH, CHAP and EAH.

4.4 As required by HUD, all clients receiving one-on-one housing counseling will have documented follow-up.

5. GENERATING MORTGAGE RESOURCES
   As it furthers their mission to provide housing resources to the community, HSNA will work with the City of Flagstaff to identify and educate first mortgage lenders who can provide mortgage financing to homebuyers purchasing a CLT or deed restricted home. The Agency shall use its best efforts to generate mortgage resources for Eligible Buyers through (1) relationships with lending institutions; and (2) gaining approval of CLT mortgage products by the Federal Housing Administration (FHA), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Veterans Administration (VA).

6. PROGRAM MARKETING
   The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

7. PROJECT ADMINISTRATION
   Administrative fees to HSNA are $250 per household referred to HSNA by the City of Flagstaff and screened for eligibility for a City of Flagstaff Homebuyer Program.

   Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

Homebuyer Counseling & Education

1. SCOPE OF WORK

The intent of the City of Flagstaff's Homebuyer Counseling and Education Program (HCEP) is to ensure potential first-time homebuyers in the City of Flagstaff are educated about the home-buying process, have resources to overcome barriers to homeownership and make informed decisions regarding their housing choices. Potential buyers will also be educated about financial assistance programs available in the community to first-time homebuyers. Housing Solutions of Northern Arizona, Inc. (HSNA), a local HUD-approved housing counseling agency and nonprofit organization, has been selected by the City of Flagstaff through a competitive RFP process to administer the program. HSNA will conduct one-on-one homebuyer counseling and online education, advertise services to the community and build relationships with community partners such as lenders and Realtors to ensure buyers and potential buyers are aware of program services.

The program will be funded from City of Flagstaff General Funds.

2. PROGRAM ELIGIBILITY CRITERIA
   2.1 City of Flagstaff HCEP eligibility criteria is as follows:
      2.1.1 Clients identify as potential or future first-time homebuyers, as defined by the Department of Housing and Urban Development (HUD). The definition is as follows "FHA defines First-Time Homebuyer (FTHB) as an individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase (closing date) of the property.

"A FTHB includes any individual that has only owned with a former spouse while married.

"A FTHB would also include an individual who has only owned a principal residence not permanently affixed to the a permanent foundation, or a property that was not in compliance with State, local or model building codes and cannot be brought into compliance for less than the cost of constructing a permanent structure."

2.1.2 Clients have a current address is the Flagstaff FMPO boundaries and have expressed an interest in living in the greater Flagstaff area.

3. CLIENT AND PROGRAM FILES

HSNA will keep and maintain program files on file for a minimum of five years after the contract close out and be available to the City of Flagstaff for monitoring of the files. Client files will be "closed out" for two reasons: (1) client purchases a first home; or (2) client file is closed and client does not purchase a first home. Client files can be closed if the client determines homeownership is not feasible or desirable, client does not follow action plan to become home purchase ready or client fails to follow up or discontinues contact with the Agency. If a client purchases a home, original Deeds of Trust and Promissory Notes will be submitted to the City of Flagstaff as part of the client file within 60 days of client purchase. Client files will be available to HSNA, if requested, for HUD or grant funder audits. If a client file is closed and the client does not purchase a first home, HSNA will retain the client file in electronic or hard-copy form, for a minimum of three years from the date of file termination. This record retention is consistent with HUD Housing Counseling requirements.

4. HOMEBUYER COUNSELING & EDUCATION

4.1 HSNA will follow the National Housing Counseling Standards for pre-purchase homebuyer education & counseling, which have been adopted by HSNA. HSNA's housing counseling staff will complete continuing education and abide by HUD requirements in the delivery of both one-on-one housing counseling and education. The intent of homebuyer education is to provide clients with general information regarding the home-buying process, credit and savings information, lending details and how to shop for a home. In addition, Fair Housing and Home Inspection information is presented to potential homebuyers.

4.2 All homebuyer aspirants, regardless of income, are invited to complete HSNA's online Homebuyer Education Course. The standard course cost is $99 per household. HSNA offers a discount code to homebuyers who participate in one-on-one housing counseling – the discounted cost of the course is $50 per household. The workshop fee will be paid by the household at the time of course registration.

4.3 Pre-purchase housing counseling is offered to clients in-person or via telephone. The purpose of housing counseling is to address the specific questions, concerns and barriers a household may face in purchasing a first home. Housing Counselors follow HUD guidelines for pre-purchase housing counseling, completing a financial and budget analysis, a personalized action plan for the client and covering important home purchase topics such as federal consumer protection and fair housing laws, the home purchase process, how to maintain homeownership, etc. The housing counselor will explain available financial assistance programs such as WISH, EAH and CHAP.

4.4 As required by HUD, all clients receiving one-on-one housing counseling will have documented follow-up.

5. PROGRAM MARKETING

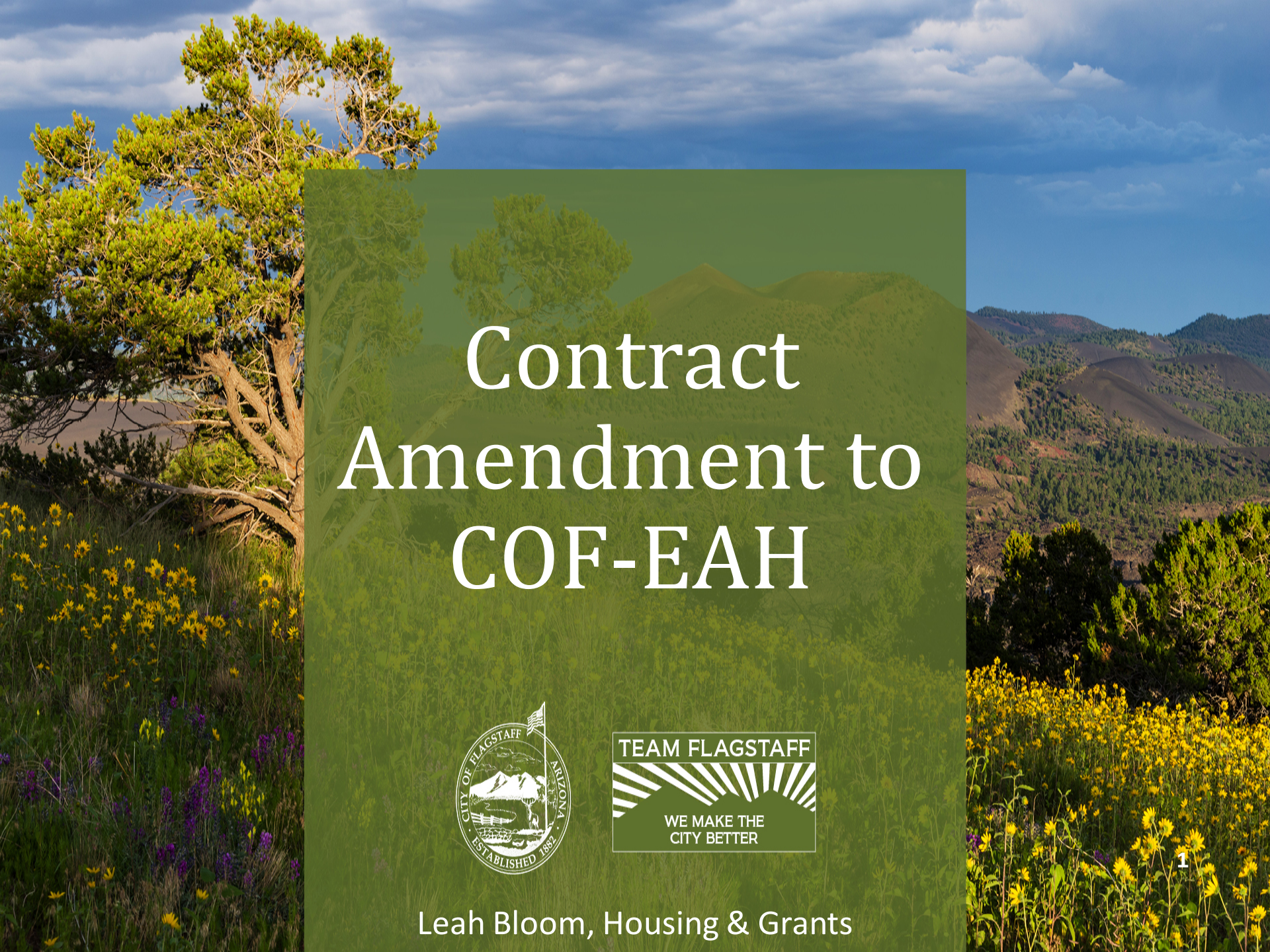
The Agency shall affirmatively market the program through media, literature, announcements through the Realtors' multiple listing service meetings, mailing to Realtors and other activities as appropriate.

6. PROJECT ADMINISTRATION

Administrative fees to HSNA are $150 per eligible household receiving one-on-one housing counseling. Households will be required to pay for the online homebuyer education course themselves. They will also be required to pay for tri-merge credit reports, if they elect to have HSNA pull credit. The cost of a credit report is $14.50 per individual. The fee charged to clients for a tri-merge credit report is a cost-recovery fee to cover the cost incurred by HSNA to pull the credit report. All client-paid fees are disclosed to clients up-front by HSNA, in accordance with HUD requirements.

Agency responsibilities include: (1) keeping project files detailing expenses, procurement, project information, and correspondence, in addition to any other necessary information; (2) submitting applicable reports to the Housing Section; (3) keeping client files detailing eligibility, income, ethnicity, age, special needs and income information, in addition to any other necessary information; (4) project accounting, including documentation of expenditures and receipts; (5) managing personnel; (6) completing audits and other submissions; (7) overseeing project to ensure a cost-effective and efficient delivery of services; and (8) ensuring that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, religion, disability, familial status or national origin.

Contract Amendment to COF-EAH



Leah Bloom, Housing & Grants

Employer Assisted Housing

City of Flagstaff's Employer Assisted Housing **(COF-EAH)** programs focus on a stable local workforce and a healthy local economy.

Four Rs:

- Employee Recruitment
- Employee Retention
- Neighborhood Revitalization
- Community Relations

Program Update

Effectively being administered by Housing Solutions of Northern Arizona

- Served 13 first time Flagstaff homebuyers who are employees of the City of Flagstaff and 3 employee households are under contract.

16 COF Households!

HOUSING SOLUTIONS OF NORTHERN ARIZONA

Simple Terms

Clarifying months of employment in a contract employee capacity count towards the required 12 months of service enabling that employee to receive housing assistance upon transfer to a position funded with ongoing dollars

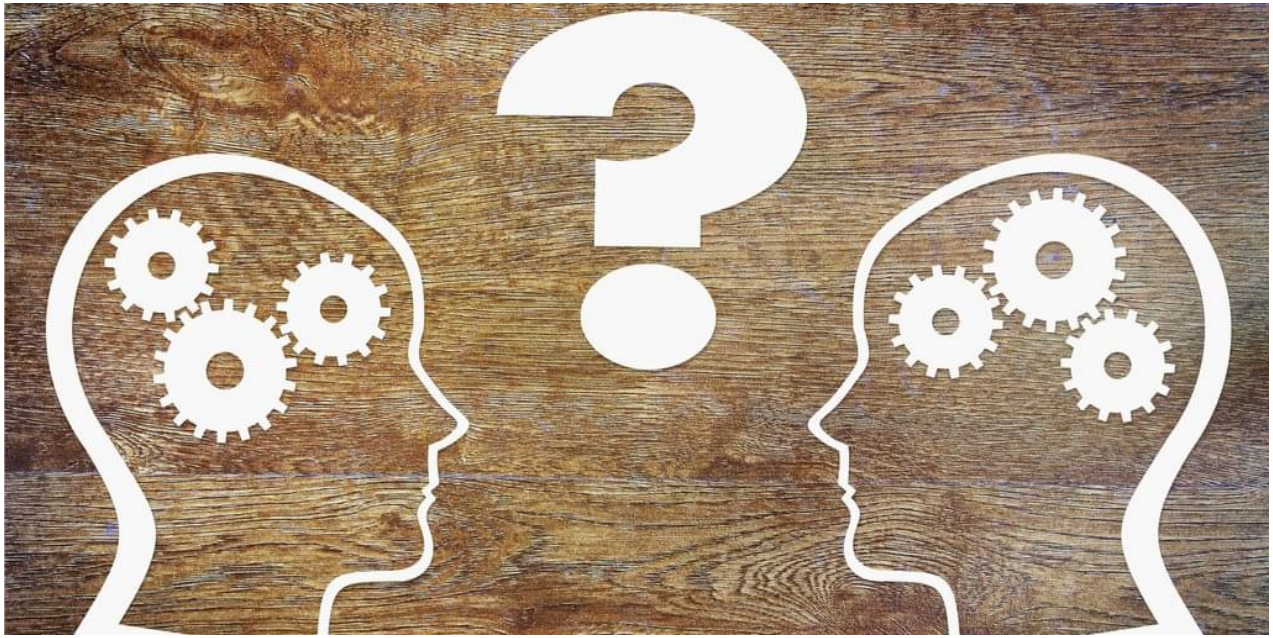
Four Rs:

- Employee Recruitment
- Employee Retention
- Neighborhood Revitalization
- Community Relations

Next Step

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Questions



11. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Neil Gullickson, Planning Development Manager

Date: 05/13/2019

Meeting Date: 05/21/2019

TITLE:

Public Hearing, Consideration and Possible Adoption of Ordinance No. 2019-014: Canyon del Rio Investors, LLC requests a Concept Zoning Map Amendment of approximately 83.88 acres at 3200 East Butler Avenue from the RD, Research and Development Zone, to MR, Medium Density Residential Zone (27.9 acres), HR, High Density Residential Zone (30.0 acres), and HC, Highway Commercial Zone (25.9 acres). The area proposed for the Concept Zoning Map Amendment is a portion of a 262-acre development known as Canyon del Rio. (Canyon del Rio Investors, LLC Concept Zoning Map Amendment request for property located at 3200 East Butler Avenue.)

STAFF RECOMMENDED ACTION:

At the May 21, 2019 Council Meeting:

1) Hold the Public Hearing
2) Read Ordinance No. 2019-14 by title only for the first time
3) City Clerk reads Ordinance No. 2019-14 by title only (if approved above)

At the June 4, 2019 Council Meeting:

4) Read Ordinance No. 2019-14 by title only for the final time
5) City Clerk reads Ordinance No. 2019-14 by title only (if approved above)
6) Adopt Ordinance No. 2019-14

Executive Summary:

Canyon del Rio Investors, LLC is requesting a Concept Zoning Map Amendment to permit development consisting of 180 attached residential units on 27.9 acres of Medium Density Residential (MR) Zone, 670 apartment units on 30-acres of High Density Residential (HR) Zone and 225,000 square feet of commercial development on 25.9-acres of Highway Commercial (HC) Zone. The area to be rezoned is located at the southwest corner of Butler Avenue and Fourth Street and totals 83.88 acres. The Canyon del Rio development, in total, is 262 acres in size.

The Flagstaff Planning and Zoning Commission conducted a public hearing to consider the Concept Zoning Map Amendment on April 10 and April 24, 2019. The Planning and Zoning Commission unanimously voted 5-0 in favor of forwarding a recommendation of approval of the Concept Zoning Map Amendment, subject to conditions, to the City Council.

****A Vicinity Map has been attached, Final Conditions have been attached, along with a PowerPoint presentation****

Financial Impact:

Canyon del Rio Investors, LLC will provide proportional share payments for the Butler Avenue and Fourth Street frontage and off-site traffic improvements in the amount of:
$2,461,730.
To the secondary water source:
$1,300,000.
Off-site, Zone B water storage:
$667,943.
The City of Flagstaff will provide additional funding for the off-site traffic improvements along the Butler Avenue and Fourth Street corridors as part of the approval of Proposition 419 (November 2018). The City will also provide funding for upgrading the size of the secondary source water line from 8-inch to 12-inch diameter. The City will also provide additional funding for the 1-million-gallon water storage tank, Canyon del Rio's share is equal to the cost for 428,000 gallons.

Policy Impact:

There are no policy impacts affiliated with this Concept Zoning Map Amendment request.

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

Council Goals:

Economic Development: Grow and strengthen a more equitable and resilient economy.
Affordable Housing: Support the development and increase the inventory of public and private affordable housing for renters and home-owners.

Team Flagstaff Goals:

Strategic Priority #3: Foster a resilient and economically prosperous city.

Regional Plan:

A complete analysis of the Regional Plan goals and policies can be found in the attached applicant narrative and in the staff report to the Planning and Zoning Commission.

Has There Been Previous Council Decision on This:

A Settlement Agreement as approved by City Council was executed on May 13, 2013, and amended on January 29, 2015, which outlines how the Zoning Map Amendment will be processed, sets specific development density and intensities, and settles the two pending lawsuits. If the Zoning Map Amendment is approved, the pending lawsuits will be resolved. In response to the Settlement Agreement, Canyon del Rio Investors made an application for a Concept Zoning Map Amendment in November of 2014.

Options and Alternatives:

The City Council may approve the application as proposed, approve the application with modified conditions, or deny the application.

Background/History:

Canyon del Rio is a 1,426 unit residential and 225,000 square foot commercial development. The proposed development will provide a mixture of high density, medium density, and single-family residential units combined with commercial service, retail, and open space land uses on 262 acres, in accordance with the development plan. A Concept Zoning Map Amendment is proposed for 83 acres located in the northeast corner of the site at the intersection of Butler Avenue and South Fourth Street. The remainder of the property (179-acres) is currently zoned Single-Family Residential (R1) and

Medium-Density Residential (MR) Zone.

The area to be amended and the entire Canyon del Rio development are located south of Butler Avenue. The site is heavily treed and is located within the Resource Protection Overlay Zone (RPO). The site has a varied topography, including many slopes and small valleys; the most significant is the Rio de Flag drainage that runs across the southeast corner of the development and continues downstream to Foxglenn Park. The proposed Fourth Street alignment that will ultimately connect Butler Avenue and John Wesley Powell Boulevard runs along the eastern boundary of Canyon del Rio. An existing aboveground 69 KV transmission line crosses the site in an east-west direction at the south end of Canyon del Rio, outside of the area to be rezoned.

In addition to this Concept Zoning Map Amendment case, the applicant has also submitted a Preliminary Block Plat application. This Preliminary Block Plat will divide the property into 22 separate blocks with an internal minor collector roadway and will be done in two phases. Each block will then be either subdivided further or will be subject to the Site Plan Review process, which is anticipated for the commercial and multi-family rental uses. A draft Development Agreement has also been attached for the Council's review. The Development Agreement will be reviewed by the Council via a separate resolution at the June 4th regular Council meeting.

Key Considerations:

This application is a Concept Zoning Map Amendment which requires the applicant to provide only conceptual drawings of the development. The concept zone plan provided by CDRI shows a mix of high density, medium density and single-family residential development across the site. The attached booklet includes a community masterplan that shows potential development of the Zoning Map Amendment area as well as potential lot layout for the rest of Canyon del Rio. The booklet further breaks out the three proposed new zones and provides concept photos or drawings for the commercial development, the attached housing, and the apartment buildings. Final lot layout design, actual elevations, and floor plans for individual units have not yet been provided and will be worked on through the final platting of individual subdivisions and/or site plan reviews. The high-density development areas have been strategically placed in relationship to the suburban activity center located at the intersections of Butler Avenue and Fourth Street as well as buffering between the commercial uses and single-family neighborhoods.

Sheet CP2 of the concept zone plan depicts Canyon del Rio's connectivity via a community trail system and Flagstaff Urban Trail System (FUTS) running east/west across the property. Fifty-eight acres of open space has also been provided and is shown on the concept zone plan connecting with the individual blocks and trails. A large open space tract, the Rio de Flag channel, traverses the southeastern portion of the property which provides a portion of the FUTS and serves as a drainage feature for the property.

The applicants have proposed through the Settlement Agreement (paragraph “h”) and the draft Development Agreement (paragraph 4.7.a) (both attached), that Canyon del Rio Investors will donate parcel Q3, located at the southwest corner of the development to the City for affordable housing and will supply water, sewer, and roadway infrastructure at the same time parcel R-4 is developed. Parcel Q3 is recognized as having a density equal to approximately 5% (80 units) of the total units within Canyon del Rio. Future developments wishing to provide additional affordable housing will be given a 5% credit toward the 10% threshold needed to qualify for affordable housing incentives allowed by the Zoning Code.

Expanded Financial Considerations:

None

Community Benefits and Considerations:

Community benefits and considerations related to this request are addressed in more detail in the attached "Findings for Reviewing Proposed Zoning Map Amendments and Text Amendments" document.

Community Involvement:

Public hearings before the Planning and Zoning Commission and City Council are conducted in conjunction with requests for Concept Zoning Map Amendments. In accordance with State Statute, a notice of the public hearing was provided by placing an ad in the Arizona Daily Sun, posting notices on the property, and mailing a notice to all property owners within 1,000 feet (exceeding the minimum of 300-feet).

The applicant held two citizen participation meetings. The first meeting was held on August 28, 2013, (report dated December 20, 2013), and the second was a series of meetings held more recently on July 26 and 28, 2018, which focused on the current application. The earlier report includes a synopsis of the public comments received at the meeting. The 2018 report also includes minutes from the meeting and a summary of the comments the applicant received at the meeting. Staff has also attached to this report the comments received from the public regarding this development request. The meetings included an open house period followed by presentations from the applicant and a question and answer session. Comments on the project included the following topics: traffic impacts, building heights, high-density housing, noise from the commercial development, and affordability.

There were several speakers at each of the two Planning and Zoning Commission meetings. They also expressed concerns on traffic, road capacity, building heights, noise, and high-density housing.

Expanded Options and Alternatives:

Findings for Reviewing Proposed Zoning Map Amendments

Concept Zoning Map Amendments shall be evaluated based on the following findings: the proposed amendment is consistent with and conforms to the goals and policies of the General Plan and any applicable specific plans; the proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City of Flagstaff (the “City”), and will add to the public good as described in the General Plan; and the affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access, and proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located. If the application is not consistent with the General Plan, and any other applicable specific plan, the applicable plan must be amended in compliance with the procedures established in Chapter 11-10 of the City Code (Title 11: General Plans and Subdivisions) prior to considering the proposed amendment.

The attached “Findings for Reviewing Proposed Zoning Map Amendments and Text Amendments” provides an expanded evaluation of how the required findings are being addressed by this development.

Attached is a “Revised recommended conditions for the Canyon del Rio Zoning Map Amendment” document. This document was reviewed by the Planning and Zoning Commission and the conditions were included in their recommendation to approve the Zoning Map Amendment; the conditions have been included as part of Ordinance No. 2019-14.

- Recommended Action: The City Council may approve the Concept Zoning Map Amendment as recommended by the Planning and Zoning Commission and staff by reading and adoption

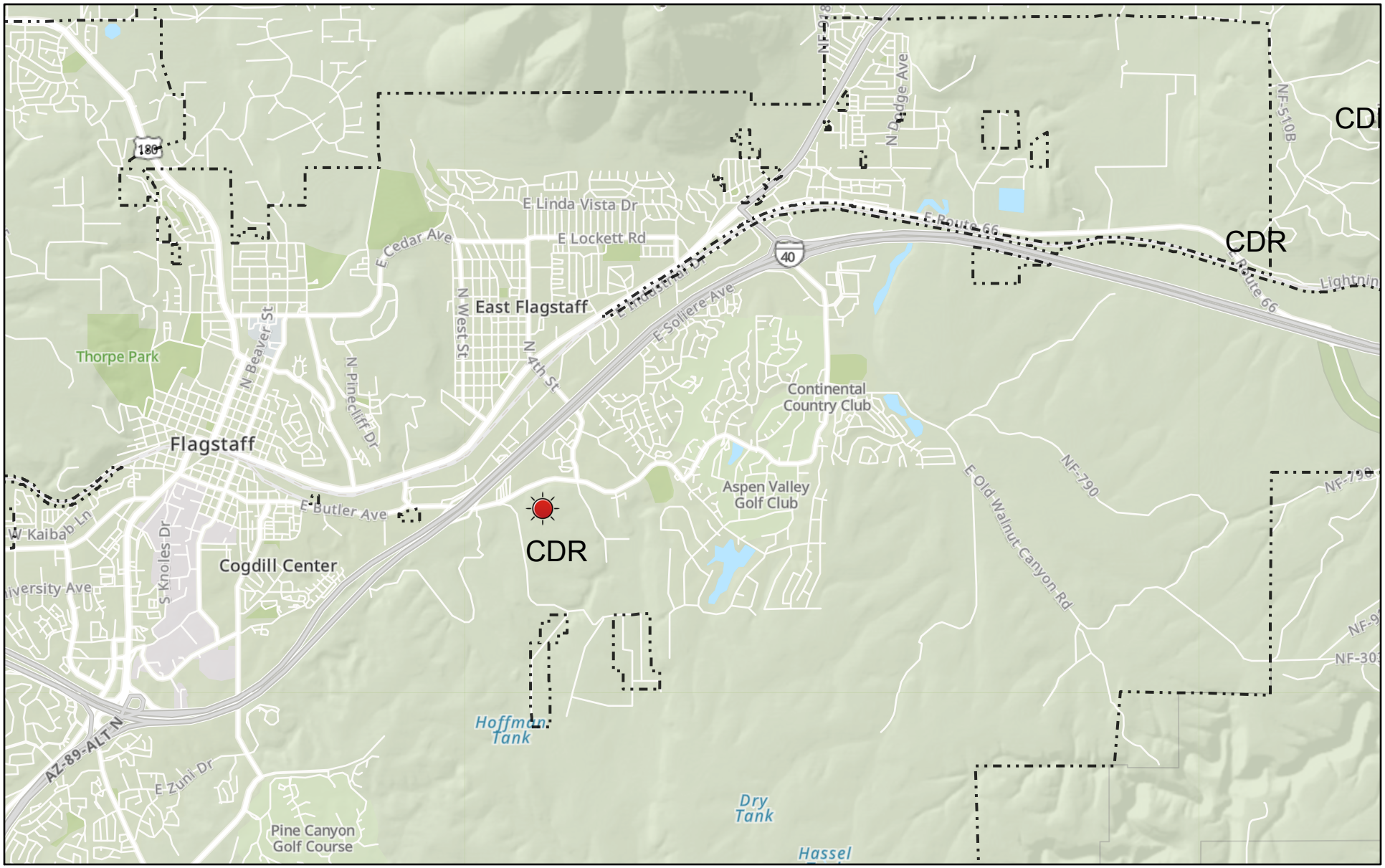
Ordinance No. 2019-14.

- The City Council may approve the Concept Zoning Map Amendments with modified conditions.
- The City Council may deny the Concept Zoning Map Amendment.

Attachments:

Vicinity Map
Vicinity Map w/ Zoning
Application
Ord. 2019-14
ZMA P&Z Staff Report
Revised ZMA Conditions
CDR ZMA Findings
CDR Applicant Narrative
CDR Concept Development Plans
CDR Concept Zoning Plans
CDR Settlement Agreement
Draft Development Agreement
FD Vegetation Management Letter
Neighborhood Meet Report
Comments sent to City Staff
AZ Leather Flower Comments
Presentation

City of Flagstaff Internal Web Map



5/8/2019 4:09:22 PM

City Boundary

Parcels

1:72,224

0 0.5 1 2 mi

0 0.75 1.5 3 km

County of Yavapai, Esri, HERE, Garmin, INCREMENT P, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA |



ZONING/LAND USE LEGEND

LI	LIGHT INDUSTRIAL/INDUSTRIAL
PF	PUBLIC FACILITY/OPEN
HC	HIGHWAY COMMERCIAL/COMMERCIAL
SC	SUBURBAN COMMERCIAL/COMMERCIAL
R1	SINGLE FAMILY RESIDENTIAL/RESIDENTIAL
MR	MEDIUM DENSITY RESIDENTIAL/RESIDENTIAL
HR	HIGH DENSITY RESIDENTIAL/RESIDENTIAL
ER	ESTATE RESIDENTIAL/RESIDENTIAL
RR	RURAL RESIDENTIAL/RESIDENTIAL
MH	MANUFACTURED HOUSING/RESIDENTIAL
RD	RESEARCH & DEVELOPMENT
HC	PROPOSED HIGHWAY COMMERCIAL
HR	PROPOSED HIGH DENSITY RESIDENTIAL
MR	PROPOSED MEDIUM DENSITY RESIDENTIAL
	CITY LIMITS
	EXISTING PROPERTY LINE
	PROPOSED CDRI PROPERTY BOUNDARY
	PROPOSED REZONE PROPERTY BOUNDARY

NORTH

Shephard Wesnitzer, Inc.
110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.8934 fax
www.swiaz.com

JOB NO.	13184
DATE	MAR 19
SCALE	1"=1000'
DRAWN	KMF
DESIGN	KMF
CHECKED	SCI

CANYON DEL RIO — FLAGSTAFF ARIZONA

ZONING EXHIBIT – PROPOSED

SHEET 4 OF 5

PLOTTED: Mar 01, 2019–2:34pm

FILE: P:\2013\13184\DRAWINGS\EXHIBITS\P&Z MAPS\13184 – PROPOSED ZONING EXHIBIT.DWG KBAYER

RECEIVED
DEC 27 2018

NOV 01 2018 BY: Restonk

MAY 31 2018 BY:

MAY 21 2015 BY: Rebbnthal

City of Flagstaff

Community Development Division

211 W. Aspen Ave
Flagstaff, AZ 86001
www.flagstaff.az.gov
P: (928) 213-2618
F: (928) 213-2609

PREZ/PGM

Application for Zoning Map Amendment and/or Minor Regional Plan Amendment

Date Received: 9-8-2018

File Number: PZ-18-00113 DEV 15-031

Property Owner(s): See Attached	Title	Phone: 602-241-1500	Email: rms@semplecpa.com
Mailing Address: Bob Semple at Semple, Marchal & Cooper, LLP, 2700 N. Central Ave., 9th Floor		City, State, Zip: Phoenix, AZ 85004	
Applicant(s): Ed Bull at Burch @ Cracchiolo, P.A.	Title	Phone: 602-234-9913	Email: ebull@bcattorneys.com
Mailing Address: 702 E. Osborn Road, Suite 200		City, State, Zip: Phoenix, AZ 85014	
Project Representative): Brian Rhoton at RAC Partners	Title	Phone: 928-699-1169	Email: brhoton@capstonecos.com
Mailing Address: 1750 Railroad Springs Blvd., Suite 10		City, State, Zip: Flagstaff, AZ 86001	

Requested Review: ☒ Zoning Map Amendment (Concept Plan) ☐ Minor Regional Plan Amendment ☐ Continued

Site Address: SWC Butler Ave. & Fourth St.	Parcel Number(s): 106-08-005L, M & P	Subdivision, Tract & Lot Number: N/A
Existing Zoning District: See Attached Table	Proposed Zoning District: See Attached Table	Existing Regional Plan Land Use Category: Urban Activity Center/Urban Future
Existing Use: Vacant Land		Proposed Use: See Attached Table

Property Information:
- ☐ Yes ☒ No Located in an existing Local/National Historic District? (Name:)
- ☐ Yes ☒ No Existing structures are over 50 years old at the time of application?
- ☒ Yes ☐ No Subject property is undeveloped land?

Requested Urban Growth Boundary Change (if Applicable): N/A	Proposed Regional Plan Land Use Category: N/A

Property Owner Signature(required)	Date: 1/28/15	Applicant Signature	Date: 4/3/15

For City Use

Date Filed: 4-7-15	File Number(s): PSPR2015 0017		Type of Zoning Map Amendment: ☐ Small scale ☐ Medium scale ☐ Large scale ☐ Multi-phase scale
P & Z Hearing Date:	Publication and Posting Date:		
Council Hearing Date:	Publication and Posting Date:		
Fee Receipt Number:	Amount:	Date:	

Action by Planning and Zoning Commission:	Action by City Council:
☐ Approved	☐ Approved
☐ Denied	☐ Denied
☐ Continued	☐ Continued

Staff Assignments	Planning	Engineering	Fire	Public Works/Utilities	Stormwater
	MM	Gary	Kent	Jim	Matt Cl

Comments sent 8-15-2018 MRC

Comments sent 10-8-2018

Comments sent 12-14-2018

ORDINANCE NO. 2019-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF ZONING MAP TO REZONE APPROXIMATELY 83.88 ACRES OF REAL PROPERTY GENERALLY LOCATED AT 3200 EAST BUTLER AVENUE ON PARCEL NUMBERS 106-08-005L, 106-08-005M AND 106-08-005P FROM THE RESEARCH AND DEVELOPMENT (RD) ZONE TO MEDIUM DENSITY RESIDENTIAL (MR), HIGH DENSITY RESIDENTIAL (HR), AND HIGHWAY COMMERCIAL (HC) WITH CONDITIONS; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, Canyon del Rio Investors, LLC (the "Applicant") applied for a Concept Zoning Map Amendment to rezone approximately 83.88 acres of land generally located at 3200 East Butler Avenue, Coconino County, Arizona, a legal description of which is provided in Exhibits "A, B and C" attached hereto ("the Property"), in order to construct a mix of commercial and residential land uses consisting of 226,000 square feet of commercial space with 950 rental and for sale residential units; and

WHEREAS, the Applicant proposes to develop the Property pursuant to the terms and conditions of this Ordinance and a Development Agreement between Applicant and the City ("Agreement"), which will be presented to the City Council through a proposed resolution at the second reading of this Ordinance; and

WHEREAS, in furtherance of the Applicant's development plans, the Applicant has applied to the City of Flagstaff to amend the zoning of the Property from the Research and Development (RD) zone to Medium Density Residential (MR) Zone for 27.92 acres, High Density Residential (HR) Zone for 29.97 acres and Highway Commercial (HC) Zone for 25.99 acres; and

WHEREAS, the Applicant conducted neighborhood meetings on August 28, 2013, July 26, 2018 and July 28, 2018, to discuss the proposed Concept Zoning Map Amendment with the surrounding community, as required by Section 10-20.50.040 of the Flagstaff Zoning Code; and

WHEREAS, the Planning and Zoning Commission has formally considered the present Zoning Map Amendment application following proper notice and public hearings on April 10, 2019, and April 24, 2019, and has recommended approval of the requested zoning application, subject to the Applicant's compliance with certain conditions set forth below; and

WHEREAS, the Council finds that the Applicant has complied with all application requirements set forth in Chapter 10-20 of the Flagstaff Zoning Code; and

WHEREAS, staff have recommended approval of the Concept Zoning Map Amendment application, subject to the conditions proposed by the Planning and Zoning Commission, as augmented by staff, as set forth below, and the Council has considered each of the conditions and has found each condition to be appropriate for the Property and necessary for the proposed development; and

WHEREAS, the Council has read and considered the staff reports prepared by the Planning Division and all attachments to those reports, the Applicant's application, the narrative provided

by the Applicant, and all statements made by the Applicant during the presentation to Council, and the Council finds that the proposed Concept Zoning Map Amendment, subject to the conditions set forth below, meets the findings required by Section 10-20.50.040(F)(1)(a) of the Flagstaff Zoning Code;

ENACTMENTS

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The foregoing recitals are incorporated as if fully set forth herein.

SECTION 2. The amendment requested in the application is consistent with and conforms to the goals of the General Plan.

SECTION 3. The amendment requested in the application will not be detrimental to the public interest, health, safety, convenience or welfare of the City and will add to the public good as described in the General Plan.

SECTION 4. The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities to ensure that the amendment requested in the application will not endanger, jeopardize or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

SECTION 5. The Zoning Map designation for the Property is hereby amended from the Research and Development (RD) Zone to the Medium Density Residential (MR) Zone for 27.92 acres, High Density Residential (HR) Zone for 29.97 acres and Highway Commercial (HC) Zone for 25.99 acres, as depicted in Exhibits “A, B, and C”, through the approval of the application and all other documents attached to the staff summary submitted in support of this Ordinance.

SECTION 6. That the Concept Zoning Map Amendment be further conditioned upon the Applicant’s satisfaction of the following conditions proposed by the Planning and Zoning Commission, as augmented by staff:

CONDITIONS:

1. That the subject property be developed according to the Concept Zone Plan of Canyon del Rio as presented with the rezoning request.

2. That all other requirements of the Flagstaff Zoning Code and other City codes, ordinances and regulations apply to the Canyon del Rio development.

3. The developer shall grant permanent public pedestrian easements on the trails within the development of Canyon del Rio.

4. That all terms, conditions and restrictions detailed in the “Canyon del Rio” Development Agreement, which was entered into between the City of Flagstaff and the Applicant, and approved by the City Council through Resolution No. 2019-20 on June 4, 2019, are fully satisfied.

5. That a Vegetative Management plan meeting the Flagstaff Fire Department's approval be processed and the work completed before combustible materials be brought onto Canyon del Rio.

6. All single-family attached and detached homes within Canyon del Rio will comply with the "Net Zero Ready" design that provides energy efficient homes.

7. The developer will create a Design Review Policy document that sets minimum exterior structure appearance, materials and design consistent with the City's Architectural Design Standards, section 10-50.20 of the Zoning Code, prior to the first subdivision plat or site plan review.

8. In conjunction with Regional Plan policy LU.13.5., if vertical mixed use is not feasible, the site design of commercial buildings that are at-grade with the commercial corridor (Butler Avenue and/or South Fourth Street) will need to have architecture that mimics a 2-story building in order to support a feeling of enclosure that has been shown to make activity centers more comfortable to walk in.

9. The Lot Coverage/Building information chart on the Concept Zone Plan of Canyon Del Rio and Exhibit "D", Density Chart, to the Development Agreement for Canyon del Rio must set target densities and intensities for parcels within Canyon del Rio as approved by staff.

10. All private roads shall remain open to the public and shall never be gated.

11. Development of the Property shall not commence until Applicant obtains a permit from the Arizona Department of Agriculture for removal/destruction of any protected plan species on the Property.

12. The Applicant provide to the City a document that describes how the "resource banks" will be administered and excess resources will be distributed to other sites and how the transferred resources will be permanently protected. The document will be provided to the City in conjunction with the first preliminary plat or site plan review proposed for a parcel in Canyon del Rio.

SECTION 7. That City staff is hereby authorized to take such other and further measures and actions as are necessary and appropriate to carry out the terms, provisions and intents of this Ordinance.

SECTION 8. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 9. This Ordinance shall become effective thirty (30) days following its adoption by City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 20th day of June 4, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibit “A”

Legal Description of Property

Exhibit 'A'

HC Zoning Legal Description:

A portion of Section 24, Township 21 North, Range 7 East, of the Gila and Salt River Meridian, Coconino County, Arizona, described as follows:

Parcel 1:

Commencing at the west quarter corner of said Section 24, a 1/2" rebar with aluminum cap "LS 4321", from which the northwest corner of said Section 24, a 2" x 2" square rod, bears North 00°43'05" West, 2645.53 feet (Basis of Bearing and as shown on Book 20, Page 45 of Surveys, Official Records of Coconino County, herein referred to as R1);

Thence along the west line of said Section 24, North 00°43'05" West, 1839.51 feet to a point lying 50 feet southeasterly of the centerline of Butler Ave. per R1;

Thence parallel with and 50 feet southeasterly of said centerline, North 70°10'43" East, 352.25 feet to the **TRUE POINT OF BEGINNING;**

Thence continuing parallel with and 50 feet southeasterly of said centerline, North 70°10'43" East, 251.20 feet;

Thence South 10°03'15" West, 614.41 feet;

Thence South 82°58'09" West, 64.06 feet;

Thence North 00°47'14" West, 148.67 feet to the beginning of a curve concave to the west having a radius of 985.00 feet and a central angle of 19°03'34";

Thence northerly along said curve, 327.66 feet;

Thence North 19°50'42" West, 41.36 feet;

Thence North 25°09'53" East, 21.21 feet **TRUE POINT OF BEGINNING;**

Containing 1.79 acres, more or less.

Parcel 2:

Commencing at the west quarter corner of said Section 24, a 1/2" rebar with aluminum cap "LS 4321", from which the northwest corner of said Section 24, a 2" x 2" square rod, bears North 00°43'05" West, 2645.53 feet (Basis of Bearing and as shown on Book 20, Page 45 of Surveys, Official Records of Coconino County, herein referred to as R1);

Thence along the west line of said Section 24, North 00°43'05" West, 1839.51 feet to a point lying 50 feet southeasterly of the centerline of Butler Ave. per R1;

Thence parallel with and 50 feet southeasterly of said centerline, North 70°10'43" East, 707.06 feet to the beginning of a curve concave to the south having a radius of 660.00 feet and a central angle of 24°51'55";

Thence continuing parallel with and 50 feet southeasterly of said centerline, and easterly along said curve, 22.84 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing parallel with and 50 feet southerly of said centerline, and easterly along said curve, 263.59 feet;

Thence continuing parallel with and 50 feet southerly of said centerline, South 84°58'58" East, 690.72 feet;

Thence South 39°59'26" East, 21.22 feet;

Thence South 04°59'58" West, 35.94 feet to the beginning of a curve concave to the east having a radius of 659.00 feet and a central angle of 40°44'38";

Thence southerly along said curve, 468.63 feet;

Thence South 35°44'39" East, 228.26 feet;

Thence South 09°15'22" West, 35.36 feet;

Thence South 54°15'18" West, 18.89 feet to the beginning of a curve concave to the north, having a radius of 265.00 feet and a central angle of 95°54'39";

Thence westerly and northwesterly along said curve, 443.60 feet to the beginning of a curve concave to the southwest, having a radius of 385.00 feet and a central angle of 65°52'14";

Thence northwesterly and westerly along said curve, 442.62 feet;

Thence North 21°05'13" West, 270.91 feet;

Thence North 86°29'57" West, 108.30 feet;

Thence North 45°57'58" West, 320.23 feet to the **TRUE POINT OF BEGINNING**.

Containing 10.79 acres, more or less.

Parcel 3:

Commencing at the center quarter corner of said Section 24, a ¾" open pipe, from which the north quarter corner of said Section 24, a 2-1/2" aluminum cap "LS 16630", bears North 00°29'59" West, 2644.85 feet (Basis of Bearing and as shown on Book 20, Page 45 of Surveys, Official Records of Coconino County);

Thence leaving the North-South mid-section line of said Section 24, South 55°32'05" West, 110.67 feet to the beginning of a non-tangent curve concave to the southwest, having a radius of 950.00 feet and a central angle of 5°15'20" and being subtended by a chord which bears North 33°05'32" West, 87.11 feet;

Thence northwesterly along said curve, 87.14 feet;

Thence North 35°43'12" West, 114.65 feet to the **TRUE POINT OF BEGINNING**;

Thence North 81°24'34" West, 740.58 feet;

Thence North 05°23'53" West, 251.91 feet;

Thence North 10°17'13" West, 262.84 feet;

Thence North 15°41'42" West, 260.26 feet;

Thence North 21°07'29" West, 260.47 feet;

Thence North 24°09'02" West, 166.03 feet to the beginning of a non-tangent curve concave to the southwest, having a radius of 315.00 feet and a central angle of 2°16'36" and being subtended by a chord which bears South 30°58'21" East, 12.52 feet;

Thence southeasterly along said curve, 12.52 feet to the beginning of a curve concave to the north, having a radius of 335.00 feet and a central angle of 95°52'52";

Thence southeasterly and easterly along said curve, 560.60 feet;

Thence North 54°15'29" East, 19.01 feet;

Thence South 80°14'12" East, 35.05 feet to the beginning of a non-tangent curve concave to the west, having a radius of 1440.00 feet and a central angle of 26°43'24";

Thence southerly along said curve, 673.48 feet;

Thence South 07°30'56" East, 54.56 feet to the beginning of a curve concave to the east, having a radius of 650.00 feet and a central angle of 28°12'16";

Thence southerly along said curve, 319.97 feet;

Thence South 35°43'12" East, 224.18 feet to the **TRUE POINT OF BEGINNING**.

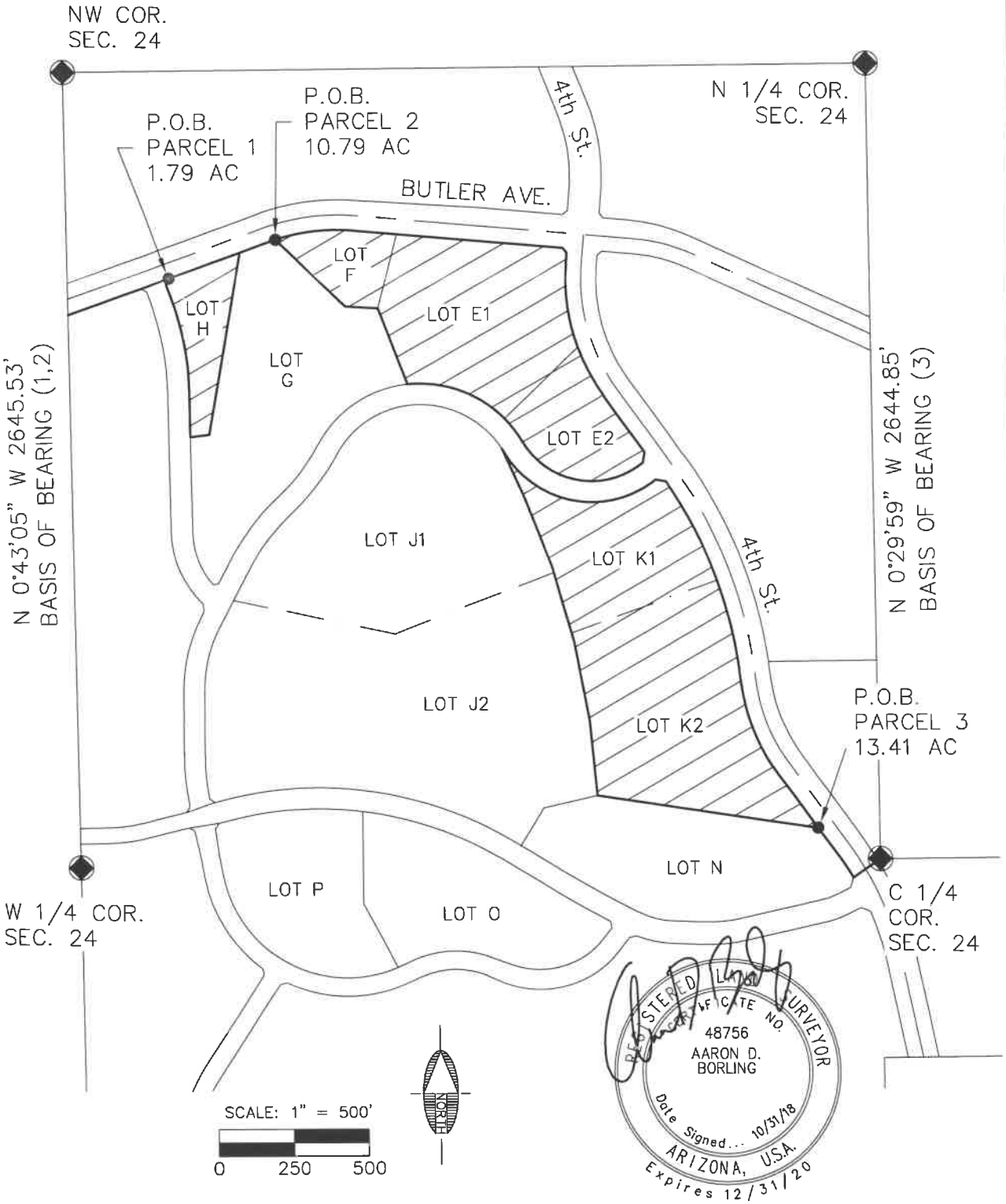
Containing 13.41 acres, more or less.

See Exhibit 'A-1' attached hereto and made a part hereof.



EXHIBIT A-1 TO ACCOMPANY LEGAL DESCRIPTION

A PORTION OF SECTION 24, TOWNSHIP 21 NORTH,
RANGE 7 EAST
GILA AND SALT RIVER MERIDIAN
COCONINO COUNTY, ARIZONA



SWI
Shephard Wesnitzer, Inc. www.swiaz.com
110 West Dale Ave
Flagstaff, Az 86001
928.773.0354
928.774.8934 fax

JOB NO:	13184
DATE:	10/31/2018
SCALE:	1" = 500'
DRAWN:	ADB
DESIGN:	
CHECKED:	ADB

CITY OF FLAGSTAFF — COCONINO COUNTY ARIZONA

LEGAL EXHIBIT

Exhibit “B”

Legal Description of Property

Exhibit 'B'

MR Zoning Legal Description:

A portion of Section 24, Township 21 North, Range 7 East, of the Gila and Salt River Meridian, Coconino County, Arizona, described as follows:

Parcel 1:

Commencing at the west quarter corner of said Section 24, a 1/2" rebar with aluminum cap "LS 4321", from which the northwest corner of said Section 24, a 2" x 2" square rod, bears North 00°43'05" West, 2645.53 feet (Basis of Bearing and as shown on Book 20, Page 45 of Surveys, Official Records of Coconino County);

Thence along the west line of said Section 24, North 00°43'05" West, 80.09 feet;

Thence leaving said west line North 89°16'54" East, 95.24 feet to the beginning of a curve concave the north, having a radius of 526.00 feet and a central angle of 13°13'48";

Thence easterly along said curve, 121.46 feet;

Thence North 76°05'11" East, 147.09 feet;

Thence North 81°16'37" East, 99.51 feet to the **TRUE POINT OF BEGINNING**;

Thence North 76°05'13" East, 51.60 feet to the beginning of a curve concave to the south, having a radius of 1165.00 feet and a central angle of 45°26'02";

Thence easterly and southeasterly along said curve, 923.81 feet

Thence South 58°30'58" East, 217.18 feet to the beginning of a curve concave to the northeast, having a radius of 2435.00 feet and a central angle of 4°12'51";

Thence southeasterly along said curve, 179.09 feet;

Thence South 62°41'39" East, 12.23 feet;

Thence South 12°51'28" East, 21.42 feet;

Thence South 37°18'01" West, 40.71 feet to the beginning of a curve concave to the north, having a radius of 269.50 feet and a central angle of 73°00'26";

Thence southwesterly and westerly along said curve, 343.40 feet;

Thence North 69°44'40" West, 80.27 feet to the beginning of a curve concave to the south, having a radius of 330.50 feet and a central angle of 45°13'12";

Thence westerly and southwesterly along said curve, 260.84 feet;

Thence South 63°58'47" West, 26.25 feet to the beginning of a curve concave to the northwest, having a radius of 419.50 feet and a central angle of 105°54'29";

Thence westerly and northwesterly along said curve, 775.42 feet;

Thence North 10°24'48" West, 68.45 feet;

Thence North 07°52'41" West, 88.32 feet;

Thence North 32°59'43" East, 21.91 feet to the **TRUE POINT OF BEGINNING**;

Containing 11.60 acres, more or less.

Parcel 2:

Commencing at the center quarter corner of said Section 24, a ¾" open pipe, from which the north quarter corner of said Section 24, a 2-1/2" aluminum cap "LS 16630", bears North 00°29'59" West, 2644.85 feet (Basis of Bearing and as shown on Book 20, Page 45 of Surveys, Official Records of Coconino County);

Thence leaving the North-South mid-section line of said Section 24, South 55°32'05" West, 110.67 feet to the **TRUE POINT OF BEGINNING**;

Thence South 16°42'25" West, 34.49 feet;

Thence South 63°09'21" West, 45.29 feet to the beginning of a curve concave to the north, having a radius of 265.00 feet and a central angle of 14°03'12";

Thence southwesterly and westerly along said curve, 65.00 feet;

Thence South 77°12'34" West, 266.33 feet to the beginning of a curve concave to the north, having a radius of 465.00 feet and a central angle of 14°42'11";

Thence westerly along said curve, 119.33 feet;

Thence North 88°05'15" West, 110.04 feet to the beginning of a curve concave to the north, having a radius of 265.00 feet and a central angle of 25°09'05";

Thence westerly along said curve, 116.33 feet;

Thence North 62°42'03" West, 84.50 feet to the beginning of a curve concave to the northeast having a radius of 2365.00 feet and a central angle of 4°12'51";

Thence northwesterly along said curve, 173.94 feet;

Thence North 58°30'58" West, 191.79 feet;

Thence North 31°29'02" East, 146.34 feet;

Thence North 77°05'44" East, 182.81 feet;

Thence South 81°24'34" East, 740.58 feet;

Thence South 35°43'12" East, 114.65 feet to the beginning of a curve concave to the southwest, having a radius of 950.00 feet and a central angle of 5°15'20";

Thence southeasterly along said curve, 87.14 feet to the **TRUE POINT OF BEGINNING**;

Containing 7.20 acres, more or less.

Parcel 3:

Commencing at the west quarter corner of said Section 24, a 1/2" rebar with aluminum cap "LS 4321", from which the northwest corner of said Section 24, a 2" x 2" square rod, bears North 00°43'05" West, 2645.53 feet (Basis of Bearing and as shown on Book 20, Page 45 of Surveys, Official Records of Coconino County, herein referred to as R1);

Thence along the west line of said Section 24, North 00°43'05" West, 1839.51 feet to a point lying 50 feet southeasterly of the centerline of Butler Ave. per R1;

Thence parallel with and 50 feet southeasterly of said centerline, North 70°10'43" East, 603.45 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing parallel with and 50 feet southeasterly of said centerline, North 70°10'43" East, 103.61 feet to the beginning of a curve concave to the south having a radius of 660.00 feet and a central angle of 1°58'58";

Thence continuing parallel with and 50 feet southeasterly of said centerline, and easterly along said curve, 22.84 feet;

Thence South 45°57'58" East, 320.23 feet;

Thence South 86°29'57" East, 108.30 feet;

Thence South 21°05'13" East, 270.91 feet to the beginning of a non-tangent curve concave to the southeast, having a radius of 385.00 feet and a central angle of 55°37'35" and being subtended by a chord which bears South 56°28'56" West, 359.27 feet;

Thence westerly and southwesterly along said curve, 373.78 feet to the beginning of a curve concave to the northwest, having a radius of 690.00 feet and a central angle of 18°09'15";

Thence southwesterly along said curve, 218.63 feet to the beginning of a curve concave to the southeast, having a radius of 835.00 feet and a central angle of 19°01'56";

Thence southwesterly along said curve, 277.37 feet;

Thence South 27°47'25" West, 80.82 feet;

Thence South 82°08'44" West, 16.43 feet to the beginning of a non-tangent curve concave to the east, having a radius of 265.00 feet and a central angle of 41°05'14" and being subtended by a chord which bears North 21°11'58" West 185.99 feet;

Thence northwesterly and northerly along said curve, 190.03 feet;

Thence North 00°47'14" West, 317.16 feet;

Thence North 82°58'09" East, 64.06 feet;

Thence North 10°03'15" East, 614.41 feet to the **TRUE POINT OF BEGINNING**;

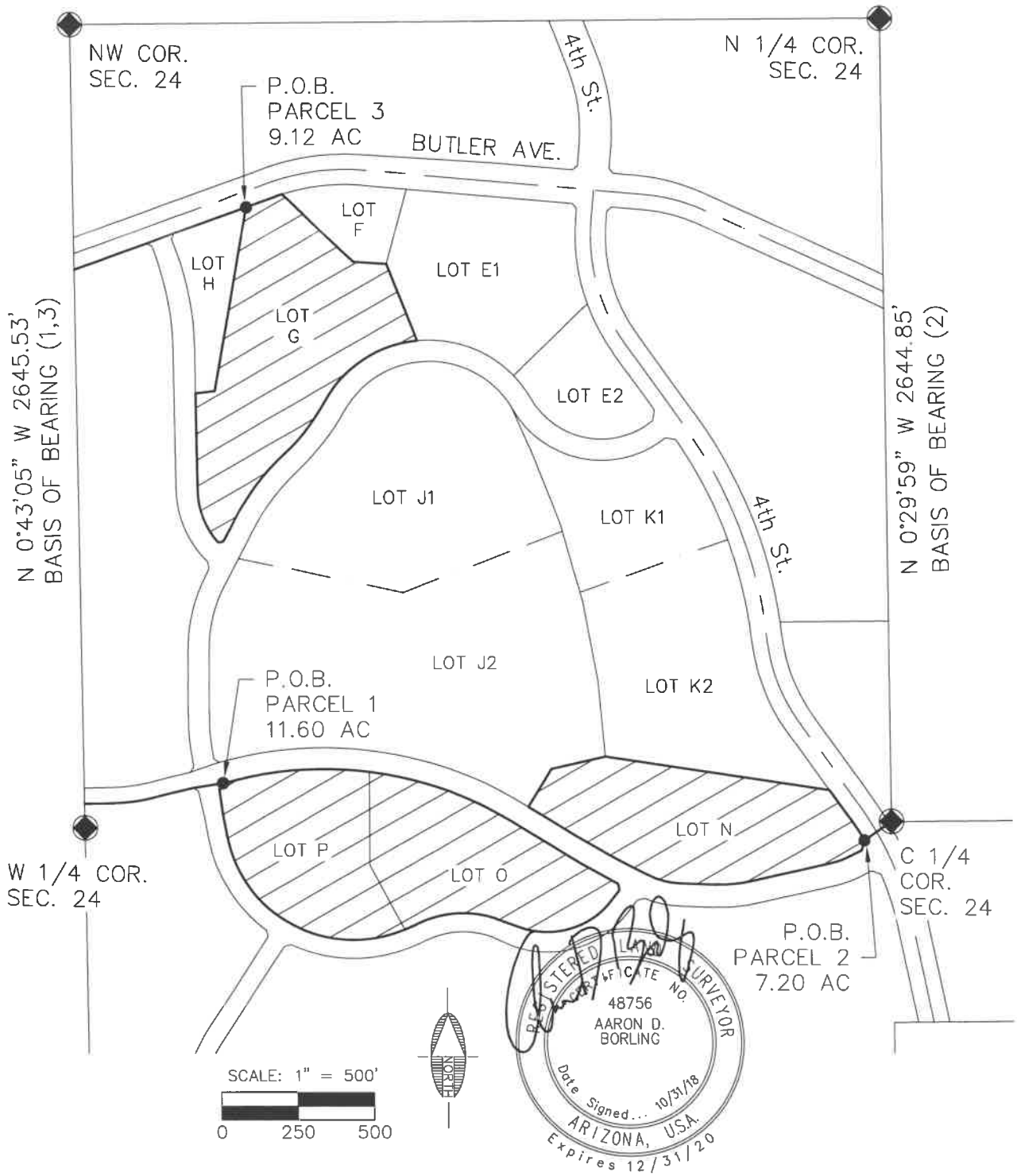
Containing 9.12 acres, more or less.

See Exhibit 'B-1' attached hereto and made a part hereof.



EXHIBIT B-1 TO ACCOMPANY LEGAL DESCRIPTION

A PORTION OF SECTION 24, TOWNSHIP 21 NORTH,
RANGE 7 EAST
GILA AND SALT RIVER MERIDIAN
COCONINO COUNTY, ARIZONA



SWI
Shephard Wesnitzer, Inc. www.swiaz.com
110 West Dale Ave
Flagstaff, Az 86001
928.773.0354
928.774.8934 fax

JOB NO:	13184
DATE:	10/31/2018
SCALE:	1" = 500'
DRAWN:	ADB
DESIGN:	
CHECKED:	ADB

CITY OF FLAGSTAFF — COCONINO COUNTY ARIZONA

LEGAL EXHIBIT

SHEET 4 OF 4

Exhibit “C”

Legal Description of Property

Exhibit 'C'

HR Zoning Legal Description:

A portion of Section 24, Township 21 North, Range 7 East, of the Gila and Salt River Meridian, Coconino County, Arizona, described as follows:

Commencing at the west quarter corner of said Section 24, a 1/2" rebar with aluminum cap "LS 4321", from which the northwest corner of said Section 24, a 2" x 2" square rod, bears North 00°43'05" West, 2645.53 feet (Basis of Bearing and as shown on Book 20, Page 45 of Surveys, Official Records of Coconino County);

Thence along the west line of said Section 24, North 00°43'05" West, 132.09 feet;

Thence leaving said west line North 89°16'54" East, 95.24 feet to the beginning of a curve concave the north, having a radius of 474.00 feet and a central angle of 13°11'44";

Thence easterly along said curve, 109.17 feet;

Thence North 76°05'11" East, 150.26 feet;

Thence North 70°58'28" East, 100.98 feet to the **TRUE POINT OF BEGINNING**;

Thence North 57°00'20" West, 20.50 feet;

Thence North 10°06'06" West, 10.06 feet to the beginning of a curve concave to the east, having a radius of 765.00 feet and a central angle of 10°20'56";

Thence northerly along said curve, 138.18 feet;

Thence North 00°14'45" East, 212.65 feet to the beginning of a curve concave to the east, having a radius of 465.00 feet and a central angle of 27°32'42";

Thence northerly and northeasterly along said curve, 223.55 feet;

Thence North 27°47'27" East, 202.96 feet to the beginning of a concave to the southeast, having a radius of 765.00 feet and a central angle of 19°01'56";

Thence northeasterly along said curve, 254.12 feet to the beginning of a curve concave to the northwest having a radius of 760.00 feet and a central angle of 18°09'15";

Thence northeasterly along said curve, 240.81 feet to the beginning of a curve concave to the south, having a radius of 315.00 feet and a central angle of 119°13'12";

Thence northeasterly, easterly and southeasterly along said curve, 655.45 feet;

Thence South 24°09'02" East, 166.03 feet;

Thence South 21°07'29" East, 260.47 feet;

Thence South 15°41'42" East, 260.26 feet;

Thence South 10°17'13" East, 262.84 feet;

Thence South 05°23'53" East, 251.91 feet;

Thence South 77°05'44" West, 182.81 feet;

Thence South 31°29'02" West, 146.34 feet;

Thence North 58°30'58" West, 25.39 feet to the beginning of a curve concave to the south, having a radius of 1235.00 feet and a central angle of 45°26'02";

Thence northwesterly and westerly along said curve, 979.32 feet;

Thence South 76°05'11" West, 46.89 feet to the **TRUE POINT OF BEGINNING**.

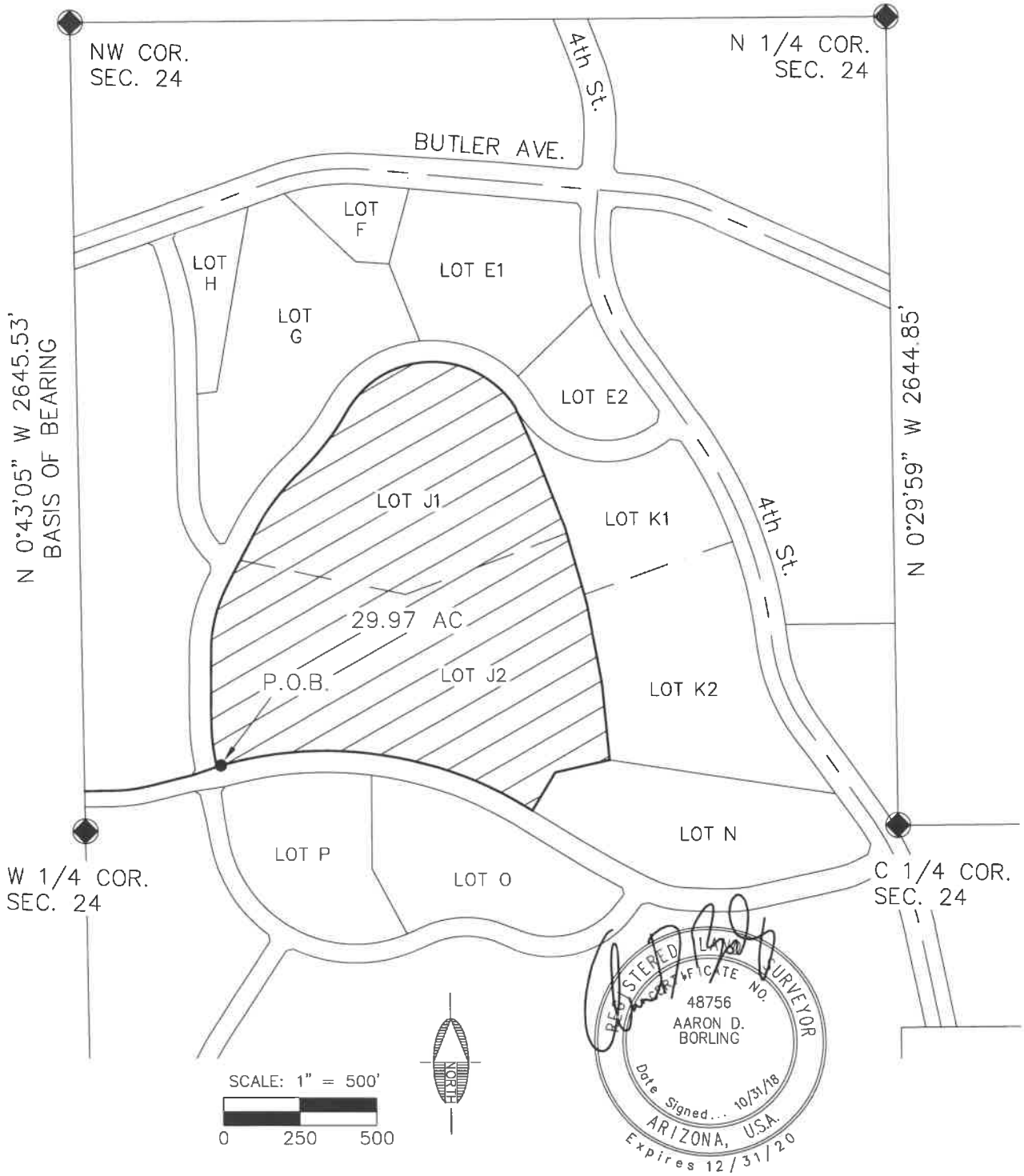
Containing 29.97 Acres, more or less.

See Exhibit 'C-1' attached hereto and made a part hereof.



EXHIBIT C-1 TO ACCOMPANY LEGAL DESCRIPTION

A PORTION OF SECTION 24, TOWNSHIP 21 NORTH,
RANGE 7 EAST
GILA AND SALT RIVER MERIDIAN
COCONINO COUNTY, ARIZONA



Shephard Wesnitzer, Inc.
110 West Dale Ave
Flagstaff, Az 86001
928.773.0354
928.774.8934 fax
www.swiaz.com

JOB NO:	13184
DATE:	10/31/2018
SCALE:	1" = 500'
DRAWN:	ADB
DESIGN:	
CHECKED:	ADB

CITY OF FLAGSTAFF — COCONINO COUNTY ARIZONA

LEGAL EXHIBIT

PLANNING DIVISION REPORT
CONCEPT ZONING MAP AMENDMENT

PUBLIC HEARING
PZ-18-00113-01

DATE: March 31, 2019
MEETING DATE: April 10, 2019
REPORT BY: Neil Gullickson, AICP

REQUEST:

Canyon del Rio Investors, LLC requests a Concept Zoning Map Amendment of approximately 83.88 acres at 3200 East Butler Avenue from the RD, Research and Development Zone to MR, Medium Density Residential Zone (27.9 acres); HR, High Density Residential Zone (30.0 acres), and to HC, Highway Commercial Zone (25.9 acres). The area proposed for the Concept Zoning Map Amendment is a portion of a 261-acre development known as Canyon del Rio.

STAFF RECOMMENDATION:

In accordance with the findings presented in this report, staff recommends the Planning and Zoning Commission forward the Concept Zoning Map Amendment request to the City Council with a recommendation for approval subject to conditions of approval.

PRESENT LAND USE:

The subject property, to be amended, consists of undeveloped land in the RD, Research and Development Zone. The entire Canyon del Rio property is 261 acres of undeveloped land with multiple zoning districts, including Single-Family-Residential (R1), Medium Density Residential (MR) and Research & Development RD).

PROPOSED LAND USE:

The proposed Canyon del Rio development, includes a total of 1,426 residential dwelling units, attached and detached with approximately 225,000 square feet of commercial development. A portion of the development, 83-acres, is proposed to be rezoned by this application. Canyon del Rio is intended to provide a mix of housing types with supporting commercial services and open space areas.

NEIGHBORHOOD DEVELOPMENT:

North:	Butler Avenue developed and undeveloped, Highway Commercial (HC) Zone;
East:	Vacant land in the Suburban Commercial (SC), Research and Development (RD) Zone and the previous Humane Society facility in the Public Facilities (PF) Zone;
South:	Undeveloped land part of Canyon del Rio, Medium Density (MR) Zone;
West:	Vacant land, part of Canyon del Rio in the R1, Single-family Residential Zone.

REQUIRED FINDINGS

STAFF REVIEW. An application for a Zoning Map Amendment shall be submitted to the Planning Director and shall be reviewed and a recommendation prepared. The Planning Director's recommendation shall be transmitted to the Planning Commission in the form of a staff report prior to a scheduled public hearing. The recommendation shall include: an evaluation of the consistency and conformance of the proposed amendment with the goals and policies of the General (Regional) Plan, and any applicable specific plans; the grounds for the recommendation based on the standards and purposes of the zones set forth in Section 10-40.20 (Establishment of Zones) of the Zoning Code (page 40.20-1); and, whether the amendment should be granted, granted with conditions to mitigate anticipated impacts caused by the proposed development, or denied.

STANDARDS FOR REVIEWING PROPOSED AMENDMENTS. Proposed Zoning Map Amendments shall be evaluated based on the following findings: the proposed amendment is consistent with and conforms to the goals and policies of the General (Regional) Plan, and any applicable specific plans; the proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City of Flagstaff (the "City"), and will add to the public good as described in the General (Regional) Plan; and, the affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access, public services, and utilities to ensure that the requested zone designation and the proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

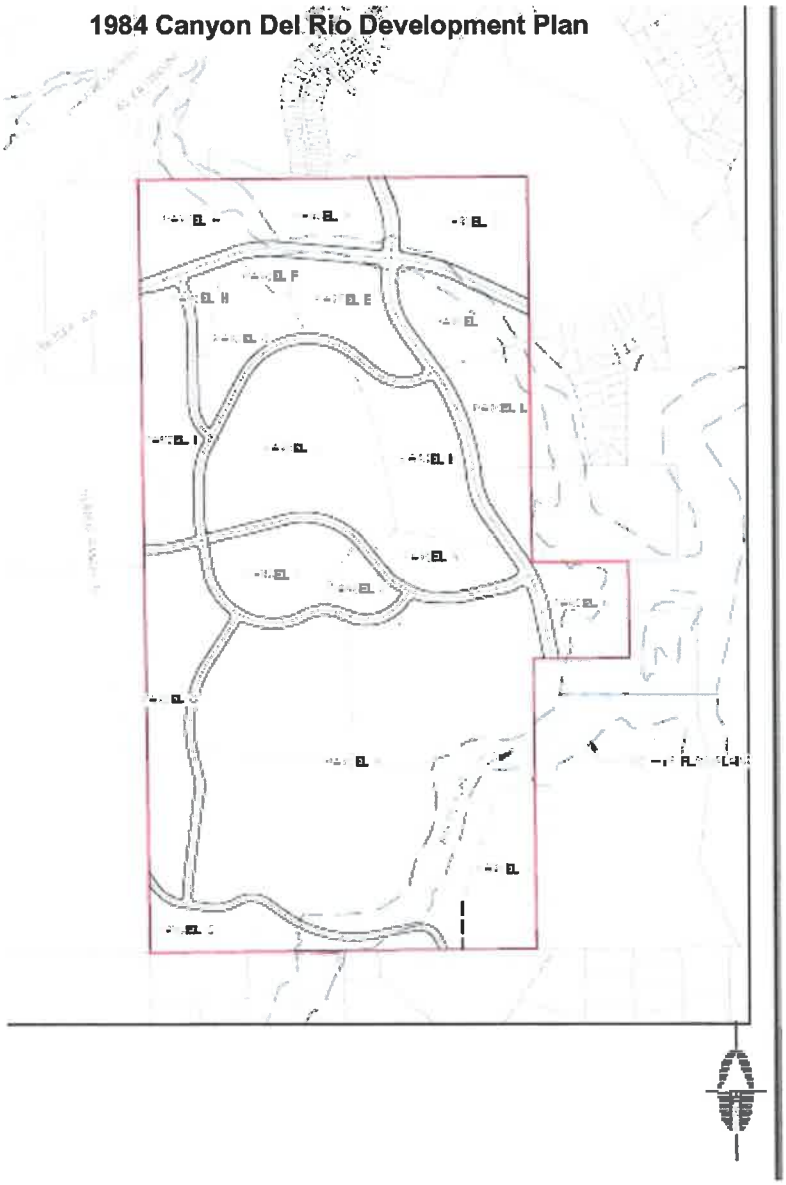
STAFF REVIEW:

Introduction/Background

Canyon del Rio is a 1,426 unit residential and 225,000 square foot commercial development. The proposed development will provide a mixture of high density, medium density and single-family residential units combined with commercial service, retail and open space land uses on 261 acres. This Concept Zoning Map Amendment is proposed for 83-acres located in the northeast corner of the site at the intersection of Butler Avenue and South Fourth Street.

Canyon del Rio, was conceived and proposed through the Arizona State Land Department (ASLD) by WL Gore & Associates in 1984 as a 316-acre mixed-use development, including single-family housing; office/research and development facilities. The development proposal depicted to the right, was called the Canyon Del Rio Development Plan and is dated May 1984.

1984 Canyon Del Rio Development Plan



Gore abandoned development of Canyon del Rio in the late 1980's, and Canyon del Rio, then owned by ASLD, remained undeveloped and inactive until 2002, when the current applicant, Canyon del Rio Investors, LLC (CDRI) purchased all of Canyon del Rio (except parcels D&L, located east of the future Fourth Street extension, which remain in ownership by ASLD) at a State auction. Between 2002 and 2008, CDRI sold Parcels A, B and C (located north of Butler Avenue), and Parcel M, (also east of the anticipated Fourth Street right-of-way) to third-party purchasers. These parcels are no longer considered part of the Canyon del Rio development.

CDRI retained the entire 'core' portion of Canyon del Rio, approximately 261 acres, which lies south of Butler Avenue and west of the anticipated Fourth Street right-of-way as depicted on the Site Plan ("CDR Core Property"). The CDR Core Property is currently undeveloped and exists today

in its natural/forested condition.

Following CDRI's acquisition of Canyon del Rio, discussions began with the City of Flagstaff relating to the 1984 Development Plan and, specifically, the land uses permitted under the zoning designations established by the 1984 Development Plan. Despite good faith efforts, CDRI and the City were unable to reach agreement and lawsuits were filed in both Coconino and Maricopa Counties. In 2008, CDRI filed suit against the City of Flagstaff in Coconino County Superior Court seeking declaratory relief, monetary damages and injunctive relief relative to the CDR property, this suit relates to the appropriate Zoning Code to be used to allow CDRI to proceed to plan and develop their property. In 2010, the City filed suit against CDRI in Maricopa County Superior Court seeking monetary damages relating to CDR property and CDRI filed counter claims. This suit relates to CDRI reimbursing the City for past improvements to Butler Avenue.

The City and CDRI were able to resolve their differences, without protracted litigation, and entered into a Settlement Agreement (as amended, "Settlement Agreement"). Pursuant to the terms of the Settlement Agreement, the City and CDRI agreed to process an amendment to the Zoning Map covering approximately 83-acres of the CDR Core Property. The balance of the CDR Core Property, approximately 179 remaining acres, will not have the zoning amended. The Settlement Agreement as approved by City Council was executed on May 13, 2013 and amended on January 29th, 2015 and outlines how the Zoning Map Amendment will be processed, allowed development density and intensity, and settlement of the two pending law suits. If the Zoning Map Amendment is approved the pending law suits will be resolved. In response to the Settlement Agreement, CDRI made application for a Concept Zoning Map Amendment in November of 2014, after several stops and starts that application has now come before the Commission.

The area to be amended and the entire CDR development are located south of Butler Avenue. The site is heavily treed and is located within the Resource Protection Overlay Zone (RPO). The site has varied topography, including many slopes and small valleys; the most significant is the Rio de Flag drainage that runs across the southeast corner of the development and continues downstream to Foxglenn Park. The proposed Fourth Street alignment that will ultimately connect Butler Avenue and John Wesley Powell Boulevard runs along the eastern boundary. An existing above ground 69 KV transmission line crosses the site in an east-west direction at the south end of CDR, outside of that area to be re-zoned.

In addition to this Concept Zoning Map Amendment case, the applicant, has also submitted a Preliminary Block Plat application. This Preliminary Block Plat will divide the property into 22 separate blocks with an internal minor collector roadway in two phases. Each block will then be either subdivided further or will be subject to the Site Plan Review process, which is anticipated for the commercial and multi-family rental uses. A draft Development Agreement has also been attached for the Commission's review. The Development Agreement will be reviewed and approved by the Council via a separate resolution.

Proposed Rezoning and Development Concept Plan

The applicant/developer, Canyon del Rio Investors, LLC. (CDRI), is requesting rezoning approval to permit 672 multi-family dwelling units on parcels J1 & J2 (HR Zone), 181 single-family attached dwelling units on parcels G, N ,O and P (MR Zone), and approximately 225,000 square feet of commercial office and retail development on parcels E1, E2, F, H, K1 and K2 (HC Zone) located on approximately 83-acres. The remaining CDR property is anticipated to be developed with single-family detached housing, except for parcel Q3 located at the southwest corner of CDR, which will be dedicated to the City for affordable housing as provided for in the both the Settlement Agreement and draft Development Agreement.

Parcels G N, O and P, a total of 27.9 acres, are proposed to be amended to the MR, Medium Density Residential zoning district and include approximately 181 single-family attached units. Townhomes are anticipated though

duplex development is allowed. Proposed density in the MR zoned properties is 7.7 units per acre. Parcels J1 and J2 are proposed to be amended to the HR, High Density Residential zoning district, a total of 3acres, and include approximately 670 multi-family residential dwelling units or 22.3 units per acre. Multi-story apartment buildings are anticipated at this location. The building height limit in the HR zone is 60-feet. Parcel E1/E2, F, H and K1/K2 are proposed to be amended to the HC, Highway Commercial zone, 25.5-acres in total, includes commercial service, retail and office uses.

This application is a Concept Zoning Map Amendment which requires the applicant to provide conceptual drawings of the development. The concept zone plan provided by CDRI shows a mix of high density, medium density and single-family residential development across the site. The attached booklet includes a community masterplan that shows potential development of the Zoning Map Amendment area as well as potential lot lay out for the rest of the CDR. The booklet further breaks out the three proposed new zones and provides concept photos or drawings for the commercial, the attached housing and the apartment buildings. Final lot layout design, actual elevations and floor plans for individual units have not yet been provided and will be worked on through the final platting of individual subdivisions and/or site plan reviews. The high-density development areas have been strategically placed in relationship to the suburban activity center located at the intersections of Butler Avenue and Fourth Street as well as buffering between the commercial uses and single-family neighborhoods.

Sheet CP2 of the concept zone plan depicts CDR's connectivity via a community trail system and Flagstaff Urban Trail System (FUTS) trail running east/west across the property. Open space has also been provided an is shown on the concept zone plan connecting with the individual blocks and trails. A large open space tract, the Rio de Flag channel, traverses the south eastern portion of the property which provides a portion of the FUTS and serves as a drainage feature for the property.

The applicants have proposed through the Settlement Agreement (paragraph "h") and the draft Development Agreement (paragraph 4.7.a) (both attached), which say the CDRI will donate parcel Q3, located at the southwest corner of the development to the City for affordable housing and will supply water, sewer and roadway infrastructure at the same time as parcel R-4 is developed. Parcel Q-3 is recognized as having density equal to approximately 5% (80 units) of the total units within CDR. Future developments wishing to provide additional affordable housing will be given 5% credit toward the 10% threshold needed to qualify for affordable housing incentives allowed by the Zoning Code

General Plan/*Flagstaff Regional Plan (FRP 2030)*

Staff has identified Regional Plan Goals and Policies that could be applied to support or not support the proposed Block Plat and Zoning Map Amendment. These goals and policies are in the applicant's narrative. The following is a discussion of how the project meets or conflicts with goals and policies in each chapter. The City's Settlement Agreement with Canon del Rio's developer states that "the parties concur the Zoning Application is in conformance with the Current Regional Plan [Flagstaff Regional Plan 2030]." The following analysis supports this portion of the Settlement Agreement through the consideration of supporting and conflicting policies.

Environmental Planning & Conservation and Open Space
In accordance with the goals and policies of this section the subject property is included within the Resource Protection Overlay (RPO) zone. A Natural Resource Protection Plan has been provided in conjunction with the application that preserves 54 acres to meet the required floodplain and open space protections on this site. Tract B, a total of 15.63 acres, will be dedicated to the City while the rest of the open space will be located within the neighborhood village and ownership will be retained by the Homeowners Association (HOA). The Canon del Rio development is also setting up a "Resource Bank" to allocate the required forest protections between the different parcels. The project will also lead to the construction of "Net Zero Ready" single family homes that are 40 to 50% more energy efficient than conventional building standards. Introducing a new sustainability option to the City.

Water Resources (Water Sources, Water Demand, Stormwater and Watershed Management, and Water Quality)
As shown on Map 21 of the Regional Plan, the property is located within the Urban Growth Boundary. A Water and Sewer Impact Analysis and Drainage Analysis was completed for the project. The conclusions and requirements of these analyses are addressed in the Public Systems Impact Analysis section of this report. These analyses adequately address the goals and policies of this chapter. The existing Rio de Flag channel will also be preserved through this site in compliance with the goals and policies of this section.

Community Character (Scenic Resources and Natural Setting, Heritage Preservation, Community Design, and Arts, Sciences and Education)
The project will establish a Design Review Policy to maintain materials and construction methods consistent with the Flagstaff Regional Plan. Buildings will be subject to the City's architectural design regulations and the attached Sustainable Family Living Design Book, which shows the conceptual site and architectural designs.

Growth Areas & Land Use (Reinvestment, Greenfield, Urban Area, Suburban Area, Rural Area, Employment Area, Special Planning Area, and Activity Centers)
This project is located within a Suburban Regional Activity Center (S18 – Butler Avenue and Fourth Street at the corner of Butler Avenue and Fourth Street). The density and intensity of this development will transition from higher density at the core of the activity center to lower density suburban neighborhood moving south away from the core. This pattern of development is in compliance with the Regional Plan's Future Growth Illustration (Maps 21 and 22). The Suburban Regional Activity Center was upgraded as part of the High Occupancy Housing Plan to allow for more density and intensity at this location for several reasons:

A) The Butler corridor will have improved transportation access with the widening of the Fourth Street bridges over I-40.
B) Increasing the density and mix of uses on this corridor will help fill in the central Flagstaff development pattern, which will make transit more sustainable, decrease carbon emissions, and create the first full service regional activity center south of I-40,
C) The development of the east Butler corridor and Ponderosa Parkway area has the least impact on low income neighborhoods compared to other opportunities for infill and redevelopment.
D) Base land prices in this corridor will allow for more affordable market rate housing than west side development to better support the City's workforce housing needs.
E) Existing utility infrastructure can support denser and more intense development.

CDR's proposed development pattern will permit a mix of office and retail uses along the Butler Avenue and South Fourth Street with high density housing behind the commercial. This horizontal mixed-use pattern is most appropriate in Suburban Activity Centers. The proposed pattern of development is in compliance with the goals and policies of the Regional Plan concerning mix of land uses, variety of housing types, the creation of a new mixed-use neighborhood in an appropriate location, increased density and mix of housing types within activity centers, concentrating commercial activities within the commercial core, increasing housing options and opportunities for neighborhood and regional shopping, and designing appropriately to the context of the activity center. The Design policy proposed will also ensure consistency of a contextual and distinctive identity for this new neighborhood and the creation of public spaces and plazas within the development.

The proposal does not anticipate vertical mixed-use, which would conflict with Regional Plan policy LU.13.5, which encourages one floor of apartments or office above retail in suburban activity centers. If vertical mixed-use is not feasible at this location, the site design of commercial buildings that are at-grade with the commercial corridor will need to have architecture that simulates a 2-story building in order to support a feeling of enclosure that has been shown to make activity centers more comfortable to walk in.

When the City staff was working on the High Occupancy Housing Plan, one of the findings was that the

concentration of housing and business attractions on the east and west side of the City had a noticeable gap between Switzer Canyon and 4th Street. This gap makes the City's transit system less efficient and makes overall trip distances longer. Both patterns are barriers to reaching the City's climate change and sustainability objectives. The corridors from 4th Street and Butler to Ponderosa Parkway and Route 66 needs more mixed-use development with walkable connections between them. The concentration of office and commercial uses in Canon del Rio along Butler Ave combined with the more pedestrian friendly design of the Butler corridor transportation improvements will help create a transition between the Regional Urban Activity Center at Little America, which should be the strongest attractor because of its interstate access, and the suburban neighborhoods to the south and east. This group of activity centers includes employment uses between the railroad and the interstate along Butler Ave. and Huntington Ave. and would scale down to lower intensity commercial at the tail ends. The pattern will make the bus routes on this corridor more efficient and create walkable centers for daily needs in the Suburban activity centers with some regional attractions. This overall will create shorter trip lengths and more opportunities for walking and biking.

Transportation
Canon del Rio will complete a significant stretch of JW Powell Boulevard and will create a future connection to the southwest for Harold Ranch Road. These are important future arterials and collectors for the community and are consistent with Map 25 Road Network Illustration of the Flagstaff Regional Plan. All the local roads, collectors and arterials will be constructed as complete streets with sidewalks and bike lanes and the open space will provide a high quality FUTS trail similar to Sinclair Wash.

The application for this project preceded the High Occupancy Housing Plan's effective date and therefore the connectivity characteristics of roads recommended in that plan could not be required. However, the developer was able to create additional FUTS and sidewalk connections to improve the implementation of the Regional Plans goals for walkability and bicycle and pedestrian connectivity.

The future streets in the neighborhood make room for bus service but do not include any specific bus treatments at this time because NAIPTA has not decided to serve this community due to concerns that the overall density of the JW Powell area may not support enough people in proximity to the roadway to support a higher frequency transit option. NAIPTA has only promised service along Fourth Street north of Canyon del Rio and along Butler Avenue at this time but will continue to consider the opportunities in the JW Powell Public Infrastructure and Facilities Specific Plan as it moves forward.

Cost of Development
This chapter primarily addresses new development paying its fair share of public facilities, services, and infrastructure. Impact analyses helps to determine the specific proportional share of required improvements for each development. A review of the impact analyses for this project and the mitigation required is discussed in the Public Systems Impact Analysis section of this report.

Neighborhoods, Housing, and Urban Conservation
The Canyon del Rio project meets many of the goals and policies for new neighborhoods in the Regional Plan. It incorporates both open space and density into the neighborhood character. It also incorporates innovative green practices into housing construction and provides a mix of housing types.

PUBLIC SYSTEMS IMPACT ANALYSIS

The systems analysis included in this report address traffic through a traffic impact analysis (TIA), water and sewer through a water and sewer impact analysis (WSIA) and stormwater through a drainage impact analysis (DIA).

Traffic/Access Impact

The Canyon Del Rio Transportation Impact Analysis (TIA) included six (6) existing intersections, and seven (7) new intersections within and along the edge of the proposed development. The study area covered Butler Avenue from I-40 to Fourth Street, Fourth Street from Huntington Drive to south of Butler Avenue along the development site, and the internal Canyon Del Rio roadway system. Traffic expected from nearby yet to be developed parcels was included as future background traffic in the analysis. Analyses were conducted for assumed development levels at years 2026 (Phases I & II) and 2030 (full build-out). Phases I & II include all except four (4) retail parcels at the northeast edge of the site and three (3) relatively small residential parcels at the south edge.

The project proposes several access points to the current and future street system. Canyon Del Rio will build the west portion of Fourth Street south of Butler Avenue, and the south portion of Butler Avenue west of Fourth Street, adjacent to the site. Internal collector streets will provide access to and from Butler Avenue, Fourth Street and Herold Ranch Road, a portion of which goes through the very south end of the site. These will be minor collector streets with one vehicle lane and one bike lane in each direction with a center turn lane. Canyon Drive will be an east/west street crossing the entire site at about its midpoint. Mountain View Drive, along with the easternmost section of Canyon Drive will form a loop through the northern two-thirds of the site that intersects with Fourth Street in two locations south of Butler Avenue. Peak Point Road will connect this loop road to Butler Avenue in the northwest corner of the site, and South Ridge Road will connect the loop to Herold Ranch Road in the southwest section of the site. Herold Ranch Road crosses most of the site near its southern edge. West of Mountain View Drive, Canyon Drive will have a residential local "wide" cross section planned to connect to a future development on the Little America site, which is immediately west of Canyon Del Rio. The location of the Butler Avenue and Peak Point Road intersection is being coordinated with the property on the north side of Butler Avenue to provide access for Canyon Del Rio and a future development north of Butler Avenue. This intersection will initially be stop controlled for northbound traffic but will need to be signalized or converted to a roundabout to ultimately accommodate Canyon Del Rio traffic.

Adjacent to the Canyon Del Rio site, both Butler Avenue and Fourth Street are designated minor arterials. Butler Avenue currently has one lane in each direction, and Fourth Street is graded dirt/gravel. Fourth Street is planned to ultimately connect with John Wesley Powell Boulevard to the southwest. Canyon Del Rio is responsible for improvements on the south side of Butler Avenue and the west side of Fourth Street adjacent to the project. In addition, the analysis indicated the following off-site improvements are needed to mitigate the project's traffic impacts in the nearby area.

Off-site improvements needed for 2026 (Phases I & II) impacts:

- Fourth Street and Sparrow Avenue northbound - a through lane and a through/right turn lane
- Fourth Street and Soliere Avenue northbound - two through lanes and one exclusive right turn lane
- Butler Avenue and I-40 Eastbound Ramp westbound - two through lanes and one exclusive right turn lane
- Butler Avenue and I-40 Westbound Ramp southbound - an additional left turn lane

The study recommends the following off-site improvements to accommodate the combination of background growth and Canyon del Rio traffic by 2030 (build-out):

- Fourth Street and Soliere Avenue westbound, a westbound right turn signal to display at the same time as the southbound left turn signal
- Butler Avenue and I-40 Eastbound Ramp
    - Westbound through and shared through/right turn lane
    - Northbound left turn, right turn, and left/through/right lane
    - Eastbound second left turn lane

- Butler Avenue and I-40 Westbound Ramp
    - Westbound second left turn lane
    - Southbound right turn and left/through/right lane
    - Eastbound exclusive right turn lane

The impact analysis assumed some area improvements would be made independently from Canyon Del Rio based upon the growth of background (non-Canyon Del Rio) traffic. For the two time points analyzed, it applied all the background traffic growth first and determined what improvements would be needed. It then applied the Canyon Del Rio traffic and analyzed what additional improvements would be needed to accommodate total traffic and attributed those improvements to Canyon Del Rio. This is a necessary simplification to make conducting the analysis practical. However, both background growth and Canyon Del Rio occupancy will proceed continuously over time, not in discreet steps. Precise determination of which improvements are needed at exactly what time and what portion is due to background traffic growth and how much is specifically due to Canyon Del Rio would be very difficult and cumbersome. Assumptions would need to be made about the rate at which Canyon Del Rio is occupied, and numerous iterative scenarios would need to be analyzed. The results for any given point in time would vary based on the assumptions made about project occupancy.

Further complicating the determination of Canyon Del Rio's fair share of area improvements is that other projects are planned for the area:

- Raising the intersection of Butler Avenue and Fourth Street and drainage improvements (near term)
- Replacing the bridges and widening Fourth Street over I-40 (near term)
- Improving the Butler Avenue and I-40 interchange by Arizona Department of Transportation (ADOT) (longer term)
- Potential development along the north side of Butler Avenue west of Fourth Street (unknown term)

The timing of the first two projects and Canyon Del Rio does create the opportunity to combine projects, increasing efficiency and reducing the impact multiple construction projects would have on the public.

Recognizing all these factors and the stipulations of the Settlement Agreement, the City and the developer reviewed the needs identified in the impact analysis and other planned projects in the area and agreed on the following with respect to Canyon Del Rio's obligation for area improvements.

Ref	Project	CDRI's Obligation
1	Butler Avenue Half Street	$698,295
2	Fourth Street SB Dual Right	$21,927
3	Offsite Butler Avenue - Little A to CDR	$219,893
4	Butler / Fourth Signal	$123,391
5	Butler and Fourth EB Dual Left	$38,092
6	Butler and Fourth WB Left	$35,541
7	Butler Left Turn Lane at Peak Point	$60,177
8	Fourth Street South Half Street	$211,527
9	Fourth Street NB Left Turn Lane	$62,600
10	Fourth Street NB intersection transition	$42,175
11	Butler / Peak Point Signal	$250,000
12	Butler and I-40 Interchange Improvements	$698,112
	Total	$2,461,730

Water, Wastewater and Reclaim Impact

The Water, Wastewater, and Reclaim Water Impact Analysis was prepared by the City of Flagstaff Utilities Department. The analysis is based on the demands generated by Canyon del Rio. A summary of the analysis is provided with this report.

Water

Secondary Water Source

The proposed development falls within COF pressure Zone B with elevation limits as high as 6,892 feet. The nearest adequate source of Zone B water is in Butler Avenue along the north property line of this development. Where an existing 24" diameter ductile iron water main is located. Currently there is no "second source" waterline that supplies the water main located under Butler Avenue. Additional development (CDR) triggers the need for the secondary source. The nearest second source of water is a 12" water main located at the commercial development on the north side of Interstate 40 across from the Flagstaff Christ Church located off Soliere Avenue.

The secondary feed improvement is currently proposed to include boring under I-40, turn west and run under Soliere Avenue to Fourth Street, turn south to Butler Avenue and the existing water main. Canyon del Rio's share of the cost for this improvement is roughly $1.3 million dollars. The City Water Services department has agreed to pay for an upsize of the main beyond that required by CDR development. At the time the City accepts a proportional share Cash-in-Lieu payment for the waterline, it is agreed that the City will begin working diligently to program the capital project, so it is completed as soon as possible, before the first occupancy is needed.

The City is anticipating coordinating the construction of the I-40 at Fourth Street Bridges, improvements to Fourth Street between I-40 and Butler Avenue, elevate the Butler Avenue and Fourth Street intersection (± 6-feet) and scheduled improvements to the Butler Avenue corridor in conjunction with the secondary water line upgrade. A synopsis of CDR's financial participation in those improvements are in the graph located in the traffic section above.

New Well Site(s)

CDR is proving the City access for exploration and development of up to two well sites and their delivery infrastructure (see paragraph 4.10(a) of the DA) on the Canyon del Rio property. Once the well sites have been identified, CDR will dedicate the site(s) to the City

Proposed On-site Waterline Extensions

The developer is required, by the City, to provide a looped water system for the proposed development. The developer has provided the City with a preliminary layout for their site. The water distribution system shall consist of a 12" diameter water main extending from Butler Avenue along Peak Point Road, through the main roadway loop within the development and along the south and west portions of the development connecting to the proposed 20" diameter water main extending south from Butler Avenue in the Fourth Street Right-of-Way. Details regarding water supply system and location are addressed in the Preliminary Block Plat accompanying this application.

Water Storage

CDR is responsible for providing 428,000 gallons of water storage to satisfy its water storage obligations (paragraph 4.10(b) of the DA). CDR will satisfy its storage obligation with a partially reimbursable cash in lieu of construction payment to the City. At the time of its 400th residential or commercial equivalent building permit, CDRI shall provide to the City a partially reimbursable in lieu of construction payment in the amount of $667,943 for construction of a 1,000,000-gallon storage tank to be located at a City designated site to be determined.

Reclaim Water

Canyon del Rio does not propose any improvements to the City's reclaim water system. As noted in the Public Water and Sewer Impact Analysis "The developer and their representatives did not submit any reclaim water demand or usage. The City of Flagstaff does not anticipate providing reclaimed water to this development."

Wastewater

The nearest sewer that allows for gravity flow for this site is in the Rio de Flag wash, which crosses the proposed development. The existing sewer line is a 42-inch diameter interceptor line that flows easterly to the Wildcat treatment plan where treatment capacity is available. Sewer mains, internal to the development, will be provided by the developers and are more specifically discussed in the block plat application accompanying this rezoning.

Stormwater Analysis

The project's overarching drainage concept is to provide peak flow stormwater discharge mitigation, stormwater runoff volume mitigation and improvement to the water quality of site discharges. Development of the site will meet the peak flow mitigation, total volume mitigation and water quality requirements using surface water storage systems or extended detention basins (EDB), which will be designed with detention and a retention storage capacity as well as filtration components. The project is providing on-site volume mitigation as determined by the Drainage Impact Analysis in order to provide a no rise scenario of Lake Continental. The total volume of stormwater runoff discharged from the site will be mitigated by the retention volume provided within extended detention basins. Water quality improvements consisting of sediment capture features will be incorporated with the use of Low Impact Development (LID) Integrated Management Practices (IMPs) including sediment traps at inlets to any surface storage systems, and filtration system located within the EBDs.

The project will provide the attenuation required to reduce the post development peak runoff to the pre-development rates for the 10-year and 100-year storms. Per the approved Drainage Impact Analysis (DIA), the developer shall mitigate the identified downstream impacts. The DIA identified the required on-site mitigation strategies which are to be provided. Each phase of development shall mitigate their fair proportionate share of runoff volume impact identified in the DIA. Each phase of development shall also mitigate proportional peak flow impacts per Stormwater phasing requirements. Based on the proposed site mitigation measures, the project will not have any additional impacts to the downstream drainage conditions.

The Rio de Flag floodplain area within the property is proposed to be dedicated to the City of Flagstaff. No private stormwater mitigation facilities will be located within the dedication area. Mitigation facilities will be located primarily in tracts dedicated for drainage.

Parks, Open Space, Pedestrian and Bicycle

Canyon del Rio is located .53 miles via Butler Avenue from the Foxglenn Community Park, and slightly more using the Rio de Flag FUTS system. Foxglenn Park is 28 acres in size and include standard community park facilities. Internal to the development, 55.8-acres, or 21% of the site has been identified for open space, trails or drainage. Sheet CP2 of the concept Zoning Plan shows areas anticipated to be uses as open space and trails. The block plat identifies the areas that will be dedicated (tracts B and C) to the City and the areas that will be the responsibility of the development. The developer proposes to place a conservation easement over tract B (the Rio de Flag channel) in conjunction with the dedication to the City.

Additionally, each of the parcels will be required to meet the open space and civic space requirements associated with the proposed development. Commercial developments more than 20,000 square feet in size and residential developments of more than 50-units are required to provide 5% of the site's area for open/civic space.

Several existing FUTS Trails will be impacted by the Canyon del Rio development. Several years ago, the State Land Department granted a temporary FUTS Easement across the development, an extension of the Foxglenn trail was built across Canyon del Rio to its border with the Little America Property and Herold Ranch Road. Eventually this trail will cross Little American and connect with the Arizona Trail, south of I-40. That Trail has fallen in to disrepair since the easement expired. Canyon del Rio has, as part of providing internal pedestrian connections, plans to reconstruct the trail. Additionally, the Rio Trail runs from Foxglenn Park southward following the Rio de Flag drainage where it crosses Canyon del Rio and intercepts Herold Ranch Road. This trail will ultimately continue along the Rio drainage accessing the Flagstaff Loop Trail. This portion of trail inside he development and the Rio de Flag drainage will be donated to the City.

Internal pedestrian trails that connect the proposed parcels and future developments and the FUTS alignments have been identified and can also be reviewed on sheet CP2 of the Concept Zoning Plan. These trails will be constructed as each parcel develops.

Other Requirements

Resources

The applicant has provided resource and site capacity calculations of existing resources found on the property to be disturbed and protected as a part of the development. Based on the preliminary disturbance calculations, it appears that the minimum protection threshold requirements are being met.

The Zoning Code protection factors for resources in the HR, High Density Residential, MR, Medium Density Residential and R1, Single-Family Residential districts are as follows:

70% of moderate slopes (17-24.9%)
80% of steep slopes (25%-34.99%), and
50% of forest canopy

In the commercial zones HC Highway Commercial, the protection factors are:

60% of moderate slopes (17-24.9%)
80% of steep slopes (25%-34.99%), and
30% of forest canopy

The entire Canyon del Rio development (262-acres) contains approximately 205.64 acres of forest canopy and approximately 6.85 acres of 25% and greater slope resource, and approximately 20.46 acres of 17-25% slope resource. Paragraph 4.12, Resource, Open Space and Easement Requirements of the Development Agreement, discusses the resources and allows the developer to create two "resource banks", one for the residential properties and one for the commercial properties. These banks will allow the application of extra resources from one parcel to another parcel when extra resources are available. Staff has included a recommended condition that a document describing how the resource banks will be administered, be provided by the developer, prior to approval of the first subdivision plat or site plan approved for a parcel.

A detailed analysis of resources will be required with the preliminary plat/site plan submittal to the Internal Division Staff, provided the rezoning case is successfully concluded.

Affordable Housing

Recognizing that affordable housing is a priority planning consideration for the Planning and Zoning Commission and the City Council, the developer has agreed through the Settlement Agreement and the draft Development Agreement to donate parcel Q3, located at the southwest corner of Canyon del Rio to the City for use as affordable housing.

Paragraph 4.7 of the attached draft Development Agreement provides that 45-days after the recording of the final block plat CDRI will convey to the City parcel Q3 by special warranty deed. The proposed density for parcel Q3 is 80-units, roughly 5% of the development's density. Through the settlement agreement and reflected in the DA, the City agreed that future developers that want to take advantage of affordable housing incentives can receive a 5% credit towards the 10% affordable housing require for incentives in recognition of the dedication of parcel Q3.

Canyon del Rio has agreed to provide limited infrastructure improvements including roadway pavement, sewer and water mains to parcel Q3 as part for the second phase of development. Those improvements are triggered with the development of parcel R4, the largest parcel in second phase is platted. Neither parcel Q3 or R4 are directly affected by the proposed zoning map amendment.

Schools

The City of Flagstaff has received a letter from Flagstaff Unified School District that indicates that the Canyon del Rio development is approved as proposed and no school improvements are needed. The Arizona State legislature does not currently enable units of local government to assess school impact mitigation through development processes.

Public Participation

As mentioned, earlier in this report, the Canyon del Rio Concept Zoning Map Amendment application has been ongoing for a number of years. Attached to this report are two Citizen Participation reports. The first is for a neighborhood meeting held on August 28, 2013 (report dated December 20, 2013) and the second is for a series of meetings held more recently on July 26 and 28th, 2018, which focused on the current application. The earlier report includes a synopsis of the public comments received at the meeting. The 2018 report also includes minutes from the meeting and summary of the comments the applicant received at the meeting. Staff has also attached to this report comments received from the public regarding this development request.

Additional Information

Vegetative Management

The Flagstaff Fire Department has notified CDRI that a Vegetation Management plan and execution of the plan is required prior to combustible materials are brought onto the Canyon del Rio site. Attached for the Commissions review is a letter from Jerolyn Byrne, Wildland Firewise Specialist outlining the requirements for a Vegetation Management Plan.

Arizona Leather Flower

Attached to this report are several communications from residents responding to the initial neighborhood meeting. These e-mails focus on the Arizona Leather Flower, which maintains a protected plant species status and is subject to regulation by the Arizona Department of Agriculture. The Department of Agriculture recognized private property owner rights and address them as follows:



Protected Arizona Native Plants

Nowhere in the United States are there more rare and unusual native plants than in Arizona. Most of them are many years old and cannot be replaced. Many people desire to use these "wonders of nature" in their landscaping. However, most of these plants are protected by law. Also, all land in the State of Arizona belongs to someone, whether it be a government agency or a private citizen. Plants cannot be removed from any lands without permission of the owner and a permit from the Department of Agriculture. Lessees of State or federal land must obtain specific authorization from the landlord agency to remove protected native plants.

Landowners' Rights

Landowners have the right to destroy or remove plants growing on their land, but 20 to 60 days prior to the destruction of any protected native plants, landowners are required to notify the Department. The landowner also has the right to sell or give away any plant growing on the land. However, protected native plants may not be legally possessed, taken or transported from the growing site without a permit from the Arizona Department of Agriculture. Individually owned residential property of 10 acres or less where initial construction has already occurred is exempt from notification before destruction. (See A.R.S. 3-904 H.)

Staff has crafted a condition of approval that requires the developer to obtain any required permits from the Department of Agriculture prior to removal or destruction of protected plants on the Canyon del Rio site.

RECOMMENDATION:

In accordance with the findings presented in this report, staff recommends approval of PZ 18-00113-01 subject to the following conditions:

1. That the subject property be developed according to the Concept Zone Plan of Canyon del Rio as presented with the rezoning request.

2. That all other requirements of the Flagstaff Zoning Code and other City codes, ordinances and regulations apply to the Canyon del Rio development.

3. The developer shall grant permanent public pedestrian easements on the trails within the development of Canyon del Rio.

4. That all terms, condition and restrictions detailed within the "Canyon del Rio" Development Agreement are fully satisfied.

5. That a Vegetative Management PLAN meeting the Flagstaff Fire Departments approval be process and the work completed before combustible materials be brought onto Canyon del Rio.

6. All single-family attached and detached homes within Canyon-del Rio will comply with the "Net Zero Ready" design that provides energy efficient homes.

7. The developer will create a Design Review Policy document that sets minimum exterior structure appearance, materials and design consistent with the City's Architectural Design Standards, section 10-50.20 of the Zoning Code prior to the first subdivision plat or site plan review.

8. In conjunction with Regional Plan policy LU.13.5. If vertical mixed use is not feasible, the site design of commercial buildings that are at-grade with the commercial corridor (Butler Avenue and/or South Fourth Street) will need to have architecture that mimics a 2-story building in order to support a feeling of enclosure that has been shown to make activity centers more comfortable to walk in.

9. The Lot Coverage/Building information chart on the Concept Zone Plan of Canyon Del Rio and Exhibit "D", Density Chart of the Development Agreement for Canyon del Rio set target densities and intensities for parcels within Canyon del Rio.

10. All private roads shall remain open to the public and shall never be gated.

11. Development in the Canyon del Rio Property be proceeded by permit from the Arizona Department of Agriculture for removal/destruction of a protected plant species.

12. The developer (CDRI) provide to the City a document that describes how the "resource banks" will be administered and excess resources will be distributed to other sites and how the transferred resources will be permanently protected. The document will be provided to the City in conjunction with the first preliminary plat or site plan review proposed for a parcel in Canyon del Rio.

Attachments:

- Application
- Location Map; Existing Zoning Exhibit; Exhibit with Rezone Boundary
- Narrative w/ plan analysis
- Concept Zoning Plan
- Canyon del Rio Sustainable Family Living Plan
- Settlement Agreement
- Draft Development Agreement
- Public participation Plans and Correspondence
- Fire Department Letter from Jerolyn Byrne
- Arizona Leather Flower correspondence

CONDITIONS:

1. That the subject property be developed according to the Concept Zone Plan of Canyon del Rio as presented with the rezoning request.

2. That all other requirements of the Flagstaff Zoning Code and other City codes, ordinances and regulations apply to the Canyon del Rio development.

3. The developer shall grant permanent public pedestrian easements on the trails within the development of Canyon del Rio.

4. That all terms, conditions and restrictions detailed in the "Canyon del Rio" Development Agreement, which was entered into between the City of Flagstaff and the Applicant, and approved by the City Council through Resolution No. 2019-20 on June 4, 2019, are fully satisfied.

5. That a Vegetative Management plan meeting the Flagstaff Fire Department's approval be processed and the work completed before combustible materials be brought onto Canyon del Rio.

6. All single-family attached and detached homes within Canyon del Rio will comply with the "Net Zero Ready" design that provides energy efficient homes.

7. The developer will create a Design Review Policy document that sets minimum exterior structure appearance, materials and design consistent with the City's Architectural Design Standards, section 10-50.20 of the Zoning Code, prior to the first subdivision plat or site plan review.

8. In conjunction with Regional Plan policy LU.13.5., if vertical mixed use is not feasible, the site design of commercial buildings that are at-grade with the commercial corridor (Butler Avenue and/or South Fourth Street) will need to have architecture that mimics a 2-story building in order to support a feeling of enclosure that has been shown to make activity centers more comfortable to walk in.

9. The Lot Coverage/Building information chart on the Concept Zone Plan of Canyon Del Rio and Exhibit "D", Density Chart, to the Development Agreement for Canyon del Rio must set target densities and intensities for parcels within Canyon del Rio as approved by staff.

10. All private roads shall remain open to the public and shall never be gated.

11. Development of the Property shall not commence until Applicant obtains a permit from the Arizona Department of Agriculture for removal/destruction of any protected plan species on the Property.

12. The Applicant provide to the City a document that describes how the "resource banks" will be administered and excess resources will be distributed to other sites and how the transferred resources will be permanently protected. The document will be provided to the City in conjunction with the first preliminary plat or site plan review proposed for a parcel in Canyon del Rio.

Findings for Reviewing Proposed Zoning Map Amendments and Text Amendments:

Section 10-20.50.040F of the Zoning Code defines the findings for Zoning Map Amendment that the Planning and Zoning Commission may formulate their recommendation to the City Council. Staff provides the following summary of the findings for the Commission's reference.

Finding

1) Consistency and conformance with the General Plan:
    a. The designations of commercial corridor for 4th Street and Butler (Regional Plan Map 25) and Regional Suburban Activity Center (S18 on Maps 21 and 22) are met by the designation of Highway Commercial along these corridors.
    b. The Activity Center's multifamily housing (HR and MR zones) provides horizontal mixed use at 14 DU/AC, which is the minimum density for plan conformance in a Regional Suburban Activity Center.
    c. According to the High Occupancy Housing Plan (adopted in 2018), this activity center had some of the highest readiness and potential for high density housing based on utilities and transportation infrastructure.
    d. The High Occupancy Housing Plan also identified this Activity Center as one with the least impact on historically low-income neighborhoods such as Southside and Sunnyside, compared to other opportunities for infill and redevelopment.
    e. This development supports the completion of a key arterial connection for the Flagstaff Region when JW Powell Boulevard is complete and connected to I-17. It also supports the completion of FUTS trails and complete sidewalk connections throughout the area and surrounding neighborhoods.
    f. The designation of 58 acres of public open space addresses Regional Plan Goals for Environmental Planning & Conservation and Open Space and Water Resources, because of the extensive floodway and wildlife corridors that will be protected.
    g. The contributions of land and incentives for developers of blocks within the development to provide affordable housing along with the infill and equity benefits of the proposal conform to the Neighborhoods, Housing, and Urban Conservation goals of the Regional Plan.
2) Community Benefits
    a. Canon del Rio Investors are donating parcel Q3 to the City for the future development of affordable housing. They are also providing, through the settlement agreement, the opportunity for housing developers to receive an incentive for providing affordable housing in any block within the development. Affordable housing is one of the most pressing issues locally and nationally. Flagstaff is continually working to bring new affordable housing to market and this contribution to addressing the issue will be a significant community benefit.

b. Creating a higher density and mixed-use environment for Activity Center S18, which is along the Mountain Line Permanent Transit Network and creates infill housing between Downtown and the east side of Flagstaff, will have a …."

   Higher density development, which create more places for people to live, shop, eat, and work within a smaller place, results in more destinations in a smaller place. This leads to fewer vehicle miles traveled between destinations, and lower greenhouse gas emissions resulting from daily travel around Flagstaff (Final Documentation Summary of Support Activities for the Flagstaff Regional Plan Update, 2013). As transportation is Flagstaff's largest source of greenhouse gas emissions, reducing the miles Flagstaff residents travel and associated emissions is critical to meeting the goals of the Flagstaff Climate Action and Adaptation Plan (Transportation and Land Use Goal 1: Reduce greenhouse gas emissions from vehicle use and Transportation and Land Use Strategy 1: Advance land use planning that minimizes the distance people have to travel by car and that increases community resiliency).

   The vision statement of the Transportation and Land Use section of the Climate Action and Adaptation Plan is to create 'an environment where residents and visitors can easily choose to use active transportation, buses and shared rides, reducing vehicle miles traveled and greenhouse gas emissions from transportation.' Achieving this vision of multiple easy and healthy transportation choices for Flagstaff residents is only possible by supporting the pattern of development promoted in the Flagstaff Regional Plan, which shifts land uses away from low density suburban development in strategic locations. Higher-density and mixed-use environments also promote resiliency: vulnerable populations, like older adults and those without access to a personal vehicle, can more easily thrive in dense, mixed use environments that support walkability and services within close proximity. Higher-density environments are inherently more walkable environments, exemplified by Flagstaff's historic downtown. Higher-density environments have been shown to increase social connections and public health among residents.

c. Implementing the development patterns envisioned in the regional plan is also estimated to reduce total water demand by 1.2 million gallons and regionwide fuel consumption by 11,000 gallons per year (city wide) as compared to a low-density development Flagstaff (Final Documentation Summary of Support Activities for the Flagstaff Regional Plan Update, 2013). Incremental decisions like Canon del Rio are opportunities to reduce the environmental impact of the entire community, when they increase the density and intensity of uses in accordance with Flagstaff's Regional Plan and Climate Action and Adaptation Plan**.**

Canon del Rio will contribute its fair and roughly proportional share of infrastructure costs for transportation, water delivery and water storage. The total contribution will be $4.4 million.

Canon del Rio will protect 58.7 acres of public open space which overlaps with several significant natural resources identified in the Regional Plan, including rural floodplain and floodway, wildlife corridors, sensitive plant species habitat, prairie dog colonies and larger diameter trees. The area to be preserved has one of the highest concentrations of natural resources on undeveloped private land in the Flagstaff Region.

3) The Site is Physically Suitable in terms of:
   a) Public and emergency service: Adequate transportation infrastructure is ensured through the subdivision platting process and includes frontage improvements to Butler Avenue and Fourth Street and of-site improvements to the Butler Avenue Corridor and the I-40 interchange. On-site improvements include public streets, utility improvements and open space dedications.
   b) Utilities: Potable water, sewer and franchise utilities have been evaluated and specific requirements for systems upgrades have been identified. A second source water line, Zone B water storage and new well sites have been addressed. On Site sewer connections will be provided; provisions for these improvements and private utility improvements have been addressed by the developer.
   c) Schools: Flagstaff Unified School District has responded and does not ask for any additional improvements at Canyon del Rio.
   d) Solid Waste: The City's Public Works Department has the capability to provide solid waste removal services and capacity to accept that waste at the Flagstaff Landfill.

The proposed zoning districts are in compliance with the Regional Plan designations and the proposed land uses are in conformance with the proposed zoning designations. It is not anticipated that this proposal will result in land uses that will jeopardize or constitute a hazard(s) to this site, the neighborhood or the community.

PROJECT NARRATIVE
for
CANYON DEL RIO
ZONING MAP AMENDMENT

83 Net Acres Located at Butler Avenue and Fourth Street
Flagstaff, Arizona

Prepared by:
RAC Partners L.L.C.
3605 South Flagstaff Ranch Road
Flagstaff, Arizona 86005

Prepared for:
Canyon del Rio Investors, LLC

Date: February 27, 2019

PROJECT NARRATIVE

1. BACKGROUND & HISTORY.

Canyon del Rio, located generally southwest of the intersection of Butler Avenue and Fourth Street, was originally conceived and zoned by WL Gore & Associates ("Gore") in 1984 as a **[316]** acre mixed use development, with primary zoning designations allocated between: (i) single family housing; and (ii) office/research and development facilities ("1984 Plan"). A Site Plan depicting Canyon del Rio's original configuration accompanies this Narrative as **Exhibit A** ("Site Plan"). Parcel references in this Narrative will relate to the Site Plan.

Gore abandoned development of Canyon del Rio in the late 1980's, and Canyon del Rio, then owned by the State of Arizona ("State"), remained undeveloped and inactive until 2002, when the current applicant, Canyon del Rio Investors, LLC ("CDRI") purchased substantially all of Canyon del Rio from the State at auction.[1] Between 2002 and 2008, CDRI sold Parcels A, B and C (which lie north of Butler Avenue), and Parcel M, which lies east of the anticipated Fourth Street right-of-way, to third-party purchasers.

CDRI retained the entire 'core' portion of Canyon del Rio, approximately **[262]** acres, which lies south of Butler Avenue and west of the anticipated Fourth Street right-of-way as depicted on the Site Plan ("CDR Core Property"). The CDR Core Property is currently undeveloped, and aside from dirt roads and paths (which include the anticipated Fourth Street and Harold Ranch Road rights-of-way), the CDR Core Property exists today in its natural/forested condition.

Following CDRI's acquisition of Canyon del Rio, CDRI began discussions with the City of Flagstaff ("City") relating to the 1984 Plan and, specifically, the land uses permitted under the zoning designations established by the 1984 Plan. Despite good faith efforts, CDRI and the City were unable to reach agreement and lawsuits were filed in both Coconino and Maricopa Counties (collectively, "CDR Litigation"). In 2013, the City and CDRI were able to resolve their differences, without protracted litigation, and entered into a Settlement Agreement (as amended, "Settlement Agreement").

Pursuant to the terms of the Settlement Agreement, the City and CDRI agreed to amend the Zoning Map covering approximately **[83]** acres of the CDR Core Property (collectively, "Rezone Parcels")[2] in the manner described in the pending Application for Zoning Map Amendment

---

[1] The State retained Parcels D and L, which lie south of Butler Avenue and east of the anticipated Fourth Street right-of-way. The State still retains title to Parcels D and L, and Parcels D and L are not included as part of the current Application.

[2] The Rezone Parcels include Parcels **[E-1, E-2, F, G, H, J-1, J-2, K-1, K-2, N, O and P]** as depicted on the Site Plan.

("Application"). City Staff has determined that the Application, and the proposed new zoning for the Rezone Parcels, complies with the City's Regional Plan 2030.

The balance of the CDR Core Property, approximately **[179]** acres, will maintain the zoning designations created under the 1984 Plan, as updated by the City's 2011 Zoning Code.

In addition to fully resolving the CDR Litigation, the Zoning Map Amendment contemplated by the pending Application will bring the following material benefits to the City's residents and the Flagstaff community as a whole:

- Substantial developer contributions to much needed regional infrastructure, including the Butler Avenue and Fourth Street intersection, the I-40/Butler Avenue Interchange, the Butler Avenue/Peak Point Signal and many other regional public infrastructure and roadway projects.
- The installation of a material segment of Fourth Street south from Butler Avenue, together with associated utility (water and sewer) infrastructure.
- The development of significant and much needed high-quality housing within the City's "core" which will be focused on an important and underserved segment of the City's year-round resident population.
- The development of neighborhood retail facilities that will serve the area's residents and generate incremental sales tax revenue for the City.
- The construction and installation of important new well and water storage facilities that will be controlled by the City.
- The conveyance of Parcel Q-3 to the City (at no charge) for the purpose of Workforce Affordable Housing.
- The completion and dedication of that portion of Harold Ranch Road that lies within the CDR Core Property and provides access to hundreds of City residents that live south of Canyon del Rio.
- The establishment of paved and dedicated access to the Coconino Humane Society facility that currently utilizes unpaved portions of Fourth Street south of Butler Avenue for access under a revocable license granted by CDRI in 2002.
- The addition (and permanent preservation) of approximately **[54]** acres of open space generally located around the Rio de Flag, with significant additions and upgrades to the City's Urban Trail (FUTS) System.

The City's development and zoning staff, and CDRI's owners and land planners, have worked diligently over a several year period to create a zoning and development master plan for the CDR

Core Property that makes sense under current market conditions, respects the CDR Core Property's unique and challenging topography, and insures that the CDR Core Property will pay for its anticipated impact on public infrastructure.

The proposed zoning and development plan for the CDR Core Property will enhance the beautiful environment that makes Flagstaff such a unique city. It will create a vibrant, centrally located and inviting "***live, work and play***" addition to the City's portfolio of residential communities while simultaneously bringing critical infrastructure and attracting new and existing residents for many years to come. 35 years after the 1984 Plan was conceived, the time has now come to proceed with the entitlement and development of Canyon del Rio, and the pending Application reflects the "correct" approach that will enable future generations in Flagstaff to say "***I am proud to live in Canyon del Rio***."

2. THE PROPERTY.

The CDR Core Property maintains significant frontage on Butler Avenue. The anticipated Fourth Street right-of-way south of Butler is owned by CDRI and is part of the CDR Core Property. The Rezone Parcels, which are the subject of the pending Application, generally comprise the northeast quadrant of the CDR Core Property, bordering on Butler Avenue and the anticipated Fourth Street right-of-way, all as depicted on the Site Plan.

The CDR Core Property's neighbor to the west is Little America. The Little America truck stop is approximately 1,175 feet from the CDR Core Property's west border. To the east, the CDR Core Property is bordered by Parcels D, L (State land) and M (Four Square Church) and various privately-owned and State land parcels which are undeveloped. Properties to the north include the Pinehurst Apartments and a few undeveloped parcels. Except for a few residences to the south, and the apartments on the north side of Butler, the immediately bordering land is vacant/undeveloped. Black Bart's RV Park does not border the CDR Core Property, it is on the north side of Butler Avenue, approximately 660 feet from the CDR Core Property. The Sinagua Heights residential community does not border the CDR Core Property. The distance between the CDR Core Property and Sinagua Heights along Butler Avenue is 1,074 feet.

The CDR Core Property presents a challenging topography for development. The site ranges in elevation from approximately 6,780 feet to approximately 6,894 feet above sea level with hard rock ridges, small plateaus, washes, and valleys rolling through the property. Native Ponderosa Pine forest is the predominant condition of the site although there are trails traversing the area and a segment of the anticipated Harold Ranch Road right-of-way crosses through a part of the southern portion of the site. The southern portion of the site is traversed by the Rio de Flag and electric transmission lines. The bottom of the Rio de Flag canyon is largely devoid of trees and generally covered with native grasses and shrubs. Two sets of overhead electric transmission lines that transmit 69 and 12.4 kilovolts of power, on 40 to 60 foot poles, cut through the southern end of the site from east to west.

Trails on the site range from “jeep” trails for access to the utility easements on the property, to “single track” and “jeep” trails with no associated land rights, to the Foxglenn FUTS trail that traverses the property east to west and terminates at Harold Ranch Road. Rio de Flag runs through a part of the southern portion of the site running from southwest to northeast through a small canyon. Although the site is vacant, trespassing is a frequent occurrence, with unauthorized/illegal camping prevalent most of the year. Litter and waste have been dumped throughout the area by illegal campers for years, creating a nuisance that the development of the site will resolve.

CDRI’s owners have incurred significant expenses, and have worked closely with local land planners, engineers and neighbors, to create a development plan for the CDR Core Property that respects and incorporates the site’s natural beauty and topography, and will complement and enhance the City’s existing regional infrastructure.

3. THE LOOK & FEEL OF CANYON DEL RIO.

Development within the CDR Core Property will have architecture characterized by a "Modern Mountain" style that utilizes exposed heavy timber elements, varying roof lines, stone veneer and wood siding materials, and iron hardware and details on signage. The accompanying Graphic Booklet provides specific examples of the project’s conceptual design ideas for buildings, along with concepts for signage and streetscapes and related community amenities.

4. DEVELOPMENT AGREEMENT & BLOCK PLAT.

In conjunction with the Application, CDRI is also processing a Block Plat and a Development Agreement. The Block Plat and Development Agreement will cover and affect the entire CDR Core Property (as opposed to just the Rezone Parcels that are covered by the Application). The Application, the Block Plat and the Development Agreement will be approved as a single, integrated package, governing the zoning, entitlement and development of the entire CDR Core Property.

The Block Plat will confirm the Parcel boundaries, internal (collector) road locations and Parcel zoning. Prior to actual development, a separate “Final Plat” will be required for each parcel that complies with the Development Agreement (as outlined below) and the City’s other development guidelines.

The Development Agreement will be the document that governs the actual development of the CDR Core Property, including required public infrastructure payments, and associated development and installation phasing. Highlights of the Development Agreement include:

- the installation and dedication of an important segment of Fourth Street south of Butler Avenue;

- improving the regional water system by, among other things, creating a water "loop" that will benefit the entire geographic area;
- funding the construction of additional wells and water storage facilities;
- in conjunction with the City, funding much needed improvements to Butler Avenue and Fourth Street which will raise and widen the intersection and address reoccurring flooding issues;
- in conjunction with the City and ADOT, funding much needed improvements to the I-40/Butler Avenue Interchange;
- the improvement and dedication of that portion of Harold Ranch Road that traverses the CDR Core Property; and
- the donation of land for Affordable Workforce Housing.

5. SPECIFIC ZONING & LAND USE RESTRICTIONS.

Approval of the Application will amend the existing RD Zoning, which covers all of the Rezone Parcels, as follows:

- Parcels **[E-1, E-2, F, H, K-1, and K-2]** (approximately 25.7 acres) will be rezoned to HC-Highway Commercial;
- Parcels **[G, N, O and P]** (approximately 27.7 acres) will be rezoned to MR-Medium Density Residential; and
- Parcels **[J-1 and J-2]** (approximately 30 acres) will be rezoned to HR-High Density Residential.

Parcels I, Q-1, Q-2 and S are not part of the Application and are already zoned with applicable residential designations. Parcels Q-3, R-1, R-2, R-3, R-4, and R-5 are not part of the Application and are already zoned MR.

If the Application is approved, the zoning category totals for the entire CDR Core Property (262 acres) will be:

R1-Single Family Residential:	38 acres
MR-Medium Density Residential:	107 acres
HR-High Density Residential:	30 acres
HC-Highway Commercial:	26 acres
Tracts:	33 acres
Right-of-Way	28 acres
	262 acres

54 acres of open space are distributed within the R1, MR, HR, HC, and Tracts.

The Zoning Map Amendment proposes uses including: Office/Retail and Retail uses in the HC-Highway Commercial zone Parcels, attached Residential uses in the MR-Medium Density Residential zone, attached Residential/Multi-Family/Apartment uses in the HR-High Density Residential zone, and detached Residential uses in the R1-Single Family Residential zone. These are anticipated uses, but any use that is allowed within the zoning category, unless specifically excluded by the Development Agreement, will also be allowed.

Within the zoning categories outlined above, and subject to change based on prevailing market conditions and demand, CDRI anticipates the following specific uses on a Parcel-by-Parcel basis:

- **Parcels E1 and E2**: Primarily office, with the potential for a combination of retail and office.
- **Parcels F, H, K1 and K2**: Primarily retail, with the potential for a combination of retail and office.
- **Parcels G and N**: Attached residential units.
- **Parcels I, Q1, Q2, R1, R2, R3, R4, R5 and S**: Detached single family residential.
- **Parcels O and P**: Parcels O and P will be zoned MR (medium density residential), however, CDRI is evaluating the Parcels for potential school (Parcel P) and potential Church use (Parcel O).
- **Parcel Q3**: This Parcel will be donated to the City by CDRI for Affordable Housing development through the City's Affordable Housing program. Parcel Q3 represents approximately 5% of the residential density of the CDR Core Property and satisfies the City's Affordable Housing requirements for a multi-use development like Canyon del Rio.

Generally, uses within the CDR Core Property follow a pattern of decreasing density, with the highest densities and intensity of use (retail, office and apartments) commencing at the intersection of Butler Avenue and Fourth Street, with intensities decreasing (attached and detached single family) as development moves to the west and southern portions of the Property.

Overall use restrictions will be established by the City's zoning code and applicable state and federal laws. CDRI also anticipates recording comprehensive Covenants, Conditions and Restrictions ("Master CC&Rs") covering the CDR Core Property in order to maintain continuity and uniformity within the development. The Master CC&Rs will be recorded after the zoning process is complete, but before the first Parcel is conveyed to a third-party purchaser. The Master CC&Rs may also cover the adjacent property held by the State (Parcels D and L) and/or

Parcel M (owned by the Four Square Church). Whether Parcels D, L and/or M become subject to the Master CC&Rs will be determined by future negotiation between or among CDRI and the Parcel D, L and M owners.

The Master CC&Rs will provide commercially standard guidelines and rules insuring the Property is developed in a uniform manner that complies with the Development Agreement and reflects the Property's unique characteristics, benefiting all Parcel owners. The Master CC&Rs will also provide for the formation of a Master Association that will maintain specified common areas and common area improvements within the CDR Core Property, and administer the Resource Bank (as defined below), together with an assessment mechanism to fund anticipated maintenance, repair and replacement expenses. The Master CC&Rs will prohibit the following uses anywhere within the CDR Core Property: Adult Entertainment, Flammable Liquid and Bulk Fuel Storage and Sale; Vehicle Impound Towing Yard; Commercial Campgrounds, Equipment Rental Yards, Mobile Homes and Recreational Vehicle Sales and Service**.**

Individual Parcels within the Property may also be subject to separate recorded covenants, conditions and restrictions ("Sub-CC&Rs"). The Sub-CC&Rs will establish Parcel specific rules and restrictions, and also provide for the formation of Parcel specific associations – in most cases, Homeowner Associations relating to the Property's single-family and condominium communities.

6. SPECIFIC BENEFITS TO THE CITY AND ITS RESIDENTS.

A. Public Services & Infrastructure.

The proposed development of the CDR Core Property will develop and enhance essential public services such as water, wastewater and storm water infrastructure. For example, the Development Agreement will require installation of the following public improvements:

- 4,000 linear feet of new 12" sewer line;
- 6,000 linear feet of new 8" sewer line;
- 5,400 linear feet of new 20" water line;
- 11,400 linear feet of 12" water line;
- 134,000 square feet of new sidewalk (and related landscaping); and
- 52,500 square yards of new pavement (including the crucial installation of Fourth Street south of Butler Avenue).

In addition, the Development Agreement will require the contribution of $1,935,204 for the design and construction of off-site improvements on Butler Avenue and Fourth Street that the City will be installing, which also includes $662,422 for improvements to the Butler Avenue and I-40 interchange.

The required improvements to the Butler Avenue and Fourth Street intersection, including traffic signal and flood control upgrades, will dramatically improve traffic flow and traffic safety, thereby improving emergency service response to this area of Flagstaff. Also of significant importance is the construction of Fourth Street south of Butler Avenue which will address safety issues at the Butler Avenue and Fourth Street intersection and establish a vital component of the ultimate link to John Wesley Powell Boulevard.

The Development Agreement will also require material land contributions (well and storage facility sites), and financial resources for wells, water storage and related maintenance over the next 20 years. Construction of a well site on the CDR Core Property will enhance the City's overall water supply for not just Canyon del Rio, but the entire city water system. $667,943 is designated in the Development Agreement as the CDR Core Property's payment for water storage and 20 years of operation and maintenance. This payment for water storage will provide 428,000 gallons of additional water storage to the City's water system. Another $1,300,000 contribution by the CDR Core Property to the City will go towards a secondary water supply that will improve the City's water system that is much needed for the water quality of not just the CDR Core Property, but also the immediate surrounding area. Water lines that will be installed on the CDR Core Property will also bring water availability to the perimeter of the Property, thereby making possible future connections to other surrounding properties, including the eventual connection of John Wesley Powell Boulevard to Fourth Street.

Additional benefits to the city are summarized in Exhibit B.

B. <u>Community Benefits</u>.

In addition to the specific public service and infrastructure benefits outlined above, approval of the Application will bring significant additional benefits to the City and its residents. These benefits include:

- Much needed housing alternatives for the City's year-round residents, across multiple income levels and demographics.
- The construction of Fourth Street south of Butler Avenue, resolving current traffic issues at the Fourth Street and Butler Avenue intersection and facilitating the future link to John Wesley Powell Boulevard.
- Improving traffic flow along Butler Avenue and resolving current flooding issues at the Fourth Street and Butler Avenue intersection.
- Providing paved and dedicated access to the City residents that currently use Harold Ranch Road to access their homes.
- Providing paved and dedicated access to the Coconino Humane Society.

- Expanding the City's FUTS program.
- Donating Parcel Q-3 for Affordable Housing.
- Incremental Property and Sales Tax revenue that will benefit the Flagstaff Unified School District, the Flagstaff Police Department, the Flagstaff Fire Department, Parks and Recreation, the Flagstaff Courts, Water, Sewer, Lighting, Open Space, Recreation programs, Fire facilities as well as Coconino County entities such as: Coconino Community College, the Sheriff's office, Parks, the Courts, the Public Defender's Office, Libraries, Public Health Services, the Flood Control District, and the Joint Vocational Tech Institute.

While final sales and property tax calculations cannot be made until the Final Plats are recorded and final users are in place, general estimates and examples are provided below:

Property Tax Example: Using 2018 tax rates, a home valued at $300,000 would pay $227 to the City in primary taxes, $227 in secondary taxes, and $751 to the Flagstaff Unified School District. Applying these amounts to 573 single-family lots, approximately $260,000 will be generated in primary and secondary taxes to the City per year and approximately $430,000 will be generated each year for the Flagstaff Unified School District.

Sales Tax Example: Commercial/Retail businesses in CDR will generate perpetual sales tax revenue. Using $7.50/square foot/year multiplied by 116,741 square feet of retail, in just Parcels K-1 and K-2, equals $875,557 per year sales tax generation. Parcels E-1, E-2, F, and H are anticipated to be Office/Retail uses and would contain about 105,416 square feet of building space which could generate an additional $790,620 per year in sales tax.

Sales Tax Example 2: Each home sold in CDR will generate approximately $17,500 in sales tax multiplied by 573 homes for a total of $10,027,500. Taxes will also be generated from CDR on contracting, utilities, telecommunications, and telephone service providers.

Utility Fee Example: CDR residents that use electricity, natural gas, water-sewer-garbage, telephone-internet, and cable tv-satellite services will pay City sales tax on those utilities at the rate of approximately $62,000 per year for the single-family residents and approximately $71,000 per year for the multi-family residents.

Permitting Fee Example: Each home built in CDR will generate approximately $3,500 in permitting fees multiplied by 573 homes for a total of $2,005,500. And a per home water meter fee of $9,847.58 will generate $5,642,663 from 573 homes.

C. **Addressing Community Concerns**.

As a result of the Neighborhood Meetings that took place at Sinagua Middle School on July 26 and 28, 2018, the following solutions are being offered by CDRI to address neighborhood concerns:

- Trees along Butler Avenue and Fourth Street will be preserved as much as possible, with the stipulation that the right-of-way for Butler Avenue and Fourth Street are being widened from their current widths and raised from their current elevations requiring the removal of some trees in conjunction with the construction of these roads.
- Loading docks will be shielded to reduce their visibility and noise to the surrounding area.
- Retail and Office floor space coverage has been proposed at .20 FAR, lower than what is allowed per City code.

7. THE CDR CORE PROPERTY IS SUITABLE FOR THE PROPOSED DEVELOPMENT.

The Application includes a Traffic Impact Analysis, a Drainage Analysis, a Water and Sewer Analysis, and other information and engineering that addresses and confirms the CDR Core Property's suitability for each of the proposed uses, including design, location, shape, size, operating characteristics, public and emergency vehicle access, public services and utilities. The proposed uses will not endanger, jeopardize or otherwise constitute a hazard to the CDR Core Property or neighboring properties.

8. RESOURCES.

Approval of the Block Plat will determine where some common resources and common space will be located. Every Parcel within the CDR Core Property will be allowed to share forest resources to achieve the amount of forest resources that are required of that Parcel by the Development Agreement and/or City requirements. A "Resource Bank" will be established and maintained by the Master Association, and coordinated with the City, in order to protect the site's resources and to keep an ongoing accounting of available resources and which resources have been allocated or shared between or among specific Parcels.

9. REASON FOR REQUEST.

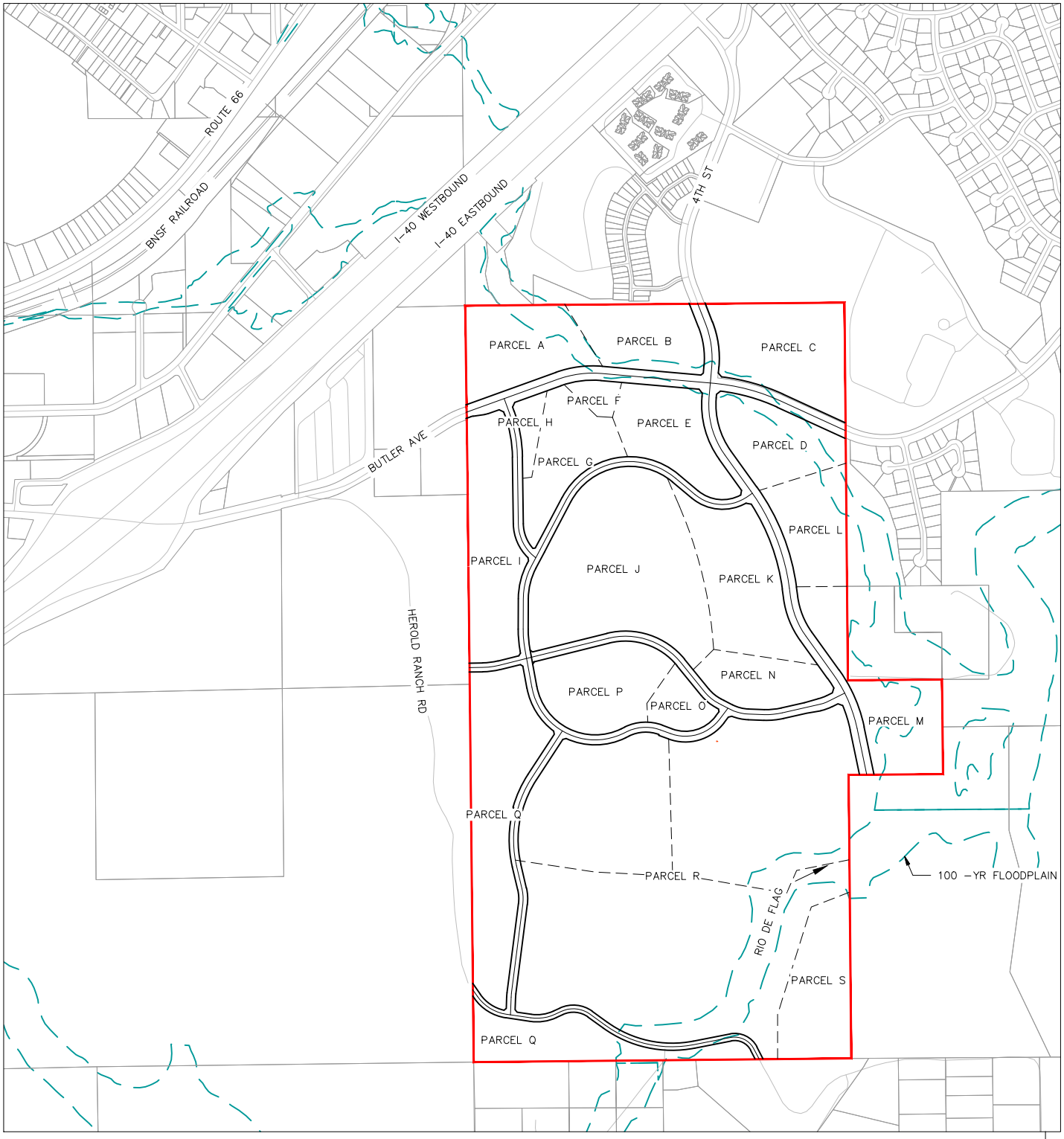
The 1984 Plan was based on Gore's intended development and use of Canyon del Rio. Gore abandoned that plan, and the CDR Core Property has remained undeveloped for almost 35 years.

After CDRI acquired Canyon del Rio in 2002 and began the process of assessing market and product demand in the Flagstaff area, it became quite clear that 83 acres of RD (office/research and development) Zoning created an insurmountable obstacle to development based on lack of demand in the Flagstaff area for that volume of office product. In turn, with the expansion of NAU, and its student population, faculty and supporting businesses, combined with the overall expansion of Flagstaff's full-time resident population, demand for a mixed use development, of the type currently proposed, increases on an annual (even monthly) basis.

While CDRI and the City initially disagreed regarding the scope of development permitted under the 1984 Plan, the Settlement Agreement resolved that disagreement and the Application represents the culmination of CDRI's work with the City to implement the Settlement Agreement and provide for a new mixed-use development that will bring long lasting benefits to the City and its residents.

10. CONCLUSION.

The Application is consistent with the City's Regional Plan designation of Suburban-future and Urban-future with a Suburban Activity Center and an Urban Activity Center on Butler Avenue. Approval of the Application, the Development Agreement and the Block Plat will also fully and finally resolve the Litigation. For all of the reasons outlined above, proceeding with development of a mixed use, diverse, master planned community with appropriate uses, open spaces and amenities, and the infrastructure that comes with it, will be beneficial to the area and the community. CDRI respectfully requests the City's approval of the pending Application.



PLOTTED: Feb 28, 2019-3:05pm

FILE: P:\2013\13184\Drawings\Exhibits\P&Z Maps\13184 - Exhibit A.dwg SWI-C3D-18_KMB

Shephard Wesnitzer, Inc.

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.8934 fax

www.swiaz.com

JOB NO.	13184
DATE	FEB 19
SCALE	1"=1000'
DRAWN	SCI/KMF
DESIGN	SCI
CHECKED	SCI

CANYON DEL RIO

FLAGSTAFF
ARIZONA

EXHIBIT A

SHEET 1 OF 1

EXHIBIT B

Conformance to Flagstaff's Regional Plan Goals

The proposed development of CDR seeks to achieve conformance with the Goals and Policies of applicable provisions of the City's Regional Plan. Examples of various Goals and Policies that are being satisfied by this Application are summarized below.

CDRI's proposed mixture of uses replaces the existing entitlements' business office park land use, these new proposed uses will ensure these Parcels realize their full potential by providing sustainable, desirable land uses. CDR and the City will benefit from the sustainable land use mix by creating a land use plan that is more marketable, thereby getting closer to realizing new infrastructure, enhanced rights-of-way and public spaces, by development of this underutilized property with a new mixed-use development.

The CDR Zoning Map Amendment is oriented toward the Regional Suburban Activity Center (S18) located at the corner of Fourth Street and Butler Avenue per the Flagstaff Regional Plan.

CDR conforms to the approved Flagstaff Regional Plan 2030 and the FMPO Blueprint 2040 Regional Transportation Plan with the proposed improvements to the frontage of Butler Ave. and Fourth Street. Fourth Street south of Butler has been identified as a "new road" in the Build-Out Plan map and as a "Potential Partnering Project" in the 20 Year Program map. Further, both Butler and Fourth Street are described as "Minor Arterial" on the Future Functional Classification map. The development of CDR will certainly contribute to the City of Flagstaff's long-term goals for traffic flow and transportation.

Policy E&C 2.1 Encourage the reduction of all energy consumption, especially fossil-fuel generated energy, in public, commercial, industrial, and residential sectors.

In the single family attached and detached residential areas Capstone Homes will build Department of Energy "Net Zero Ready" homes which significantly reduce the homeowner's energy usage while reducing the amount of energy generated for this community versus what would be generated using more traditional construction techniques. This will enhance not only CDR by providing lower utility bills to its residents but will also have a positive benefit to the City of Flagstaff and surrounding areas by reducing the amount of energy that would need to be generated (and its associated pollution and use of resources) if less efficient homes were built.

Policy E&C.7.2. Favor the use of available mechanisms at the City and County level for the preservation of environmentally sensitive lands, including but not limited to public

acquisition, conservation easements, transfer of development rights, or clustered development with open space designations.

Per the Settlement Agreement for the Property, the open space and resources of the overall CDR subdivision will be available to be credited to the Parcels within the Property to use for the

resource protection calculation of each Parcel as needed. This "forest resource bank" can be added to the forest resource calculation of any Parcel to insure that the Parcel meets the City's forest resource requirements. A master community association will be created that governs all of CDR and will have procedures of how the "forest resource bank" will be administered. An accounting of the forest resource bank will be kept by the master community association and coordinated with the City community development department that will detail the amount of the forest resource bank available, the amount of the forest resource bank credited, and to what Parcel, as well as the amount of forest resource bank remaining. When a preliminary Plat for a Parcel is ready to be submitted to the city, the forest resource bank accounting will be reviewed and updated as necessary by the master community association with correspondence to the City.

Policy E&C 10.1 Encourage local development to protect, conserve, and when possible enhance and restore wildlife habitat.

Approximately 54 acres of Canyon Del Rio will be reserved as open space to protect and conserve wildlife habitat. Steeper escarpments will be preserved in open space and a portion of the Rio de Flag that runs through CDR will be placed in a conservation easement and then dedicated to the City.

Policy E&C 10.3 Protect sensitive and uncommon habitats such as ephemeral wetlands, riparian habitats, springs and seeps, rare plant communities, and open prairie ecosystems including the physical elements such as water sources and soil types on which they depend through open space acquisition efforts, avoiding these features in the design of subdivisions and other development, etc.

The Rio de Flag is part of the extensive open space of this project. Rio de Flag is a valuable habitat and ecosystem for the entire Flagstaff community. The portion of Rio de Flag that runs through CDR will be placed in a conservation easement and then dedicated to the City. The City will then be charged with preserving this natural feature for all residents of Flagstaff including native plants, animals and resources habituating this area.

Policy E&C 10.6 Conserve and restore important wildlife corridors throughout the planning area to allow wildlife to find suitable habitat in the face of climate change moving along vegetation and elevation gradients.

In addition to the natural wildlife corridor that Rio de Flag provides, other portions of the proposed open space provides a variety of corridors for wildlife to access this area and be able to pass through it. Topography variations within the project provide many entry and exit points at differing elevation gradients for wildlife. Steeper slopes will be preserved as open space as much as possible.

Policy OS 1.2 While observing private property rights, preserve natural resources and priority open lands, under the general guidance of the Flagstaff Area Open Space and Greenways Plan and the Natural Environment maps.

Native vegetation buffers have been designed and will be created between the various Parcels within the community. An integrated system of trails will provide convenient connectivity for the community while providing access to community assets and beyond. Surface features, vegetation and wildlife habitat will be protected as much as possible during and after construction. CDR's dedicating a portion of the Rio de Flag to the City of Flagstaff will be an important asset to the people of Flagstaff because; "The Rio de Flag provides a natural movement and concentration area for wildlife. The presence of available water enhances its value for wildlife. It is mostly used by birds and small mammals and provides some of the best bird watching opportunities within the City of Flagstaff. Much of the length of the Rio de Flag (not privately owned) within the City is already developed as part of the Flagstaff Urban Trails System (FUTS). Some of the best opportunities for nature education along the FUTS occur in the Rio de Flag. Planned flood control along the Rio could have major effects on the attractiveness of some stretches of the Rio de Flag." – from the Flagstaff Area Open Spaces and Greenways Plan.

Goal E.1.1. Promote and encourage innovative building practices through instruction on efficient building materials and methodology.

Capstone Home's Department of Energy "Net Zero Ready" homes will be built to the highest standards of energy efficiency, ready to take advantage of the latest forms of alternative energy. In addition to being environmentally friendly and durable, Zero Energy Ready homes are 40%-50% more energy efficient than a typical new home. By adding a solar system, these homes would offset all or nearly all of the annual energy costs.

Goal E.1.10. Incentivize energy efficiency and renewable energy technologies in construction projects.

In addition to the Department of Energy "Net Zero Ready" homes, multi-family, commercial, retail, and office users will be encouraged to build with efficient methods and materials. Market demands will help to incentivize efficient buildings because consumers will weigh the costs of a purchase or lease in addition to future energy bills when weighing a decision of where to live or establish or move a business.

Goal CC.3 Preserve, restore, enhance, and reflect the design traditions of Flagstaff in all public and private development efforts.

A Design Review policy will be established to maintain consistency in quality design throughout CDR. Materials types and construction methods will be consistent with the Flagstaff area.

Policy LU 5 Encourage the distribution of density within neighborhoods in relationship to associated activity centers and corridors, infrastructure, transportation, and natural constraints such as slopes and drainages.

By placing Office/Retail along Butler Ave. and Fourth Street, access for employees and customers will be efficient and convenient. The variety of residential single family and multi-family Parcel types will be developed to take advantage of the Parcels that are away from the Butler Ave./Fourth St intersection, all while maintaining easy access to the Office/Retail via internal streets, walking paths and sidewalks. Development will be generally concentrated on top of the ridges and plateaus so that the steeper slopes and bottoms of the mini canyons can be preserved.

LU.6. Provide for a mix of land uses.

CDR will include a wide variety and mix of land uses, including: office, retail, attached and detached single-family residential, multi-family residential, churches and/or schools, and open space areas. The multi-family residential uses and attached single-family residential uses proposed within CDRI's 83-acre Zoning Map Amendment request within the internal portion of CDR's boundaries will add a vital mix of residents to live and shop within the community. This design will also provide an appropriate transition from the single-family homes located on the southern portion of CDR to the office and retail uses on the northern portion of CDR.

Policy LU.6.1. Consider a variety of housing types and employment options when planning new development and redevelopment projects.

CDRI's proposed Zoning Map Amendment includes, single-family attached and multi-family residential units. The proposed multi-family and attached housing options will complement the planned employment areas within CDR's office and retail land uses along the northern and north eastern boundary of the CDR development, fronting onto Fourth Street and Butler Avenue. CDRI's multi-family residential units and attached single-family homes within the internal portion of CDR, provide even greater varieties of housing types; supports employment and retail opportunities; and, provides a sustainable land use mix.

Policy LU.6.3. Encourage new mixed-use neighborhood in appropriate locations within the growth boundary.

CDR is a mixed-use development with office, retail, attached and detached single-family residential homes, multi-family residential units, churches and/or schools, and open space areas proposed for the area south of the 1-40. CDRI's proposed Zoning Map Amendment provides an appropriate balance of land uses that are compatible with the surrounding area and appropriate for this location. A horizontal mix of uses will occur throughout the project from Parcel to Parcel, rather than providing mixed uses within individual Parcels.

Goal LU.13. Increase the variety of housing options and expand opportunities for employment and neighborhood shopping within all suburban neighborhoods.

CDRI's detached and attached single-family homes, and multi-family residential units, increase the variety of housing options in the area while providing additional shoppers and consumers for existing nearby businesses and customers and opportunities for the proposed office and retail businesses along the northern portion of CDR. By providing a variety of housing options and a variety of office and retail uses, the sustainability of CDR will be enhanced.

Policy LU 13.1 Prioritize connectivity for walking, biking, and driving within and between surround neighborhoods.

FUTS and other trails will connect neighborhoods for walking, hiking and biking. Sidewalks along local streets within the community and along perimeter streets will also provide walking connections within and between the Parcels within the community. Those same streets will also provide driving connections throughout.

Policy LU.13.4. Plan suburban development to include a variety of housing options.

CDRI's Zoning Map Amendment proposal includes a variety of detached and attached single-family homes and multi-family residential units with a wide variety of densities, locations, architectural styling, sizes and price points. The multitude of detached and attached housing options will add to the variety of housing options available in the area.

CDR is proposed with a variety of employment, business, shopping, cultural opportunities, and residential choices. CDRI's Zoning Map Amendment proposal includes an even greater mix of residential choices.

Policy LU 13.6 Include a mix of uses and access to surrounding neighborhoods in new suburban commercial development.

Zoning Map Amendment these portions of this property from the prior Research and Development zoning will allow for a much greater variety of uses in the community. Convenient access to the commercial uses for surrounding neighborhoods will come from Butler Ave. and Fourth St., which will be improved with this development. Trail connections will be provided to allow access from existing trails to and through CDR.

Policy LU 13.9 Use open space and FUTS trails to provide walking and biking links from residential uses to employment, shopping, schools, parks, and neighbor-woods.

Open spaces and FUTS trails will transect the project providing convenient access from the residential Parcels to the Canyon del Rio Village Center. “Social” trails are also proposed throughout to provide additional connectivity. The Switzer Wash FUTS trail currently terminates at the south east corner of 4th Street and Butler Ave., the frontage improvements to Butler Ave. and 4th Street include sidewalks that will allow for Switzer Wash FUTS trail users to cross 4th Street and continue west along Butler Ave. The Foxglenn FUTS trail currently bisects CDR east to west. Modifications to the Foxglenn trail in CDR may be necessary but the trail will continue to pass through the community. New FUTS trail connections will be made to the Foxglenn trail within CDR.

Policy LU 13.10 Protect wildlife corridors where appropriate.

Rio de Flag will be the main corridor for wildlife to enter into and pass through the project.

Policy LU.18.1. Design activity centers and corridors appropriate to and within the context of each area type: urban, suburban, or rural.

The intersection of Butler Ave. and 4th Street is identified as a "Future Suburban Village Center S18" in the 2030 Flagstaff Regional Plan. CDR has been designed to be an appropriate suburban development with a mix of residential and commercial uses. CDRI is proposing an even greater mix of residential housing choices, allowing residents a wide range of housing options, fitting different income levels, to live, shop and play within the Village Center area.

Policy LU.18.2. Strive for activity centers and corridors that are characterized by contextual and distinctive identities, derived from history, environmental features, a mix of uses, well- designed public spaces, parks, plazas, and high-quality design.

CDR is planned and proposed as a high quality development that will develop with desirable and successful commercial businesses, multi-family communities, and residential homes that will be compatible in character and distinctive identities of the rich history of the area. A "Modern Mountain" style that utilizes exposed heavy timber elements, varying roof lines, stone veneer and wood siding materials, and iron hardware and details on signage will be the predominant architectural features of the community. Locally sourced stone will be incorporated into design elements and local craftsman and contractors will be used throughout the life of the project. CDRI is proposing a mixture of uses with designed people-friendly spaces in lieu of an isolated and non-viable Business Park (the existing zoning use) that will allow CDR to develop with an even better mix of uses, well designed public spaces, plazas, and to be more sustainable than the existing entitlements.

Policy LU.18.4. Encourage developers to provide activity centers and corridors with housing of various types and price points, especially attached and multi-family housing.

CDRI's proposed Zoning Map Amendment on 83 of its 262 acres will provide the CDR Village Center with more housing options. CDRI's additional housing options will provide a wider variety of housing types and a larger range of price points for a wider variety of income levels.

Policy LU 18.6 Support increased densities within activity centers and corridors.

Planning a stepped approach to the densities has resulted in office/retail being closest to the major intersection of Butler Ave. and 4th St. with higher density residential next to the office/retail and lower density residential beyond the higher density residential. The higher density residential being placed between the office/retail uses and the lower density residential provides a good buffer between the lower density residential and the office/retail uses. Placing the higher density residential next to the office/retail places more residents within easy walking distance of the goods and services that will be provided in the office/retail Parcels.

Policy LU 18.9 Plan activity centers and corridors appropriate to their respective regional or neighborhood scale.

Approximately 26 acres of activity center (The Village Center), within the overall 262 acres of CDR, is planned to be developed as office and retail with easy access via trails, sidewalks, and streets to the residential Parcels. The Village Center is scaled to serve the surrounding area as well as the future residents of CDR. Being located near the major intersection of 4th St. and Butler Ave., the Village Center provides a great "gathering place" for people from other regions to have easy access as well. In addition, there has been some discussion about the future connection of John Wesley Powell Pkwy to 4th Street. When that connection occurs this Village Center will be in an even better position to serve the needs of an even greater population.

Policy LU.18.7. Concentrate commercial, retail, services, and mixed use within the activity centers' commercial core.

Commercial, retail and services are concentrated just where they should be – proximate to Butler Ave. and Fourth Street. The Butler Ave. and Fourth Street intersection is identified as a "Major Intersection" in the "Build-out plan" in the FMPO 2040 plan. The future extension of John Wesley Powell up to Fourth Street per the "Build-out plan" will contribute to the Butler Ave. and Fourth Street intersection becoming even more active leading to a more vibrant Village Center that will more easily serve a greater area of Flagstaff.

CDRI's proposed multi-family and attached housing options are intentionally located proximate to the commercial retail and service uses and will provide more shoppers and consumers for a successful commercial core located along CDR's northern primary street frontage. The additional detached, attached and multi-family housing options (in lieu of isolated and vacant Business Park acreage) are vital to increase the overall density of the residential uses, which will drive a sustainable mix of commercial uses within CDR and the Village Center.

Policy LU.18.12. Corridors should focus commercial development to the corridor frontage and residential to the back.

CDR proposed plans include commercial developments along the corridor frontage, transitions to multi-family and attached single-family, and further transitions to detached single-family areas in the back.

Goal T.5 Increase the availability and use of pedestrian infrastructure, including FUTS, as a critical element of a safe and livable community.

FUTS trails will cross CDR and allow access to Parcels within the community. Connections to existing FUTS trails will occur at locations along the perimeter of the project. Sidewalks will also be placed for pedestrian connections internally and along the perimeter as well.

Goal T.6 Provide for bicycling as a safe and efficient means of transportation and recreation.

In addition to the many FUTS trails, bike lanes will be provided on the Butler Ave. and 4th St. frontages. Bike Share and Car Share programs have become popular in several communities, there are potential opportunities for a Bike Share and or Car Share program in CDR. These opportunities will be explored for the use by CDR residents.

CONTRADICTING POLICIES:

CDR strives to meet the Cities goals and policies to the greatest extent possible, however limitations in timing, market conditions, and site constraints make meeting some of the policies more difficult. The following contradictory policies are analyzed for their challenges and how these impacts are mitigated within the whole setting of the CDR proposal.

Policy LU 13.1 Prioritize connectivity for walking, biking, and driving within and between surround neighborhoods.

FUTS and other trails will connect neighborhoods for walking, hiking and biking. Sidewalks along local streets within the community and along perimeter streets will also provide walking connections within and between the Parcels within the community. Those same streets will also provide driving connections throughout. Because the surrounding parcels had no development proposals until recently, CDR was not able to coordinate vehicular traffic to all surrounding parcels but CDR has worked to provide bicycle and pedestrian access between neighborhoods with future development in mind.

Policy LU 13.5 Encourage developers to consider at least one floor of apartments or offices over commercial development…

While CDR is not excluding the possibility of apartments over commercial development, it is not requiring it of its developers. Market factors will determine if this will be a viable use for this project. Multi-family apartments that are proposed on nearby Parcels J1 and J2 will tend to compete with apartments over commercial uses and could be a detriment to placing apartments above commercial.

The multi-family uses, and the office uses, have been proposed for several Parcels that are independent of the commercial use Parcels. Those multi-family Parcels, along with the retail and office Parcels, will contribute to a mixture of uses throughout the project. The variations in; the number of Parcels that comprise the retail and office areas, the building massing, and the spacing between buildings, will allow for a greater usage mix from office complexes, to multiple smaller retail uses within the same building, to larger retail establishments such as grocery stores.

Policy LU 13.7 Include employment opportunities in all suburban activity centers…

While removing the RD zoning designation will eliminate the potential for some professional jobs, the office spaces and retail development, as proposed, will provide opportunities for a wide range of businesses and employee opportunities. These opportunities would include a variety from first time workers to highly skilled, higher paid people employed at businesses offering a variety of goods and services. The variety of housing types will lead to a variety of customers that will frequent the businesses within CDR. The convenience of this location to greater Flagstaff and its proximity to I-40 will also help to draw a larger variety of customer demographics seeking a larger variety of goods and services that will be provided by the businesses of CDR.

Policy LU 15.2 Consider the compatible integration of residential uses and proposed employment centers to reduce vehicle trips and commute times.

With the proximity of the retail/office parcels to the residential parcels within CDR there is a potential for people to walk to jobs. However, integrating residential into buildings with employment is not desired in CDR as stated in the analysis of Policy 13.5.

CANYON del RIO

FLAGSTAFF, ARIZONA



SUSTAINABLE FAMILY LIVING

The Canyon del Rio Village Center

CANYON del RIO
FLAGSTAFF, ARIZONA

The Village Center

Canyon del Rio is a planned 270+/- acre community that is located on the southeast side of Flagstaff with access to all that High Country Life has to offer. Canyon del Rio will be the perfect complement to the highly desirable Flagstaff area.

Here The Village Center with Shopping, Dining, Business Offices and More will accompany Residental Villages featuring Luxurious Single-Family Detatched, Single-Family Attached, Multi-Family (Apartments) and "Flagstaff Home" creating Flagstaff's newest Total Community Lifestyle!



CANYON del RIO
FLAGSTAFF, ARIZONA

The Village Center

Shopping opportunities at The Village Center at Canyon del Rio will include upscale grocery centers, as well as exceptional restaurants, gourmet food shops, groceries and we promise your favorite coffee shop.

The perfect place to enjoy the High Life at Canyon del Rio - The Village Center!



The Canyon del Rio Village Center

The Canyon del Rio Village Center

CANYON del RIO
FLAGSTAFF, ARIZONA

The Village Center

Imagine, just footsteps from the front door of your new home at Canyon del Rio, you can Shop, Dine and more.

All of your favorite shops, grocery stores, clothing shops, gourmet coffee shop, fine dining restaurants, beauty shops, barbers and more.

These are all part of the life and lifestyle at Canyon del Rio!





CANYON del RIO
FLAGSTAFF, ARIZONA

The Village Center

After you find that perfect outfit, enjoy the great outdoors at the Village Center maybe with a gourmet coffee or your favorite libation at one of the bistro's or outdoor patio cafe's along with friends and family.

A simply perfect way to spend the day!



The Canyon del Rio Village Center

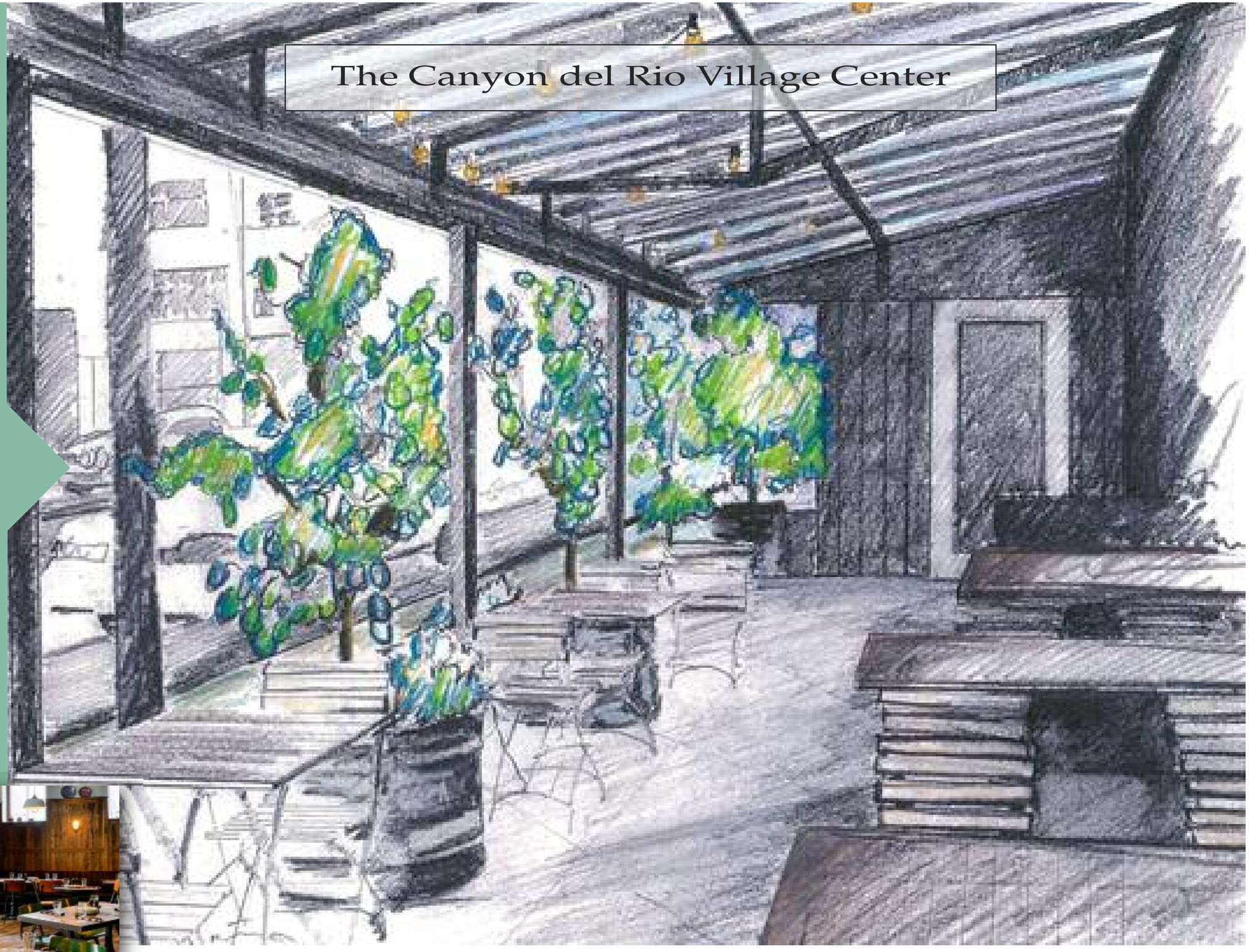
CANYON del RIO
FLAGSTAFF, ARIZONA

The Village Center

Dining at the
The Village Center
at Canyon del Rio
will include upscale
dining options including
fine dining at what is sure
to become your favorite
spot to catch the
games with family
and friends.

And after the game
enjoy exploring all
of the other shops
and venues at
The Village Center.





CANYON del RIO
FLAGSTAFF, ARIZONA

The Masterplan

The designers/developers of Canyon del Rio are seasoned professionals with exceptional experience in all phases of design & construction in Arizona's High Country.

Canyon del Rio as planned consists of approximately 270+/- acres of mixed use residential & commercial /retail acreage. The project contains both single family attached and detached residential, multi-family attached residential, commercial office and retail Villages offering a new level of Luxury and Convenience for those fortunate enough to call Canyon del Rio home!



The Community Masterplan



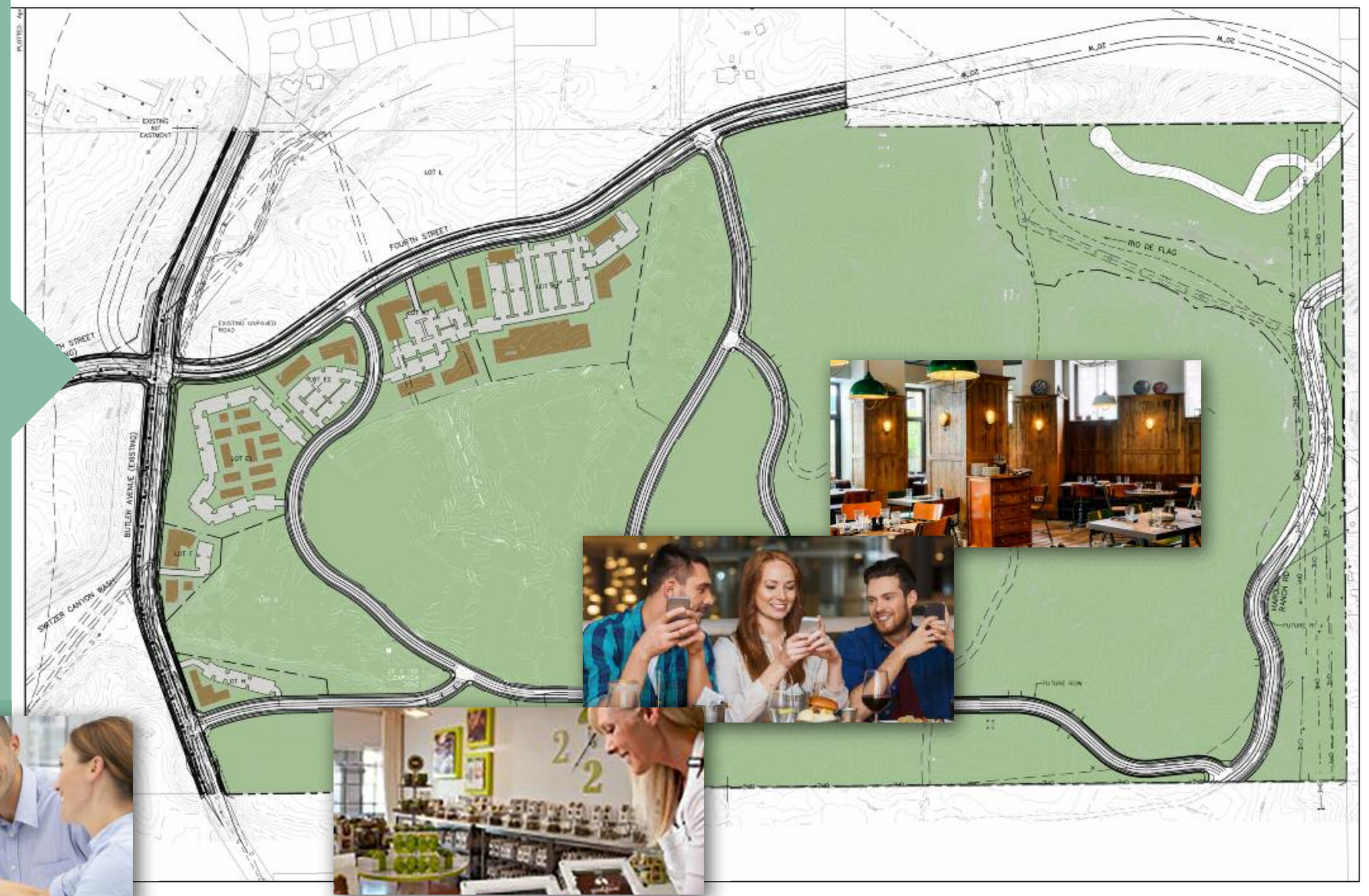
The Village Center

CANYON del RIO
FLAGSTAFF, ARIZONA

The Village Center

The Village Center will offer residents of Canyon del Rio an exceptional array of options for shopping, dining, entertainment and other upscale retail shops.

Also, for those desiring to live and work here, Canyon del Rio is also being planned to offer business officing options. These "Class A" offices will feature exceptional flexibility, the latest in technology and to be a true reflection of your company's professional image.





CANYON del RIO
FLAGSTAFF, ARIZONA

The Multi-Family & Apartment Villages

The Multi Family Villages

Family's and family life is what Canyon del Rio is all about. And the luxury family-oriented apartments at Canyon del Rio are simply perfect. Loaded with features not generally found in apartments, these apartment homes are planned to offer the ultimate in creature comforts and convenience.

These apartment homes have been intricately positioned to take advantage of the natural surroundings of Flagstaff's Ponderosa Pine Forest and yet within walking distance of the shops, restaurants, groceries and more at the Canyon del Rio Village Center.





CANYON del RIO
FLAGSTAFF, ARIZONA

The Residential Villages

The *Residential Villages*

Beautiful Homes from Lower Maintenance Attached plans to Ponderosa Pine Covered individual homes & homesites, Canyon del Rio is planned to offer something literally for every desire, every need.

Every home is planned to provide gourmet kitchens, beautiful master suites with “to die for” master baths, warming fireplaces and more. Plus private garages & access to virtually every aspect of The Canyon del Rio Village Center.

Plus, all homes are “Net Zero Energy Ready” making these some of the most energy efficient homes anywhere.





CANYON del RIO
FLAGSTAFF, ARIZONA

The Trails & Open Space

The *Trails & Open Space*

A large part of Canyon del Rio is planned to be retained as Open Space for the enjoyment and benefit of the community's residents, their family and guests. Here, Ponderosa Pine Forest views will be broken only by the clear crisp blue skies and the dramatic snow covered San Francisco Peaks.

Equally exciting is the connection and extension of the Flagstaff Trail System. The Trail makes it easy for residents to connect to all corners of Flagstaff metro... and there are connections as well to the Flagstaff Transit System offering additional options for travel throughout Flagstaff.





CANYON del RIO
FLAGSTAFF, ARIZONA

Unlimited Recreational Opportunities



The *Recreational Options*

At Canyon del Rio we know you are here, in Northern Arizona's High Country, because you love the outdoors and often spend as much time outdoors as you do indoors.

At Canyon del Rio we are literally minutes away from the best outdoor recreational options. Whether you love skiing, fishing, hiking, biking, golf or virtually any outdoor activity...they are all within a short walk or drive from your new home at Canyon del Rio.









CANYON del RIO
FLAGSTAFF, ARIZONA

Flagstaff Cluster Housing Village

The Cluster Housing

As planned, Canyon del Rio will include upwards of 80 Flagstaff Cluster Housing residences.

These homes will include exceptional amenities and also be within walking distance of the Village Center with all of its shopping, dining, business and entertainment venues.



















Open Areas, Parks & Trail System

CANYON del RIO
FLAGSTAFF, ARIZONA

The *Open Space & Trails*

Canyon del Rio is not just about where you live but how you live. The high country lifestyle of Flagstaff Arizona is all about fresh air, soaring Ponderosa Pine, dramatic mountain views and becoming part of nature itself. At Canyon del Rio, the masterplan includes acres of open space for our residents and their families and guests to "breath", while connecting the the NAIPTA (Northern Arizona Intergovernmental Public Transportation Authority) the Flagstaff Bus and transit system and also connecting to the Flagstaff Metro Trail System, a trail that is 800 miles long connecting three western states.



















CANYON del RIO
FLAGSTAFF, ARIZONA

The *Single Family Village*

Single Family Detached Village







A beautiful lifestyle choice at Canyon del Rio, the Single Family Luxury Home Villages will offers amazing new home choices.

Here premier builders such as Capstone Homes, and others, will feature stunning single family homes on individual homesites intimately placed on to take advantage of both privacy and views of the surrounding Ponderosa Pine Forest.

Also, each of these homes will be built “Net Zero Energy Ready.” This means they can include features that make them virtually self sustaining.















CANYON del RIO
FLAGSTAFF, ARIZONA

Attached Homes Village

The *Attached Homes Village*

As planned, Canyon del Rio will include beautiful new attached homes. Condos, Duplex-Style and Townhomes. With each home reflecting the life and lifestyle that people come to the high-country to enjoy.

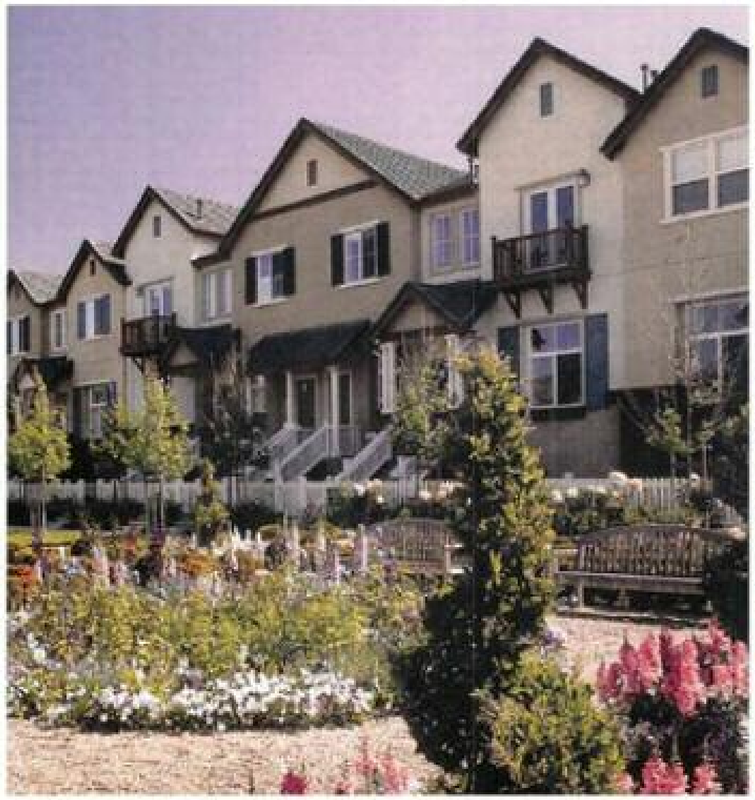
And, while providing amazing style and amenities, these homes are lower maintenance allowing residents to enjoy more of the outdoors that meke Flagstaff such a special place to live.



















CANYON del RIO
FLAGSTAFF, ARIZONA

The
Apartment Homes Village

Apartment Homes Village

Canyon del Rio will offer exceptional options for those seeking a true low maintenance, highly amentied life.

These Apartment Homes will have great features and amazing views. Plus they are the closest to the Village Center for entertainment and enjoying time with family and friends.















CANYON del RIO
FLAGSTAFF, ARIZONA

Signage & Furniture

Canyon del Rio is a total planned community where every detail and visual image we portray throughout our unique Villages is important.

Afterall, we want you to be as proud of Canyon del Rio as we are.

It's always the little touches that mean so much.





Signage & Street Furniture

















CANYON del RIO

FLAGSTAFF, ARIZONA



Prepared for Canyon del Rio
By
Lions Gate Companies, LLC

Lions Gate Companies, LLC I 5619 East Cactus Road, Scottsdale, AZ 85254
480.947.4111 I CStricklan@LionsGateCompanies.com

PLOTTED: Dec 27, 2018–8:59am

CONCEPT ZONE PLAN OF
CANYON DEL RIO
FLAGSTAFF, ARIZONA

LOCATED IN THE WESTERN HALF OF SECTION 24, TOWNSHIP 21 NORTH
RANGE 7 EAST GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY.

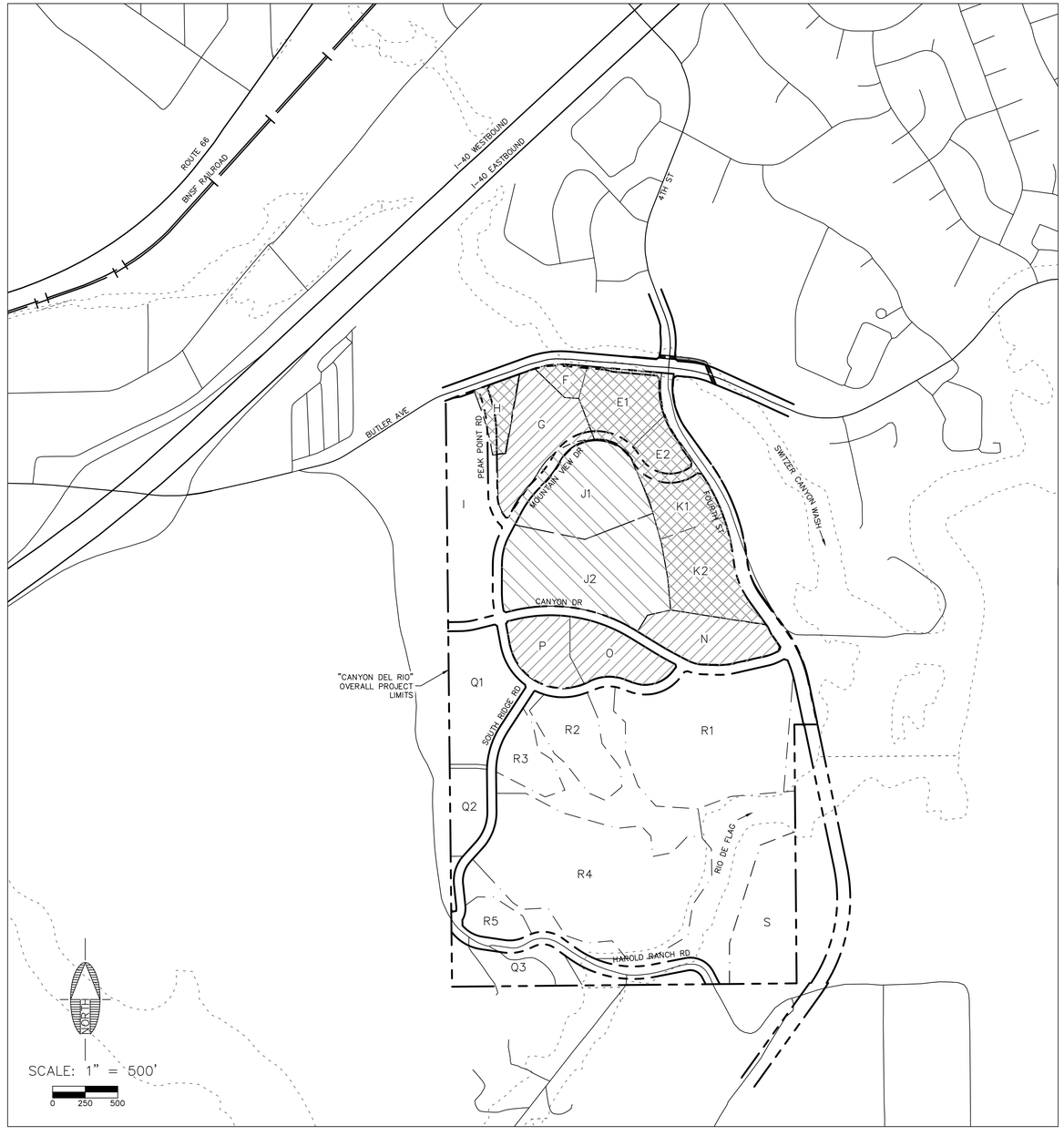
LOT COVERAGE/BUILDING INFORMATION

Parcel	Existing Zoning	Proposed Zoning	Use	Net Acreage	Development Units	0.20 FAR SF
E-1	R&D - Research and Development	HC-Highway Commercial	Office/Retail	6.4	N/A	55,757
E-2	R&D - Research and Development	HC-Highway Commercial	Office/Retail	2.5	N/A	21,780
F	R&D - Research and Development	HC-Highway Commercial	Office/Retail	1.4	N/A	12,197
G	R&D - Research and Development	MR-Medium Density Residential	Attached Residential	9.1	50	N/A
H	R&D - Research and Development	HC-Highway Commercial	Office/Retail	1.8	N/A	15,682
I	R1- Single Family Residential	R1- Single Family Residential	Detached Residential	13.4	50	N/A
J-1	R&D - Research and Development	HR-High Density Residential	Attached Residential/Multi-Family/Apartments	11.6	240	N/A
J-2	R&D - Research and Development	HR-High Density Residential	Attached Residential/Multi-Family/Apartments	18.4	432	N/A
K-1	R&D - Research and Development	HC-Highway Commercial	Retail	4.6	N/A	40,075
K-2	R&D - Research and Development	HC-Highway Commercial	Retail	8.8	N/A	76,666
N	R&D - Research and Development	MR-Medium Density Residential	Attached Residential/Duplex Units	7.1	42	N/A
O	R&D - Research and Development	MR-Medium Density Residential	Attached Residential/Church or School	6	49	N/A
P	R&D - Research and Development	MR-Medium Density Residential	Attached Residential/Church or School	5.4	40	N/A
Q-1	R1- Single Family Residential	R1- Single Family Residential	Detached Residential	10.2	41	N/A
Q-2	R1- Single Family Residential	R1- Single Family Residential	Detached Residential	3.9	21	N/A
Q-3	MR-Medium Density Residential	MR-Medium Density Residential	Attached Residential/Duplex Units	6	80	N/A
R-1 thru 5	MR-Medium Density Residential	MR-Medium Density Residential	Detached Residential	73.2	367	N/A
S	R1- Single Family Residential	R1- Single Family Residential	Detached Residential	10.6	14	N/A
Total Commercial Acreage				25.5		
Total Residential Units				1426		
Total Acreage ROW				22.6		

Notes:

1. Open space areas are reserved throughout the project consisting of areas between parcels and the floodplain areas within the Rio De Flag. Refer to Sheet 3 for the locations of open space and trails.

2. Floor areas shown on parcels E1/E2, K1/K2, and L are from site capacity calculations. Ultimate maximum floor areas may be different based on the actual type of development. A 0.20 FAR was used for the impact analyses and also for calculating the building square footages listed in the table.



VICINITY MAP

PROJECT INFORMATION

SITE ADDRESS: TO BE ASSIGNED (CURRENTLY A PORTION OF THE PARCELS ASSOCIATED WITH THIS PROJECT ARE LOCATED AT 3200 E. BUTLER AVENUE.)

APNS: 106-08-005N
106-08-005M
106-08-005L
106-08-005P

PROPERTY OWNER: CANYON DEL RIO INVESTORS, LLC
2700 N CENTRAL AVE, NINTH FLOOR
PHOENIX, AZ 85004
CONTACT: ROBERT M. SEMPLE, CPA

PROJECT DEVELOPER: RAC PARTNERS, LLC
1750 RAILROAD SPRING BLVD #10
FLAGSTAFF, AZ 86001
TEL: (928) 699-1169
CONTACT: BRIAN RHOTON

PROJECT ENGINEER: SHEPHARD-WESNITZER, INC.
110 W. DALE AVENUE
FLAGSTAFF, ARIZONA 86001
TEL: 928-773-0354
CONTACT: GUILLERMO CORTES, PE

A. 226,156 SQ. FT. OF COMMERCIAL LAND USES ARE POSSIBLE BASED ON 25.5 ACRES AT A 0.2 FLOOR AREA RATIO.
B. PER THE LOT COVERAGE/BUILDING INFORMATION TABLE, 1,426 RESIDENTIAL UNITS ARE PROPOSED.
C. BASED ON 1,426 UNITS, THE GROSS DENSITY OF THE PROJECT IS 5.5 UNITS PER ACRE.
D. 55.8 ACRES (21.3%) OF OPEN SPACE IS BEING PROVIDED.

PARCELS TO BE REZONED

27.6 ACRES TO BE REZONED FROM RESEARCH & DEVELOPMENT (R&D) TO MEDIUM DENSITY RESIDENTIAL DISTRICT (MR), PARCELS G, N, O, AND P.

30.0 ACRES TO BE REZONED FROM RESEARCH & DEVELOPMENT (R&D) TO HIGH DENSITY RESIDENTIAL DISTRICT (HR), PARCELS J1, J2.

25.5 ACRES TO BE REZONED FROM RESEARCH & DEVELOPMENT (R&D) TO HIGHWAY COMMERCIAL DISTRICT (HC), PARCELS E1, E2, F, H, K1, AND K2.

TOTAL AREA TO BE REZONED = 83.88 ACRES

LEGEND

SITE BOUNDARY
LOT BOUNDARY
PROPOSED ROW
100-YR FLOODPLAIN

SHEET INDEX

SHEET #	DWG #	SHEET TITLE
1	CVR	COVER SHEET
2	CP1	CONTEXT ANALYSIS MAP
3	CP2	CONCEPT ZONE PLAN
4	CP3	BUILDING LOCATIONS AND PARKING AREAS

PRELIMINARY

NOT FOR CONSTRUCTION, BIDDING OR RECORDING

FLAGSTAFF ARIZONA

CANYON DEL RIO

COVER SHEET

JOB NO: 13184
DATE: DEC 18
SCALE: AS SHOWN
DRAWN: MW./KMB
DESIGN: AHB/SCI
CHECKED: GEC

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.6934 fax
www.SWGZ.com

Shephard Wesnitzer, Inc.

REVISIONS

NO.	DESCRIPTION	DATE	BY

CALL TWO WORKING DAYS BEFORE YOU DIG
1-800-STAKE-IT

DRAWING NO.
CVR

SHT NO. 1 OF 4

FILE: P:\2013\13184\Drawings\Concept Plan\CVR-13184-ZONE PLAN.dwg SW-C3D-18

PLOTTED: Dec 27, 2018–8:59am

FOXGLENN SUBDIVISION
KNOLES ELEMENTARY SCHOOL
COCONINO HUMANE ASSOCIATION
SINAGUA HEIGHTS SUBDIVISION
SINAGUA MIDDLE SCHOOL
106–08–003F
ZONED: RR
EXISTING USE: UNDEVELOPED
106–08–005G
ZONED: R&D
EXISTING USE: UNDEVELOPED
106–08–001C
ZONED: PF
EXISTING USE: UNDEVELOPED
RURAL FLOODPLAIN
FUTURE FOURTH STREET CONNECTION TO HWY. POWELL BLVD.
E. BUTLER AVE.
106–08–005G
ZONED: R&D
EXISTING USE: UNDEVELOPED
106–04–007B
ZONED: STATE LAND
EXISTING USE: UNDEVELOPED
106–08–005C
ZONED: MR
EXISTING USE: UNDEVELOPED
PARCEL S
ZONED: R1
EXISTING USE: UNDEVELOPED
106–07–033
ZONED: ER
EXISTING USE: UNDEVELOPED
E. FOURTH ST.
PARCEL N
EXISTING ZONING: R&D
PROPOSED ZONING: MR
EXISTING USE: UNDEVELOPED
PARCEL K2
EXISTING ZONING: R&D
PROPOSED ZONING: HC
EXISTING USE: UNDEVELOPED
PARCEL R1
ZONED: MR
EXISTING USE: UNDEVELOPED
PARCEL K1
EXISTING ZONING: R&D
PROPOSED ZONING: HC
EXISTING USE: UNDEVELOPED
CANYON DEL RIO
PARCEL E2
EXISTING ZONING: R&D
PROPOSED ZONING: HC
EXISTING USE: UNDEVELOPED
106–07–012A
ZONED: ER
EXISTING USE: UNDEVELOPED
PINEHURST APARTMENTS
106–08–005K
ZONED: HC
EXISTING USE: APARTMENTS
PARCEL E1
EXISTING ZONING: R&D
PROPOSED ZONING: HC
EXISTING USE: UNDEVELOPED
106–07–001C
ZONED: COUNTY
EXISTING USE: RESIDENTIAL
PARCEL F
EXISTING ZONING: R&D
PROPOSED ZONING: HC
EXISTING USE: UNDEVELOPED
PARCEL J2
EXISTING ZONING: R&D
PROPOSED ZONING: HR
EXISTING USE: UNDEVELOPED
PARCEL J1
EXISTING ZONING: R&D
PROPOSED ZONING: HR
EXISTING USE: UNDEVELOPED
PARCEL O
EXISTING ZONING: R&D
PROPOSED ZONING: MR
EXISTING USE: UNDEVELOPED
PARCEL R2
ZONED: MR
EXISTING USE: UNDEVELOPED
PARCEL R4
ZONED: MR
EXISTING USE: UNDEVELOPED
PARK OF THE CANYON DR.
106–07–010
ZONED: COUNTY
EXISTING USE: RESIDENTIAL
MOUNTAIN VIEW DRIVE
PARCEL G
EXISTING ZONING: R&D
PROPOSED ZONING: MR
EXISTING USE: UNDEVELOPED
PARCEL P
EXISTING ZONING: R&D
PROPOSED ZONING: MR
EXISTING USE: UNDEVELOPED
PARCEL R3
ZONED: MR
EXISTING USE: UNDEVELOPED
106–07–011B
ZONED: ER
EXISTING USE: RESIDENTIAL
PARCEL H
EXISTING ZONING: R&D
PROPOSED ZONING: HC
EXISTING USE: UNDEVELOPED
PEAK POINT ROAD
SOUTH RIDGE ROAD
PARCEL Q3
ZONED: MR
EXISTING USE: UNDEVELOPED
ROADWAY CONNECTION WITH E. BUTLER AVE.
PARCEL R5
ZONED: R1
EXISTING USE: UNDEVELOPED
106–08–005H
ZONED: HC
EXISTING USE: UNDEVELOPED
PARCEL I
ZONED: R1
EXISTING USE: UNDEVELOPED
PARCEL Q1
ZONE: R1
EXISTING USE: UNDEVELOPED
PARCEL Q2
ZONED: R1
EXISTING USE: UNDEVELOPED
106–04–006C
ZONED: HR
EXISTING USE: UNDEVELOPED
FUTURE ROADWAY CONNECTION WITH LITTLE AMERICA DEVELOPMENT
106–04–006B
ZONED: RR
EXISTING USE: UNDEVELOPED
106–04–007B
ZONED: HC
EXISTING USE: UNDEVELOPED
106–04–005B
EXISTING ZONING: ER
TO BE REZONED PER LITTLE AMERICA REZONE APPLICATION
106–09–002
ZONED: ER
EXISTING USE: UNDEVELOPED
106–04–009E
ZONED: HC
EXISTING USE: TRUCK STOP/ RESTAURANT
INTERSTATE 40
FUTURE ROADWAY CONNECTION WITH LITTLE AMERICA DEVELOPMENT
LAX LITTLE
PARK
A1 4.56 AC
A2 8.64 AC
A3 5.78 AC
B2 2.5 AC
D 4.55 AC
E 6.94 AC
F 2.93 AC
H 4.10 AC
I 2.92 AC
J 3.10 AC
K 4.09 AC
L 4.69 AC
M 3.34 AC
O 7.55 AC
Q 4.0 AC
R 3.6 AC
S 5.5 AC
T 7.8 AC

NORTH

SCALE: 1" = 300'

0 150 300

NOTES:
1. NAIPTA ROUTE 3 TRAVELS EAST AND WEST ON BUTLER AVENUE IN THE VICINITY OF THE PROJECT. THE CLOSEST EASTBOUND BUS STOP IS LOCATED AT LITTLE AMERICA AND THE CLOSEST WESTBOUND STOP IS LOCATED AT BLACK BARTS.

LEGEND

- PROPERTY BOUNDARY
- PROPOSED RIGHT–OF–WAY
- LOT
- 100–YEAR FLOODPLAIN
- SLOPE RESOURCES 17–24.99% (TOTAL 21.28 ACRES)
- SLOPE RESOURCES 25–34.99% (TOTAL 6.65 ACRES)
- SLOPE RESOURCES >35% (TOTAL 7.98 ACRES)
- EXISTING TREE CANOPY (73.94 ACRES)

FLAGSTAFF
ARIZONA

CANYON DEL RIO

CONTEXT ANALYSIS MAP

JOB NO: 13184
DATE: DEC 18
SCALE: AS SHOWN
DRAWN: SCI/KMB
DESIGN: SCI
CHECKED: GEC

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.8934 fax
www.swiaz.com

Shephard Wesnitzer, Inc.

REVISIONS

NO.	DESCRIPTION	DATE	BY

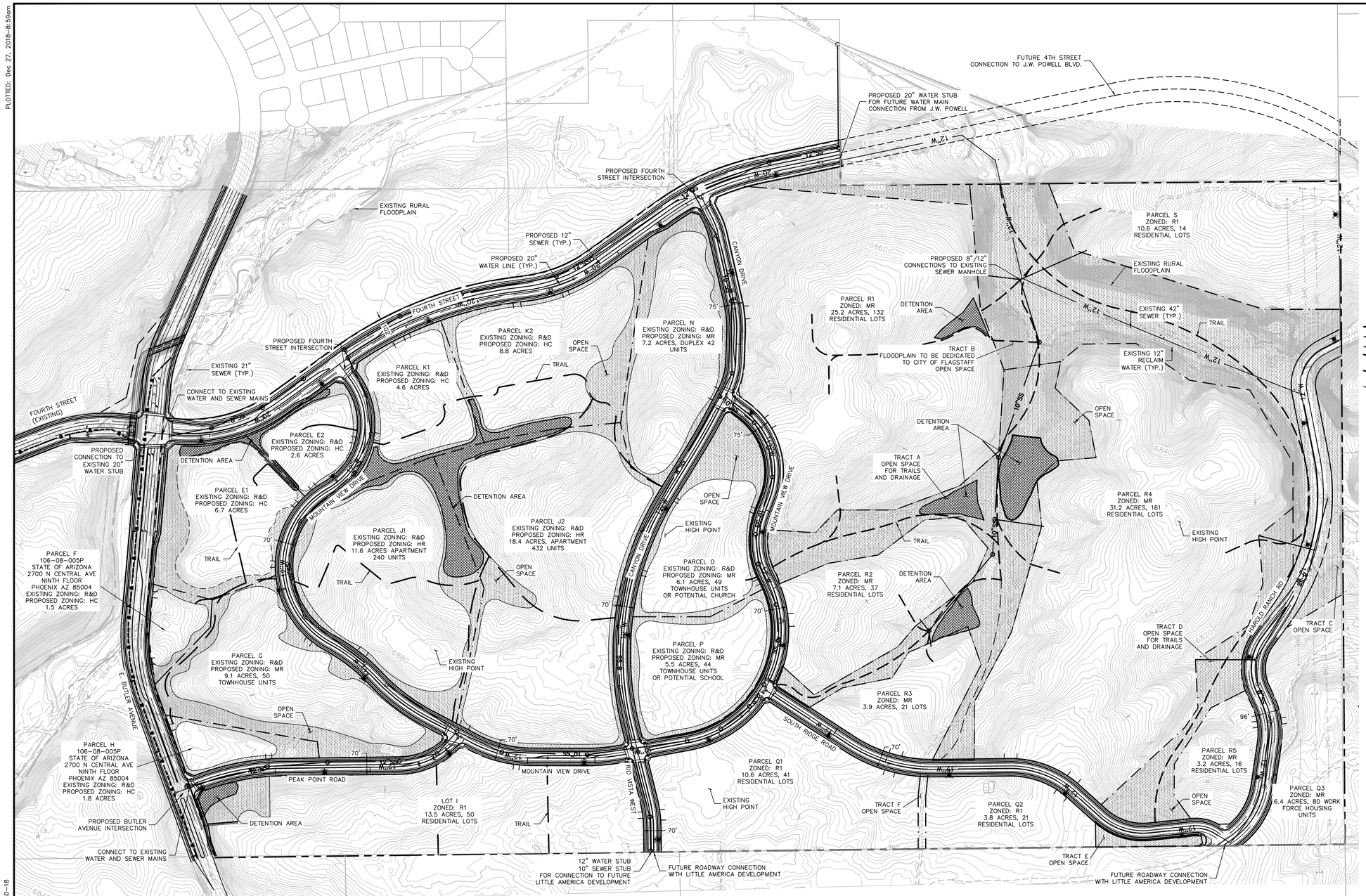
CALL TWO WORKING DAYS BEFORE YOU DIG
1–800–STAKE–IT

DRAWING NO.
CP1

SHT NO. 2 OF 4

FILE: P:\2013\13184\Drawings\Concept Plan\13184 – Context Analysis Map.dwg SWI–C3D–18

PLOTTED: Dec 27, 2018–8:59am



NORTH

SCALE: 1" = 200'

0 100 200

NOTES:

1. PURSUANT TO THE APPROVED DRAINAGE IMPACT ANALYSIS (DIA), THE DEVELOPER SHALL MITIGATE THE IDENTIFIED DOWNSTREAM IMPACTS. THE DIA HAS IDENTIFIED SEVERAL CONCEPTUAL MITIGATION STRATEGIES INCLUDING ON-SITE AND OFF-SITE MITIGATIONS. PRIOR TO APPROVAL OF THE FIRST SITE PLAN AND/OR SUBDIVISION PLAT OR ANY DEVELOPMENT, SPECIFIC STRATEGIES MUST BE IDENTIFIED AND APPROVED BY THE CITY AND REFLECTED ACCORDINGLY ON ANY PLATS AND/OR PLANS. IF ON-SITE STRATEGIES ARE CHOSEN, EACH PHASE OF DEVELOPMENT SHALL MITIGATE PROPORTIONAL IMPACTS. A MASTER PLAN FOR PHASING OF ON-SITE MITIGATIONS MAY BE REQUIRED TO ENSURE THAT EACH PHASE CAN MITIGATE PROPORTIONAL IMPACTS. EACH PHASE OF DEVELOPMENT SHALL MITIGATE THEIR FAIR PROPORTIONATE SHARE OF THE IMPACT IDENTIFIED IN THE DIA. DETENTION, LID, AND RETENTION MUST STAND ALONE FOR EACH PHASE OF THE PROJECT. ANY PHASE REQUIRING OFFSITE IMPROVEMENTS IMPACTING DRAINAGE COURSES, PEAK FLOWS OR TOTAL RUNOFF VOLUME, SUCH AS THE SPINE ROAD, WILL MITIGATE THESE IMPACTS WITH THE IMPLEMENTATION OF SAID PHASE.
2. FUTS AND SOCIAL TRAIL LOCATIONS WILL BE COORDINATED WITH THE FINAL DETENTION BASIN DESIGN.
3. FUTS TO BE CONSTRUCTED OR REVITALIZED PER C.O.F. DETAIL 14-01-010.

LEGEND

- PROPERTY BOUNDARY
- PROPOSED RIGHT-OF-WAY
- LOT
- PROPOSED SOCIAL TRAIL
- PROPOSED FUTS TRAIL
- EXISTING FUTS TRAIL
- PROPOSED DETENTION BASIN (ACREAGE TO BE DETERMINED DURING FINAL DESIGN)
- PROPOSED OPEN SPACE (55.85 ACRES)
- 100-YEAR FLOODPLAIN (8.71 ACRES)

FLAGSTAFF ARIZONA

CANYON DEL RIO

CONCEPT ZONE PLAN

JOB NO:	13184
DATE:	DEC 18
SCALE:	1"=200'
DRAWN:	MW//KMB
DESIGN:	AHB/SCI
CHECKED:	GEC

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.8934 fax
www.swiaz.com

SWI Shephard Wesnitzer, Inc.

REVISIONS

NO.	DESCRIPTION	DATE	BY

CALL TWO WORKING DAYS BEFORE YOU DIG 1-800-STAKE-IT

PRELIMINARY

NOT FOR CONSTRUCTION, BIDDING OR RECORDING

DRAWING NO. CP2

SHT NO. 3 OF 4

FILE: P:\2013\13184\Drawings\Concept Plan\CONCEPT ZONE PLAN.dwg SWI-C3D-18

PLOTTED: Dec 27, 2018–8:59am

NOTES:
1. THE FINAL SIZES OF THE WATER AND SEWER LINES WILL BE DETERMINED BY THE WATER SEWER IMPACT ANALYSIS FROM THE CITY OF FLAGSTAFF AND THE ENGINEERING WATER AND SEWER SYSTEM DESIGN REPORT.

LEGEND

- PROPERTY BOUNDARY
- PROPOSED RIGHT-OF-WAY
- LOT
- W — W — EXISTING SEWER LINE
- SS — SS — EXISTING WATER LINE
- G — G — G — EXISTING GAS LINE

NORTH

SCALE: 1" = 200'

0 100 200

CONCEPTUAL BUILDING AND PARKING LOCATIONS

CANYON DEL RIO

FLAGSTAFF
ARIZONA

JOB NO:	13184
DATE:	DEC 18
SCALE:	AS SHOWN
DRAWN:	SCI/KMB
DESIGN:	GEC
CHECKED:	GEC

Shephard Wesnitzer, Inc.
75 Kallof Place
Sedona, AZ 86336
928.282.1061
928.282.2058 fax
www.swiaz.com

REVISIONS

NO.	DESCRIPTION	DATE	BY

CALL TWO WORKING DAYS BEFORE YOU DIG
1-800-STAKE-IT

PRELIMINARY

NOT FOR CONSTRUCTION, BIDDING OR RECORDING

DRAWING NO.
CP3

SHT NO. 4 OF 4

FILE: P:\2013\13184\Drawings\Concept Plan\BUILDING LOCATIONS.dwg SWI-C3D-18

APPROVED COPY 1-29-15

AMENDMENT TO SETTLEMENT AND RELEASE AGREEMENT

This Amendment to Settlement and Release Agreement ("Amendment") is made and entered into as of this 29th day of January, 2015 ("Execution Date"), by and between: Canyon del Rio Investors, LLC, an Arizona Limited Liability Company ("CDRI") and the City of Flagstaff, an Arizona Municipal Corporation ("City").

CDRI and the City will be referred to collectively in this Amendment as "Parties, or each individual as a "Party".

RECITALS

A. On May 9, 2013, CDRI and the City entered into a Settlement and Release Agreement, a true and correct copy of which is attached hereto as **"Exhibit A"** ("Settlement Agreement").

B. CDRI and the City wish to amend the Settlement Agreement as set forth herein. All defined terms not specifically identified herein shall bear the meaning set forth in the Settlement Agreement.

C. All terms of the Settlement Agreement remain in full force and effect except for those terms specifically amended herein.

In consideration of the mutual representations, warranties, covenants, agreements and releases set forth in the Settlement and Release Agreement as amended herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The foregoing Recitals are incorporated as part of this Amendment. The Parties agree that the Recitals are contractual and not mere Recitals.

2. The "CDR Property" as described in the Settlement Agreement is amended to the "CDRI Property" in the Settlement Agreement and this Amendment.

3. Paragraph 2(a) of the Settlement Agreement ("Specific Plan Amendment") is deleted and all further references in the Settlement Agreement to the Amended 1984 Plan and the MPRA are deleted because (a) the Parties concur the Specific Plan Amendment is not needed for Approval of the Zoning Application and (b) certain provisions of the 1984 Specific Plan, as agreed upon by the Parties, will be included in the Development Agreement. The removal of references to the proposed "Amended 1984 Plan" and/or to amending the 1984 Specific Plan do not terminate or effect the 1984 Specific Plan.

4. After the Execution Date of the Settlement Agreement (May 9, 2013), the City Council Approved (January 14, 2014) and the Flagstaff Voters Ratified (May 20, 2014) the Flagstaff Regional Plan 2030 ("Current Regional Plan"). The Parties concur the Zoning Application is in conformance with the Current Regional Plan and, accordingly, the Regional Plan Amendment is no longer needed. Therefore, paragraph 2(c) of the Settlement Agreement ("Regional Plan Amendment") is deleted.

5. Paragraph 2(d) of the Settlement Agreement ("Zoning Application") is modified to provide the Zoning Application was submitted and reviewed by the City. The last sentence of Section 2(d) of the Settlement Agreement is deleted and replaced with the following: The Parties agree to convert the Zoning Application to a "Rezone with Concept Plan" Application which will be submitted by CDRI and processed by the City, this along with the Development Agreement and the Block Plat referred to in Section 3(b) are the "Entitlement Documents."

6. Paragraph 2(e) of the Settlement Agreement ("Timing and Procedures") is deleted and replaced by the following: The Parties agree to develop a timeframe for the review of the Entitlements by the Planning and Zoning Commission and Council, as appropriate, once CDRI has completed its impact analyses and those analyses have been accepted as complete by the City. The Parties further agree to schedule and Notice the Entitlements Applications for Hearing by the Planning Commission and City Council for dates that are as expeditious as is reasonably and legally possible once the Entitlements Applications and associated supportive materials (such as, but not limited to, the impact analyses) are accepted as complete by the City and the on and off-site mitigations identified and attributable to CDR are documented in the development agreement. Attached as **Exhibit B** is a Timeline for Canyon del Rio. This Timeline is an estimation of reasonable, expeditious processing by the City. Both Parties recognize that circumstances unforeseen by either Party or both Parties may make the indicated timeframes impossible or unreasonable for the City and/or CDRI to accommodate whereupon the Parties will continue in good faith with their reasonable, expeditious processing of the Entitlements Applications through completion of the Entitlements processes.

7. Paragraph 3(b) of the Settlement Agreement ("Block Plat Approval") and other references in the Settlement Agreement to Block Plats are amended to confirm that one Block Plat (not multiple Block Plats) will be processed for the approximately 262 acre CDRI Property.

8. Paragraph 3(c) of the Settlement Agreement ("Zoning Confirmation") is amended to delete all references to "UC" (because that Zoning District no longer exists in the City), to replace all such references to "UC" with "HC" and all further references in the Settlement Agreement to the UC Zoning District and the "UC Parcels" are replaced with the HC Zoning District and the "HC Parcels".

9. Paragraph 3(l) of the Settlement Agreement ("Parcel O&P Sale") is amended to add (in the first sentence) "and/or school" after "church" and to add (also in the first sentence) "(if necessary)" after "the City's CUP process."

10. Paragraph 4 of the Settlement Agreement ("Settlement Implementation") is amended to delete references to the Deposit (pursuant to paragraph 11 of this Amendment).

11. Paragraph 5 of the Settlement Agreement ("Existing Butler Avenue Assessment") is deleted and replaced with the following:

Effective upon the Effective Date of this Amendment, the Parties hereby terminate the Account and hereby mutually instruct the Escrow Agent to disburse within ten (10) days of the Effective Date of this Amendment to the City of Flagstaff the amount of $21,861.00 ($11,387 (Traffic) + $10,474 (WSIA)) for currently due fees. All funds remaining (including accrued interest) in the Account (less Escrow Agent's fees, if any) shall be disbursed to CDRI. The Parties further agree:

a. All fees (if any) charged by Escrow Agent in connection with the Account shall be CDRI's (not the City's) responsibility and shall be deducted from the Account prior to disbursement of remaining funds in the Account to CDRI.
b. Without prejudice or effect (for or against) either Party's legal, factual and/or procedural position in the Maricopa County Action, the Maricopa County Action shall remain pending and stayed until below paragraph 11.b.1, 2 and/or 3 is satisfied.
    1. If the Zoning Application is Approved and Effective, the Development Agreement is Approved, Effective and Recorded, and the Block Plat is Approved, Effective and Recorded (collectively the "Approved and Effective Entitlements"), then CDRI shall pay to the City the sum of $123,781.50 representing the remaining amount of the Butler Avenue assessment at issue in the Maricopa County Action. Attached to this Amendment as Exhibits C, D and E are: 1) a fully executed Promissory Note for $123,781.50 secured by; 2) a Deed of Trust which places the City of Flagstaff in first priority position; and 3) a Deed of Release and Reconveyance. Exhibit D

(Deed of Trust) may be recorded by the City in the event that CDRI does not pay the sum of $123,781.50 within thirty days of the effective date of the last adopted Entitlement Document and CDRI hereby agrees to pay the property taxes then due on the CDR Land Investors I, LLC Property as defined in the Deed of Trust (Exhibit D hereto) prior to the City's Recordation of the Deed of Trust. If Exhibit D (Deed of Trust) is recorded then the City shall Record E (Deed of Release and Reconveyance) upon either:

(i) CDRI paying the sum of $123,781.50 to the City; or

(ii) A final determination in the Maricopa County Action that CDRI is not required to pay the $123,781.50 to the City.

2. Upon the Effective Date of this Amendment, CDRI agrees that neither it nor CDR Land Investors I, LLC will voluntarily encumber the property that secures the Deed of Trust (Exhibit D hereto) until either: 1) CDRI pays the total sum of $123,781.50 to the City; or 2) the City otherwise records the Deed of Release and Reconveyance of the Deed of Trust; or 3) the Maricopa County Action is re-activated or reinstated. The City may record a notice of restriction on liens and encumbrances consistent with this Amendment. The City agrees to record a release of that notice upon the occurrence of any of the three events listed above.

3. Contingent on CDRI having submitted or re-submitted (as applicable) its Entitlements Applications (~~including updated impact analyses~~) by January 27, 2015 or at such time before or after as CDRI submits such Applications ("Application Submittal Date") then City Staff and CDRI representatives shall, within the spirit of above paragraph 6 of this Amendment, exercise good faith and diligent efforts to mutually resolve (to the extent reasonably possible) outstanding Staff Comments on the Entitlements Applications whereupon City Staff shall provide clearance for the Entitlements Applications to be Noticed, Advertised and Posted for Planning Commission and City Council Hearings. If CDRI determines that the Entitlements Applications have not been or will not be timely reviewed and processed by City Staff and/or will not be heard by the Planning Commission and City Council within the spirit of above paragraph 6 of this Amendment, then CDRI may elect to defer pursuit of the Entitlements and re-activate the Maricopa County Action whereby, upon re-activation of such Action, the

Promissory Note for $123,781.50 and the Deed of Trust securing that Note are void.

4. If the Council does not approve the Zoning Application, Development Agreement and Block Plat after the hearings, then the Promissory Note for $123,781.50 and the Deed of Trust securing that Note are void and the Maricopa County Action shall be reinstated.

12. Paragraph 6 of the Settlement Agreement ("Disposition of the Lawsuits") is amended as necessary to provide that, pursuant to Paragraph 11 of this Amendment, the Coconino County Action may be Dismissed prior to Dismissal of the Maricopa County Action because:

a. The Coconino County Action will be Dismissed within ten (10) days of achieving Approved and Effective Entitlements; provided, however,

b. The Maricopa County Action will not be Dismissed until either:

1. The $123,781.50 is paid to the City pursuant to Paragraph 11(b)(1) of this Amendment, or

2. Disposition of the Maricopa County Action is finally decided by the Court pursuant to Paragraph 11(b)(2) of this Amendment.

The Parties have executed this Amendment as of the Execution Date.

CANYON DEL RIO INVESTORS, LLC

By: _____
Robert M. Semple, Manager

CITY OF FLAGSTAFF

By: _____

Its: _____

APPROVED AS TO FORM AND CONTENT BY COUNSEL:

CITY OF FLAGSTAFF

By: _____
Michelle D'Andrea
City Attorney

ATTEST:

By: _____
City Clerk

BURCH & CRACCHIOLO, P.A.

By: _____
EDWIN C. BULL
Attorney for Canyon del Rio Investors, LLC

ACKNOWLEDGED AND AGREED BY CDRI SUBSIDIARIES:

CDR LAND INVESTORS I, LLC,
an Arizona limited liability company

By: _____
Robert M. Semple, Manager

CDR LAND INVESTORS II, LLC,
an Arizona limited liability company

By: _____
Robert M. Semple, Manager

CDR LAND INVESTORS III, LLC,
an Arizona limited liability company

By: _____
Robert M. Semple, Manager

EXHIBIT A

ORIGINAL

SETTLEMENT AND RELEASE AGREEMENT

THIS SETTLEMENT AND RELEASE AGREEMENT ("Agreement") is made and entered into as of the 19 day of MAY, 2013 ("Execution Date"), by and between: (i) CANYON DEL RIO INVESTORS, LLC, an Arizona limited liability company ("CDR"); and (ii) THE CITY OF FLAGSTAFF, an Arizona municipal corporation ("City"). CDR and the City will be referred to collectively in the Agreement as the "parties," or each individually as a "party".

RECITALS

A. In May 2002, CDR purchased a parcel of real property ("Initial Property") from the Arizona State Land Department ("ASLD"), at public auction. The Initial Property is located within the City.

B. Between 2002 and 2006, CDR sold portions of the Initial Property to third party purchasers. That portion of the Initial Property held by CDR (or CDR's wholly owned subsidiaries) as of the Execution Date ("CDR Property") is described in Table Four, below.

C. In 2008, CDR filed suit against the City in Coconino County Superior Court, CV 2008-0245 ("Coconino County Action"), seeking, *inter alia*, declaratory relief, monetary damages, and injunctive relief relating to CDR Property.

D. In 2010, the City filed suit against CDR in Maricopa County Superior Court, CV 2010-017142, seeking, *inter alia*, monetary damages relating to CDR Property, and CDR filed Counterclaims (collectively, "Maricopa County Action").

E. The Coconino County Action and the Maricopa County Action (collectively, "Lawsuits") have not been resolved and remain pending.

F. Each party to this Agreement has made a careful and independent investigation into all of the facts deemed by such party to be material. Because of the expense and uncertain outcome of any litigation involving the claims asserted in the Lawsuits, the parties desire to enter into this Agreement in order to forever resolve all past, and present disputes or claims existing between them which relate to the Lawsuits or the CDR Property.

G. Each party acknowledges this Agreement is the product of arm's length negotiation and the compromise and settlement of disputed claims. The parties further agree and acknowledge that this Agreement is not intended to be, and shall not be construed as, a confession or admission of liability by any party or an admission of any fact. Without

limiting the foregoing, the parties further agree that this Agreement does not manifest an acceptance of the factual or legal positions taken or asserted by the other party in the Lawsuits.

IN CONSIDERATION OF the mutual representations, warranties, covenants, agreements and releases set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **Recitals.** The foregoing Recitals are incorporated as a part of this Agreement, and the parties represent and warrant the truth of all that is contained in the Recitals. The parties agree the Recitals are contractual and not mere recitals.

2. **Development of CDR Property.** CDR and the City have agreed to settle and resolve the Lawsuits by implementing a comprehensive zoning and development plan for the CDR Property. CDR and the City shall use their best efforts to negotiate and implement the settlement using the following framework:[1]

a. ***Specific Plan Amendment.*** The Canyon del Rio 1984 Specific Plan ("1984 Plan") will be amended as required to make the 1984 Plan compatible and consistent with the terms and provisions of this Agreement and the City's current 2011 zoning code ("2011 Zoning Code"). The 1984 Plan, as amended ("Amended 1984 Plan"), will be re-confirmed as the applicable planning document governing the development on those portions of the Canyon del Rio project currently owned by CDR ("CDR Property"), in conjunction with the MRPA and the DA. CDR, through the adoption of the Amended 1984 Plan, will be identified as the successor to the ASLD with respect to the CDR Property. In case of conflict between the Amended 1984 Plan and the 2011 Zoning Code, the Amended 1984 Plan will control as to the non-rezoned parcels identified in Table Four, and the 2011 Zoning Code will control as to the rezoned parcels identified in Table Four. In all cases, the terms and conditions of this Agreement will control.

b. ***Development Agreement.*** The Development Agreement ("DA") will be a separate component of the Entitlement Documents and will identify physical and financial responsibilities for specific and necessary public improvements, project phasing, and other related items, as outlined in this Agreement.

---

[1] The Amended 1984 Plan, the Zoning Application, the DA, the MRPA and the Block Plats (all as defined in this Agreement) will be referred to collectively as the "Entitlement Documents."

c. ***Regional Plan Amendment.*** A Minor Regional Plan Amendment ("MRPA") that modifies the existing Regional Plan as required to accommodate the Amended 1984 Plan, the DA and the Final Zoning will be processed for COF Council action.

d. ***Zoning Application.*** An application and supporting documentation ("Zoning Application") which proposes to implement the Final Zoning will be submitted by CDR and processed by the City. The Zoning Application will reflect the terms and conditions set forth in this Agreement, will meet the threshold requirements for a "Large Scale Zoning Map Amendment" and will be processed by the City concurrently with the balance of the Entitlement Documents.

e. ***Timing and Procedures.*** The DA, the MRPA, the Zoning Application, the Amended 1984 Plan, and all ancillary zoning and land use documents will be completed for submission to the COF Council within 180 days following CDR's formal submission of the rezoning applications. The COF Council will then have 60 days to approve or reject the entire settlement package. The 240 day aggregate period described in the preceding two sentences ("Final Approval Period") may be extended by the mutual written agreement of CDR and the City if, notwithstanding the parties' diligent and good faith efforts, additional time is required to complete any required task. If, for any reason, the COF Council has not granted final approval to the entire settlement package within the Final Approval Period (including any extensions), the Settlement Agreement will be null and void and the parties will resolve their disputes through the Lawsuits.

3. **Substantive Provisions of the Entitlement Documents**. The Entitlement Documents, as applicable, will contain and/or incorporate the following concepts and/or provisions:

a. ***Resource, Open Space & Easement Requirements.*** The forest and slope resources (collectively, "Resources") previously calculated by Nasser Turk and Shepard Wesnitzer ("Resource Report") may be used by CDR and incorporated in the DA and the Zoning Application and used as the basis for the Resource Report. The Resources may exist in the two "resource banks" and will be allocated by CDR within CDR Property as Parcels are sold and/or developed. This "banking" will allow Resources within residential areas to be transferred and reallocated to other residential areas and, similarly, Resources within commercial areas to be transferred and reallocated to other commercial areas. Accordingly, while Resource allocations for specific Parcels may vary from applicable zoning requirements, the aggregate Resource allocations for the residential and commercial areas within the CDR Property will be consistent with the City's 1991 Zoning Code or the 2011 Zoning Code, at CDR's election, and the resource plan approved as part of the zoning. CDR and the City will incorporate a specific

"Resource Plan" for the CDR Property in the Amended 1984 Plan, MRPA and as part of the Zoning Application, and that Resource Plan will govern resource allocation within the CDR Property. CDR anticipates granting a deed of conservation easement to the Nature Conservancy (or similar non-profit organization) as part of the overall Resource Plan, which may (in CDR's discretion) include the establishment of a public park, open spaces and/or City's trail system. In addition, CDR (or CDR's successors) will grant and/or reconfirm existing and future easements for utilities, drainage, FUTS, *etc.*, which will be included in the final recorded plat for each Parcel within the CDR Property (each, a "Final Plat").

b. ***Block Plat Approval.*** Subject to the terms and conditions set forth in this Agreement, the Amended 1984 Plan, the Zoning Application and the DA will be based on a block plat concept for the CDR Property, with specific zoning and densities applied to each Parcel. The Block Plats will reflect spine infrastructure and large development tracts (*i.e.*, Parcels). The final Block Plats will be consistent with the structure outlined in this Agreement and the Zoning Application and will be incorporated in the Amended 1984 Plan and, as applicable, the MRPA. The City will not unreasonably withhold, delay or condition approval of Final Plats that are submitted in substantial accordance with this Agreement and the City's Subdivision Ordinance. As used in this Agreement, the term "Block Plat" means plats for the individual Parcels listed in Table Four, below, that are consistent with the City's Subdivision Ordinance, but do not include or reflect internal roadway or utility plans or lot, building or amenity locations.

c. ***Zoning Confirmation.*** City Staff will support the zoning and, as applicable, the residential densities set forth in the following Table Four, which will be incorporated in the Zoning Application:

Table Four

Parcel	Zoning	Use	Development Units[2]
E-1*	UC-Commercial	Office / Retail	N/A
E-2*	UC-	Office / Retail	N/A

[2] Notwithstanding the maximum densities set forth in Table Four, CDR will retain the right to make minor density transfers between/among residential Parcels, provided that any proposed density transfer by CDR complies with the underlying zoning.

	Commercial		
F*	UC-Commercial	Office / Retail	N/A
G*	MR-Med Density	Attached Residential	50
H*	UC-Commercial	Office / Retail	N/A
I	R1-SFR	Detached Residential	50
J-1*	HR-High Density	Attached Residential / Multi-Family/Apartments	240
J-2*	HR-High Density	Attached Residential / Multi-Family/Apartments	432
K-1*	UC-Commercial	Retail	N/A
K-2*	UC-Commercial	Retail	N/A
N*	MR-Med Density	Attached Residential / Duplex Units	42
O*	MR-Med Density	Attached Residential / Church or School	49
P*	MR-Med Density	Attached Residential / Church or School	40
Q-1	R1-SFR	Detached Residential	41

Q-2	R1-SFR	Detached Residential	21
Q-3	MR-Med Density	Attached Residential / Duplex Units	80
R 1-5	MR-Med Density	Planned Community	367
S	SR-LG Lot Residential	Detached Residential	14

1426 to 1442

All zoning relating to the CDR Property as set forth above ("Final Zoning") will be confirmed and approved in connection with the adoption and approval of the Entitlement Documents by the COF Council. Parcels marked with an * in Table Four, above, are to be re-zoned. A future Parcel owner may elect to seek a change to the zoning of any Parcel from the Final Zoning set forth above. If that occurs, the zoning change will be subject to the City's then applicable rules and procedures. CDR acknowledges that the City may not "pre-commit" to grant the Final Zoning and that approval and implementation of the Final Zoning is subject to the COF Council final approval in accordance with the 2011 Zoning Code, the Amended 1984 Plan and this Agreement. The City, however, acknowledges that implementation of the Final Zoning (and all of the Entitlement Documents) is a condition precedent to the implementation of the final settlement.

d. ***Parcels I, Q-1, Q-2, R & S.*** CDR will be permitted to develop Parcels I, Q-1, Q-2, R and S (collectively, "Residential Parcels") as residential properties, with no required attached residential product, based on the zoning designations and densities set forth in Table Four, above. Final Plat approval for the Residential Parcel(s) may be considered as part of a separate subdivision application concurrently with the final adoption of the Entitlement Documents or following the settlement, as CDR or future purchasers may determine. The Amended 1984 Plan will reflect the densities set forth in Table Four, above. As outlined above, the City will not unreasonably withhold, delay or condition approval of Final Plats that are submitted in substantial accordance with the Block Plats and the Amended 1984 Plan.

e. ***Parcels G, N, O & P.*** The 1984 Plan provides an alternative medium density residential zoning classification for Parcels G, N, O and P (collectively, "Med-Den Reserve Parcels"). CDR will be permitted to develop the Med-Den Reserve Parcels as attached single-family residential properties, based on the zoning designations and densities set forth in Table 4, above. Final Plat approval for the Med-Den Reserve

Parcel(s) may be considered as part of a separate application concurrently with the final adoption of the Entitlement Documents or following the settlement, as CDR or future purchasers may determine. The Amended 1984 Plan will reflect the densities set forth in Table Four, above. As outlined above, the City will not unreasonably withhold, delay or condition approval of Final Plats that are submitted in substantial accordance with the Block Plats and the Amended 1984 Plan.

f. ***Parcels J-1 and J-2.*** The 1984 Plan provides an alternative high density residential zoning classification for Parcels J-1 and J-2 ("High-Den Reserve Parcels"). CDR will develop the High-Den Reserve Parcels as multi-family residential properties (apartments), based on the zoning designations and densities set forth in Table Four, above. Final Plat approval for the High-Den Reserve Parcels may be considered as part of a separate application concurrently with the final adoption of the Entitlement Documents or following the settlement, as CDR or future purchasers may determine. The Amended 1984 Plan will reflect the densities set forth in Table Four, above. As outlined above, the City will not unreasonably withhold, delay or condition approval of Final Plats that are submitted in substantial accordance with the Block Plats and the Amended 1984 Plan.

g. ***Parcels E-1, E-2, F, H, K-1 & K-2.*** CDR and the COF Staff agree that the Urban Commercial ("UC") zoning is the appropriate zoning under the 2011 Zoning Code for Parcels E-1, E-2, F, H, K-1 and K-2 (collectively, "UC Parcels"). Final Zoning of the UC Parcels will occur concurrently with the final adoption of the Entitlement Documents. Final Plat approval for the UC Parcel(s) may be considered as part of a separate application concurrently with the final adoption of the Entitlement Documents or following the settlement, as CDR or future purchasers may determine. As outlined above, the City will not unreasonably withhold, delay or condition approval of Final Plats that are submitted in substantial accordance with the Block Plats and the Amended 1984 Plan.

h. ***Transfer of Parcel Q3 to the City.*** The DA will include the transfer of Parcel Q3 ("COF Residential Parcel") to the City, at no cost to the City, for its use in providing affordable housing ("AH"). The COF Residential Parcel represents approximately five percent (5%) of the overall residential density for CDR and satisfies the AH requirement for the CDR Property as a whole. CDR recognizes the City target for receiving AH incentives is ten percent (10%) of the overall residential density; therefore, if any developer of portions of the CDR Property (other than Q3) elects to include additional AH, the City will credit 5% or one-half of the 10% requirement when making its incentive calculations. AH development in addition to Parcel Q3 will not, however, be a prerequisite or condition to the development of any portion(s) of the CDR Property or the issuance of Final Plats in accordance with the terms and conditions set forth in this memo and the Entitlement Documents. The COF Residential Parcel will be

provided on an unimproved basis with the Q-3 Utility Infrastructure (as defined below) brought to the COF Residential Parcel property line. CDR will also be responsible for dedicating the Harold Ranch Road ROW and for the completion of the Q-3 Roadway Improvements (as defined below). The term "Q-3 Utility Infrastructure" will mean improvements identified by the Impact Studies (as defined below) that meet City's municipal requirements and are of sufficient size and capacity to accommodate the development of Parcel Q-3 for AH purposes and extending these water, sewer, traffic and drainage etc. improvements for that portion of Harold Ranch Road which is located on the CDR Property. The term "Q-3 Roadway Improvements" will mean the dedication of the Harold Ranch Road ROW and completing the roadway improvements required to finish that portion of Harold Ranch Road which is located on the CDR Property in a manner consistent with the City's Engineering Standards, the Impact Studies and the Final Zoning. The exact size and scope of the Q-3 Utility Infrastructure and the Q-3 Roadway Improvements will be set forth in the DA, provided, however, that the Q-3 Roadway Improvements East of Parcel Q-3 shall be limited to one lane of pavement in each direction installed to meet ten-year storm requirements, with no curb and gutter required. CDR's obligation to install the Q-3 Utility Infrastructure and the Q-3 Roadway Improvements will be subject to the Phasing Plan (to be developed in the rezoning case, as outlined below) and will be triggered by the recordation of a Final Plat for Parcel R-4 within the CDR Property.

i. ***Infrastructure; Development Phasing & Drainage.*** CDR will provide the infrastructure improvements required for the development of the CDR Property on a phased basis. City and CDR will work together in good faith to prepare, as part of the Zoning Application, a development and infrastructure phasing plan ("Phasing Plan") which is consistent with the Amended 1984 Plan and the Final Zoning. The Phasing Plan will be incorporated in the DA and/or the Amended 1984 Plan, as appropriate. CDR anticipates completing specific infrastructure improvements for the CDR Property at the point(s) required for the development of individual Parcels, based on sales and the overall demand for property in the Flagstaff market. The Phasing Plan will include applicable requirements for fire access, water and sewer service, and other public facilities. The City's current ordinances impose a rainwater harvesting regulation and an LID (low impact design) regulation of one inch (1") on-site storm water retention. The 1984 Plan does not include LID or rainwater harvesting provisions. CDR has agreed to comply with the City's LID requirements up to (but not exceeding) on-site stormwater retention of one-half inch (½"). CDR requests COF Council approval of: (i) an exemption from the rainwater harvesting regulations for the CDR Property; and (ii) application of a one-half inch (½") maximum LID requirement to the CDR Property (collectively "Waiver"). In all cases, CDR will obtain a Drainage Impact Analysis ("DIA") based on the City's LID/Stormwater standards at the time of preparation, as part of the Impact Studies. Drainage for the CDR Property will be handled, and LID calculations will be made, on a master-planned basis, with the use of regional drainage

facilities. The Waiver will be submitted to the COF Council for approval as part of the Settlement Agreement.

j. ***Butler Avenue / Butler & Fourth Street Intersection.*** CDR will agree to make all remaining payments relating to the existing Butler Avenue and Fourth Street Assessment ("Existing Assessment") immediately upon final approval and adoption of the Entitlement Documents and all associated zoning. The DA will include a budget for, and an allocation of, costs associated with anticipated future improvements to Butler Avenue, the Butler & Fourth Street intersection ("Intersection") and any other off-site/regional improvements reasonably required by the City and accepted by CDR as part of the approved DA (collectively, "Off-Site Improvements") based on the following structure:

(A) Promptly following execution of this Agreement, CDR will obtain an updated Traffic Impact Analysis, Water and Sewer Impact Analysis and DIA (collectively, "Impact Studies"), as reasonably required based on the Final Zoning.

(B) Subject to terms approved by the City and CDR, the DA will impose an obligation on CDR to pay for its proportionate share of the actual cost of the Off-Site Improvements attributable to the CDR Property's anticipated impact on public infrastructure as determined by the Impact Studies ("CDR Share").

(C) CDR will not be required to pay for (and the CDR Share will not include) Off-Site Improvements that are required to:

(i) elevate the existing Butler Avenue and Fourth Street intersection;

(ii) elevate the existing Butler Avenue roadway leading to or from the Butler Avenue and Fourth Street intersection;

(iii) elevate the existing north leg of Fourth Street roadway leading to or from the Butler Avenue and Fourth Street intersection;

(iv) Off-Site Improvements that are not necessitated by the CDR Property's anticipated impact on public infrastructure as determined by the Impact Studies; and

(v) Any drainage features or infrastructure required to convey stormwater under Butler Avenue and/or the Butler Avenue and Fourth Street intersection.

CDR understands and acknowledges the Final Zoning may require a new calculation of the CDR Share based on the Impact Studies. The revised CDR Share and the Phasing Plan will be an Exhibit to the DA in order to avoid any potential for future dispute.

k. ***Fourth Street South of Butler Avenue.*** With respect to the Fourth Street roadway south (from Butler Avenue through Parcel M), CDR will agree to pay for those improvements attributable to the CDR Property's anticipated impact on public infrastructure as determined by the Impact Studies. CDR also acknowledges that the City's Engineering Standards may require certain improvements to the Fourth Street roadway extending south from the Butler and Fourth Street intersection which otherwise exceed the CDR Property's anticipated impact on public infrastructure as determined by the Impact Studies and the City agrees, in connection with the preparation of the DA, to work with CDR, in good faith, to minimize any expense CDR may be required to incur in connection with the Fourth Street roadway south of the Butler and Fourth Street intersection which otherwise exceed the CDR Property's anticipated impact on public infrastructure and/or the CDR Share ("Additional Expense"). CDR will not be obligated to construct any other east-half roadway or edge improvements adjacent to Parcels D and L. CDR shall be free to seek a contribution agreement from the ASLD for the Additional Expense or any other aspect of the existing (or expected future) improvement of the Fourth Street roadway south of the Butler and Fourth Street intersection.

l. ***Parcel O & P Sale.*** CDR and the City agree Parcels O and P may be sold to, and developed as, a church – using the City's CUP process. Otherwise, the zoning for Parcels O and P will be as outlined in **Paragraphs 3(c) and (e)**, above.

4. **Settlement Implementation.** CDR and the COF Staff have approved the terms of this Agreement. CDR and the COF Staff will act diligently to submit this Agreement to the COF Council for approval at the earliest possible date (anticipated to be during the month of May 2013). Upon COF Council approval (including the Waiver), CDR and the City will promptly execute this Agreement, and CDR will promptly make the Deposit required by **Paragraph 5**, below. Upon execution of this Agreement ("Effective Date"), the parties will take the following actions to implement and carry out the terms of this Agreement as expeditiously as possible:

(A) CDR and the City will begin work on the MRPA and the DA;

(B) CDR will obtain the Impact Studies and initiate and diligently pursue the Zoning Application; and

(C) once finalized, the MRPA, the Zoning Applications, the DA and any other Entitlement Documents reasonably required to obtain final COF Council approval will be submitted to the City Planning and Zoning Commission for review and recommendation, and thereafter to the COF Council for final approval.

5. **Existing Butler Avenue Assessment**. Within ten (10) days of the Effective Date, CDR shall deposit, by wired or cashiered funds, the sum of $123,781.50 ("Deposit"), representing the remaining principal amount of the Butler Avenue assessment at issue in the Maricopa County Action, in a mutually-agreed interest bearing escrow account ("Account") with First American Title Insurance Company, Phoenix, Arizona ("Escrow Agent"), to be disbursed by Escrow Agent (with accrued interest) upon the first of the following events to occur:

(A) To the City upon the COF Council's formal and final approval of the Entitlement Documents;

(B) In accordance with written mutual instructions to the Escrow Agent executed by the City and CDR; or

(C) By order of the Court in the Maricopa County Action, in accordance with **Paragraph 6**, below.

CDR and the City will enter into Escrow Agent's standard form escrow instructions with respect to the Account. Any fees charged by Escrow Agent in connection with the Account will be deducted from the Account.

6. **Disposition of the Lawsuits.**

a. ***Interim Stay***. Following the Effective Date and upon CDR's delivery of the Deposit to Escrow Agent pursuant to **Paragraph 5**, above, CDR and the City shall authorize and instruct their respective counsel to jointly file with the Courts in both the Coconino County Action and the Maricopa County Action, a Notice of Tentative Settlement and Stipulation to Stay Action, in substantially the form of Exhibit "A" to this Agreement. CDR and the City, through their respective counsel, will take any and all necessary and appropriate actions to obtain an order of the Court to stay the Lawsuits pending the COF Council's formal and final approval of the Entitlement Documents. If either Court declines to issue such an order, CDR and the City agree to enter into an appropriate tolling agreement with respect to and to preserve their respective claims and defenses in that action, pending final approval of the Entitlement Documents.

b. ***Final Dismissal.*** Upon the formal and final approval of the Entitlement Documents and the Escrow Agent's disbursement of the Deposit to the City as contemplated in **Paragraph 5(A)**, above, and provided that CDR and the City have each fully performed their respective obligations under this Agreement, CDR and the City shall authorize and direct their respective counsel to file with the Courts in the Maricopa County Action and the Coconino County Action a Stipulation for Dismissal With Prejudice.

c. ***Return to Litigation***. If, despite the good faith and diligent efforts of COF Staff and CDR, final approval of the Entitlement Documents has not occurred within the time provided in **Paragraph 2(e)**, above, or such additional period as the parties agree to in writing, CDR and the City shall authorize and instruct their respective counsel to jointly file a motion to reinstate the Lawsuits on the Courts' active calendars in order to determine the merits of the parties' respective claims and defenses, including, but not limited to, the disposition of the Deposit. CDR and the City shall further authorize and instruct their respective counsel to work in good faith to establish a revised scheduling order that will permit the disclosure, discovery and motion practice reasonably required to properly and efficiently adjudicate the Lawsuits. In addition to awarding the Deposit to the appropriate party, the Court may award any other relief to which a party is entitled at law or in equity, including, but not limited to interest, attorneys' fees, and costs.

7. **Mutual Release of Claims.** Effective upon the COF Council's final approval of the Entitlement Documents and dismissal of the Lawsuits in accordance with **Paragraph 6(b)**, above, the parties mutually release each other as follows:

a. ***Release by CDR.*** Except as otherwise expressly provided in this Agreement or the Entitlement Documents, CDR, hereby irrevocably releases and discharges the City, and its current and former mayors, council members, department managers, employees, agents, representatives, and attorneys, from any claim, cause or right of action, liability, or obligation of any kind, type, or nature, whether presently known or unknown, accrued or not accrued, which arises out of or which in any manner relate to the CDR Property, the zoning of the CDR Property, the 1984 Plan, and/or the existing Butler Avenue assessment, including, but not limited to any claims which were or which could have been asserted in either of the Lawsuits.

b. ***Release by City.*** Except as otherwise expressly provided in this Agreement or the Entitlement Documents,, the City hereby irrevocably releases and discharges CDR, and its current and former members, agents, subsidiaries, employees, managers, partners, shareholders, representatives, and attorneys, from any claim, defense, cause or right of action, liability, or obligation of any kind, type, or nature, whether presently

known or unknown, accrued or not accrued, which arises out of or which in any manner relate to the CDR Property, the zoning of the CDR Property, the 1984 Plan, and/or the existing Butler Avenue assessment, including, but not limited to any claims which were or which could have been asserted in either of the Lawsuits.

Notwithstanding anything to the contrary, no provision of this Agreement shall constitute a release of any claim arising out of a breach of this Agreement; all such claims being expressly reserved.

8. **Time is of the Essence.** Time is of the essence of this Agreement and each term and provision hereof.

9. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, representatives and assigns (and, in the case of CDR, its subsidiaries that hold legal title to the CDR Property).

10. **Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement except: (i) those persons identified in the release provisions of this Agreement (**Paragraph 7**, above) who are expressly designated as actual and intended third-party beneficiaries of such release provisions; and (ii) CDR's wholly owned subsidiaries that hold legal title to the CDR Property.

11. **Attorneys' Fees.** Should any litigation be commenced between the parties concerning the terms of this Agreement, or the rights and duties of CDR or the City under this Agreement, the prevailing party or parties in such proceeding or litigation shall be entitled, in addition to such other relief as may be granted, to payment of all of its costs, expenses (including, but not limited to, expert fees), and reasonable attorneys' fees incurred in connection with the dispute.

12. **Entire Agreement.** This Agreement is a fully integrated document, containing the entire understanding among the parties, and supersedes and integrates any prior understandings or written or oral agreements among the parties including, without limitation, the Settlement Memorandum dated March 29, 2013 (and all earlier drafts and versions of that document).

13. **Representations, Warranties and Covenants.** Each party to this Agreement represents, warrants and covenants to the other parties as follows:

(A) This Agreement is the result of arm's length negotiations between parties experienced in business and financial affairs who have equal access to information concerning this transaction. They have obtained legal advice concerning the meaning and effect of this Agreement and

that they had sufficient time to consider the meaning and effect of this Agreement;

(B) They have taken all necessary action to authorize the execution, delivery, and performance of this Agreement and have the authority to execute, deliver and perform this Agreement and all the transactions contemplated hereby, including, without limitation, the releases provided for in **Paragraph 7**, above;

(C) The enforceability of this Agreement is not affected by the provisions of any other agreement to which such party is a party and will not conflict with any provision of any law or regulation to which such party is subject;

(D) CDR has the full power and authority to bind its subsidiaries and the CDR Property to the terms and provisions of this Agreement; and

(E) Except for the Lawsuits, there are no actions, suits or proceedings pending or threatened against either party in any court or by or before any governmental agency or instrumentality and no existing judgments, orders or other restraints, which would materially affect the ability of such party to carry out the transactions contemplated by this Agreement.

14. **Controlling Law and Choice of Forum.** This Agreement and all questions relating to its validity, interpretation, performance, and inducement shall be governed by and construed, interpreted, and enforced in accordance with the substantive laws of the State of Arizona (without reference to conflict of law principles). Any action pertaining to this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona, in and for the County of Maricopa, and all parties irrevocably consent to exclusive jurisdiction and venue in such court for such purposes.

15. **Indulgences Not Waivers.** Neither any failure nor any delay on the part of any party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver; nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of any other right, remedy, power or privilege.

16. **Construction.** This Agreement is the result of negotiations between the parties and was initially drafted by the attorneys for the City as a matter of convenience only and shall not be construed for or against any party on account thereof, but shall be construed according to its plain meaning.

17. **Additional Instruments and Acts.** Without limiting the provisions of **Paragraphs 2** through **7** of this Agreement, the parties shall promptly execute and deliver all such other instruments and take all such other action as any party may reasonably request from time to time, before or after the execution of this Agreement, in order to effectuate the transactions contemplated by this Agreement.

18. **Modifications and Amendments.** There shall be no amendments or modifications to this Agreement unless any such amendment or modification is in writing and signed by all parties to this Agreement. Any alleged or purported amendment or modification shall be void and unenforceable unless it is in writing and signed by all parties to this Agreement. This provision concerning amendments or modifications cannot be waived or otherwise made unenforceable except by a written document signed by all parties to this Agreement.

19. **Exhibits.** All Exhibits attached to this Agreement are fully incorporated herein and are made a part of this Agreement whether the Exhibits are executed by any or all of the parties.

20. **Miscellaneous.**

a. The headings used in this Agreement are used for administrative purposes only and do not constitute substantive matter to be considered in construing the terms of this Agreement.

b. Words used in this Agreement, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, or other gender, masculine, feminine or neuter, as the context requires; the words "including," "includes" and "include" shall mean without limitation, by reason of enumeration.

The parties have executed this Agreement as of the Execution Date.

CANYON DEL RIO INVESTORS, LLC

By: _____
Robert M. Semple, Manager

CITY OF FLAGSTAFF

By: _____

Its: _____

APPROVED AS TO FORM AND CONTENT BY COUNSEL:

DICKINSON WRIGHT/MARISCAL WEEKS

By: _____
Michael S. Rubin
Attorneys for City of Flagstaff

DATED: 4/18/13

CHESTER & SHEIN, P.C.

By: _____
David E. Shein
Attorneys for Canyon del Rio Investors, LLC

DATED: 4/16/13

ACKNOWLEDGED AND AGREED BY CDR SUBSIDIARIES:

CDR LAND INVESTORS I, LLC,
an Arizona limited liability company

By: _____
Robert M. Semple, Manager

CDR LAND INVESTORS II, LLC,
an Arizona limited liability company

By: _____
Robert M. Semple, Manager

CDR LAND INVESTORS III, LLC,
an Arizona limited liability company

By: _____
Robert M. Semple, Manager

PHOENIX 53876-3 51331v1
4/11/2013

EXHIBIT A

Michael S. Rubin (#005131)
Nicole Felker Bergstrom (#025475)
DICKINSON WRIGHT / MARISCAL WEEKS
2901 North Central Avenue, Suite 200
Phoenix, Arizona 85012-2705
Phone: (602) 285-5000
Fax: (602) 285-5100
Attorneys for City of Flagstaff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

~ COCONINO COUNTY ~

CITY OF FLAGSTAFF, a municipal corporation,

Plaintiff,

vs.

CANYON DEL RIO INVESTORS, L.L.C., an Arizona limited liability company,

Defendant.

No. CV2008-0245

STIPULATION AND REQUEST TO PLACE CASE ON INACTIVE CALENDAR

(Assigned to the Hon. Mark R. Moran)

The parties have entered into a Settlement Agreement, a copy of which is attached to this Stipulation as **Exhibit A.** As outlined in the Settlement Agreement, the settlement structure involves significant engineering and entitlement work, and associated municipal approvals. Accordingly, the full and final implementation of settlement may require up to 365 days.

For these reasons, the parties request this case be placed on the inactive calendar for up to 365 days, and the parties will advise the Court promptly if (i) the settlement becomes final; or (ii) the settlement fails during the implementation process. If the settlement becomes final, the case will be dismissed with prejudice. If the settlement fails, the case will be placed back on

the active calendar for litigation and the parties will promptly prepare and submit a proposed form of Scheduling Order to the Court for approval.

A proposed form of Order is attached.

DATED this ____ day of _____, 2013.

DICKINSON WRIGHT / MARISCAL WEEKS

By:_____
Michael S. Rubin, Esq.
Nicole Felker Bergstrom, Esq.
2901 North Central Avenue, Suite 200
Phoenix, Arizona 85012
Attorneys for City of Flagstaff

BURCH & CRACCHIOLO, P.A.

By:_____
Edwin D. Fleming, Esq.
Daryl Manhart, Esq.
Jessica Conaway, Esq.
702 East Osborn Road, Suite 200
Phoenix, Arizona 85014
Attorneys for Canyon Del Rio Investors, LLC

Michael S. Rubin (#005131)
Nicole Felker Bergstrom (#025475)
DICKINSON WRIGHT / MARISCAL WEEKS
2901 North Central Avenue, Suite 200
Phoenix, Arizona 85012-2705
Phone: (602) 285-5000
Fax: (602) 285-5100
Attorneys for City of Flagstaff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

~ COCONINO COUNTY ~

CITY OF FLAGSTAFF, a municipal corporation,

Plaintiff,

vs.

CANYON DEL RIO INVESTORS, L.L.C., an Arizona limited liability company,

Defendant.

No. CV2008-0245

ORDER

(Assigned to the Hon. Mark R. Moran)

Upon reviewing the Stipulation and Request to Place Case on Inactive Calendar, and good cause appearing,

IT IS HEREBY ORDERED that this matter is continued on the inactive calendar for up to 365 days, or until _____, 201__.

DATED: _____

_____
Judge of Superior Court

Michael S. Rubin (#005131)
Nicole Felker Bergstrom (#025475)
DICKINSON WRIGHT / MARISCAL WEEKS
2901 North Central Avenue, Suite 200
Phoenix, Arizona 85012-2705
Phone: (602) 285-5000
Fax: (602) 285-5100
Attorneys for City of Flagstaff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

~ MARICOPA COUNTY ~

CITY OF FLAGSTAFF, a municipal corporation,

Plaintiff,

vs.

CANYON DEL RIO INVESTORS, L.L.C., an Arizona limited liability company,

Defendant.

No. CV 2010-017142

STIPULATION AND REQUEST TO PLACE CASE ON INACTIVE CALENDAR

(Assigned to the Hon. Sally Schneider Duncan)

The parties have entered into a Settlement Agreement, a copy of which is attached to this Stipulation as **Exhibit A**. As outlined in the Settlement Agreement, the settlement structure involves significant engineering and entitlement work, and associated municipal approvals. Accordingly, the full and final implementation of settlement may require up to 365 days.

For these reasons, the parties request this case be placed on the inactive calendar for up to 365 days, and the parties will advise the Court promptly if (i) the settlement becomes final; or (ii) the settlement fails during the implementation process. If the settlement becomes final, the case will be dismissed with prejudice. If the settlement fails, the case will be placed back on

the active calendar for litigation and the parties will promptly prepare and submit a proposed form of Scheduling Order to the Court for approval.

A proposed form of Order is attached.

DATED this ____ day of _____, 2013.

CHESTER & SHEIN, P.C.

By: */s/ David E. Shein*
David E. Shein, Esq.
Sonia M. Phanse, Esq.
8777 N. Gainey Center Drive, Suite 191
Scottsdale, Arizona 85258-2106
Attorneys for Canyon Del Rio Investors, LLC

DICKINSON WRIGHT / MARISCAL WEEKS

By: */s/ Michael S. Rubin, Esq.*
Michael S. Rubin, Esq.
Nicole Felker Bergstrom, Esq.
2901 North Central Avenue, Suite 200
Phoenix, Arizona 85012
Attorneys for City of Flagstaff

Michael S. Rubin (#005131)
Nicole Felker Bergstrom (#025475)
DICKINSON WRIGHT / MARISCAL WEEKS
2901 North Central Avenue, Suite 200
Phoenix, Arizona 85012-2705
Phone: (602) 285-5000
Fax: (602) 285-5100
Attorneys for City of Flagstaff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

~ MARICOPA COUNTY ~

CITY OF FLAGSTAFF, a municipal corporation,

Plaintiff,

vs.

CANYON DEL RIO INVESTORS, L.L.C., an Arizona limited liability company,

Defendant.

No. CV 2010-017142

ORDER

(Assigned to the Hon. Sally Schneider Duncan)

Upon reviewing the Stipulation and Request to Place Case on Inactive Calendar, and good cause appearing,

IT IS HEREBY ORDERED that this matter is continued on the inactive calendar for up to 365 days, or until _____, 201__.

DATED: _____

_____
Honorable Sally Duncan

When recorded, mail to:
City Clerk
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

DRAFT 4/4/19

DEVELOPMENT AGREEMENT
between
THE CITY OF FLAGSTAFF
and
CANYON DEL RIO INVESTORS, LLC

THIS DEVELOPMENT AGREEMENT **(**"Agreement"**)** is entered into this _____day of _____, 2019, by and between the City of Flagstaff, an Arizona municipal corporation ("City") and Canyon del Rio Investors, LLC, an Arizona limited liability company ("CDRI"**)** on behalf of itself and the below described CDRI Entities. The City and CDRI are sometimes referred to herein collectively as the "Parties."

RECITALS

A. A.R.S. § 9-500.05 authorizes the City to enter into development agreements with landowners and persons having an interest in real property located in the City.

B. CDRI, through three wholly-owned subsidiaries ("CDR Entities" as defined in Section 2.2, below), is the owner of and/or has an interest in the development of approximately 262 acres of real property ("Property" or "CDRI Property") generally located at the southwest corner of the intersection of Butler Avenue and Fourth Street (extended), within the corporate limits of Flagstaff, Arizona, more specifically described in ***Exhibit A*** to this Agreement.

C. The Parties anticipate that the CDRI Property will ultimately be divided into approximately twenty-two (22) parcels (each a "Parcel"), with related roads and open spaces, as generally as depicted in ***Exhibit B*** to this Agreement. Each Parcel may, in turn, be further subdivided based on a final plat for the Parcel approved by the City and recorded in accordance with this Agreement.

D. The City has an interest in ensuring that the development of the CDRI Property complies with applicable City standards and the City believes that development of the Property pursuant to this Agreement will result in planning, safety, and other benefits to the City and its residents.

E. CDRI acknowledges that development of the CDRI Property pursuant to this Agreement will be beneficial and advantageous to CDRI by providing assurances to CDRI that it and/or its successors and assigns will have the ability to develop the CDRI Property within the City pursuant to this Agreement.

F. The City and CDRI acknowledge that this Agreement is a development agreement pursuant to the provisions of A.R.S. § 9-500.05.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in order to fulfill the foregoing objectives, the Parties agree as follows:

1. INCORPORATION OF RECITALS

Each of the Recitals set forth above is incorporated into this Agreement as though fully set forth herein.

2. DEFINITIONS

The following terms shall have the meanings set forth below whenever used in this Agreement, except where the context clearly indicates otherwise:

2.1 "CDRI" or "Owner" shall mean and refer to Canyon del Rio Investors, LLC, an Arizona limited liability company, and any successor-in-interest or assignee of Canyon del Rio Investors, LLC with respect to the CDRI Property, including any portion thereof.

2.2 "CDR Entities" shall mean CDR Land Investors I, LLC, CDR Land Investors II, LLC, and CDR Land Investors III, LLC. The CDR Entities are wholly owned by CDRI.

2.3 "City" shall mean and refer to the City of Flagstaff, an Arizona municipal corporation, and any successor public body or entity.

2.4 "Improvements" shall mean and refer to all the improvements, on-site and off-site, which may be constructed from time to time as part of the Project, including, without limitation, public roads, utilities, water-related improvements, driveways, landscaping, and other improvements of any type or kind to be built by CDRI, any successor-in-interest or assignee in whole or in part of CDRI, and/or any Improvement District or public financing mechanism that is formed to design and/or construct any or all public improvements within or serving the CDRI Property. As is described in Sections 4.7, 4.9 and 4.10 below, "Improvements" also include certain roadway and water improvements that are constructed by the City and/or the Arizona Department of Transportation ("ADOT") with "in lieu of construction" funds that are provided to the City by CDRI or its successors and assigns.

2.5 "Phase" shall mean and refer to each separate component or portion of the Project which will or may be developed by CDRI pursuant to this Agreement.

2.6 "Project" shall mean and refer to the development of the CDRI Property for the uses, intensities, and densities currently shown in the approved Concept Zoning Plan and any subsequent Concept Zoning Plan, Subdivision Plat and Site Plan that is requested by CDRI and/or its successors or assigns and approved by the City through the City's applicable processes.

2.7 "Property" or "CDRI Property" shall mean and refer to all the approximately 262 acres of real property which is legally described in ***Exhibit A***.

2.8 "Re-zoned Parcels" shall mean Parcels E-1, E-2, F, G, H, J-1, J-2, K-1, K-2, N, O and P.

2.9 "Zoned Parcels" shall mean Parcels I, Q-1, Q-2 Q-3, R-1, R-2, R-3, R-4, R-5 and S.

2.10 "Zoning Code" shall mean the version of the Flagstaff Zoning Code in effect at the time any entitlements are requested or plans are submitted for approval, unless application of the then current Zoning Code would be contrary with this Agreement, in which case the terms of this Agreement will control, at CDRI's election.

3. CONCEPT ZONING PLAN

The City and CDRI hereby acknowledge the Concept Zoning Plan attached as ***Exhibit C*** to this Agreement ("Concept Zoning Plan") sets forth the basic land uses and the intensity and density of such uses which have been approved by the City for development within the CDRI Property. Notwithstanding anything contained in the foregoing, however, the City acknowledges that, while CDRI intends the CDRI Property to be developed in general conformance with the Concept Zoning Plan, to make the development of the CDRI Property economically viable and otherwise feasible, as it progresses through detailed Platting, formal Site Plan Review, or other processes or a change in market needs and demands, CDRI and/or its successors and assigns, may request modifications to the Concept Zoning Plan, all subject to the City's applicable reviews and approvals, which may include an amendment of this Agreement approved by the Flagstaff City Council ("Council"). Nothing contained herein shall preclude the City from the exercise of its normal review process and requirements in connection with its approval of such submittals.

4. DEVELOPMENT PROVISIONS

4.1 Development Standards. The development of the Project, as well as the standards for off-site and on-site public improvements, will be governed by the City's codes (including the Flagstaff Zoning Code), ordinances, regulations, rules, guidelines, and policies controlling permitted uses of the Project, design review guidelines, the density and intensity of uses, the maximum height and size of the buildings within the Project in existence at the time any improvement plans are submitted for approval (collectively, the "Applicable Rules" or "Rules"), unless application of the Rules would be contrary with this Agreement. Under no circumstances will the Applicable Rules alter, modify or increase the required financial contributions that are expressly stated in Sections 4.7 and 4.10 of this Agreement. .

4.2 Permits and Fees. CDRI agrees and understands that all building permit fees, Development Fees enacted under A.R.S. § 9-463.05, and other fees normally applicable to construction within the City at the time of application shall apply to construction of all on-site and off-site improvements related to the development of the Project (collectively, "User Fees"), and that User Fees are subject to change at the discretion of the City Council. All User Fees will be

charged at the rate in effect at the time the application is submitted. Under no circumstances will the applicable User Fees alter, modify or increase the required financial contributions that are expressly stated in Sections 4.7 and 4.10 of this Agreement..

4.3 Density and Zoning. The City and CDRI hereby acknowledge the Density and Zoning Plan attached as ***Exhibit D*** to this Agreement ("Density and Zoning Plan") sets forth the zoning designations and densities which have been approved by the City for specific Parcels within the CDRI Property. The Density and Zoning Plan sets forth the maximum density and zoning with respect to each Parcel. If the density identified in the Density and Zoning Plan for any specific parcel does not meet the minimum density established in the Zoning Code, the density for that parcel cannot be further reduced. Notwithstanding any maximum density set forth on ***Exhibit D,*** CDRI may elect to make minor density transfers between and/or among residential Parcels, provided that any such density transfer by CDRI continues to comply with the applicable zoning, and is reasonably approved by the City. Also, notwithstanding the foregoing, CDRI may elect to seek a change to the zoning of any Parcel from that set forth on ***Exhibit D,*** provided that such requested zoning change shall be subject to the City's then-applicable rules and procedures, which may include an amendment of this Agreement approved by the Council.

4.4 Plats & Site Plans. An initial Parcel plat ("Block Plat") will be obtained for the CDRI Property which will be a "plat" as that term is used in the City, but which will only depict Parcel borders, adjacent roadways, spine infrastructure, and large development tracts for the entire Project and will not be required to include or reflect internal Parcel roadway or utility plans or lot, building, or amenity locations. The Block Plat shall be recorded with respect to the Project prior to the issuance of a Final Plat or Final Site Plan for any individual Parcels. Final Plats and Site Plans for Parcels within the Project will conform with Paragraphs (a) through (e), below, and the City will not unreasonably withhold, delay, or condition approval of a Final Plat or Site Plan with respect to a Parcel that is submitted in substantial compliance with this Agreement and the City's Subdivision Ordinance; provided, however, if there is any conflict or inconsistency between any term or provision of this Agreement and any term or provision of the Zoning Code or the City's Subdivision Ordinance, this Agreement will control. This Agreement covers all off-site improvements that will be required based on the Property's impact on regional and municipal infrastructure. The only financial assurances required for Final Plats and Site Plans for Parcels within the Project will arise from work required within the interior (or immediate exterior boundary) of the subject Parcel.

(a) Parcels I, Q-1, Q-2, R1-5, and S Final Plat. CDRI may develop Parcels I, Q-1, Q-2, R1-5, and S ("Residential Parcels") as residential properties with no required attached residential product (i.e., detached single family homes), based upon the zoning designations and densities as set forth in ***Exhibit D.*** All single family detached residential within the medium density zoning categories shall either be completed using the PRD option or the R1 development standards. Final Plat approval for any or all of the Residential Parcels, may be requested by CDRI as part of a separate subdivision application.

(b) Parcels G, N, O and P Final Plat. Subject to the exception set forth in Section 4.4(e) below, CDRI may develop Parcels G, N, O and P ("Med Density Parcels") as attached single-family residential properties, based upon

the zoning designations and densities as set forth in ***Exhibit D.*** Final Plat approval for any or all of the Med Density Parcels may be requested by CDRI as part of a separate subdivision application.

(c) Parcels J-1 and J-2 Final Plat or Site Plan. CDRI may develop Parcels J-1 and J-2 ("High-Den Reserve Parcels") as multi-family residential properties (e.g., apartments), based upon the zoning designations and densities as set forth in ***Exhibit D.*** Final Plat or Site Plan approval for any or all of the High-Den Reserve Parcels may be requested by CDRI as part of a separate subdivision or site plan application.

(d) Parcels E-1, E-2, F, H, K-1, and K-2 Final Plat or Site Plan. CDRI may develop Parcels E-1, E-2, F, H, K-1, and K-2 ("HC Parcels") as Highway Commercial properties, based upon the zoning designations and densities as set forth in ***Exhibit D.*** Final Plat or Site Plan approval for any or all of the HC Parcels may be requested by CDRI as part of a separate subdivision or site plan application.

(e) Parcel O and P Sale. Notwithstanding the provisions of Section 4.4(b) above, Parcel O and/or Parcel P may be sold to, and developed as, a church and/or school site, utilizing the City's Conditional Use Permit process (if applicable).

(f) Duration of Preliminary Plat Approvals. Given the size and significance of the Project and related infrastructure, an extended duration for preliminary plat approvals is warranted such that Section 11-20-60.040(B) of the City Code will not apply. Instead, the initial approval for a preliminary plat of any Parcel within the Property will be for a period of three (3) years from the date of the Council's approval of the preliminary plat. If a complete Final Plat submittal has been made within the third (3rd) year following the preliminary plat approval, the duration of the preliminary plat will be automatically extended for one (1) year from the date of the completeness determination. If the Final Plat has not been recorded before the expiration of the preliminary plat, the plat will expire unless otherwise extended by the Director under Section 11-20-60.040(C) of the City Code.

4.5 PRD Option. All residentially zoned parcels within the Property may elect the Planned Residential Development ("PRD") option as provided for in Section 10-40.60.270 of the Zoning Ordinance.

4.6 Workforce Affordable Housing. CDRI acknowledges the Council's policy to dedicate a percentage of developed units within a project as workforce or affordable housing ("AH") when a zoning map amendment is approved that results in an increase in permitted density on the Property.

(a) AH Parcel Conveyance. Within forty-five (45) days of the recording of the later to be recorded of this Agreement and the applicable

Block Plat, CDRI will convey Parcel Q-3 ("AH Parcel") to the City by special warranty deed, in a form reasonably acceptable to both Parties. Such conveyance will be at no cost to the City, conditioned upon the City's use of the AH Parcel for providing AH. CDRI acknowledges the City's target for receipt of AH incentives is ten percent (10%) of the overall residential density of the Residential component of the Property. The AH Parcel represents approximately five percent (5%) of the overall residential density for the Property, and in the event that CDRI elects to include additional AH (in addition to the AH Parcel), then in recognition of the conveyance of the AH Parcel, the City will credit five percent (5%) or one-half of the ten percent (10%) requirement when making the AH incentive calculations.

(b) AH Parcel Infrastructure. The conveyance of the AH Parcel shall be on an unimproved basis; any improvements to be installed by CDRI or its successor pursuant to this Agreement shall be accomplished as provided in this Agreement. On or before the recording of the Final Plat for Parcel R-4, CDRI will (i) dedicate the portion of the Property designated for the Harold Ranch Road right-of-way, and (ii) at CDRI's sole expense, cause to be installed the "Parcel Q-3 Utility Infrastructure" (as described on ***Exhibit E*** to this Agreement) and the "Parcel Q-3 Roadway Improvements" (as also described on ***Exhibit E***). Notwithstanding anything to the contrary stated in this Agreement, (iii) the Parcel Q-3 Utility Infrastructure will be installed only to the property boundary of Parcel Q-3, and (iv) the Parcel Q-3 Roadway Improvements shall be limited to one (1) lane of pavement in each direction to meet ten (10) year storm requirements, with no curb or gutter required.

4.7 Butler, Fourth, Butler/Fourth Intersection, and I-40/Butler Interchange Public Improvements and In Lieu of Construction Contributions. Over the course of the buildout of the Project, CDRI will construct or make cash in lieu of construction payments to the City for the regional roadway projects that are described and depicted on ***Exhibit F*** to this Agreement ("Off-Site Improvements Masterplan and Financial Allocation Exhibit") and are further described in the below Table of Regional Roadway Projects and subsections (a) through (d).

Table of Regional Roadway Projects			
	Roadway Projects	In Lieu of Construction Payment Timing	CDRI's Obligation
1	Butler Avenue Half Street	See section a below	$698,295
2	Fourth Street SB Dual Right	See section a below	$21,927
3	Offsite Butler Avenue - Little A to CDR	See section a below	$219,893
4	Butler / Fourth Signal	See section a below	$123,391
5	Butler and Fourth EB Dual Left	See section a below	$38,092
6	Butler and Fourth WB Left	See section a below	$35,541
7	Butler Left Turn Lane at Peak Point	See section a below	$60,177
8	Fourth Street South Half Street	See section a below	$211,527
9	Fourth Street NB Left Turn Lane	See section a below	$62,600
10	Fourth Street NB intersection transition	See section a below	$42,175
11	Butler / Peak Point Signal	See section a below	$250,000
12	Butler and I 40 Interchange Improvements	See section a below	$698,112
		Total:	$2,461,730

(a) Timing and Payments for Butler and 4th Street (South) Roadway Improvements. As shown in the City's FY 2019-23 Capital Improvement Program, the City currently has $3,824,330 for the roadway and related improvement projects identified in the Table of Regional Roadway Projects above ("Project Table"). Upon the recordation of a Parcel-specific Final Plat within the Project or the City's approval of a Parcel-specific Site Plan within the Project, and the City providing a written statement to CDRI that the City is prepared and committed to proceed with Projects one (1) through ten (10) listed in the Project Table (collectively "Projects 1-10") within six (6) months ("Start Notice"), CDRI shall make a lump sum payment to the City for Projects 1-10 in the amount of $1,513,618, allocated as shown on the Project Table. The lump sum payment of $1,513,618 will be made within 30 days of the Start Notice. CDRI's payment to the City will be used by the City for construction of Projects 1-10. The City will move forward with the design, construction and delivery of Projects 1-10 upon receipt of CDRI's in lieu payment of $1,513,618. If a Parcel-specific Final Plat within the Project has not been approved or a Parcel-specific Site Plan within the Project has not been approved by the City within 33 months after the recordation of this Agreement, and the City is committed to move forward with the design, construction and delivery of Projects 1-10, the City may provide CDRI with written notice of the City's intent to proceed with Projects 1-10 ("Construction Notice"). Within one hundred eighty (180) days following the Construction Notice, CDRI may: (i) pay the cash in lieu obligations for Projects 1-10; or (ii) provide the City with commercially appropriate security for the required payment. For the purpose of this paragraph, the term 'commercially appropriate security' shall mean a first position lien on Parcel(s) within the Project (selected by CDRI) that have a fair market value equal to 150% of the outstanding balance of CDRI's cash in lieu obligation for Projects 1-10. If option (ii) is selected, the outstanding balance will also accrue interest at the rate of five percent (5%) *per annum*, from the expiration

of the 180-day period until paid. If CDRI fails to fulfill either (i) or (ii), or reach an alternative accommodation acceptable to the City, in the City's sole discretion, the City shall maintain the right to construct some or all of the improvements described as Projects 1-10, and may, in its sole discretion, alter the scope of those improvements. CDRI acknowledges that if it fails to fulfill option (i) or (ii) above, or reach an alternative accommodation acceptable to the City, in the City's sole discretion, and the City alters the scope of Projects 1-10 or does not construct all of Projects 1-10, no Final Plats or Site Plans for Parcels within the Project will be approved until such time as the improvements described as Projects 1-10 are constructed in accordance with the requirements of this Agreement.

(b) Timing and Payment for Peak Point Intersection. CDRI shall make an additional cash in lieu of construction payment to the City in the amount of $250,000 for the Butler/Peak Point Signal (Project 11 in the Project Table) when the City determines (based on appropriate studies) that the 1,000 vehicles per day (VPD) threshold on Peak Point Road at the intersection with Butler Avenue has been exceeded. No new Parcel-specific Final Plats or Site Plans will be approved after the 1,000 VPD threshold has been reached until the $250,000 cash in lieu of construction payment has been made. The cash in lieu of construction payment for the Butler/Peak Point Signal may be used by the City to construct the Butler/Peak Point Signal, Butler/Peak Point Roundabout or other intersection improvement type at Butler/Peak Point, or for the improvement of the Butler Avenue/Harold Ranch Road intersection as discussed in the approved TIA.

(c) Fourth Street South Improvements. With respect to the Fourth Street roadway south improvements described as Projects 8-10 in the Project Table ("Fourth Street South Improvements"): (i) CDRI may elect to make the lump sum in lieu payment to the City for Projects 8-10 as set forth in the Project Table and described in Paragraph 4.7(a), above; or (ii) CDRI may elect to construct and install the Fourth Street South Improvements, with any costs above the in lieu payment amounts being paid (or reimbursed) by the City using portions of its 2019-23 Capital Improvement Program funding allocation. If CDRI elects to construct and install the Fourth Street South Improvements under (ii), above, Projects 8-10 as listed in the Project Table will not be subject to in lieu payment as described in Paragraph 4.7(a), above. Except for the specific improvements and expenses identified in ***Exhibit F***/Project Table, Projects 8 - 10, the City agrees that CDRI will not be required to incur any expense or construction obligation in connection with the Fourth Street South Improvements. If CDRI elects to construct east-half roadway or edge improvements on Fourth Street south from Butler and adjacent to Parcels D, L or M, CDRI shall be free to seek a contribution agreement from the applicable Parcel owner(s).

(d) CDRI Contribution Exemptions. Notwithstanding anything to the contrary in this Agreement, CDRI shall not be responsible for the construction or expense of, nor shall same be included in any calculation to

determine CDRI's Proportionate Share of any in-lieu payment, for any of the following:

I. Modifying the elevation of (i.e., raise or lower) the existing Butler Avenue and Fourth Street intersection;

II. Modifying the elevation of the existing Butler Avenue roadway leading to, or following from, the Butler Avenue and Fourth Street intersection;

III. Modifying the elevation of the existing Fourth Street roadway leading to, or following from, the Butler Avenue and Fourth Street intersection;

IV. Construction of off-site improvements that are not necessitated by development of the CDRI Property and its anticipated impact on public infrastructure, as determined by the Impact Studies; and

V. Construction of any drainage features or infrastructure required to convey storm water or other runoff under Butler Avenue and/or the Butler Avenue and Fourth Street intersection.

(e) CDRI'S Contribution to the I-40/Butler Traffic Interchange. Except as provided below, construction of the I-40/Butler Traffic Interchange Left Turn Lanes (Project 12 in the Project Table) must be completed prior to the issuance of a building permit for the 500th Dwelling Unit ("DU") within the CDRI Property. The requirement set forth in the preceding sentence is contingent on the Arizona Department of Transportation ("ADOT") permitting construction of the improvements identified as the "I-40/Butler Traffic Interchange Left Turn Lanes" in the Phasing Plan attached as ***Exhibit G*** to this Agreement. If ADOT fails to permit construction of the I-40/Butler Traffic Interchange Left Turn Lanes, or requires additional improvements that increase the cost of construction of the I-40/Butler Traffic Interchange Left Turn Lanes by more than 10%, then CDRI shall make a cash in lieu of construction payment to the City for the I-40/Butler Traffic Interchange Left Turn Lanes. The amount of the cash in lieu of construction payment will be: (i) $698,112, if the funds will not be used by the City to construct the I-40/Butler Traffic Interchange Left Turn Lanes; or (ii) the estimated cost of construction of the I-40/Butler Traffic Interchange Left Turn Lanes at the time CDRI requests

permitting from ADOT, if the funds will be used by the City to construct the I-40/Butler Traffic Interchange Left Turn Lanes ("I-40/Butler Contribution") in accordance with this Paragraph 4.7(e). The I-40/Butler Contribution, if made, will satisfy the CDRI's entire obligation relative to the construction of transportation and roadway improvements at the I-40 and Butler Avenue Interchange and, upon payment, CDRI may proceed with approvals for additional Parcel-specific Final Plats and Site Plans. Under alternative (ii), CDRI's I-40/Butler Contribution shall be provided by the City to ADOT on terms and conditions that are determined by the City and ADOT, which are outside of the scope of this Development Agreement; provided, however, if alternative (i) applies, the City will have the right to use the I-40/Butler Contribution for other area regional traffic improvements, provided that such use does not result in CDRI (or the Property) incurring any future or ongoing obligation or responsibility for the construction of transportation and roadway improvements at the I-40 and Butler Avenue Interchange. If alternative (ii) applies, but the City is unable to reach agreement with ADOT on funding the I-40 and Butler Avenue Interchange improvements or the improvements are not installed for any other reason, then CDRI shall be entitled to receive a refund of any portion of CDRI's I-40/Butler Contribution that exceeds $698,112.

(f) Permit Issuance. CDRI's Regional Roadway Project obligations identified in ***Exhibit F*** and the Project Table will be fully satisfied upon CDRI: (i) making the required cash in lieu of construction payments to the City for Projects 1-11; and (ii) constructing Project 12 or making a cash in lieu of construction for Project 12 pursuant to section 4.7(e) above. Once CDRI's obligations related to Regional Roadway Projects are satisfied, CDRI may continue to request Building Permits, and the City shall continue to issue such Permits irrespective of whether the City has completed construction of the roadway improvements for which CDRI has made a cash in lieu of construction payment to the City.

4.8 Internal Spine - Loop Road. In its first phase of construction, CDRI shall install full street improvements as required under the Phasing Plan from the intersection of Butler Avenue through to the intersection of Fourth Street. The full street improvements shall exclude sidewalk and landscape along the easterly and northerly edge of the internal spine loop road as depicted in ***Exhibits B and F***. Excluded sidewalk and landscape will be constructed on a Parcel-by-Parcel basis concurrent with the development of each individual Parcel bordering the easterly and northerly edge of the internal spine loop road.

4.9 Drainage Improvements. Attached to this Agreement as ***Exhibit G*** is the "Phasing Plan" for the Property, which includes applicable requirements for fire access, water and sewer service, and other public facilities. Notwithstanding anything to the contrary in any existing or future rainwater harvesting or low impact development ("LID") rules or regulations, development of the Property shall comply with the City's LID requirements up to, but not

exceeding, on-site storm water retention of one-half inch notwithstanding that the City's current ordinances impose a rainwater harvesting regulation and LID regulation of one inch (1") on-site storm water retention. Although the 1984 Plan does not include LID or rainwater harvesting provisions, CDRI has agreed to comply with the City's LID requirements up to (but not exceeding) on-site storm water retention of one-half inch (1/2") and the City hereby reconfirms the City's approval of: (i) an exemption from the rainwater harvesting regulations for the CDRI Property; and (ii) application of a one-half inch (1/2") maximum LID requirement to the CDRI Property. In all cases, CDRI will obtain a Drainage Impact Analysis ("DIA") based on the City's LID/storm water standards at the time of preparation, as part of the Impact Studies. Drainage for the CDRI Property will be handled, and LID calculations will be made, on a master-planned basis, with the use of regional drainage facilities.

4.10 Water Improvements. CDRI shall provide to the City, in accordance with Sub-Sections 4.10 (a, b & c) below, the following real-estate or cash in lieu of construction payments for (a) New Well Site, (b) Water Storage, and (c) Secondary Water Source Improvements to be constructed by the City to supplement the City's existing ability to provide water service to the CDRI Property:

(a) New Well Site. CDRI shall provide to the City and its consultants access for exploration and ultimate development of up to two well sites and their associated delivery infrastructure on the Canyon del Rio property. Well sites are anticipated to be between ten thousand and forty thousand square feet. Sites will generally be in the open space areas as depicted on ***Exhibit B*** and the Block Plat. Once sites are identified, CDRI will deed the well site property to the City and provide necessary easements for access and water delivery infrastructure at no cost to the City. CDRI will have no further responsibility for design, permitting, or construction of the well sites and delivery system, and CDRI will be deemed to have satisfied any requirement for new water production to the City. The well(s) are to be financed through the capacity fees only.

(b) Water Storage. CDRI is responsible for providing 428,000 gallons of water storage and funding 20-years of O&M expense on the water storage facilities to satisfy its water storage obligations for the Project and the CDRI Property. CDRI will satisfy its water storage and O&M expense obligations with cash in lieu of construction payments to the City at the time of the issuance of a building permit for the 400th DU or equivalent commercial water usage, within the CDRI Property. CDRI's cash in lieu of construction payment obligations will be as follows: (i) $535,000 for construction of a storage tank; and (ii) $132,943 for 20 years of O&M expense. The City will design, permit, construct, and maintain the tank and related facilities. CDRI's total cash in lieu of construction payment for water storage will be $667,943, (428,000 gal. at $1.25 per gal. or $535,000 plus $132,943 O&M expense). CDRI will have no restrictions on building permits due to actual water storage capacity or development after the cash in lieu of construction payments are made.

(c) Secondary Water Supply. Prior to recordation of the first Final Plat or the first Site Plan approval for any individual Parcel within the CDRI Property, CDRI will provide a secondary water source for development of the CDRI Property. To satisfy this obligation, CDRI will provide a cash in lieu of construction payment to the City in the amount of $1,300,000. The City will design, permit, construct, and maintain the secondary water source infrastructure. As long as the required cash in lieu of construction payment is made, CDRI will have no restriction on building permits due to secondary water source existence or connections.

CDRI's performance of its property transfer and cash in lieu of construction payment obligations pursuant to this Section 4.10 shall fully satisfy CDRI's above-described Well Site, Water Storage, and Secondary Water Supply obligations, whereupon CDRI and its successors may continue to request Building Permits and the City shall continue to issue such Permits irrespective of whether the City has completed construction of the Water Improvements and/or made them operational.

4.11 Vesting of WISA, TIA and Drainage Report. The Water and Sewer Impact Analysis ("WSIA") that was Approved on July 29, 2015 and was extended until **[_____]**, the Traffic Impact Analysis ("TIA"), Approved on **[_____]**, and the Drainage Impact Analysis ("DIA") that was Approved on **[_____],** shall be deemed vested upon the City's Approval of this Development Agreement. Additional impact analyses will not be required.

4.12 Resource, Open Space and Easement Requirements. The forest and slope resources (collectively, "Resources") previously calculated by Nasser Turk and Shephard Wesnitzer ("NTSW Resource Report") may be used by CDRI as the basis for CDRI's Resource Report. The Resources may exist in two "resource banks" and will be allocated by CDRI within the CDRI Property as Parcels are sold and/or developed. This "banking" will allow Resources within residential areas to be transferred and reallocated to other residential areas and, similarly, Resources within commercial areas to be transferred and reallocated to other commercial areas. Accordingly, while Resource allocations for specific Parcels may vary from applicable zoning requirements, the aggregate Resource allocations for residential and commercial areas within the CDRI Property will be consistent with the City's 1991 Zoning Code or the 2011 Zoning Code, at CDRI's election. CDRI anticipates granting a deed of conservation easement to the Nature Conservancy (or similar non-profit organization) as part of the overall Resource Plan, which may (in CDRI's discretion) include the establishment of a public park, open spaces and/or City's trail system. In addition, CDRI (or CDRI's successors) will grant and/or reconfirm existing and future easements for utilities, drainage, FUTS, etc., which will be included in the final recorded plat for each Parcel within the CDRI Property (each, a "Final Plat").

4.13 Other Improvements. Except as provided in Section 4.8 with respect to Loop Roads, landscaping shall be deferred and addressed in individual plans for development of specific Parcels.

5. PHASING

The Parties acknowledge that development of the Property will be affected by

numerous factors outside the control of CDRI, such as, but not limited to, general economic conditions, interest rates, and market demand. Accordingly, the City acknowledges that CDRI may submit multiple applications from time to time to develop and/or construct portions of the CDRI Property in phases as long as each phase provides for the logical extension of vehicle and pedestrian connectivity, infrastructure, and utilities through the Project, as approved by the City, in compliance with the terms of this Agreement and other applicable provisions of the City's codes, ordinances, regulations, rules, guidelines, and policies. Further, each phase of this development must be designed and constructed to stand alone in perpetuity per Subdivision Regulation 11-20.130.010(B) as well as the approved water and sewer, traffic, and drainage impact analyses. Acknowledging the foregoing, development is currently anticipated to be phased in accordance with the Phasing Plan attached as ***Exhibit G***; provided, however, the Parties agree to reasonable flexibility implementing the Phasing Plan.

6. INFRASTRUCTURE ASSURANCE

The parties hereto acknowledge and agree that the City, prior to recording a Final Plat or approving a Final Site Plan for each Parcel or the issuance of a permit for the commencement of construction in connection with non-subdivision development, shall require the owner of the property in question ("Owner") and/or its designees, grantees or buyers under contract, to provide appropriate assurances in such form and amount as required to assure that the installation of Infrastructure Improvements within that subdivision or other Infrastructure Improvements directly related to such building permit or permits will be completed ("Infrastructure Assurance").

In such case, the Owner may elect, with the approval of the City, which approval shall not be unreasonably withheld, any one or combination of the following methods of Infrastructure Assurance. All assurances provided by the Owner shall comply with the applicable provisions of the City's subdivision ordinance relating to such assurances. The options, in forms reasonably acceptable to the City (each, an "Acceptable Assurance"), are as follows:

(a) Owner and/or its assignees, designees, grantees and purchasers under contract is required to file with the City a performance bond; or

(b) Owner and/or its assignees, designees, grantees and purchasers under contract is required to deliver to the City an irrevocable and unconditional letter of credit which, if necessary, will be acknowledged by the City in accordance with the appropriate lenders' requirements; or

(c) A letter of financial assurance from Owner's lender or the lender of Owner's assignees, designees, grantees and purchasers under contract; or

(d) Dual Beneficiary Letter of Credit from a recognized financial institution acceptable to the City; or

(e) Cash or certified check, which may be deposited into an escrow account and administered through an escrow agreement between the parties; or

(f) Trust agreements as approved by the City; or

(g) Such other assurance mechanism as may be approved by the City in the exercise of its sole and absolute discretion.

Once the Owner required Infrastructure Assurances have been complied with, the Owner or, as applicable, the Owner's assignees, designees, grantees and purchasers under contract shall have the right, with the approval of the City, which approval shall not be unreasonably withheld, to replace such initial method of Infrastructure Assurance, either in whole or in part, with any of the other forms of Acceptable Assurance, as set forth above. If a discrete and self-sustaining portion of the Infrastructure Improvements for which an appropriate assurance has been delivered is dedicated to and accepted by the City, the City agrees to release, within twenty (20) days from such acceptance by the City, the portion of the assurance that relates to the Infrastructure Improvement so completed. The City agrees that within twenty (20) days from the City's acceptance of the particular completed Infrastructure Improvements for which the City has required and the Owner has provided Infrastructure Assurance, the City shall release such Infrastructure Assurance, in whole or in part as may be appropriate under the circumstances.

7. INFRASTRUCTURE FINANCING

7.1 Impact Fees. Subject to the provisions of this Agreement and to the extent permitted by law, Owner agrees to pay all current and future enacted impact fees provided such impact fee is generally and uniformly applicable to the City and is consistent with the provisions of A.R.S. § 9-463.05 if such fee is charged by the City at the time of construction permit issuance. The City of Flagstaff does not currently have adopted utility impact fees. Notwithstanding any contrary provision of this Agreement, if Owner provides, dedicates or pays for any public sites or public infrastructure, the value or costs of which are included as a component of an impact fee pursuant to A.R.S. § 9-463.05, Owner shall receive a credit equal to the value or cost of such public site or infrastructure ("Impact Fee Credit"), to be applied in lieu of existing or future impact fees imposed by the City which relate to or otherwise apply to the Property. In no event may the Impact Fee Credits in each category of impact fees exceed the actual impact fees paid or to be paid by or in connection with development on the Property. Wherever this Agreement provides that Owner shall be entitled to an Impact Fee Credit against any impact fee imposed by the City, the Impact Fee Credit shall be credited to Owner in increments equal to one hundred percent (100%) of the particular impact fee otherwise applicable to each building permit issued with respect to a home or building or structure to be constructed on the Property, up to the maximum total credit provided for in this Agreement.

7.2 Reimbursement for Oversizing that Benefits Other Properties. The parties acknowledge that if Owner provides or pays for any dedicated public sites or public infrastructure that will directly benefit property or developments other than the Property and the developments thereon, then Owner may seek reimbursement pursuant to City Code Chapter 7-08.

8. DEVELOPMENT PROCESS

8.1 Diligence in Responding to Approval Requests. The City hereby acknowledges and agrees that development of the Property may occur over a span of a number of years and will require the City's ongoing participation in the review and approval of modifications and amendments to any phasing plans, site plans, infrastructure plans, drainage plans, design plans, building plans, grading permits, building permits, and other plans, permit applications and inspections which are a part of the City's current building and development requirements (hereinafter collectively called "Approval Requests"). The City hereby agrees that, in connection with all such Approval Requests relating to the planning or development of the Property or any portion thereof, and the construction of Improvements thereon, it shall cooperate with CDRI in good faith to process all such Approval Requests.

8.2 Manager's Power to Consent. The City hereby acknowledges and agrees that any unnecessary delay hereunder would adversely affect CDRI and/or the development of the Property. Any disputes between CDRI and the City with respect to engineering matters will be resolved by the City Manager pursuant to City Code § __, without further action of Council, except for any actions requiring Council approval as a matter of law.

9. DEFAULT; REMEDIES

9.1 Events Constituting Default. A party hereunder shall be deemed to be in default under this Agreement if such party breaches any obligation required to be performed by the respective party hereunder within any time period required for such performance and such breach or default continues for a period of thirty (30) days after written notice thereof from the party not in default hereunder.

9.2 Dispute Resolution. In the event that there is a dispute hereunder which the Parties cannot resolve between themselves, the Parties agree that there shall be a forty-five (45) day moratorium on litigation during which time the Parties agree to attempt to settle the dispute by nonbinding mediation before the commencement of litigation. The mediation shall be held under the commercial mediation rules of the American Arbitration Association. The mediator selected shall have at least five (5) years' experience in mediating or arbitrating disputes relating to commercial property development. The costs of any such mediation shall be divided equally between the Parties or in such other fashion as the mediator may order. The results of the mediation shall be nonbinding on the parties and any party shall be free to initiate litigation upon the conclusion of mediation.

10. GENERAL PROVISIONS

10.1 Effective Date and Term. This Agreement shall be effective ("Effective Date"**)** upon execution by the Parties hereto and Recordation in accordance with A.R.S. § 9-500.05 (as amended). The term of this Agreement shall extend from the Effective Date of this Agreement and shall automatically terminate upon the earlier to occur of complete build-out of the CDRI Property or on the fortieth (40) anniversary of the Effective Date, unless this Agreement is rescinded or terminated earlier as provided for herein. However, if any of

the CDRI Property still is subject to this Agreement forty (40) years after the Effective Date of this Agreement, this Agreement shall automatically extend without the necessity of any notice, agreement, or recording by or between the parties an additional ten (10) years, for a total of fifty (50) years, at which time this Agreement shall automatically terminate as to the CDRI Property without the necessity of any notice, agreement, or recording by or between the parties.

10.2 Termination as to Lots. The purpose of this Agreement is to provide for development of the CDRI Property in accordance with applicable City standards. Accordingly, although recorded, this Agreement will terminate as to any individual lot, parcel, tract, area, or subdivision ("Lot") within the CDRI Property without the execution or recordation of any further document or instrument as to any Lot, upon the sale of that Lot by CDRI (including any successor-in-interest with respect to all or any portion of the CDRI Property) to end user(s) that purchase completed structures, after the facilities associated with the Project have been constructed, successfully tested, and then dedicated to, and accepted by, the City. Any title insurer can rely on this paragraph with respect to this Agreement when issuing any commitment to insure or when issuing a title insurance policy in connection with the sale of a particular Lot within the Property. Notwithstanding the foregoing automatic termination, once the Project has been constructed, successfully tested, and then dedicated to, and accepted by, the City, upon the request of any developer, the City and any other developers shall execute and record a notice of termination of this Agreement in a form reasonably specified by the requesting developer.

10.3 Notices. All notices and communications provided for herein, or given in connection herewith, shall be validly made if in writing and delivered personally or sent by registered or certified United States Postal Service mail, return receipt requested, postage prepaid to:

To City:

City Manager
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

To CDRI:

Canyon del Rio Investors, LLC
Attn: Robert M. Semple
2700 N. Central Ave., 9th Floor
Phoenix, Arizona 85004

With copies to:

City Attorney
211 West Aspen Avenue
Flagstaff, Arizona 86001

David E. Shein
Shein Phanse Adkins, P.C.
6720 North Scottsdale Road
Suite 261
Scottsdale, Arizona 85253

or to such other addresses as either party may from time to time designate in writing and deliver in a like manner. Any such change of address notice shall be given at least ten (10) days before the date on which the change is to become effective. Notices given by mail shall be deemed delivered 72 hours following deposit in the United States Postal Service in the manner set forth above.

10.4 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement.

10.5 Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Agreement.

10.6 Authority. The undersigned represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. CDRI represents and warrants that it is duly formed and validly existing under the laws of the State of Arizona, that it is duly qualified to do business in the State of Arizona, and is in good standing under applicable state laws. CDRI and the City warrant to each other that the individual executing this Agreement on behalf of his/her respective party is authorized and empowered to bind the party on whose behalf each individual is signing. CDRI warrants and represents to the City that by entering into this Agreement, CDRI has bound the CDRI Property and all persons and entities having any legal or equitable interest therein to the terms of the Agreement.

10.7 Entire Agreement. This Agreement, including the following Exhibits which are incorporated into this Agreement by reference, constitutes the entire agreement between the Parties and supersedes any prior written or oral understandings or agreements between the Parties. Notwithstanding the foregoing, CDRI may, without requiring any Amendment to this Agreement, request modifications to any Exhibit(s) provided that such modification(s) is subject to the City's then-applicable review process and approvals. This Section 10.7 applies only to the entirety of this Agreement; additional and separate zoning stipulations and agreements with the City may apply to the Property, and this Section 10.7 has no effect on them.

Exhibit A	***Legal Description of Property***
Exhibit B	***Parcel Map***
Exhibit C	***Concept Zoning Plan***
Exhibit D	***Density and Zoning Plan***
Exhibit E	***Parcel Q-3 Utility Infrastructure Improvements***
Exhibit F	***Off-Site Improvements / Financial Allocations***
Exhibit G	***Phasing Plan***

10.8 Amendment of the Agreement. This Agreement may be amended, in whole or in part and with respect to all or any portion of the CDRI Property, only with the mutual written consent of the parties to this Agreement or by their successors in interest or assigns that own (at the time of the Amendment) the portion(s) of the CDRI Property that is included in the Amendment. Consent is not required from owners of property(ies) within the CDRI Property that are not included in the Amendment. The City shall record the amendment in the official records of the Coconino County Recorder.

10.9 Severability. If any provision or provisions of this Agreement, or the application thereof to any person or circumstance, is determined to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is so determined invalid or unenforceable, will not be affected thereby, and each provision hereof will be valid and will be enforced to the fullest extent permitted by law.

10.10 Controlling Law and Choice of Forum. This Agreement and all questions relating to its validity, interpretation, performance, and inducement shall be governed by and construed, interpreted, and enforced in accordance with the substantive laws of the State of Arizona (without reference to conflict of law principles). Any action pertaining to this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona, in and for the County of Maricopa, and all parties irrevocably consent to exclusive jurisdiction and venue in such court for such purposes.

10.11 Recordation of Agreement and Subsequent Amendment; Cancellation. The City will record this Agreement, and any amendment or cancellation of it, in the official records of the Coconino County Recorder no later than ten (10) days after the City and CDRI execute the Agreement, amendment, or cancellation, as required by A.R.S. § 9-500.05.

10.12 No Partnership; Third-Party. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between CDRI and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

10.13 Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. This Agreement is subject to the cancellation provisions of A.R.S. § 38-511.

10.14 Compliance with All Laws. CDRI and the City will comply with all applicable Federal, State, and County laws, as well as with all applicable City ordinances, regulations and policies.

10.15 Successors and Assigns. CDRI (including its successors and assigns) shall be entitled to assign its interest in this Agreement, in whole or in part, to any person or entity, provided that the City receives notice of such assignment from the assignor with the name, address, and designated representative of the assignee, accompanied by a written instrument (a true and correct copy of which shall be provided to the City) pursuant to which the assignee has agreed to be bound by this Agreement and assumed all obligations of the assignor with respect to the Parcel or Parcels (which may include the entire CDRI Property), and upon such receipt by the City, and without any action by the City, then with respect to the Parcel or Parcels assigned (which may include the entire CDRI Property), the assignor shall be released from any

obligations or liabilities arising under this Agreement from and after the date of the assignment.

10.16 Vested Rights. Nothing in this Development Agreement shall preclude CDRI (including its successors and assigns) from claiming that CDRI has vested rights to complete the development of the Project in reliance on Rezoning Ordinance No. 2019-**[_____]** ("Rezoning Ordinance").

10.17 Additional Instruments and Acts. Without limiting the provisions of this Agreement, the parties shall promptly execute and deliver all such other instruments and take all such other action as any party may reasonably request from time to time, before or after the execution of this Agreement, in order to effectuate the actions and transactions contemplated by this Agreement.

10.18 Estoppel Certificate. Any Owner may request of the City Manager, and the City Manager or his designee shall, within thirty (30) calendar days, respond and certify by written instrument to the requesting party that (a) the Rezoning Ordinance is unmodified and in full force and effect, or if there have been modifications, that the Rezoning Ordinance is in full force and effect as modified, stating the nature and date of such modifications; (b) there is or is not a default under that Rezoning Ordinance or this Agreement and the scope and nature of the default; and (c) the City has or does not have any existing or pending legal or equitable claims against any party with an ownership interest in the Property. In the event an Owner has not received an estoppel certificate within thirty (30) days from the date of the request, then in such event, that Owner shall be entitled to prepare an estoppel certificate and deliver the certificate to the City Manager, and such estoppel certificate shall be binding upon the City.

10.19 Counterparts. This Agreement may be executed in any number of counterparts, each of which will constitute an original, but all of which will constitute one and the same agreement.

Dated as of the Effective Date, by:

City of Flagstaff

_____

_____, Mayor

Attest:

_____

_____, City Clerk

Approved as to form and authority:

Canyon del Rio Investors, LLC, for itself and the CDR Entities

By:_____

Name:_____

Title:_____

_____

_____, City Attorney

STATE OF ARIZONA)
COUNTY OF_____)

ACKNOWLEDGMENT

On this __ day of _____, 2019, before me, a Notary Public, personally appeared _____, known to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same on behalf of Canyon del Rio Investors, LLC, an Arizona limited liability company, for the purposes therein contained.

_____

Notary Public

My Commission Expires:_____

Exhibit A

(Legal Description - Property)

Exhibit B
(Parcel Map)

Exhibit C
(Concept Zoning Plan)

Exhibit D

Density and Zoning Plan[1]

Parcel	Zoning	Use	Maximum Density
E-1	HC - Commercial	Office/Retail	N/A
E-2	HC - Commercial	Office/Retail	N/A
F	HC - Commercial	Office/Retail	N/A
G	MR – Med Density	Attached Residential	50
H	HC - Commercial	Office/Retail	N/A
I	Rl – SFR	Detached Residential	50
J-1	HR – High Density	Attached Residential/Multi-Family/Apartments	240
J-2	HR – High Density	Attached Residential/Multi-Family/Apartments	432
K-1	HC - Commercial	Retail	N/A
K-2	HC - Commercial	Retail	N/A
N	MR – Med Density	Attached Residential/Duplex Units	42
O	MR - Med Density	Attached Residential/Church or School	49
P	MR – Med Density	Attached Residential/Church or School	40
Q-1	R I – SFR	Detached Residential	41
Q-2	Rl – SFR	Detached Residential	21
Q-3	MR – Med Density	Attached Residential/Duplex Units	80
R 1 through R-5	MR – Med Density	Planned Community	367
S	SR - LG Lot Residential	Detached Residential	14

[1] Notwithstanding any maximum density set forth on this ***Exhibit D,*** CDRI may elect to make minor density transfers between and/or among residential Parcels, provided that any such density transfer by CDRI continues to comply with the applicable zoning.

Exhibit E

Parcel Q-3 Utility Infrastructure
and Roadway Improvements

The Q-3 Parcel (a/k/a/ the "AH Parcel") will be provided to the City on an unimproved basis with the Q-3 Utility Infrastructure (as defined below) brought to the City's Q-3 Parcel property line. CDRI will also be responsible for dedicating the Harold Ranch Road ROW and for the completion of the Q-3 Roadway Improvements (as defined below). The term "Q-3 Utility Infrastructure" will mean improvements identified by the approved TIA and WSIA that meet the City's municipal requirement and are of sufficient size and capacity to accommodate the development of Parcel Q-3 for AH purposes and extending these water, sewer, traffic and drainage improvements for that portion of Harold Ranch Road which is located on the CDRI Property. The term "Q-3 Roadway Improvements" will mean the dedication of the Harold Ranch Road ROW (96' adjacent to Parcel Q-3) and completing the roadway improvements required to improve that portion of Harold Ranch Road which is located on the CDRI Property in a manner consistent with the City's Engineering Standards, the Impact Studies (TIA and WSIA) and the Final Zoning. The size and scope of the Q-3 Roadway Improvements adjacent to and east of Parcel Q-3 shall be limited to one lane of pavement in each direction installed to meet ten-year storm requirements, with no curb, gutter, landscaping, etc., required. Roadway Improvements adjacent to Parcel Q-3 shall be installed as "half street" improvements with the southern lanes of traffic provided with construction of the Parcel Q-3 Utility Infrastructure and Roadway Improvements adjacent to Parcel Q-3 and the northern lanes of traffic provided with the development of Parcel R-5. Commencement of construction of the Parcel Q-3 Utility Infrastructure and the Q-3 Roadway Improvements will be required within 12 months following the recordation of a Final Plat for Parcel R-4 within the CDRI Property, and such Parcel Q-3 Utility and Roadway construction shall proceed with reasonable diligence to completion.

Exhibit F

Off-Site Improvements Masterplan
and Financial Allocation

Exhibit G

Phasing Plan

Flagstaff Fire Department

November 26, 2018

CDI LAND INVESTORS III LLC
2700 N CENTRAL AVE 9TH FLOOR
PHOENIX, AZ 85004

CC: Brian Rhoton
RAC Partners
1750 Railroad Springs Blvd. Suite 10
Flagstaff, AZ 86001

RE: **Required Vegetation Management *(APN#s 106-08-005-M, 106-08-005-N, 106-08-005-L; 3200 E BUTLER AVE)***

Greetings Brian Rhoton:

Upon examination of recent plans to develop the above parcels as part of the Canyon Del Rio project, it has been determined that these parcels will require vegetation management as per our Wildland Urban Interface Code Section 603. The parcels have been reviewed during an on-site visit by our staff and vegetation management (i.e. selective tree thinning, debris disposal) has not occurred up to this point. This work must occur prior to combustibles coming on to site. I am reaching out to you to help facilitate successful completion of required vegetation management work.

The required vegetation management is defined as the following according to our Flagstaff Wildland Urban Interface Code:

VEGETATION MANAGEMENT is a plan or operational activity, described below, that is undertaken by property owners at their own discretion or directed/approved by the Code Official designed or required to reduce wildfire threat, promote environmental sustainability, public welfare, and/or community well-being.

a) Debris Disposal – Removal of cut, dead, dying, and/or downed vegetation or other combustible materials, including flammable landscaping plants.

b) Marking – Designating trees or other vegetation, by location, paint, flagging, or other identification system, that are to be either removed or retained.

c) Prescribed Fire – The planned use of fire under specific environmental conditions to achieve forest management or community protection objectives. Used to reduce hazardous fuel levels, control unwanted vegetation, recycle nutrients, favor desired vegetation, and improve visibility and wildlife habitat.

d) Selective Tree Thinning – The periodic removal of individual trees or groups of trees to reduce threat of wildfire, improve individual tree vigor and forest health, or achieve other desired objectives.

To achieve desired conditions that meet the vegetation management requirement prior to development of the above parcels, the following action plan may be followed:

1. Consult with a professional forester to develop a vegetation management plan for the parcels in question. Flagstaff Fire Department (FFD) may advise on forestry professionals they've worked with in past the whom are experienced in wildfire threat reduction projects as needed.

a. A vegetation management plan shall include at least the following information:
    i. A copy of the site plan.
    ii. Methods and timetables for controlling, changing or modifying areas on the property. Elements of the plan shall include fuel reduction to include removal of slash, snags, vegetation that may grow into overhead electrical lines, other ground fuels, ladder fuels and dead trees, and the thinning of live trees.
    iii. Methods to be used to provide for ecosystem sustainability, specifically methods to provide for age and size class distribution over the areas of the property.
    iv. A plan for maintaining the proposed fire protection measures.
2. Submit plans to Firewise Specialist at Fire Administration, 211 W Aspen Ave in Flagstaff, AZ 86001 for review.
3. Upon approval of plans by Firewise Specialist, owner shall consult with vendors to achieve needed vegetation management work defined/designed in the approved plan. Once again, FFD may be able to advise on vendors whom have done this work on past projects as well.
4. Provide status updates to Firewise Specialist towards completion of selective tree thinning work.
5. Once all work is completed, a final inspection will be required prior to any combustibles coming on site.

I invite you to join us with any questions to this process and to provide further details moving forward in a future meeting as schedules allow. We are happy to walk you through this process every step of the way as necessary. Ultimately, the goals of this vegetation management work will reduce wildfire risk, improve forest health and resiliency, and improve our fire response capabilities with the development of your property. We look forward to working cooperatively with you to achieve these goals.

Respectfully,

Jerolyn Byrne
Wildland Firewise Specialist
Flagstaff Fire Department
211 W. Aspen
Flagstaff AZ 86001
928-213-2510
jbyrne@flagstaffaz.gov

CC: Kent Snide
Fire Inspector 2
ksnide@flagstaffaz.gov

Neil Gullickson
Community Planner
ngullickson@flagstaffaz.gov

Paul Summerfelt
Fire Management Officer
psummerfelt@flagstaffaz.gov

CANYON del RIO
FLAGSTAFF, ARIZONA

Canyon del Rio Meeting Certification Exhibit "J" will completed
and forwarded to the City of Flagstaff following the Neighborhood Meetings.

NEIGHBORHOOD MEETING CERTIFICATION

I, CHARLES L. STRICKLAN, the authorized representative of CANYON del RIO PARTNERS do hereby attest that the neighborhood meeting for Project No. PZ-16-00239 was noticed and conducted in compliance with Section 10-20.30.060 of the City of Flagstaff Zoning Code, including the following:

☑ A Citizen Participation Plan, prepared in accordance with Section 10-20.30.030.C of the City of Flagstaff Zoning Code, was submitted to the City of Flagstaff on 7/5/18 and accepted by the City of Flagstaff on 7/7/18.

☑ A list of property owners within 1000 feet of the subject properties boundaries was prepared and submitted to the City of Flagstaff as part of the Citizen Participation Plan.

☑ Notices of the neighborhood meeting were sent via first class mail on 7/9/2018 to all property owners within 1000 feet of the subject properties boundaries, to all tenants residing on the subject property, to all Home Owners Associations (HOAs) within 1,000 feet of the subject property, and all persons or groups whose names are listed on the Registry of Persons and Groups.

☑ A total of 1 neighborhood meeting notification sign(s) were installed on 7/11/2018 at the following location(s):

o SOUTHWEST CORNER OF BUTLER & 4TH

☑ A written summary of the meetings, known as a Citizen Participation Report, was submitted to the City of Flagstaff on 9/7/2018.

☑ Copies of the Citizen Participation Report were sent via first class mail on 10/5/2018 to all person who recorded their names on the neighborhood meeting sign-in sheet.

Authorized Representative of the Applicant

Signature: Charles L Strickland 10/15/2018
Date

CANYON del RIO

MEMORANDUM

To: Neighbors Who Attended the Neighborhood
Meetings for the Proposed Canyon del Rio Community

From: Charles L. Stricklan
Lions Gate Companies, LLC/Canyon del Rio Representative

Date: 8 October, 2018

RE: Public/Neighborhood Meetings Report
Canyon del Rio Zoning Revision Request

Dear Neighbors:

We wanted to thank you for taking the time to attend and to add your input to our proposed Canyon del Rio Community on the 26th and/or 28th of July, 2018.

We want you to know that we take and took every comment seriously and appreciate everyone's input.

As you know, we held these meetings within the scope of the "Neighborhood Meetings Requirements"as set forth by the City of Flagstaff City Code - Title 10-"Section 10-20.30.060 Neighborhood Meeting" through "Section 10-20.30.120 Administrative Procedures." With respect to the procedures outlined therein, your comments and input were recorded as much as possible and submitted to the City of Flagstaff for their consideration with respect to our request for zoning changes for this property.

While the meeting have concluded, please understand that we encourage your input and you are welcome to add your comments on our website at: www.CanyondelRio.com. Or, you can submit your input directly to the City of Flagstaff.

Thank you again for your time and participation in our neighborhood meetings. Following are the meeting notes from those meetings for your review.

Sincerely,

Charles L. Stricklan
President
Lions Gate Companies, LLC/Representative Canyon del Rio
cstricklan@lionsgatecompanies.com
C: 602.418.9669

CANYON del RIO

Dear Neighbors:

The purpose of this meeting is to allow and encourage the neighbors of the proposed Canyon del Rio community at the Southwest corner of Butler Ave. and N 4th Street to provide input into the proposed zoning change to allow a zoning map amendment to 83+/- acres including the re-zoning of parcels E, F, G, H, J, K, N, O and P currently zoned Research & Development ("R&D"). Parcels E, F, H and K to proposed Highway Commercial (HC) 25.5+/- Acres; Parcels G, N, O and P to proposed Medium Density Residential (MR) 27.6+/- Acres; and, Parcels J-1 & J-2 to proposed High Density Residential (HR) 30.0+/- Acres.

The agenda for the meetings shall be as follows:

Dates: Thursday, July 26 and Saturday July 28, 2018. Sinagua Middle School.

-ACTUAL MEETING AGENDA-

Thurs., July 26	Sat. July 28	
▲ 5:45 PM	▲ 12:10 AM*	Doors Open *Sat Late Start, School Not Open
▲ 5:45-6:05	▲ Noon-12:10	Refreshments and Developer/Attendee informal meetings and introductions
▲ 6:05-6:10	▲ 12:15-12:20	Formal Introduction of Canyon del Rio Developers and Developer Team Members
▲ 6:10-6:15	▲ 12:20-12:25	Presentation of Canyon del Rio Proposed Community and Presentation of the Request for Zoning Change for 83+/- Acres from R&D Zoning to HC, MR and HR Zoning (see above)
▲ 6:00-8:10	▲ 12:25-3:05	Floor Open to Attendee Input and Discussion. (All comments and input will be recorded in writing to be provided to the City of Flagstaff staff after the event)
▲ 8:10-8:11	▲ 3:05-3:06	Closing Comments from Canyon del Rio Management and Representatives. Providing information to Attendees to ensure they have multiple contact information sources so that they can communicate with future input *Saturday extended an hour for questions.

Canyon del Rio
Marketing Office: 3605 S Flagstaff Ranch Rd. Flagstaff, AZ 86001
brholon@capstonehomesaz.com Information: 855.928.1100

CANYON del RIO

Canyon del Rio (CDR)
Neighborhood Meeting
July 26, 2018; 6:00pm – 8:00pm
Sinagua Middle School
3950 E. Butler Ave, Flagstaff, AZ 86004

Developer Representatives present: Ownership Brian Rhoton & Robert (Bob) Semple. Guillermo Cortez & Stephan Irwin of Shepard Wesnitzer, Inc, SWI Civil Engineering. Charles L. Stricklan, Lions Gate Companies, Developer Services & Marketing

Presentation made by: Charles Stricklan and Brian Rhoton
55 Residents in attendance at meeting, held in a round-table discussion format.

1. Charlie made introductions, began presentation. Referred those present to website www.canyondelrio.com for adding comments and to review all information presented. In addition we also provided forms at the sign-in table for attendees to leave comments in writing if desired.
2. The attendees consisted of those residents within 1,000' proximity of the proposed community who had received packets sent by first class mail two weeks prior to the meetings. Additional attendees were those that lived outside the 1,000' proximity but had seen the meeting notification on the sign posted on the southwest corner of 4th and Butler. Presentation information included details such as the original masterplan was drawn in 1983 for Canyon del Rio property; Canyon del Rio Investors, the developer group, is currently seeking site plan amendment of multiple indicated sections totaling 83+/- acres from its current zoning designation of R&D (Research & Development) to (HC) Highway Commercial, allowing for retail, office and high density residential. This meeting was held to allow a forum for neighbors and residents of surrounding communities to provide their comments and input regarding the overall community and proposed site plan amendments.
3. Based upon attendee questions, Brian explained that a portion of the community will be deeded to the City of Flagstaff's affordable housing program which is planned for 66+/- units. Other developers of the individual parcels could further participate with their 5% to city affordable housing program as well. Canyon del Rio will consist of single family detached product with expected pricing between $300,000 to $600,000. Apartments will not be student housing or rent by bed; they will be similar to the existing apartments at 4th/Butler and will be limited to 3 story in height. There are two apartment parcels and two duplex parcels.

Butler & 4th Street is the core center/geo center of the city of Flagstaff. City wants this

corridor to be developed correctly. At full completion, there are 8,000 housing units slated for that corridor. CDR is first development of this corridor.
CDR is responsible for road improvements which will be 4 lanes/2 each direction on 4th; Butler will be improved west of 4th St. out to I-40, like past Sinagua Heights. The Butler/4th St area is 6' into the flood plain and will be raised with large box culverts for drainage. Construction there is expected to last 12-18 mos. and is a requirement for CDR to move forward. CDR, COF and other property owners are paying into this reconstruction. 4th St. builds out to CDR and will widen 4th street north of Butler and city is looking to widen 4th St. further north. CDR property goes 200-300' south of access road to Humane Society and there will be improvements to Herold Ranch Road as it crosses CDR.

4. Question regarding traffic even after 4 lane widening as additional residents at CDR will cause additional traffic. Brian replied that traffic studies have been done and that further funding may come from the sales tax increase to be voted on, but building will proceed. Another issue CDR will be involved in is for water supply by building a 12" main under I-40 to Soliere to the area. COF has all the water in the supply system for CDR, but wells will be drilled. Question re traffic mitigation – ADOT and city are reviewing potential for bridge widening.

5. Charles referred people to website for contact info for city contacts and for comments on CDR.

6. Brian explained that the first developments within CDR will be the attached product, detached product, apartments, church and charter school. It is expected that commercial would be last in the development until the community has the numbers to support it and until JW Powell Blvd. and 4th St. are connected (with bridge over wetland area).

7. Question regarding evacuations. Brian reported improvements being done will help the evacuation situations which are studied by fire dept., city, and engineers.

8. Butler Ave. gets improved to full street with sidewalks and bike lane – by city with CDR contribution, but project is done by city. Rio de Flag is left open space which will be dedicated to Grand Canyon Trust or Nature Conservancy supported by the HOA's. Before JWP gets done, there are 5 exits. JWP/4th street is part of the city's 20-year plan and a lot has been done lately.

9. Noise abatement questions from several residents. They report this is an already noisy area due to the valley-like topography and that these new commercial proposed areas will only increase that. Brian explained that the restrictions offered is actually a reduction in commercial - .2 FAR (floor area of parcel – 20%) meaning less commercial space. No adult entertainment and other restrictions will be made. #1 request is for a grocery store, but it would be neighborhood stores, there are not the demographics for a large grocery store. Residents are concerned about noise and asking

for less commercial, or to have the commercial moved to the west side of the community instead of along Butler and 4th. Brian explained that this is a planned business corridor as part of the COF Regional Plan and the other corners of that intersection will include commercial.

10. Question regarding on how many trees will be removed. 50% residential and 30% in the commercial areas must be left; also, steep slopes will be left. Open space map on block plat discussed – shows areas between parcels, but there is also open space required in each parcel. Tree removal is determined by fire safety. Example was given Miramonte at 4th St.: sometimes a cluster of trees are reserved depending on developability and enjoyment factor is better with large swaths of trees remaining.

11. Urban trail/FUTS get improved and others added within the community. There will be connectivity to Little America and inner connectivity within the community. FUTs is developed by CDR, but maintained by city.

12. Question re view from Sinagua Heights. Some of the development will be visible – apartments, school, church will likely be visible. Some will be hidden by trees that are in open areas as well as trees within the parcels.

13. Locations for commercial areas discussed again. Residents requests for alternative location within the community for the commercial. Response from Brian is that commercial needs accessibility off 4th, but the commercial has been re-oriented within and the largest store area will be backed up against a hill.

14. Area east of 4th (Southeast corner of 4th/Butler) is zoned for commercial as part of city regional plan. This area is not part of CDR. Concerned residents advised to contact the City of Flagstaff with regard to that commercial area.

15. Proposed light or roundabout at Peak and Butler discussed. A roundabout at Peaks is in city plans; guess of 5 yrs. from construction.

16. Resident gave example of the Town of Pine for trees saved in development.

17. Question on how long will the road improvements take. Response is approximately 8 mos. to 1 yr. to improve Butler – it will affect daily traffic. A construction traffic study will need to be done.

18. Will the culverts go in before development or when it starts? It will be part of the Butler & 4th St.

19. Estimated development will take 10 years. First phase will include apartments due to demand, attached homes, the large 7k lots, the church. Sidewalks would be included in the first phase.

20. Question regarding developers going belly-up and guarantee. Brian replied that other builders buying in will have to abide by masterplan/zoning; although they could request rezoning within their parcel. This is block plat approval, other approvals come back to community as each is developed.

CANYON del RIO

21. Light pollution question. City has their dark sky standards – there will be more light pollution, but it still must meet city's light regulations that are the most restrictive in the country.

22. Additional tree canopy question. Some open spaces are elevated, and the only thing allowed in those area can be trails.

23. Process explained: there are these two community meetings, a report is completed, go back to city as they review the block plat. 60 days to hear back from city.

24. Resident summarized the main take away from this meeting is the concern regarding the commercial due to noise.

25. Guillermo explained that the city has its goals of making this a center for the city to create urban centers that spread traffic and shopping across the city. Back in 2012, the general city plan was created by the city planners for such urban centers. This plat, as is, goes to two planning and zoning rounds, two city councils. Further development within goes through the same process. Concern is this (Butler/4th) the most chocked and heavy trafficked intersection in the city. There are 1,100 housing units in the CDR development. Traffic studies are done to warrant that there are enough traffic improvements to support the development. Sales tax proposal is not contingent on this intersection being improved.

26. Ann Vonesh of 3885 Kokopelli and Winnie Ennenga of 3870 Kokopelli are Sinagua Heights residents. Residents reported that Sinagua Heights residents are most concerned and potentially affected about property values, peace, and the commercial development. A similar meeting was done 5 yrs. ago with same concerns. They are also concerned about the area east of 4th St. that is zoned commercial, although unrelated to CDR. Brian reported that parcel has been that way since 1983; has been in the market for 12 yrs. and is expected to go to auction, but it doesn't change the zoning.

-end-
Minutes transcribed by Mary Norton of Capstone Homes.

CANYON del RIO

Canyon del Rio
Neighborhood Meeting
July 28, 2018; 12:00pm – 2:00pm
(extended to 3pm for additional neighbor input)
Sinagua Middle School
3950 E. Butler Ave, Flagstaff, AZ 86004

Developer Representatives present:
Ownership - Brian Rhoton, CDR Land Investor Group/Capstone Homes &
Robert (Bob) Semple, Canyon del Rio Investors/Semple,
Marchal & Cooper LLP
Engineering - Guillermo Cortez & Stephan Irwin of Shepard Wesnitzer, Inc,
SWI Civil Engineering.
Consultant - Charles L. Stricklan, President Lions Gate Companies,
Developer Services & Marketing
Assistant - Mary Norton, Marketing Director, Capstone Homes
30 residents in attendance at meeting, held in a Q&A format.

1. Introductions by Charles.
2. Brian provides summary of community:

Canyon del Rio was originally entitled in 1983-1984. The requested rezoning area intended was for Gore. In 2002, CDR was acquired by developers through a state land auction; some parcels were sold off and CDR is now 270 acres. This meeting is intended to get neighborhood thoughts, comments, input; mostly specific to the rezoning of 83 acres which, through various changes in zoning definition, was light industrial, then R&D. There is also alternative zoning for high density residential, so 22-23 acres of commercial would go from R&D to commercial. The areas in question are mostly accessible from 4th Street with only two small parcels on Butler.

This community complies to city's intentions for a hub of the city. It has not been developed over these 20 years due to expensive infrastructure needs. City has funds from sales tax plus contribution from RDC to improve Butler/4th.

At core of CDR is 600 apartments (not student housing, not bed for rent; intended for family living use). A church and charter school are interested in some parcels. There will be attached homes and detached single family homes. 5% of density is going to the City of Flagstaff's land trust program; and each builder will have the ability to have 5% of their project go to the city land trust program as well.

4th Street will be improved to a 4-lane road with a bike lane; it will eventually connect to JW Powell Blvd. Street circulation will remain the same per the plan. There will be about a 7' raising of the intersection due to floodplain and Butler gets improved. Herold Ranch Rd gets realigned (off property) but it will be part of the Butler improvement. Preferred alternative is a roundabout, but not final as city traffic engineers make those decisions on roundabout vs. signaled intersections. CDR will install a 12" water main. Water for the community is included in the city's water system – new efficiencies have accommodated any new water demands.

Resident Val Bryant – concerned about water usage and conservation; new water demand uses up what has been conserved.

Commercial development is limited to .2 FMR. Other limits such as no adult entertainment; intended for neighborhood friendly usages. There will be internal trails for walk/bike including throughout the commercial area. Apartments are limited to 3 stories in height. Resident comment that it will be visible from Sinagua Heights.

All traffic, sewer, drainage analysis has been done by the city.

FUTS will be upgraded and provided throughout the property. All landscaping will be approved through city as well. This area is intended as a jewel; it is the core geographically for Flagstaff. There are 8,000 units planned for this corridor from 4th/Butler to and including the extension of JW Powell Blvd. when complete.

3. Resident Joe Farnsworth – how much forest will be cut down? Block plat is shown and there is dedicated preserved open space. Within the parcels, there will also be trees with requirement that 50% are left per open space requirements. In a commercial area, 30% of the trees remain. In many parcels, the topography demands that is not developable, so nature space and trees remain.

4. Mike Jaffrin – city incentives in question, example of the Hub and it's negative parking issues that were pushed through/allowed to be approved. Brian explained that those incentives he alluded to are to participate in city's affordable housing criteria.

5. Janet Kittery – Sinagua Heights – noise regarding lane expansion. The area already has a lot of noise. She asks for noise reduction that would come from commercial deliveries, traffic. Brian explained that CDR sits lower than Sinagua Heights and there aren't a lot of physical barriers that are effective, so orientation of the buildings is important. City wanted commercial on the street fronts. CDR oriented the building within the community so it will dampen what noise comes out and up from the community. Orien-

tation is best way to mitigate the noise. Whoever develops the commercial parcels must conform to these plans as they are and must go through community development process again with planning and zoning council and city council. Janet wants to know what public participation would they have to inquire about the actual commercial development after this rezoning is approved? Her concerns to be passed to the city and she is encouraged to contact the city's contacts.

6. Joe – Is there any development like this around Flag Ranch and Pine Canyon in the future? Why is this area getting the development? Brian answers yes, development is happening now, including large scale developments. Capstone Homes is currently developing a parcel just adjacent to Flagstaff Ranch. Guillermo Cortez reports that city plans for future growth from airport east, as well as the far west near Flag Ranch and Woody Mtn Rd. Joe reports he's been here 40 yrs. and although growth is inevitable, all this puts pressure on the resources and it will inevitably cost the citizens and developers don't care. Brian says they do care and has built here for 20 years, lives here with his family and his intention is for good, smart, sustainable growth. He wants to see job growth, so his kids can stay here. He is committed to DOE (Department of Energy), smart energy building for affordable homes, as Capstone is currently building. Joe doesn't like the word "affordable" and gives his 40-yr. resident perspective of "affordable" and housing increases. Concern about second home owners taking over.

7. Tim Tarski – would like to see the community leave a buffer of trees along the development, along the roadways particularly Butler Ave as it currently provides a visual respite. He wants his kids and grandkids to be able to stay here and he wants the housing for them. He agrees that the noise buffers should be strongly considered for the truck traffic/delivery. Agrees that a properly planned receiving area can accommodate this. He & his wife walk this the open land in the area where CDR will be and it's full or trash, homeless, drug addicts; it's not safe and not pretty – he welcomes the development. He thinks there should be a child recreation area within, like what they enjoy for the Country Club area with Foxglen Park. He wants to see it a strong community area. He moved here 11 years ago, and smart development can be done; must avoid what happened to the Hub. He and his family love the outdoors, hiking, love the view from Butler and the tree-lined road – wants to see that preserved.

Bob Semple replied that 80% of those trees won't be touched because of topography. He bought this(CDR) in 2002 and is very concerned about the property including the squatters and safety of the current land. He was part of Flag Ranch and the preservation of the caldera. He's environmentally sensitive and works with the city that this (CDR) remain a beautiful area. He's been in it & working on CDR for 16 yrs. and he'll be in it at least 12 yrs.

Resident Joe Farnsworth adds in that he's concerned about the pressure on the environment, of resources and animals in the area.

8. Richard Grose – archeological problems? Raising the intersection and effects? Guillermo explains water drainage/flooring, inadequacies of the current culverts and how it will be corrected. 1/2" of rain retention is required. Traffic analysis is part of the contribution. 2% grade rise for intersection.

9. Val Bryant – concern about snow/ice where it doesn't melt and accidents. Guillermo replies that the new grade will help the situation.

10. Pat Benson – lives where there is a 12% grade and trucks that can't go down, so they must turn around. Asks if there has been any thought to limiting truck weight which would take care of truck noise traffic too. Guillermo says city has looked at that and a roundabout near Little America which is also why they are considering one at Herold Ranch Road.

Pat suggests no right turn from Butler onto 4th at that light for trucks.

11. Richard Grose - How much local labor will be used for this development? Brian replies 100%.

12. Joni Gore – comments about development so it's not just a row of gas stations.

13. Betsy McKellar re housing units at lower southeast of block plat. Brian replied that it's city conceptual for parking lots.

14. Dave McKellar – traffic question regarding Herold Ranch Rd and effect. Guillermo replied that construction traffic will affect the area, but street widening on Butler will help. Brian added that commercial development would be after housing development; south residential area is last. Improvements to Herold Ranch Rd will be improved, and he expects Little America will also be under development with more improvements. Other south areas won't be developed until 4th St goes thru.
With 1,100 residential units/3,000 people at build-out, will all those people will use Butler/4th? How will it handle it? How will the roundabout and intersection be able to handle this? Traffic studies have been done. Guillermo replied city will lead on the street improvements with support from the development. He talked to city, ADOT has approved a grant for the widening of 4th St. bridges.

15. Question on storm drainage and tanks filling. Guillermo explained that has been

looked at. Resident not impressed with city's previous studies with regard to water and traffic. Brian reported that these reports were ran at higher levels – on a "as is" basis. Guillermo explained about water capacity fees and each house is billed $12,000 for future wells, sewer, etc.

16. Joe Farnsworth reports concern about impact on Butler and traffic; seems that 4 lanes isn't enough plus accidents, wait to turn time, speed too fast. Guillermo explained numbers that a 2-lane vs 4-lane can carry/capacity.

17. Michelle Ryan – impact on drainage, utilities, etc. for Humane Society. Guillermo explained road to Humane Society will go from gravel to paved. She asked about closer fire hydrants. They will be approx. every 300-500 ft which is mandated by code. Drainage issues will slightly improve because of retaining first ½" of water runoff.

18. Sinagua Heights resident concerned 4th/Butler becomes a very urban corner, particularly due to the southeast corner. Guillermo explained that it could be leased for commercial usage or bought for commercial development. Leases on commercial parcels are usually 50 yrs. She is concerned about her quality of life from Sinagua Heights.

19. Tyler Linear - question on FUTS trail impact at intersection. Guillermo says FUTS will be maintained and lifted along with the intersection. There are plans for the FUTS to continue across Butler to the north side. They are working with city to continue FUTS.

20. Steve McKellar – question regarding open space preservation. Brian explains these areas are deeded to Grand Canyon Trust or Nature Conservancy, so they won't be owned by the development. They become a conservation easement which prevents it from ever being developed. They will be maintained by the HOA.

21. Carol Covington – question on roadway regarding 4th St. going south. Brian explains that the proposal is for a 5 lane. It gets expanded as demand increases, particularly when the southeast commercial area of 4th gets developed.

22. Richard Grose – re Butler and school traffic and relief for school traffic/accessibility. Guillermo explains the problem is when schools are next to major arteries, such as seen with Sinagua Middle School and Knoles Elementary. CDR will have a community school, so perhaps take some of the pressure off Knoles. Brian also drops his own kids off at these schools and is very aware of the problems; the city is aware and is working to solve these issues with crosswalks, light timing, sidewalks, etc.

23. Carol Covington – wants to understand the process. Brian explained block plat

process, and then plats after the rezoning approval. Goes through planning/zoning and then city council. How closely do the people that implement these plans follow this? Could there be other community meetings for questions and suggestions for the way individual parcel(s) when they are developed? Brian says it goes through DA (Development Agreement) and zoning stipulations that will list concerns and recommendations and what can be done or not. Every comment is given to planning/zoning committee and city council who could put these concerns into the DA and zoning stipulations.

24. Joe Farnsworth – wants to know the cost and profit from these developers. Brian replies this is not a number that can be given; they don't know what their profit and costs estimates will be in the end. Can report that is will cost $15-20 million to build the collector roads alone.

25. Rob Aaron - suggestion for closed space for trash area and making it large enough with straight-in access. This lessens trucks having to reverse too much with backup noises, spend less time on the site which all reduces noise.

26. Carol Covington – asked for clarification on Nature Conservancy and Grand Canyon Trust. Explained by Bob Semple.

27. Tyler Linear – has there been a bus stop looked into and what is the access for people walking to the stores? Brian – Yes there will be a bus stop. There will be trails within the community and neighborhoods to allow for access to stores/etc.

28. Reiterated that the City conducts water/sewer; developer does traffic studies. Studies can and will be available on website, www.canyondelrio.com.

29. Richard Grose – can the developers "require" that there be a Trader Joes and In & Out Burger, please?

30. Janet Setter (?) summaries concern she's hearing for all present:
    - A) noise abatement
    - B) angles and directions of commercial buildings and delivery areas to prevent added noise
    - C) no public process after this zoning is complete so public cannot be a part of the site plan. Would like that to be added so the public/residents have a voice as tis moves forward.
    - D) exclusions added that there be no smoke or vape stores, no bars allowed.
    - E) delivery time 4 am – 10 am restrictions
    - F) view shed restrictions such as lowering apartment height levels;

would like view assessment.

31. Citizen requests ample parking for these shopping areas.

32. Question regarding dark sky – Brian says it's the highest requirements/restrictions in the country and those will be followed.

33. Carol Covington – suggestion that compilation of comments be on website. Charles replied that Yes, that will happen (without names).

34. Brian summarizes that no other meetings are planned, but individual concerns can be addressed by contacting the website with email and phone numbers available; email preferred for him.

35. Carol wants to know about concept of community/look/parks as illustrations are displayed at meeting. Bob Semple explained city didn't want parks, but they will keep a lot of open areas and retain the natural beauty. Pocket parks and playgrounds will be within the parcels. Artist concepts on display for commercial buildings, drawings for residential units, street lights/benches. Brian explained he builds Flagstaff style, Craftsmanship style, some modern mountain. At Crestview, the architecture is very front porch oriented. Not much stucco.

36. Jim Stratton – on Parks & Rec commission and is surprised to hear they were told no parks. Ask re pocket parks. Brian says passive use with ramadas, grass area, etc. within the parcels which will be responsibility of HOA's. These are public parks.

37. Diana Mercer asks re community park. Brian explains there will be none due to lack of flat space. Homes will be on hills and tops of ridges.

How much will developer increase to schools? There will be space for a charter school; school district has no need for another school.

38. Community member asks about why there needs to be an HOA to maintain these amenities as they are a pain. Brian reports that it can't be part of the city to maintain all the amenities that a community wants, so it becomes the direct community's responsibility, hence an HOA.

-end-
Minutes transcribed by Mary Norton of Capstone Homes.

CANYON del RIO

- Neighborhood Meetings Attendee Registration -

Date: 7/26/18 Meeting # 1

Attendee Information

Name: Sharon Alexander/Scott Rexinger
Street: 1169 Flowing Springs Trail
City: F
State: AZ Zip: 86004
EMail: srexinger@gmail.com

Attendee Information

Name: Bill Johnson
Street: 950 N. Sinagua Heights Dr
City: Flagstaff
State: AZ Zip: 86004
EMail: wej86@me.com

Name: Tom Brehm
Street: 925 N Sinagua Hts. DR
City: FL
State: AZ Zip: 86004
EMail: tomrock@live.com

Name: STEVE & DIANE JARVIS
Street: 1600 N SCIENCE PARK
City: FLG
State: AZ Zip: 86004
EMail: sjarvis1224@aol.com

Name: Mandell
Street: 1104 N Flowing Springs
City: Flag
State: Zip: 86004
EMail:

Name: Wilma G. Emmerich
Street: 3870 E Kokopelli Ln
City: Flg
State: Zip: 86004
EMail: Winnie.emmerich@gmail.com

CANYON del RIO

Neighborhood Meetings Attendee Registration

Date: 7/26/18 Meeting # 1

Attendee Information

Name: Deborah Campbell
Street: 1789 N Wood Hollow Way
City: Flagstaff
State: AZ Zip: 86004
EMail: Chuckdeb@q.com

Attendee Information

Name: Tom & Cathy Ure
Street: 3915 E Kokopelli Lane
City: Flagstaff
State: AZ Zip: 86004
EMail: Cathyure@aol.com

Name: Curtis Johnston
Street: 4348 E. Bockarock Lp.
City: Flagstaff
State: AZ Zip: 86004
EMail: CurtisJohnston86@gmail.com

Name: Martha Bringard
Street: 945 N Shaggy Peak Dr
City: Flagstaff
State: AZ Zip: 86004
EMail: mbringard@gmail.com

Name: Erik Bitsui
Street: 1001 N 4th St
City: Flagstaff
State: AZ Zip: 86004
EMail: ebitsui@hotmail.com

Name: Anne Vonesh
Street: 3885 Kokopelli
City: Flagstaff
State: AZ Zip: 86004
EMail: azvonesh@gmail.com

CANYON del RIO

- Neighborhood Meetings Attendee Registration -

Date: 7/26/18 Meeting # 1

Attendee Information

Name: RICHARD JACKSON
Street: 1680 N WOODS HOLLOW WAY
City: FLAGSTAFF
State: AZ Zip: 86004
EMail: RICHARD@HANGERACTIVESINC.COM

Attendee Information

Name: Jana Kettering
Street: 955 N. Sinagua Heights
City: Flag
State: AZ Zip: 86004
EMail: JanaKetteringe@gmail.com

Name: JEFF JOHNSON
Street: 5136 E HAWTHORNE DR
City: FLAGSTAFF
State: AZ Zip: 86004
EMail: JJohnsonRLA@gmail.com

Name: Carol gamble
Street: 900 N. Sinagua Heights Dr
City: Flagstaff
State: AZ Zip: 86004
EMail: carolcgdvm92@gmail.com

Name: Jim NEWBERRY
Street: 1850 S River Valley
City: Flagstaff
State: AZ Zip: 86004
EMail:

Name: Ruth Maliborski
Street: 101 S Ash Lane
City: Flagstaff, AZ
State: AZ Zip: 86004
EMail: mrsRi6040@q.mail.com

Letter from Impacted Homeowners Concerning the Canyon del Rio Development

Date: August 5, 2018

TO: Neil Gullickson, Planning and Development Manager, City of Flagstaff Planning and Zoning and the Flagstaff City Council
FROM: Duane and Jana Kettering, 955 Sinagua Heights Drive, Flagstaff, AZ 86004
RE: Registering of concerns about proposed Canyon del Rio development at 4th street / Butler
REQUEST: Please…

- Reply to these questions in writing prior to the next planning and zoning meeting.
- Add this letter and your responses to the public record.
- Notify us of any additional public meetings on this matter at janakettering@gmail.com.

As a resident of the Sinagua Heights neighborhood (SHD), we have the most to lose with the development of the Canyon del Rio (CDR) development and any rezoning. We have attended both developer meetings and taken many notes about the proposal but there are so many unanswered questions or considerations. **So, we ask that you consider these concerns for any official decisions and follow up with the answers to the questions below.**

1. **Zoning Concerns** – As a home owner in the SHD neighborhood, we do not endorse the changing of the zoning from Research and Development to Highway Commercial on the North and North East parcels including K-1, K-2, E-2 and E-1. We have many concerns that are outlined below. We wholeheartedly DO NOT SUPPORT STORES with large loading docks that face our homes on SHD. We also DO NOT support making 4th Street a 4 lane highway as noted in the documents these commercial plats face "highways" without some traffic noise abatement. We do not support High Rise apartments or parking garages. We do not support the high rise apartments that will rise about the canopy --but are comfortable with duplexes and single family homes. This property is zoned for an office complex and making inroads to high paying jobs. In addition, since the commercial builder has not yet been selected as part of this process, how can we be sure any agreements are kept? During the CDR meetings, I heard clearly that once the zoning passes, there is no requirement to reach out to the neighbors to discuss any plans. The Developer stated that they have no requirement to do this – this does not seem right to us. If we get and stipulations agreed to, they should be set and not up for later review.
    - We have been told that the commercial development will not begin for 5-10 years. Is this the case? This is a question for the developer. Five-years does not sound improbable.
    - We have been told that the first roof top will not be sold for 2-2.5 years. Is this the case? Again, a question for the developer, neither of these timelines seem undoable.
    - Will we proactively be invited to public sessions discussing this development? Notification for required public hearings will be sent to all property owners within 1,000

feet, as were invited to the neighborhood meetings. Signs advertising the public hearings will also be posted on site and a newspaper ad will run all at least 15 days before the first public hearing. If the current rezoning application is approved, new development is anticipated to be processed using the review appropriate for each new land use, meaning that development review, in most cases, would be through either the site plan review application or through a subdivision plat, neither require additional public hearings. Subdivision plats do require City Council approval.

- What are the controls for ensuring the development is as it is approved and not changed along the way once CDR gets the zoning? The current rezoning application is a "concept zoning application" which does not specifically identify what the ultimate land uses will be. The rezoning will define a zoning district and allowed uses of that district. The rezoning does identify bulk and mass of building, and general locations. If land uses that are not allowed in the district are proposed or if the development pattern substantially change from the approved plan, a modification to the approved zoning ordinance will be processed, using the same format of the original zoning map amendment.
- We have been told that the size of the grocery store is not a Walmart or Target size – it's a smaller, neighborhood grocer – what size will the grocery story be? Best to ask the developer, we will limit the size based on the standards of the zoning district or through the impact analysis (traffic generation or water usage).

2. **Noise Concerns** – We moved here in June of 2017 and checked on the zoning before buying. It is unfortunate that it this was not on the public record when the project has been in consideration for many years. You might think it's peaceful. Not really, as we hear sirens throughout the night from the fire station on Butler with no regard to time of day or night. We hear the truck traffic engines along I-40 and shifting to exit and rest at Little America and shifting to accelerate to get on I-40 along with the idling. We hear general I-40 car noise as there are no highway sound barriers like many communities have. We hear the train horns and wheels all day but they are particularly troubling at night when we are trying to sleep. We hear the traffic noise from Butler. We hear the dogs barking from the Human Society. We hear the engines of people riding their 4-wheelers around this area which is supposed to be non-motorized. We are in the flight path of Flagstaff flights. All this together makes for a less than peaceful area to live. We came here looking for no air pollution but found noise pollution to be just as disturbing. We are respectfully requesting noise barriers on the 4th street road went that goes through and along butter meeting up with our SHD fence line. For stores that may be part of the master plan, there needs to be restrictions on placing those toward I-40 and away from our neighborhood as we cannot absorb the sound of the constant truck delivery back up beeping that begins before sun up throughout the morning. Deliveries should be restricted to week days. I have family who lives about this close to Safeway and it damages their quality of life hearing these constant deliveries. We advocate to keep the low 35 MPH Speed Limit when Butler is widened.

- What are your plans to manage the noise coming for many thousands more cars, car alarms and traffic? Traffic noise mitigation has not been required or provided.
- What are your plans to put up concrete noise partitions along the 4th street road behind us that will support the new development at even current zoning? None are proposed. Noise barriers

along the east side of 4th Street would potentially preclude development along the east side of 4th Street.

- Do you have a plan to eliminate the requirements for train horns during sleeping hours? Not as part of this development proposal.
- Will you restrict delivery times in the Village Center during sleeping and normal waking times times (after 8 a.m.) and restrict the loading docks to be toward the empty land between Canyon del Rio and Little America? We live here all year round. We deserve more peace than temporary travelers in hotels and camp grounds. Current development standards work to locate buildings and building entrances toward public streets, we can expect that most of the commercial buildings will face either 4th Street or Butler Avenue at CDR. Conversely, loading areas will be placed away from those streets, delivery trucks will use public roads, so their presence will not be completely eliminated. Keep in mind there is developable land between 4th Street and Sinagua Heights that is not under the control of CDR and we expect that land will develop in the future, with the rear of those buildings facing Sinagua Heights.
- Will the speed limit change when the road is widened and prompt more traffic noise at high speeds? We anticipate the speed limit on Butler Avenue to be either 35 or 40 mph.
- Will you compensate property owners for this noise as it requires us to keep our windows and doors closed and run expensive and climate change-impacting air conditioners? We do not anticipate any such compensation.
- We have been told that the loading docs for the grocery store will be pointed away from SHD but given that the master plan is only conceptual, how can we count on this? See my comments above.
- Please swap parcel plans - Can you have the K-1 and K-2 Village Center parcels be swapped with the Duplex Residential Village so the commercial traffic is farther away from homes and closer to H to create more of a sound and view shed barrier for the existing homes? The developer should be presented with this concept, so he can address. From a consistency with the current regional plan point-of-view, the intersection of Butler and 4th Street has been identified as a suburban activity center. As proposed, the location of the commercial uses supports the uses and development intensity of the activity center.
- A citizen who was at the second public meeting, and who is in garbage college, indicated that the dumpster pick up angles should offer easy access so the trucks so they do not have to back up two and three times before they access the container. Another citizen also indicated that limited truck traffic to this area would help. Please consider this as requirement in the design. Current Engineering standards require direct access for a garbage truck, meaning no jockeying for position.
- Please can you ensure proper truck way-finding signs so they know not to continue down Butler and also include no idling restrictions? Signage can be provided if a consistent problem is identified.

We invite you to come by and sit on our back deck one evening and listen to the noise we face every day now and without additional development. Will you please help reduce the noise? You/we live in suburban neighborhoods where the residents generally expect conveniences and improvements, not limited to paved roads (increases speeds) Water and sewer, emergency services (fire stations, ambulances), and transportation infrastructure (interstate 40 and trains, both existed before

Sinagua Heights was created). Living in a city anticipates some noise, which should be expected and is appropriate.

3. **Storm Runoff and Flooding Concerns** – Switzer Wash has recently, and for the last several years, been overwhelmed with the amount of monsoon run off. In 2018 during the mid-July 2018 storm runoff, the typically dry channel was overwhelmed creating moving water that reached our property line. I have video of how the wash was overwhelmed. When the additional development and the related black top and cement causes more rain to run down into the Switzer Wash, the flooding could be much wider and higher and negatively impact our property, its insurance and its value – as well as the Flagstaff Urban Trail System (FUTS). The CDR is only required to capture the first inch of storm water.
   - What is the storm water management plan for the new development and nearby areas? The city has plans to elevate the Butler/4th street intersection to allow the wash to flow underneath. Internal to the development, the developer is required to meet the City's stormwater ordinance requirements. These require stormwater to be captured and metered so that the discharge does not exceed pre-development flow rates. That means that pre-development flows and post development flows are required to stay the same.
   - Given that the CDR plan is required to capture only the first inch of rain water, how will you know if the storm water system is sufficient to not negatively impact our property? CDR is required to meet a minimum ½ inch LID requirement, and to meet Stormwater Ordinance requirements to limit off-site flow rates and volumes of water. CDR will be required to address and design mitigation measures for the 100-year storm event.
   - Federal funding is being sought to repair the intersection of 4th & Butler but should that funding not be awarded, will the City of Flagstaff and the Developer pay to correct this issue before development? The City has funded in its 2019 budget 3.7 m and anticipates 1.2m from the developer of CDR for improvements to Butler Avenue and the intersection. The transportation tax renewal includes additional funding that can be dedicated to any shortfalls in the Butler Avenue corridor development.
   - Will construction proceed if you don't have the funds to fix 4th and Butler? We have budgeted the funds for this improvement. The development will not move forward without the required contribution from CDR.
   - Will trail signs and trail grading be improved after these flash floods? Not sure if you mean the FUTS trail but these trails are maintained by our Public Works Department if you have questions regarding maintenance of an existing trail you can contact them for additional information.
   - I learned that there is a drainage report. I am requesting a copy for further review. Contact Susan Alden at salden@flagstaffaz.gov, regarding this request.

4. **Trash Concerns** – FUTS needs improvements behind SHD from the recent flood as the trail has been compromised. But perhaps the largest lingering effect is the trash that flash flood brought and left. We continually try to keep the area clean but we cannot keep up with the trash created from the flash floods, trailer users and the homeless camps in the area. With many more residents nearby using the FUTS, there will be more trash to contend with and more use of the

trails. We have people building camp fires right across the wash and partying all night. When we call in our concerns we are told that the fire restrictions have been lifted so they cannot ticket. This is not campground property and puts our homes at risk. We fear that more people will do this when the CDR land is no longer available for this type of activity.

- How will the City and/or Developer be involved with regular trash clean ups in the Switzer Wash and nearby trails? The developer has not submitted plans for trash clean up days within the proposed CDR development. The residential neighborhoods will be regulated by an HOA which should include such maintenance. State law does not allow for us to review private CC&R documents. This would be an issue best presented to the developer. We have an adopt the FUTS trail program where different community groups of people maintain different portions of the trail system. The trails within CDR are part of this program.
- How often can we expect the city to clean and monitor the area? How can we expect that is will continue if originally put in place? If trash dumping were to become an issue within the CDR development we would expect to receive complaints through our Code Compliance division and we would work with the property owners to resolve the issue.
- See homeless section below.

5. **View shed and Light Pollution Concerns** – As you can imagine, the price of our homes has a lot to do with our view shed not having visible development in our back yard. We paid for this view. We wholeheartedly do not want high rise or well-lit buildings placed near 4th street due to blocking or disturbing our view shed, creating light pollution and noise pollution as explained in this section and other sections. We do not want the haze of light pollution coming from this development.

- When development begins how high will the buildings be? Is three floors for the apartments already a done deal? Can they be two floors? The HC Highway Commercial zone allows buildings up to 60-feet in height which can accommodate up to five stories, the HR High-density Residential zone allows buildings up to 60-feet and the MR Medium-Density Residential zone allows buildings 35-feet, is anywhere between two to three stories.
- Will you be able to see the buildings from our neighborhood? Not sure. A visual analysis was not required.
- Will you be able to see a church steeple from our neighborhood and if so can you restrict that from impacting our view shed and require it to be smaller? Don't know, church steeples are not typically extremely tall or bulky. Any such feature would be subject to building height allowances in that zoning district.
- Will construction and landscaping be required to ensure that businesses be required to comply with Dark Skies Coalition requirements? Yes, the City's Outdoor Lighting Standards, section 10-50.70 of the Zoning Code will by applicable to all development in CDR.

6. **Traffic/Road and Trail Concerns** – There is no doubt going to be much more traffic from new residents that the current road structure will not be able to handle. It looks like the development has the potential to add 3,000 people – it's too tightly packed. We are also quite concerned about and interruption to the trail system that goes through that property – We ride

it almost daily. We are concerned about Butler being widened by our homes as our children cross that street to go to Sinagua Middle School and catch the bus for the high schools.

- If the road is widened, what plans are in place to not just handle more cars but to beautify the area so it doesn't just look like another strip mall? Butler Avenue across the frontage of Sinagua Heights is currently built to is final size. Butler avenue across CDR frontage will be expanded to 4 traffic lanes with median/center turn lanes, curb, gutter parkway and sidewalk on either side. Medians and parkways typically include additional landscaping which helps to beautify the travel corridor and buffer sound.
- Will you add sidewalks along Butler connecting to the top of Butler? Yes
- Will you add sidewalks to 4th street? Yes, sidewalk and FUTS from Huntington south to Butler Avenue.
- What traffic calming strategies are being put in place? Median and new intersections at Peak Point and Herald Ranch roads.
- Will there be crossing signals at the upgraded intersection? Yes
- Will there be bike lanes on all improved roads (Butler and 4th)? Yes
- Will a cross walk be put in for safe crossing between 4th and Foxglen? This is not a requirement for CDR.
- Will there be a better solution for the massive truck traffic on Butler? This is not an issue identified for resolution by the CDR development.
- Will a crosswalk go on Butler from the RV campground across to the truck stop so we can stop playing Frogger as we drive down Butler? (Why not improve that stretch at the same time?) A pedestrian crossing is anticipated with realigned intersection of Herald Ranch Road and Butler Avenue.
- As noted in the noise section, can you provide sound barriers to prevent road noise from impacting the SHD neighborhood? None anticipated see response above.
- Can you have the K1 – K2 Village Center parcels be swapped with the Duplex Residential Village so the commercial traffic is farther away from homes and closer to H to create more of a sound and view shed barrier for the existing homes and full-time residents. See earlier response.
- What is the intended plan for the turn off to the Humane Society when it closes and 4th goes through? No anticipated change, the Humane Society will continue to need access.
- Will trails go through the development or be rerouted? The trails are anticipated to be rerouted within the development, the current trails crossing CDR are not located within easement or right-of-way.
- We understand there will be an urban trail extension from the apartments currently on 4th. That will bring more use to the area of concern. Not sure which apartment are being referenced. Review the regional plan, all planned FUTS are mapped, existing and future trails are identified.

7. **Homeless Camps Concerns** – It should come as no surprise that many homeless people camp in these woods at all times of the year. Little America regularly monitors its land for homeless camps which pushes the camps to the Canyon del Rio Land. Once that is developed, we are concerned that the homeless will camp in the remaining FUTS/Switzer Wash land right in our back yard as many do already. With the proposed development, they will have closer access to stores, alcohol and corners to beg -- which will make camping in our back yard that much more

appealing. This brings fire danger, trash and security issues. We already have some camping so close we can hear their conversations and we find syringes, human waste, alcohol bottles, trash, discarded clothes, evidence of camp fires and are uncomfortable with being on some of the trails alone due to this activity.

- How will you control the homeless population camping in the public FUTS and Switzer Wash areas? Homeless issues will continue to be monitored through the Police Department.
- Is the city committed to prevent this from happening? The community's policy regarding its homeless population is set by the City Council not this development proposal.
- Will tickets and removal rather than warning be the approach to eliminate this practice? See previous response.
- Is the homeless shelter prepared for the increase in residents whose current camp sites will be restricted? See the previous response.

8. **Natural Beauty and Wildlife Concerns** – I have been in the commercial and residential development industry. I know that a development can be done right. We know we need more affordable housing here in Flagstaff. We want landscaping that provides a natural barrier to the streets and that soaks up rain water. We want benches and community art that makes this not a typical strip mall. We want sustainable practices with respect the LONG-TERM viability of this area. We want tall grasses, flowers and trees. Right now when we have visitors (and we have many) they get to see a highway truck stop and RV campground before they get to our house. It would be nice if what is planned makes us proud to live here. We expect that the wildlife that lives on that land will move down near us and there could be additional impacts on the wildlife and us.
   - What is the landscaping plan in the community and Village Center? The Landscaping Standards are in division 10-50.60 of the Zoning Code and will be applied through specific development proposals.
   - What is the landscaping plan for egresses and ingresses of the development and near sidewalks and along the edges of the businesses facing Butler? Street/ROW landscaping requirements are in division 13-18-002 of the Engineering Standards and will be applied as road sections are developed.
   - How will you consider the wildlife impacts? The open spaces proposed by the developer coordinate with the significant drainage features across the site. The Rio de Flag corridor is the most prevalent. The corridor from rim to rim, has been requested to be granted to the city for long term maintenance.

9. **Affordable Housing –** Please so kindly point out the area that will be deeded to the city and is that considered the affordable housing? We have also been told that this project will be 100% local labor – how will this be controlled? Who is the builder for the affordable units? Parcel Q3, located in the south west corner of the property, is to be dedicated to the city for use by the housing division. The city has no control of the labor force. Recently the local labor availability has not been capable of meeting construction labor demand. There are no current

development proposals for parcel Q3.

10. **Property Value Concerns** – With a diminishing tree canopy view, buildings above the remaining canopy, more light and noise pollution, more traffic, trash and homeless activity and potentially more flood issues, we are concerned that our property values will be diminished for the reasons stated in the material above.

As you can see from our concerns and questions above, we need answers. We hope that our efforts and concerns are being seriously considered and will go through a formal process with timely responses. We respectfully request stipulations be put in place to:

- Build sound barrier walls and restrict construction and delivery activity during normal sleeping and resting hours.
- Reduce the height of apartments and steeples and enforce a height restriction.
- Ensure a public process after zoning to comply with the master plan
- Ensure no vaping or smoke shops, and adult entertainment in the family oriented development.

We look forward to your replies and working with us on our concerns and to be proactively notified of any public meeting where the CDR is being discussed.

Thank you,

Jana and Duane Kettering

Submitted August 5, 2018 to Neil Gullickson with CC to the Flagstaff City Council.

July 26, 2018

Mayor and Council Members
Flagstaff City Hall
211 W Aspen Avenue
Flagstaff, AZ 86001

Mayor Coral Evans
Vice-Mayor Jamie Whelan
Councilmember Celia Barotz
Councilmember Charlie Odegaard
Councilmember Eva Putzova
Councilmember Jim McCarthy
Councilmember Scott Overton

Dear Mayor, Vice-Mayor, and Council Members:

Tonight, I attended a community meeting at Sinagua Middle School regarding the planned development of Canyon del Rio community, roughly the SW area of 4th and Butler. As you might be aware CDR Land Investors and Lions Gate Companies have requested a re-zoning for specific parcels of land within their sector of development.

What I anticipated would be an opportunity for the community to bring forth questions, concerns, and a possible re-evaluation regarding a few re-zoning proposals to the City of Flagstaff was nothing of the sort. To put it simply, the voice of your community members—your citizens—was not heard. It was troubling that CDR and Lions Gate would summarily dismiss the concerned voices of a community along with those who requested meaningful dialogue for modifications to the plan. In naval history, Admiral David Farragut is remembered for his immortal order at the Battle of Mobile Bay, "Damn the torpedoes, full speed ahead!" Well, tonight I felt like it was "Damn the citizens, full speed ahead."

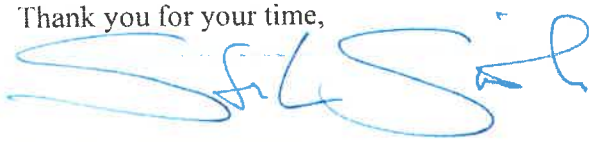
I recognize development must come to the area and I know the City of Flagstaff has long anticipated its development. However, I never recall an opportunity to have a voice in the process or even being notified by CDR or Lions Gate of an opportunity to have a voice in land development phases. Yes, they might have placed those 6 font notices in the paper, which citizens rarely read but that does not absolve them of an ethical component to the community. I often wonder if negating significant community notification and input throughout the process is becoming the *modus operandi* of the City of Flagstaff and private developers.

As for me, I oppose the project for one primary reason—4th street is not ready nor is it capable of handling the significant influx of traffic at its two major choke points—the Butler bridges across I-40. Until the new bridges are completed all development must be abated or the City will be confronted with a serious problem of traffic congestion, transportation delays, public safety issues dealing with emergency response—not to

mention pedestrian well-being and school children safety. Yes, the bridges might be a few years away but to have their completion before the area is developed serves the community and City in the long run.

Please know, during the 2016 election cycle I voted for a new Mayor and new Council members because I felt previous members were not listening to the voices of its citizens regarding Flagstaff growth, development, and a concerted effort to maintain Flagstaff's uniqueness. Therefore, I am hopeful you will hear the voices of your citizens at this time and request the Petitioners to go back and work with the larger part of the community vice just those within a thousand feet for a better master plan to develop the area.

Thank you for your time,



Steven L. Smith, Ed.D.

CANYON del RIO
FLAGSTAFF, ARIZONA

- Neighborhood Meetings -

Date: _____ Meeting #____

Neighbor Comment Form

Name: Stuart & Sara Marks

Street: 915 Sinaqua Hts. Dr.

City: Flagstaff State: Az. Zip: 86004

EMail: morethanacarpenter@gmail.com.

Please print your comments below, thank you:

1) We bought property being told land N. of 4th St. (dog pound) was State forest, never to be developed.

2) High density housing was not in the plan in 2013. Only med-density, single family homes.

3) Why do you expect commercial units to flourish when stores are empty all around town & at the mall?? Butler Ave & 4th St. is NOT central Flagstaff!

Canyon del Rio
Marketing Office: 3605 S Flagstaff Ranch Rd, Flagstaff, AZ 86001
brhoton@capstonecos.com

over

1) Too much traffic impact on to Butler.

2) Bottle neck created over Freeway. When will that overpass be widened?

3) We oppose re-zoning.

CANYON del RIO
FLAGSTAFF, ARIZONA

Neighborhood Meetings
Date: _____ Meeting #____

Neighbor Comment Form

Name: Stuart & Sara Marks
Street: 915 Sinaqua Hts. Dr.
City: Flagstaff State: Az. Zip: 86004
EMail: morethanacarpenter@gmail.com

Please print your comments below, thank you:

1) We bought property being told land N. of 4th St. (dog pound) was State forest, never to be developed.
2) High density housing was not in the plan in 2013. Only med-density, single family homes.
3) Why do you expect commercial units to flourish when stores are empty all around town & at the mall?? Butler Ave & 4th St. is NOT central Flagstaff!

Canyon del Rio
Marketing Office: 3605 S Flagstaff Ranch Rd, Flagstaff, AZ 86001
brhoton@capstonecos.com

over

1) TOO much traffic input (?) to
Butler.
2) Bottle neck created over freeway.
When will that overpass be widened?
3) We oppose re-zoning.

Canyon del Rio
Neighborhood Meeting
July 28, 2018; 12:00pm – 2:00pm
(extended to 3pm for additional neighbor input)
Sinagua Middle School
3950 E. Butler Ave, Flagstaff, AZ 86004

Developer Representatives present:
Ownership - Brian Rhoton, CDR Land Investor Group/Capstone Homes &
Robert (Bob) Semple, Canyon del Rio Investors/Semple, Marchal & Cooper LLP
Engineering - Guillermo Cortez & Stephan Irwin of Shepard Wesnitzer, Inc, SWI Civil Engineering.
Consultant - Charles L. Stricklan, President Lions Gate Companies, Developer Services & Marketing
Assistant - Mary Norton, Marketing Director, Capstone Homes
30 residents in attendance at meeting, held in a Q&A format.

1. Introductions by Charles.
2. Brian provides summary of community:
   Canyon del Rio was originally entitled in 1983-1984. The requested rezoning area intended was for Gore. In 2002, CDR was acquired by developers through a state land auction; some parcels were sold off and CDR is now 270 acres. This meeting is intended to get neighborhood thoughts, comments, input; mostly specific to the rezoning of 83 acres which, through various changes in zoning definition, was light industrial, then R&D. There is also alternative zoning for high density residential, so 22-23 acres of commercial would go from R&D to commercial. The areas in question are mostly accessible from 4th Street with only two small parcels on Butler.
   This community complies to city's intentions for a hub of the city. It has not been developed over these 20 years due to expensive infrastructure needs. City has funds from sales tax plus contribution from RDC to improve Butler/4th.
   At core of CDR is 600 apartments (not student housing, not bed for rent; intended for family living use). A church and charter school are interested in some parcels. There will be attached homes and detached single family homes. 5% of density is going to the City of Flagstaff's land trust program; and each builder will have the ability to have 5% of their project go to the city land trust program as well.
   4th Street will be improved to a 4-lane road with a bike lane; it will eventually connect to JW Powell Blvd. Street circulation will remain the same per the plan. There will be about a 7' raising of the intersection due to floodplain and Butler gets improved. Herold Ranch Rd gets realigned (off property) but it will be part of the Butler improvement. Preferred alternative is a roundabout, but not final as city traffic engineers make those decisions on roundabout vs. signaled intersections. CDR will install a 12" water main. Water for the community is included in the city's water system – new efficiencies have accommodated any new water demands.
   Resident Val Bryant – concerned about water usage and conservation; new water demand uses up what has been conserved.
   Commercial development is limited to .2 FMR. Other limits such as no adult entertainment; intended for neighborhood friendly usages. There will be internal trails for walk/bike including

throughout the commercial area. Apartments are limited to 3 stories in height. Resident comment that it will be visible from Sinagua Heights.
All traffic, sewer, drainage analysis has been done by the city.
FUTS will be upgraded and provided throughout the property. All landscaping will be approved through city as well. This area is intended as a jewel; it is the core geographically for Flagstaff. There are 8,000 units planned for this corridor from 4th/Butler to and including the extension of JW Powell Blvd. when complete.

3. Resident Joe Farnsworth – how much forest will be cut down? Block plat is shown and there is dedicated preserved open space. Within the parcels, there will also be trees with requirement that 50% are left per open space requirements. In a commercial area, 30% of the trees remain. In many parcels, the topography demands that is not developable, so nature space and trees remain.
4. Mike Jaffrin – city incentives in question, example of the Hub and it's negative parking issues that were pushed through/allowed to be approved. Brian explained that those incentives he alluded to are to participate in city's affordable housing criteria.
5. Janet Kittery – Sinagua Heights – noise regarding lane expansion. The area already has a lot of noise. She asks for noise reduction that would come from commercial deliveries, traffic. Brian explained that CDR sits lower than Sinagua Heights and there aren't a lot of physical barriers that are effective, so orientation of the buildings is important. City wanted commercial on the street fronts. CDR oriented the building within the community so it will dampen what noise comes out and up from the community. Orientation is best way to mitigate the noise. Whoever develops the commercial parcels must conform to these plans as they are and must go through community development process again with planning and zoning council and city council. Janet wants to know what public participation would they have to inquire about the actual commercial development after this rezoning is approved? Her concerns to be passed to the city and she is encouraged to contact the city's contacts.
6. Joe – Is there any development like this around Flag Ranch and Pine Canyon in the future? Why is this area getting the development? Brian answers yes, development is happening now, including large scale developments. Capstone Homes is currently developing a parcel just adjacent to Flagstaff Ranch. Guillermo Cortez reports that city plans for future growth from airport east, as well as the far west near Flag Ranch and Woody Mtn Rd. Joe reports he's been here 40 yrs. and although growth is inevitable, all this puts pressure on the resources and it will inevitably cost the citizens and developers don't care. Brian says they do care and has built here for 20 years, lives here with his family and his intention is for good, smart, sustainable growth. He wants to see job growth, so his kids can stay here. He is committed to DOE (Department of Energy), smart energy building for affordable homes, as Capstone is currently building. Joe doesn't like the word "affordable" and gives his 40-yr. resident perspective of "affordable" and housing increases. Concern about second home owners taking over.
7. Tim Tarski – would like to see the community leave a buffer of trees along the development, along the roadways particularly Butler Ave as it currently provides a visual respite. He wants his kids and grandkids to be able to stay here and he wants the housing for them. He agrees that the noise buffers should be strongly considered for the truck traffic/delivery. Agrees that a properly planned receiving area can accommodate this. He & his wife walk this the open land in the area where CDR will be and it's full or trash, homeless, drug addicts; it's not safe and not

pretty – he welcomes the development. He thinks there should be a child recreation area within, like what they enjoy for the Country Club area with Foxglen Park. He wants to see it a strong community area. He moved here 11 years ago, and smart development can be done; must avoid what happened to the Hub. He and his family love the outdoors, hiking, love the view from Butler and the tree-lined road – wants to see that preserved.
Bob Semple replied that 80% of those trees won't be touched because of topography. He bought this(CDR) in 2002 and is very concerned about the property including the squatters and safety of the current land. He was part of Flag Ranch and the preservation of the caldera. He's environmentally sensitive and works with the city that this (CDR) remain a beautiful area. He's been in it & working on CDR for 16 yrs. and he'll be in it at least 12 yrs.
Resident Joe Farnsworth adds in that he's concerned about the pressure on the environment, of resources and animals in the area.

8. Richard Grose – archeological problems? Raising the intersection and effects? Guillermo explains water drainage/flooring, inadequacies of the current culverts and how it will be corrected. 1/2" of rain retention is required. Traffic analysis is part of the contribution. 2% grade rise for intersection.
9. Val Bryant – concern about snow/ice where it doesn't melt and accidents. Guillermo replies that the new grade will help the situation.
10. Pat Benson – lives where there is a 12% grade and trucks that can't go down, so they must turn around. Asks if there has been any thought to limiting truck weight which would take care of truck noise traffic too. Guillermo says city has looked at that and a roundabout near Little America which is also why they are considering one at Herold Ranch Road.
    Pat suggests no right turn from Butler onto 4th at that light for trucks.
11. Richard Grose - How much local labor will be used for this development? Brian replies 100%.
12. Joni Gore – comments about development so it's not just a row of gas stations.
13. Betsy McKellar re housing units at lower southeast of block plat. Brian replied that it's city conceptual for parking lots.
14. Dave McKellar – traffic question regarding Herold Ranch Rd and effect. Guillermo replied that construction traffic will affect the area, but street widening on Butler will help. Brian added that commercial development would be after housing development; south residential area is last. Improvements to Herold Ranch Rd will be improved, and he expects Little America will also be under development with more improvements. Other south areas won't be developed until 4th St goes thru.
    With 1,100 residential units/3,000 people at build-out, will all those people will use Butler/4th? How will it handle it? How will the roundabout and intersection be able to handle this? Traffic studies have been done. Guillermo replied city will lead on the street improvements with support from the development. He talked to city, ADOT has approved a grant for the widening of 4th St. bridges.
15. Question on storm drainage and tanks filling. Guillermo explained that has been looked at. Resident not impressed with city's previous studies with regard to water and traffic. Brian reported that these reports were ran at higher levels – on a "as is" basis. Guillermo explained about water capacity fees and each house is billed $12,000 for future wells, sewer, etc.

16. Joe Farnsworth reports concern about impact on Butler and traffic; seems that 4 lanes isn't enough plus accidents, wait to turn time, speed too fast. Guillermo explained numbers that a 2-lane vs 4-lane can carry/capacity.
17. Michelle Ryan – impact on drainage, utilities, etc. for Humane Society. Guillermo explained road to Humane Society will go from gravel to paved. She asked about closer fire hydrants. They will be approx. every 300-500 ft which is mandated by code. Drainage issues will slightly improve because of retaining first ½" of water runoff.
18. Sinagua Heights resident concerned 4th/Butler becomes a very urban corner, particularly due to the southeast corner. Guillermo explained that it could be leased for commercial usage or bought for commercial development. Leases on commercial parcels are usually 50 yrs. She is concerned about her quality of life from Sinagua Heights.
19. Tyler Linear - question on FUTS trail impact at intersection. Guillermo says FUTS will be maintained and lifted along with the intersection. There are plans for the FUTS to continue across Butler to the north side. They are working with city to continue FUTS.
20. Steve McKellar – question regarding open space preservation. Brian explains these areas are deeded to Grand Canyon Trust or Nature Conservancy, so they won't be owned by the development. They become a conservation easement which prevents it from ever being developed. They will be maintained by the HOA.
21. Carol Covington – question on roadway regarding 4th St. going south. Brian explains that the proposal is for a 5 lane. It gets expanded as demand increases, particularly when the southeast commercial area of 4th gets developed.
22. Richard Grose – re Butler and school traffic and relief for school traffic/accessibility. Guillermo explains the problem is when schools are next to major arteries, such as seen with Sinagua Middle School and Knoles Elementary. CDR will have a community school, so perhaps take some of the pressure off Knoles. Brian also drops his own kids off at these schools and is very aware of the problems; the city is aware and is working to solve these issues with crosswalks, light timing, sidewalks, etc.
23. Carol Covington – wants to understand the process. Brian explained block plat process, and then plats after the rezoning approval. Goes through planning/zoning and then city council. How closely do the people that implement these plans follow this? Could there be other community meetings for questions and suggestions for the way individual parcel(s) when they are developed? Brian says it goes through DA (Development Agreement) and zoning stipulations that will list concerns and recommendations and what can be done or not. Every comment is given to planning/zoning committee and city council who could put these concerns into the DA and zoning stipulations.
24. Joe Farnsworth – wants to know the cost and profit from these developers. Brian replies this is not a number that can be given; they don't know what their profit and costs estimates will be in the end. Can report that is will cost $15-20 million to build the collector roads alone.
25. Rob Aaron - suggestion for closed space for trash area and making it large enough with straight-in access. This lessens trucks having to reverse too much with backup noises, spend less time on the site which all reduces noise.
26. Carol Covington – asked for clarification on Nature Conservancy and Grand Canyon Trust. Explained by Bob Semple.

27. Tyler Linear – has there been a bus stop looked into and what is the access for people walking to the stores? Brian – Yes there will be a bus stop. There will be trails within the community and neighborhoods to allow for access to stores/etc.
28. Reiterated that the City conducts water/sewer; developer does traffic studies. Studies can and will be available on website, www.canyondelrio.com.
29. Richard Grose – can the developers "require" that there be a Trader Joes and In & Out Burger, please?
30. Janet Setter (?) summaries concern she's hearing for all present:
    A) noise abatement
    B) angles and directions of commercial buildings and delivery areas to prevent added noise
    C) no public process after this zoning is complete so public cannot be a part of the site plan. Would like that to be added so the public/residents have a voice as tis moves forward.
    D) exclusions added that there be no smoke or vape stores, no bars allowed.
    E) delivery time 4 am – 10 am restrictions
    F) view shed restrictions such as lowering apartment height levels; would like view assessment.
31. Citizen requests ample parking for these shopping areas.
32. Question regarding dark sky – Brian says it's the highest requirements/restrictions in the country and those will be followed.
33. Carol Covington – suggestion that compilation of comments be on website. Charles replied that Yes, that will happen (without names).
34. Brian summarizes that no other meetings are planned, but individual concerns can be addressed by contacting the website with email and phone numbers available; email preferred for him.
35. Carol wants to know about concept of community/look/parks as illustrations are displayed at meeting. Bob Semple explained city didn't want parks, but they will keep a lot of open areas and retain the natural beauty. Pocket parks and playgrounds will be within the parcels. Artist concepts on display for commercial buildings, drawings for residential units, street lights/benches. Brian explained he builds Flagstaff style, Craftsmanship style, some modern mountain. At Crestview, the architecture is very front porch oriented. Not much stucco.
36. Jim Stratton – on Parks & Rec commission and is surprised to hear they were told no parks. Ask re pocket parks. Brian says passive use with ramadas, grass area, etc. within the parcels which will be responsibility of HOA's. These are public parks.
37. Diana Mercer asks re community park. Brian explains there will be none due to lack of flat space. Homes will be on hills and tops of ridges.
    How much will developer increase to schools? There will be space for a charter school; school district has no need for another school.
38. Community member asks about why there needs to be an HOA to maintain these amenities as they are a pain. Brian reports that it can't be part of the city to maintain all the amenities that a community wants, so it becomes the direct community's responsibility, hence an HOA.

-end-

Minutes transcribed by Mary Norton of Capstone Homes.

Canyon del Rio (CDR)
Neighborhood Meeting
July 26, 2018; 6:00pm – 8:00pm
Sinagua Middle School
3950 E. Butler Ave, Flagstaff, AZ 86004

Developer Representatives present:
Ownership - Brian Rhoton, CDR Land Investor Group/Capstone Homes &
Robert (Bob) Semple, Canyon del Rio Investors/Semple, Marchal & Cooper LLP
Engineering - Guillermo Cortez & Stephan Irwin of Shepard Wesnitzer, Inc, SWI Civil Engineering.
Consultant - Charles L. Stricklan, President Lions Gate Companies, Developer Services & Marketing
Assistant - Mary Norton, Marketing Director, Capstone Homes

Presentation made by: Charles Stricklan and Brian Rhoton
55 Residents in attendance at meeting, held in a round-table discussion format.

1. Charlie made introductions, began presentation. Referred those present to the website www.canyondelrio.com, for adding comments and to review all information presented. In addition we also provided forms at the sign-in table for attendees to leave comments in writing if desired.
2. The attendees consisted of those residents within 1,000' proximity of the proposed community who had received packets sent by first class mail two weeks prior to the meetings. Additional attendees were those that lived outside the 1,000' proximity but had seen the meeting notification on the sign posted on the southwest corner of 4th and Butler. Presentation information included details such as the original masterplan was drawn in 1983 for Canyon del Rio property; Canyon del Rio Investors, the developer group, is currently seeking site plan amendment of multiple indicated sections totaling 83+/- acres from its current zoning designation of R&D (Research & Development) to (HC) Highway Commercial, allowing for retail, office and high density residential. This meeting was held to allow a forum for neighbors and residents of surrounding communities to provide their comments and input regarding the overall community and proposed site plan amendments.
3. Based upon attendee questions, Brian explained that a portion of the community will be deeded to the City of Flagstaff's affordable housing program which is planned for 66+/- units. Other developers of the individual parcels could further participate with their 5% to city affordable housing program as well. Canyon del Rio will consist of single family detached product with expected pricing between $300,000 to $600,000. Apartments will not be student housing or rent by bed; they will be similar to the existing apartments at 4th/Butler and will be limited to 3 story in height. There are two apartment parcels and two duplex parcels.
Butler & 4th Street is the core center/geo center of the city of Flagstaff. City wants this corridor to be developed correctly. At full completion, there are 8,000 housing units slated for that corridor. CDR is first development of this corridor.

CDR is responsible for road improvements which will be 4 lanes/2 each direction on 4th; Butler will be improved west of 4th St. out to I-40, like past Sinagua Heights. The Butler/4th St area is 6' into the flood plain and will be raised with large box culverts for drainage. Construction there is expected to last 12-18 mos. and is a requirement for CDR to move forward. CDR, COF and other property owners are paying into this reconstruction. 4th St. builds out to CDR and will widen 4th street north of Butler and city is looking to widen 4th St. further north. CDR property goes 200-300' south of access road to Humane Society and there will be improvements to Herold Ranch Road as it crosses CDR.

4. Question regarding traffic even after 4 lane widening as additional residents at CDR will cause additional traffic. Brian replied that traffic studies have been done and that further funding may come from the sales tax increase to be voted on, but building will proceed. Another issue CDR will be involved in is for water supply by building a 12" main under I-40 to Soliere to the area. COF has all the water in the supply system for CDR, but wells will be drilled. Question re traffic mitigation – ADOT and city are reviewing potential for bridge widening.
5. Charles referred people to website for contact info for city contacts and for comments on CDR.
6. Brian explained that the first developments within CDR will be the attached product, detached product, apartments, church and charter school. It is expected that commercial would be last in the development until the community has the numbers to support it and until JW Powell Blvd. and 4th St. are connected (with bridge over wetland area).
7. Question regarding evacuations. Brian reported improvements being done will help the evacuation situations which are studied by fire dept., city, and engineers.
8. Butler Ave. gets improved to full street with sidewalks and bike lane – by city with CDR contribution, but project is done by city. Rio de Flag is left open space which will be dedicated to Grand Canyon Trust or Nature Conservancy supported by the HOA's. Before JWP gets done, there are 5 exits. JWP/4th street is part of the city's 20-year plan and a lot has been done lately.
9. Noise abatement questions from several residents. They report this is an already noisy area due to the valley-like topography and that these new commercial proposed areas will only increase that. Brian explained that the restrictions offered is actually a reduction in commercial - .2 FAR (floor area of parcel – 20%) meaning less commercial space. No adult entertainment and other restrictions will be made. #1 request is for a grocery store, but it would be neighborhood stores, there are not the demographics for a large grocery store. Residents are concerned about noise and asking for less commercial, or to have the commercial moved to the west side of the community instead of along Butler and 4th. Brian explained that this is a planned business corridor as part of the COF Regional Plan and the other corners of that intersection will include commercial.
10. Question regarding on how many trees will be removed. 50% residential and 30% in the commercial areas must be left; also, steep slopes will be left. Open space map on block plat discussed – shows areas between parcels, but there is also open space required in each parcel. Tree removal is determined by fire safety. Example was given Miramonte at 4th St.: sometimes a cluster of trees are reserved depending on developability and enjoyment factor is better with large swaths of trees remaining.
11. Urban trail/FUTS get improved and others added within the community. There will be connectivity to Little America and inner connectivity within the community. FUTs is developed by CDR, but maintained by city.

12. Question re view from Sinagua Heights. Some of the development will be visible – apartments, school, church will likely be visible. Some will be hidden by trees that are in open areas as well as trees within the parcels.
13. Locations for commercial areas discussed again. Residents requests for alternative location within the community for the commercial. Response from Brian is that commercial needs accessibility off 4th, but the commercial has been re-oriented within and the largest store area will be backed up against a hill.
14. Area east of 4th (Southeast corner of 4th/Butler) is zoned for commercial as part of city regional plan. This area is not part of CDR. Concerned residents advised to contact the City of Flagstaff with regard to that commercial area.
15. Proposed light or roundabout at Peak and Butler discussed. A roundabout at Peaks is in city plans; guess of 5 yrs. from construction.
16. Resident gave example of the Town of Pine for trees saved in development.
17. Question on how long will the road improvements take. Response is approximately 8 mos. to 1 yr. to improve Butler – it will affect daily traffic. A construction traffic study will need to be done.
18. Will the culverts go in before development or when it starts? It will be part of the Butler & 4th St.
19. Estimated development will take 10 years. First phase will include apartments due to demand, attached homes, the large 7k lots, the church. Sidewalks would be included in the first phase.
20. Question regarding developers going belly-up and guarantee. Brian replied that other builders buying in will have to abide by masterplan/zoning; although they could request rezoning within their parcel. This is block plat approval, other approvals come back to community as each is developed.
21. Light pollution question. City has their dark sky standards – there will be more light pollution, but it still must meet city's light regulations that are the most restrictive in the country.
22. Additional tree canopy question. Some open spaces are elevated, and the only thing allowed in those area can be trails.
23. Process explained: there are these two community meetings, a report is completed, go back to city as they review the block plat. 60 days to hear back from city.
24. Resident summarized the main take away from this meeting is the concern regarding the commercial due to noise.
25. Guillermo explained that the city has its goals of making this a center for the city to create urban centers that spread traffic and shopping across the city. Back in 2012, the general city plan was created by the city planners for such urban centers. This plat, as is, goes to two planning and zoning rounds, two city councils. Further development within goes through the same process. Concern is this (Butler/4th) the most chocked and heavy trafficked intersection in the city. There are 1,100 housing units in the CDR development. Traffic studies are done to warrant that there are enough traffic improvements to support the development. Sales tax proposal is not contingent on this intersection being improved.
26. Ann Vonesh of 3885 Kokopelli and Winnie Ennenga of 3870 Kokopelli are Sinagua Heights residents. Residents reported that Sinagua Heights residents are most concerned and potentially affected about property values, peace, and the commercial development. A similar meeting was done 5 yrs. ago with same concerns.

They are also concerned about the area east of 4th St. that is zoned commercial, although unrelated to CDR. Brian reported that parcel has been that way since 1983; has been in the market for 12 yrs. and is expected to go to auction, but it doesn't change the zoning.

Meeting ended with a Thank You from Charles Stricklan for all for attending and reminding all that their comments would go to the City of Flagstaff. Also, Charlie reminded the attendees that if they wanted, there were comment sheets at the check-in desk, or they could go to the website at www.canyondelrio.com to add comments and that all comments would be included in our report to the City of Flagstaff.

Meeting ended approximately 12:05 but all attendees were invited to come forward to review the displays and to ask any questions of the developers. Many of those attending came forward and this informal discussion continued until approximately 1:00 when the meeting ended.

-end-
Minutes transcribed by Mary Norton of Capstone Homes.

Public Comments Sent to the City

Letter from Impacted Homeowners Concerning the Canyon del Rio Development

Date: August 5, 2018

TO: Neil Gullickson, Planning and Development Manager, City of Flagstaff Planning and Zoning and the Flagstaff City Council
FROM: Duane and Jana Kettering, 955 Sinagua Heights Drive, Flagstaff, AZ 86004
RE: Registering of concerns about proposed Canyon del Rio development at 4th street / Butler
REQUEST: Please...

- Reply to these questions in writing prior to the next planning and zoning meeting.
- Add this letter and your responses to the public record.
- Notify us of any additional public meetings on this matter at janakettering@gmail.com.

As a resident of the Sinagua Heights neighborhood (SHD), we have the most to lose with the development of the Canyon del Rio (CDR) development and any rezoning. We have attended both developer meetings and taken many notes about the proposal but there are so many unanswered questions or considerations. **So, we ask that you consider these concerns for any official decisions and follow up with the answers to the questions below.**

1. **Zoning Concerns** – As a home owner in the SHD neighborhood, we do not endorse the changing of the zoning from Research and Development to Highway Commercial on the North and North East parcels including K-1, K-2, E-2 and E-1. We have many concerns that are outlined below. We wholeheartedly DO NOT SUPPORT STORES with large loading docks that face our homes on SHD. We also DO NOT support making 4th Street a 4 lane highway as noted in the documents these commercial plats face "highways" without some traffic noise abatement. We do not support High Rise apartments or parking garages. We do not support the high rise apartments that will rise about the canopy --but are comfortable with duplexes and single family homes. This property is zoned for an office complex and making inroads to high paying jobs. In addition, since the commercial builder has not yet been selected as part of this process, how can we be sure any agreements are kept? During the CDR meetings, I heard clearly that once the zoning passes, there is no requirement to reach out to the neighbors to discuss any plans. The Developer stated that they have no requirement to do this – this does not seem right to us. If we get and stipulations agreed to, they should be set and not up for later review.
    - We have been told that the commercial development will not begin for 5-10 years. Is this the case? This is a question for the developer. Five-years does not sound improbable.
    - We have been told that the first roof top will not be sold for 2-2.5 years. Is this the case? Again, a question for the developer, neither of these timelines seem undoable.
    - Will we proactively be invited to public sessions discussing this development? Notification for required public hearings will be sent to all property owners within 1,000

along the east side of 4th Street would potentially preclude development along the east side of 4th Street.

- Do you have a plan to eliminate the requirements for train horns during sleeping hours? Not as part of this development proposal.
- Will you restrict delivery times in the Village Center during sleeping and normal waking times times (after 8 a.m.) and restrict the loading docks to be toward the empty land between Canyon del Rio and Little America? We live here all year round. We deserve more peace than temporary travelers in hotels and camp grounds. Current development standards work to locate buildings and building entrances toward public streets, we can expect that most of the commercial buildings will face either 4th Street or Butler Avenue at CDR. Conversely, loading areas will be placed away from those streets, delivery trucks will use public roads, so their presence will not be completely eliminated. Keep in mind there is developable land between 4th Street and Sinagua Heights that is not under the control of CDR and we expect that land will develop in the future, with the rear of those buildings facing Sinagua Heights.
- Will the speed limit change when the road is widened and prompt more traffic noise at high speeds? We anticipate the speed limit on Butler Avenue to be either 35 or 40 mph.
- Will you compensate property owners for this noise as it requires us to keep our windows and doors closed and run expensive and climate change-impacting air conditioners? We do not anticipate any such compensation.
- We have been told that the loading docs for the grocery store will be pointed away from SHD but given that the master plan is only conceptual, how can we count on this? See my comments above.
- Please swap parcel plans - Can you have the K-1 and K-2 Village Center parcels be swapped with the Duplex Residential Village so the commercial traffic is farther away from homes and closer to H to create more of a sound and view shed barrier for the existing homes? The developer should be presented with this concept, so he can address. From a consistency with the current regional plan point-of-view, the intersection of Butler and 4th Street has been identified as a suburban activity center. As proposed, the location of the commercial uses supports the uses and development intensity of the activity center.
- A citizen who was at the second public meeting, and who is in garbage college, indicated that the dumpster pick up angles should offer easy access so the trucks so they do not have to back up two and three times before they access the container. Another citizen also indicated that limited truck traffic to this area would help. Please consider this as requirement in the design. Current Engineering standards require direct access for a garbage truck, meaning no jockeying for position.
- Please can you ensure proper truck way-finding signs so they know not to continue down Butler and also include no idling restrictions? Signage can be provided if a consistent problem is identified.

We invite you to come by and sit on our back deck one evening and listen to the noise we face every day now and without additional development. Will you please help reduce the noise? You/we live in suburban neighborhoods where the residents generally expect conveniences and improvements, not limited to paved roads (increases speeds) Water and sewer, emergency services (fire stations, ambulances), and transportation infrastructure (interstate 40 and trains, both existed before

trails. We have people building camp fires right across the wash and partying all night. When we call in our concerns we are told that the fire restrictions have been lifted so they cannot ticket. This is not campground property and puts our homes at risk. We fear that more people will do this when the CDR land is no longer available for this type of activity.

- How will the City and/or Developer be involved with regular trash clean ups in the Switzer Wash and nearby trails? The developer has not submitted plans for trash clean up days within the proposed CDR development. The residential neighborhoods will be regulated by an HOA which should include such maintenance. State law does not allow for us to review private CC&R documents. This would be an issue best presented to the developer. We have an adopt the FUTS trail program where different community groups of people maintain different portions of the trail system. The trails within CDR are part of this program.
- How often can we expect the city to clean and monitor the area? How can we expect that is will continue if originally put in place? If trash dumping were to become an issue within the CDR development we would expect to receive complaints through our Code Compliance division and we would work with the property owners to resolve the issue.
- See homeless section below.

5. **View shed and Light Pollution Concerns** – As you can imagine, the price of our homes has a lot to do with our view shed not having visible development in our back yard. We paid for this view. We wholeheartedly do not want high rise or well-lit buildings placed near 4th street due to blocking or disturbing our view shed, creating light pollution and noise pollution as explained in this section and other sections. We do not want the haze of light pollution coming from this development.
   - When development begins how high will the buildings be? Is three floors for the apartments already a done deal? Can they be two floors? The HC Highway Commercial zone allows buildings up to 60-feet in height which can accommodate up to five stories, the HR High-density Residential zone allows buildings up to 60-feet and the MR Medium-Density Residential zone allows buildings 35-feet, is anywhere between two to three stories.
   - Will you be able to see the buildings from our neighborhood? Not sure. A visual analysis was not required.
   - Will you be able to see a church steeple from our neighborhood and if so can you restrict that from impacting our view shed and require it to be smaller? Don't know, church steeples are not typically extremely tall or bulky. Any such feature would be subject to building height allowances in that zoning district.
   - Will construction and landscaping be required to ensure that businesses be required to comply with Dark Skies Coalition requirements? Yes, the City's Outdoor Lighting Standards, section 10-50.70 of the Zoning Code will by applicable to all development in CDR.

6. **Traffic/Road and Trail Concerns** – There is no doubt going to be much more traffic from new residents that the current road structure will not be able to handle. It looks like the development has the potential to add 3,000 people – it's too tightly packed. We are also quite concerned about and interruption to the trail system that goes through that property – We ride

appealing. This brings fire danger, trash and security issues. We already have some camping so close we can hear their conversations and we find syringes, human waste, alcohol bottles, trash, discarded clothes, evidence of camp fires and are uncomfortable with being on some of the trails alone due to this activity.

- How will you control the homeless population camping in the public FUTS and Switzer Wash areas? Homeless issues will continue to be monitored through the Police Department.
- Is the city committed to prevent this from happening? The community's policy regarding its homeless population is set by the City Council not this development proposal.
- Will tickets and removal rather than warning be the approach to eliminate this practice? See previous response.
- Is the homeless shelter prepared for the increase in residents whose current camp sites will be restricted? See the previous response.

8. **Natural Beauty and Wildlife Concerns** – I have been in the commercial and residential development industry. I know that a development can be done right. We know we need more affordable housing here in Flagstaff. We want landscaping that provides a natural barrier to the streets and that soaks up rain water. We want benches and community art that makes this not a typical strip mall. We want sustainable practices with respect the LONG-TERM viability of this area. We want tall grasses, flowers and trees. Right now when we have visitors (and we have many) they get to see a highway truck stop and RV campground before they get to our house. It would be nice if what is planned makes us proud to live here. We expect that the wildlife that lives on that land will move down near us and there could be additional impacts on the wildlife and us.
   - What is the landscaping plan in the community and Village Center? The Landscaping Standards are in division 10-50.60 of the Zoning Code and will be applied through specific development proposals.
   - What is the landscaping plan for egresses and ingresses of the development and near sidewalks and along the edges of the businesses facing Butler? Street/ROW landscaping requirements are in division 13-18-002 of the Engineering Standards and will be applied as road sections are developed.
   - How will you consider the wildlife impacts? The open spaces proposed by the developer coordinate with the significant drainage features across the site. The Rio de Flag corridor is the most prevalent. The corridor from rim to rim, has been requested to be granted to the city for long term maintenance.

9. **Affordable Housing** – Please so kindly point out the area that will be deeded to the city and is that considered the affordable housing? We have also been told that this project will be 100% local labor – how will this be controlled? Who is the builder for the affordable units? Parcel Q3, located in the south west corner of the property, is to be dedicated to the city for use by the housing division. The city has no control of the labor force. Recently the local labor availability has not been capable of meeting construction labor demand. There are no current

Celia Barotz
Councilmember
City of Flagstaff
City Hall
211 West Aspen Street
Flagstaff, AZ 86001
Cell: (928) 699-1713
Email: cbarotz@flagstaffaz.gov

From: Neil Gullickson
Sent: Wednesday, August 8, 2018 3:57:09 PM
To: Carol Covington
Cc: Barbara Goodrich; Mayor and Council; Tiffany Antol; Daniel Folke
Subject: RE: Feedback/Observations about the CDR neighborhood meeting.

Carol you are welcome. I do not yet have a time line regarding the summary from the developer, I will be recommending to CDR that they wait a bit to ensure that everyone that wants to make comment has a chance.

Let me know if you have an additional questions or thoughts.

Neil Gullickson, AICP
Planning Development Manager
City of Flagstaff
ngullickson@flagstaffaz.gov
928-213-2614

From: Carol Covington <assiolumos@gmail.com>
Sent: Wednesday, August 8, 2018 1:55 PM
To: Neil Gullickson <NGullickson@flagstaffaz.gov>
Cc: Barbara Goodrich <BGoodrich@flagstaffaz.gov>; Mayor and Council <council@flagstaffaz.gov>; Tiffany Antol <TAntol@flagstaffaz.gov>; Daniel Folke <DFolke@flagstaffaz.gov>
Subject: Re: Feedback/Observations about the CDR neighborhood meeting.

Thank you Neil. I had not dug deep enough to find the neighborhood meeting standards, so thanks for that. It does appear that the applicant is meant to not only summarize comments, but to address how they will or will not incorporate related modifications. This was not shared with the participants, as I heard it, but to do so would be a benefit I believe. In addition, I did not realize that I would be provided a summary of the comments from the meetings, which is great! I have been watching for them to be posted on the Canyon del Rio web site as they indicated they would.

Again, thank you for your attention to detail in explaining that which is currently in place.

Kind regards,
Carol

On Wed, Aug 8, 2018 at 1:25 PM Neil Gullickson <NGullickson@flagstaffaz.gov> wrote:

> Carol,
>
> Your e-mail of August 5, regarding the Canyon-del-Rio's neighborhood meeting was forwarded to me through the City Manager's office. I am writing for two purposes, first, to provide you with a copy of the current code sections (section 10-20.30.060 and 070 of the Zoning Code, link to ZC http://www.flagstaff.az.gov/2998/View-the-Zoning-Code) that direct the process for neighborhood meetings. As you can see these sections are extensive and cover the process, goals, how the meeting follow up is to be handled, and staff responsibilities. Second, to acknowledge that even though these code sections are extensive, your comments and suggested outline are very incisive.

Neil Gullickson

From: Celia Barotz
Sent: Thursday, August 9, 2018 7:38 AM
To: Neil Gullickson; Daniel Folke
Cc: Barbara Goodrich; Tiffany Antol
Subject: Re: Feedback/Observations about the CDR neighborhood meeting.

Hi Neil and Dan, (cc Barb and Tiffany)

I wanted to offer a few comments on this interesting issue and to clarify that Carol's feedback is much broader than what I provided to Barb when I chatted with her the Monday morning following the July 28 CDR neighborhood meeting.

As I recall, my feedback after attending the meeting was that it probably would serve the city and the public well to have the project manager attend these required neighborhood meetings to ensure that any information about city rules/processes/standards that is presented to the public is accurate and in no way misleading (even if unintentionally). After all, I don't think we can expect the applicant to respond to questions that technically are beyond its purview. It seems to me that the applicant can talk about its project and a city representative can talk about all of the city rules and processes. One example from the meeting was the lack of clarity about how a concept rezoning works as distinguished from the direct to ordinance process.

Carol and I discussed at length what was so unsettling about the meeting and concluded that it might be helpful to share some ideas with staff about ways the city might improve the process. It seems to me that Carol's list isn't exhaustive, but rather is a great framework for thinking about how we can ensure that these neighborhood meetings provide, at a minimum, information that is clear and accurate and helps the public understand the project and process. Below are a few follow up thoughts on her memo.

In addition to having a city representative attend the meeting, we thought the city could provide an outline of issues that each applicant should address to help the public understand not only the actual proposal but also the process. This way we can be sure certain important issues are addressed.

Another suggestion she mentioned is to require the applicant to orient the audience to the location of the project (point to 'north' and major roadways, landmarks, etc.) and also to provide not only a close up map project/parcel but also higher elevation/area context map. I'm think she offered this suggestion because there was no context map at the meeting and because the presenter did not orient the audience it took awhile to figure out what was going on. Further, I noted by the questions I heard that not everyone who attended the meeting was familiar with the parcel or even the general geographic area. While this suggestion of requiring the applicant to orient the public to the project location seems to state the obvious to me (and probably to you), I don't think we can take for granted how applicants who are so close to their projects will approach communicating with the members of the public who have virtually no information about what the applicant is proposing or in some cases the location/size of the parcel.

I understand that the Zoning Code governs these neighborhood meetings. Because I haven' reviewed the relevant sections in quite some time so I can't how much detail the code includes and whether the code addresses some of the concerns that Carol and I have shared. It's possible the code language is adequate, but if that's the case how do we know the applicant is actually following through properly? And if, upon review of how recent neighborhood meetings were conducted, we see the code language isn't achieving what we had hoped, then could staff bring forward some recommendations to council for how to improve the code language?

Please understand that my objective here is to try to ensure a process with more integrity. I understand that this is more work, but I think it's important that we do what we can to ensure these meetings are productive and helpful to the public. After eight plus years on the council and many meetings and conversations with residents about a wide variety of issues, two things are quite evident to me. The first is that how we communicate with the public really matters and second

MEMO

TO: Mayor Evans and
City Council

FROM: Carol Covington, Flagstaff Resident

DATE: August 5, 2018

RE: Feeback/Observations About the Canyon del Rio Rezoning Request
Neighborhood Meeting on July 28, 2018

As a resident of a neighborhood (Forest Springs) near the proposed Canyon del Rio development, I received information about its rezoning request and neighborhood meetings and attended the July 28 meeting at Sinagua Middle School.

While the intent of the meeting seemed to be good, I am writing to offer my observations about the meeting and suggestions for how the city could improve this process for future required neighborhood meetings.

Below are some observations from the July 28 meeting and some suggestions for how the city might reduce the likelihood of confusion and frustration by the public:

A. The presenters were not able to clearly explain to the audience (myself included) whether the comments/feedback provided by the public at the meeting would be incorporated into the applicant's proposal, or at least acknowledged.

B. As I understood it, this proposal is for the rezoning of some of the parcels within the Canyon del Rio proposed development, which, once approved, will be sold off in blocks to builders who will actually design and build out the project. It was unclear whether these builders would build anything resembling what was shown on the concept plan or if, in reality, the builders could propose a site plan that differs considerably from the renderings presented on the poster boards. (I think this issue, in particular, was very confusing for the public.)

C. While I know that the rezoning is about changing the 'use' of the land, the public expressed concerns/comments on how the site will be developed and not directly about whether the change of use was good or bad. (My sense is they probably thought that approval for this project is a foregone conclusion.) As one example, concerns were raised about noise from all of the delivery trucks and whether the buildings could be positioned on the site to minimize the noise from the trucks on the residents of Sinagua Heights. It was unclear if or how these comments will be communicated to the builders who buy the parcels and go through the site planning process. It was also unclear whether residents would be provided another opportunity to offer these comments prior to approval of each site plan.

D. There were several questions about various city issues, including water

not easily translate to the general populous. It seems that the applicant often assumes the public understands all of the jargon when in fact it doesn't. For example, it would be much more helpful if the applicant defined the zoning categories so people understand what's allowed to be built. The layperson typically doesn't understand the details of each zoning category.

B. Provide applicants an outline that could guide how they conduct the meeting. It could include a list of the issues that, at a minimum, the applicant should discuss. Here is a suggested outline:

1. An introduction of the applicant's team.
2. An explanation of the purpose of the neighborhood meeting.
3. A description of the proposed project, its location
   a. Point to the map and orient the audience by setting the geographic context.
   b. The applicant should be required to provide a context map on a poster board and not just a close up map of the project.
4. A description of what is allowed under the current zoning and what will be allowed if the proposed rezoning request is granted.
5. An explanation of what happens to the community feedback provided at the neighborhood meeting.
6. An explanation of the anticipated rezoning process time line.
7. An explanation of when the request will go to the Planning and Zoning Commission and the City Council. (Explain the job of the Planning and Zoning Commission.)
8. An explanation of the applicant's next steps.

Thank you for your considering these observations and suggestions. Please don't hesitate to call me (928 699 1693) if you'd like to chat about them.

Neil Gullickson

From: Tiffany Antol
Sent: Friday, July 27, 2018 11:15 AM
To: 'Anne Vonesh'
Cc: Neil Gullickson
Subject: RE: Canyon Rio Development

Hi Anne,

Thanks for the update on the meeting. When the P&Z Commission meets they have a public participation item in which you may bring issues and concerns to their attention. Similar to City Council. I am not sure when the Commission will be meeting again it may me as late as September.

The Regional Plan identifies the Canyon del Rio project within a Regional Suburban Activity Center which does call for a mix of uses. Regional commercial is intended for all commercial and service uses that serve the needs of the entire region, those which attract a regional or community-wide market, as well as tourism and travel-related businesses.

I would be more than happy to send this information to you if you would like. I still suggest having a meeting with Neil and possibly Sara Dechter.

I hope this information is helpful.

Tiffany Antol, AICP
Current Planning Manager
City of Flagstaff | Community Development
211 West Aspen Avenue | Flagstaff, AZ | 86001
P: (928) 213-2608 | F: (928) 213-2089

From: Anne Vonesh <azvonesh@gmail.com>
Sent: Friday, July 27, 2018 8:51 AM
To: Tiffany Antol <TAntol@flagstaffaz.gov>
Subject: Re: Canyon Rio Development

Good Morning,

I attended the Canyon del Rio meeting last night and voiced my concerns and asked about removing the HC from 4th Street and or limiting the sized Etc. Their answer was that the City planners said they had to have it like that - that that was necessary according to the City plan. They were not amenable to any changes in the plan. A few neighbors would like to meet with the zoning commission to discuss the issues. How do we get an item on the agenda? I tried to attend the by monthly meeting but they both were cancelled this month.

thank-you for your time

Anne Vonesh -928-310-8428

On Wed, Jul 25, 2018 at 8:39 AM, Tiffany Antol <TAntol@flagstaffaz.gov> wrote:

> Anne,

July 26, 2018

Mayor and Council Members
Flagstaff City Hall
211 W Aspen Avenue
Flagstaff, AZ 86001

Mayor Coral Evans
Vice-Mayor Jamie Whelan
Councilmember Celia Barotz
Councilmember Charlie Odegaard
Councilmember Eva Putzova
Councilmember Jim McCarthy
Councilmember Scott Overton

Dear Mayor, Vice-Mayor, and Council Members:

Tonight, I attended a community meeting at Sinagua Middle School regarding the planned development of Canyon del Rio community, roughly the SW area of 4th and Butler. As you might be aware CDR Land Investors and Lions Gate Companies have requested a re-zoning for specific parcels of land within their sector of development.

What I anticipated would be an opportunity for the community to bring forth questions, concerns, and a possible re-evaluation regarding a few re-zoning proposals to the City of Flagstaff was nothing of the sort. To put it simply, the voice of your community members—your citizens—was not heard. It was troubling that CDR and Lions Gate would summarily dismiss the concerned voices of a community along with those who requested meaningful dialogue for modifications to the plan. In naval history, Admiral David Farragut is remembered for his immortal order at the Battle of Mobile Bay, "Damn the torpedoes, full speed ahead!" Well, tonight I felt like it was "Damn the citizens, full speed ahead."

I recognize development must come to the area and I know the City of Flagstaff has long anticipated its development. However, I never recall an opportunity to have a voice in the process or even being notified by CDR or Lions Gate of an opportunity to have a voice in land development phases. Yes, they might have placed those 6 font notices in the paper, which citizens rarely read but that does not absolve them of an ethical component to the community. I often wonder if negating significant community notification and input throughout the process is becoming the *modus operandi* of the City of Flagstaff and private developers.

As for me, I oppose the project for one primary reason—4th street is not ready nor is it capable of handling the significant influx of traffic at its two major choke points—the Butler bridges across I-40. Until the new bridges are completed all development must be abated or the City will be confronted with a serious problem of traffic congestion, transportation delays, public safety issues dealing with emergency response—not to

Neil Gullickson

From: John Gearhart <jgearhart@cybermesa.com>
Sent: Monday, March 3, 2014 2:30 PM
To: Neil Gullickson
Subject: Fwd: PUBLIC COMMENT & REQUEST FOR INFORMATION RE: Canyon Del Rio proposed rezoning and "minor plan amendment".

Importance: High

Categories: Red Category

Hello Mr. Gullickson,

Thank you very much for your efforts to give the folks from Sinagua Hts and other interested people an update on the status of the Canyon Del Rio (CDR) zoning change request and development proposal package that you have been reviewing.

Your clear complete explanation of the process was very helpful for me residing in Flagstaff for just 4 years. It is the first time I have had the opportunity to be able to really spend some time to be active in the workings of a community.

Below is the email I sent to CDR in September 2013. I did not hear about the initial public meeting they held so did not attend. Neighbors conveyed to me how the meeting went and what they learned and what little response CDR had to questions attendees asked.

I studied the CDR website and put together a number of concerns and specific questions. They have never provided a response to my comments or questions. They did acknowledge receipt of my comments through their internal website response system. To my knowledge CDR has not provided responses to any of the Sinagua residents questions or concerns.

Thank you for you thorough description of the complexities of a large proposal such as this as well as the other nearby proposals in progress. I look forward to meeting with you to learn more about the CDR proposals and the likely issues that Flagstaff will require CDR to address and mitigate.

Sincerely, John & Marie Gearhart

3965 E. Kokopelli Ln., Flagstaff

928-526-5326
jgearhar@cybermesa.com

-------- Original Message --------
Subject: PUBLIC COMMENT & REQUEST FOR INFORMATION RE: Canyon Del Rio proposed rezoning and "minor plan amendment".
Date: Wed, 11 Sep 2013 21:49:20 -0700
From: John Gearhart <jgearhart@cybermesa.com>
To: Brian Rhoton, RAC, LLC - Canyon del Rio Developers <brhoton@capstonecos.com>, Mark Sawyers, Flagstaff Planning & Zoning Staff <msawyers@flagstaffaz.gov>

research or documentation that these changes will have positive benefits to the local area, nearby subdivisions or Flagstaff in general. Information of this nature is requested prior to expecting the city council, mayor, city manager and the people of Flagstaff make any decision of what appear to be significantly more than minor changes.

6. from what information has been provided it appears that there will be huge increases in traffic along Butler Avenue and 4th Street. Does Canyon del Rio propose to commit to share in the costs of upgrading Butler Avenue and 4th Street to Industrial to 4 Lane Roadways as will obviously be needed?

7. Although there are areas shown in green, it appears that these are existing drainage areas, what provisions have been calculated for and what are proposed for managing and handling the additional runoff that will be generated from all the proposed buildings, parking lots, driveways and streets within the entire proposed project?

8. Are there any actual park and or play areas proposed?

9. What studies have been done or are proposed to be completed prior to the approval of the proposed zoning changes on the effects to wildlife and plant communities on the property and adjacent properties?

10. Have historical, archeological inspections, reviews or studies been completed on the proposed area? If not, why not. It is not far to the walnut canyon area.

11. It appears that there are no comments, provisions or discussions regarding the obvious need for another elementary grade school to provide nearby education for the many hundreds of children likely to occupy this very large addition to Flagstaff.

*_Current Position Regarding the Proposed Zoning and Plan Changes_*

1. We are currently strongly opposed to having the City of Flagstaff , begin to have council discussions, much less any votes for or against approval changes prior to requiring Canyon del Rio L.L.C. provide additional information and time for review and comments.

2. This new proposal is a huge change to the nature of Flagstaff without the facilities or infrastructure to support the area.

Thank you for the opportunity, even if rushed, to provide comments regarding this proposal. I feel that is reasonable to have additional information provided prior to any approval of proposed changes to the existing Canyon del Rio LLC Plan.

Sincerely,

Neil Gullickson

From: karmar <karmar@npgcable.com>
Sent: Tuesday, January 14, 2014 8:44 PM
To: Neil Gullickson; Anne Vonesh; Bruce J Higgins; Cathy and Thomas Uno; Dirk Murphy; Ed Cully; Jo Cully; John and Marie Gearhart; Linda and Dave Morefield; Peter and Denise Vermilyea; Rob T; Stuart Marks
Cc: Gary Miller; Jim Davis; Karl Eberhard; Kent Snide; Kyle Brown; Mike Scheu; Reid Miller; brhoton@capstonecos.com; Mark Sawyers; Daniel Folke
Subject: Re: Canyon del Rio

Categories: Red Category

Happy New Year Neil,

Thank you for the update on the Canyon del Rio development proposal received by the city. Our reading of your e-mail below seems to indicate that fewer housing units are proposed in this draft than were articulated at the neighborhood meeting. Is that correct?

As a follow-up to my meeting with you late last year, I would like to meet with you to review the plans and better understand where the high density, medium density and commercial/retail/service/office land uses are proposed for the parcel. Given that some of our neighbors may also be interested, I wondered if you could identify a couple of available windows with your schedule for the first week of February. We can then pick a date/time that will work for as many as would like to be involved. I'm assuming that would give you adequate time to review the proposal before it moves to the next step.

Best regards,

Karen Pedersen and Mark James

1/14/2014 2:20 PM, Neil Gullickson wrote:

> Good afternoon,
>
> It has been some time since I last communicated with those of you who expressed concern or support for the Canyon del Rio (CDR) development proposal. We, the city, have received an application for Regional Plan amendment and rezoning for portions of the CDR development. The Regional Plan amendment focuses on changing the existing Business Park/Light Industrial designation to a Regional Commercial designation that will support proposed commercial retail, service and office land uses. The Regional Plan application includes approximately 26-acres.
>
> The rezoning portion of the application proposes to change the zoning from the existing RD, Research and Development zoning district to HR, Highway Commercial zoning district for the areas mentioned above, to MR, Medium Density residential (27.9 –acres) and HR, High Density residential (30-acres). The medium density area include approximately 185 units, the HR 572. The balance of the site, the area that is not proposed to be rezoned is currently zoned MR and RI, Single-Family residential includes roughly 480 units.
>
> The review process is currently in the "application review stage" where staff is reviewing the application for both completeness and for substantive issues. A major component of this review is dedicated to review of the systems impact analysis that the developer has provided as part of the application, those

Neil Gullickson

From: Neil Gullickson
Sent: Monday, September 16, 2013 5:13 PM
To: 'Anne Vonesh'; 'Bruce J Higgins '; 'Cathy and Thomas Uno'; 'Dirk Murphy'; 'Ed Cully'; 'James and Karen Pedersen'; 'Jo Cully'; 'John and Marie Gearhart'; 'Linda and Dave Morefield'; 'Peter and Denise Vermilyea'; 'Rob T'; 'Stuart Marks'
Cc: Mark Sawyers
Subject: Canyon del Rio

Categories: Red Category

Good afternoon,

I have received contact from each of you regarding the proposed regional land use and zoning change application that is anticipated to be submitted to the city for evaluation and review. I wanted you to know that I have received and am logging your comments. Your comments will be shared with staff as the initial levels of review move forward and they will also be included as part of the packet of information that is presented to both the Planning and Zoning Commission and City Council as they review the application.

The meeting that many of reference, which was hosted by the applicant, Mr. Rhoton with Capstone Homes is a requirement of city code. A complete application will include a synopsis of the meeting including all of the public comments and a report that details if and how the public's comments will be addressed by the application. Any time limit for public comment that was discussed at the meeting was solely for the purpose of the applicant preparing that component of the application. I will be accepting comments and presenting them to the Commission and/or Council up until a final decision is made. With that thought in mind, please make sure that I am copied on your comments regarding the application or development.

As an introduction, and maybe I should have started with this, my name is Neil Gullickson, I am a Senior Planning Development Manager and will be managing this project for the city. If you have a desire to review the application, maps or check on the application's progress through the review process, let me know and I will set up a time when you can sit with any information that has been submitted for review.

As you may have guessed, I have included your e-mail addresses on a contact list and I will periodically send updates regarding the application as progresses through the review process, provide public hearing dates and any other information that regarding the process that might be of interest. Thanks for taking the time to send in your comments, if I can provide more details or you want to discuss the application process, my contact information is located below. Do not hesitate to pass my contact information to you neighbors if they wish to forward comments.

Thanks

Neil Gullickson

From: Neil Gullickson
Sent: Tuesday, January 14, 2014 2:20 PM
To: Anne Vonesh; Bruce J Higgins ; Cathy and Thomas Uno; Dirk Murphy; Ed Cully; James and Karen Pedersen; Jo Cully; John and Marie Gearhart; Linda and Dave Morefield; Peter and Denise Vermilyea; Rob T; Stuart Marks
Cc: Gary Miller; Jim Davis; Karl Eberhard; Kent Snide; Kyle Brown; Mike Scheu; Reid Miller; brhoton@capstonecos.com; Mark Sawyers; Daniel Folke
Subject: Canyon del Rio

Categories: Red Category

Good afternoon,

It has been some time since I last communicated with those of you who expressed concern or support for the Canyon del Rio (CDR) development proposal. We, the city, have received an application for Regional Plan amendment and rezoning for portions of the CDR development. The Regional Plan amendment focuses on changing the existing Business Park/Light Industrial designation to a Regional Commercial designation that will support proposed commercial retail, service and office land uses. The Regional Plan application includes approximately 26-acres.

The rezoning portion of the application proposes to change the zoning from the existing RD, Research and Development zoning district to HR, Highway Commercial zoning district for the areas mentioned above, to MR, Medium Density residential (27.9 –acres) and HR, High Density residential (30-acres). The medium density area include approximately 185 units, the HR 572. The balance of the site, the area that is not proposed to be rezoned is currently zoned MR and RI, Single-Family residential includes roughly 480 units.

The review process is currently in the "application review stage" where staff is reviewing the application for both completeness and for substantive issues. A major component of this review is dedicated to review of the systems impact analysis that the developer has provided as part of the application, those analysis include a Traffic Impact Analysis (TIA) , Drainage Impact Analysis (DIA) and a Water and Sewer Impact Analysis (WSIA). These reports are intended to provide both the developer and the staff with an understanding of how a new development will impact the existing city systems. From these reports staff and the developer will formulate a development agreement (DA) that contractually outlines what improvements are necessary, when they will be required and who is responsible for providing the improvements. As you can imagine, for a development this size, this could be a fairly complex document.

When the application review and the DA are completed staff will schedule public hearings before the Planning and Zoning Commission who makes a recommendation to Council regarding the development. City Council's review will follow the Commission's review.

For now I will conclude my update, as I mentioned in my earlier e-mail, any or all of you can come in and view the application and I will do my best to answer any questions that you may have. My e-mail and phone number are included below.

Neil Gullickson

From: Stuart Marks <morethanacarpenter@gmail.com>
Sent: Sunday, September 15, 2013 6:09 PM
To: brhoton@capstonecos.com
Cc: Neil Gullickson; azvonesh@gmail.com; alison.appline@yahoo.com; arizonatrailrunner@gmail.com; cathyuno@aol.com; dlmorefield@npgcable.com; dufek_44@yahoo.com; emily.cubban.ditto@gmail.com; greg.larkin@nau.edu; gschurz@formmagic.com; jane.scott@yahoo.com; jgearhart@cybermesa.com; jocully@yahoo.com; majorieinflag@hotmail.com; Marty Strones; melissa@crazyforbargans.com; michael.jessen@ymail.com; psmaui@yahoo.com; rabrose@fourcornersenv.com; rjbrose@fourcornersenv.com; sara_jeanne_marks@yahoo.com; sfisher12@mac.com; szyoung04@yahoo.com
Subject: Canyon del Rio development comments

Categories: Red Category

My name is Stuart Marks. My wife & I live at 915 N Sinagua Heights Drive in Flagstaff,AZ.

In attending your community presentation meeting I was left with the impression that you were performing the minimum required in meeting your public notification process for your City of Flagstaff zone change application. Since Sinagua Heights was a few feet beyond the 600 foot distance to your proposed development you elected to not notify our neighborhood. In addition, you were not willing or prepared to answer some basic questions at the meeting and directed us, the public, to search the City's web site for answers because the zoning code was just too large. You did follow up on posting information via an email but this came on Monday September 9th. You were asking for comments by Thursday September 12th. I was out of town until late Thursday and have been unable to present my concerns until now. I did speak with Neil Gullickson, City of Flagstaff Planning & Development Manager, on Friday and he asked that I go ahead and present my comments after your suggested date of 9-12-13 and copy him.

Your insistence on referencing the Canyon del Rio specific plan adopted in 1984 is puzzling. You purchased the land in 2002 and there was a new land development code adopted by the City of Flagstaff in 1991. It is my understanding that zoning, as are building codes, are updated by municipalities as experience directs for a better approach to development. That being said, the City will be voting on a new regional plan in May 2014. This plan has been developed over the last few years and has incorporated many thoughtful and beneficial considerations for neighborhoods and the City as a whole.

Your property is identified as a Suburban Activity Center in the 2030 Regional Plan. The suggested density range for residential mixed use is only 6 units per acre. I believe that with the recent development of high density housing immediately to the North of Butler accessed from 4th street that we see good reason to favor the 6 units per acre over your proposed 22 units per acre.
The wisdom of this has already been demonstrated by the impact on the local grade school, Knoles. Knoles has a class room size of 32 at this time. The size of the classes ballooned after the apartments at Butler & 4th street were occupied.

Even with medium density housing there is no room for accommodating the needs of an increased elementary school population. With other development proposed to the West of your site on Butler and on the North side of Butler we can fully expect a traffic nightmare. In addition, the planned extension of J W Powell will create an intersection that will present challenges that should not be compounded by high density housing (immediatly to the West of the intersection) on your property. To allow additional high density housing in close proximity to the Butler/4th St/J W Powell intersection would be short sited and not serve the neighborhood or the City of Flagstaff well.

Neil Gullickson

From: Mark Sawyers
Sent: Friday, September 13, 2013 9:16 AM
To: Neil Gullickson
Subject: FW: Proposed Canyon del Rio Plan

Categories: Red Category

fyi

From: karmar [mailto:karmar@npgcable.com]
Sent: Friday, September 13, 2013 6:48 AM
To: brhorton@capstonecos.com; Mark Sawyers
Subject: Fwd: Proposed Canyon del Rio Plan

Good morning,

I was sending these messages while traveling earlier in the week and I just wanted to make sure you both received them. Sorry if this is a duplicate, but I had a system error message on my end which made me think that you hadn't received them.

Thanks,

Karen

-------- Original Message --------
Subject: Proposed Canyon del Rio Plan
Date: Wed, 11 Sep 2013 22:42:35 -0500
From:<karmar@npgcable.com>
To:brhorton@capstonecos.com
CC:msawyers@flagstaffaz.gov

Brian,

Below is the e-mail we just sent to Mark Sawyers with the city of Flagstaff concerning the proposed Canyon del Rio rezoning plan. We wanted to make sure you received this since we got a bounceback for you with our original e-mail.

Mark and Karen

Dear Mark,

We are writing today to express our vehement concerns about the plans put forward by Canyon del Rio Developers L.L.C. for the southwest corner of 4th and Butler. The information shared at the Citizen Participation Plan meeting described the proposed rezoning as a "minor plan amendment". For those of us living in Sinagua Heights, this is a major zoning change that would profoundly affect our lives and home values.

We implore you not to change the zoning and/or allow this plan to move forward in our neighborhood.

Sincerely,

Mark C. James and Karen L. Pedersen, residents of Sinagua Heights

Neil Gullickson

From: Mark Sawyers
Sent: Friday, September 13, 2013 9:16 AM
To: Neil Gullickson
Subject: FW: Canyon del Rio Rezoning Request - I am against it

Categories: Red Category

fyi

From: Jo Cully [mailto:jocully@yahoo.com]
Sent: Thursday, September 12, 2013 11:25 PM
To: Mark Sawyers
Subject: Canyon del Rio Rezoning Request - I am against it

I do NOT support the request for rezoning by Canyon del Rio. One of the main selling points of the Sinagua Heights neighborhood, and what has made it so desirable ad unique within the Flagstaff market, is that it is a small development. Because it's a small development, we've been able to get to know most of the people in our neighborhood, and we can take care of each other. When there were issues with break-ins, Foxglenn Park and now this zoning issue, organizing and communicating was easier because our neighborhood is small and personable. I think that many of us recognize that our great neighbors are one of the best things about our neighborhood, and something that can't be replicated in the mega developments which are being built all over Flagstaff. This proposed development is exactly the opposite of the culture our neighborhood has developed.

The lack of communication that we've received from the developers emphasizes that this is not a friendly, neighborly undertaking. The way that we found out about the development was a large, plain sign posted on Butler and Dog Pound Road. Nothing was mailed to us directly. The sign was there for about a week, which is not much time or in some cases no time to rearrange schedules, and the meeting was called on a Wednesday night at 5 p.m. The notice was vague as far as what the at 5 p.m. was about, and again what the demonstration meant at 6 p.m. BUT because this meeting is happening, this causes us to leave work early, delay dinner, and leave our kids without parental supervision of homework or activities, and overall takes away from family time. This rezoning request is for the convenience of Capstone so that they can make more money from land that they purchased under a different premise. It seems like a good way to try to push through changes that might adversely affect others. They are being greedy, and their greed is not benefitting the good citizens that have already made an investment in this area of Flagstaff.

The most alarming features of their development are the high density apartments very, very close to the Sinagua Heights neighborhood. We already have high density Pinehurst apartments at 4th Street and Butler. Let me tell you, that the Pinehurst apartments are out of character with the neighborhood, and are unfortunately a den of crime. Our son had a couple of friends that lived there, and that place has been a den of crime for several years with police in an out of there on a regular basis. Capstone should not be allowed to expand that complex.

In addition, I am especially alarmed by the proposal to rezone and add a grocery store. This would also be on the end closest to Sinagua Heights, and would significantly change the atmosphere of our neighborhood. I am also alarmed by the proposal to switch from larger lots, to more dense school lots. Mr. Rhoton admitted that in

Neil Gullickson

From: Mark Sawyers
Sent: Friday, September 13, 2013 9:15 AM
To: Neil Gullickson
Subject: FW: Canyon Del Rio plan

Categories: Red Category

fyi

From: dlmorefield [mailto:dlmorefield@npgcable.com]
Sent: Thursday, September 12, 2013 9:57 PM
To: brhoton@capstonecos.com; Mark Sawyers
Subject: Canyon Del Rio plan

Mr. Brain Rhoton & Mr. Mark Sawers,
We are strongly opposed to the re-zoning of the property located in the Western half of section 24, Township 21 North, Range 7 East Gila & Salt River Meridian, Coconino County. The proposed plan does little to show sufficent open spaces. We have questions that concern us that haven't been addressed.

1) Can the area to the West of 4th street be made into an open space to create a " buffer" zone from the traffic noise & give a wild life a place to roam safely?
2) Have water studies been done?- think about the greater Prescott area water issues.
3) How tall will these low-income apartments be?
4) What about drainage? Lets not forget about the flood in February 1993 & in late December 2004, both times the residents of the Forestdale community were isolated from town. Many were stuck on one side or the other waiting for the Rio de Flag river of water to recede.
5) Will the city have sufficent resources to cover the new development? Police & city maintenance workers,
6) With the new housing plan, how will the people making minimum wage or slightly above it afford the homes? "In general CDRI hopes to attract an anchor grocery tenant and expects that additional sites will be filled by small retail, restaurants, c-store, coffee shops and office tenants". We all know from living in Flagstaff the average job doesn't allow for home ownership.
7) Any thoughts about schools? They will be at capacity with the addition of families moving into the new development.
8) How about developing the area to the south of the airport for the industrial park?

With a closer look at the rezoning plans and having some changes made, hopefully it will help all parties to feel better about the development that is being proposed.
Thank you for the opportunity to contact both of you to share our concerns about preserving the very special area to the south & west of our neighborhood.

Linda & Dave Morefield
955 N. Sinagua Hts. Dr.
Flagstaff, Az. 86004

Neil Gullickson

From: Mark Sawyers
Sent: Friday, September 13, 2013 9:16 AM
To: Neil Gullickson
Subject: FW: Canyon del Rio comments

Categories: Red Category

fyi

-----Original Message-----
From: Ed Cully [mailto:azcully@yahoo.com]
Sent: Thursday, September 12, 2013 10:24 PM
To: brhoton@capstonecos.com
Cc: Mark Sawyers; jocully@yahoo.com
Subject: Canyon del Rio comments

Re: Canyon del Rio

Our decision to live in the Sinagua Heights neighborhood was based primarily on factors of location. Zoning of the surrounding lands was promoted and seen as "protection" of our location decision AND of our property values.

A conscious decision to change existing zoning is also a conscious decision to detrimentally affect property values in the Sinagua Heights neighborhood and may also negatively affect the ability to sell and relocate in a timely manner.

If the zoning is changed, we fully expect the body responsible for the decision to be held accountable to compensate for the negative difference in property values and inconveniences incurred in an extended selling process.

Ed Cully... resident and taxpayer in our local community.
940 N. Sinagua Heights Drive
Flagstaff, AZ

Neil Gullickson

From: Mark Sawyers
Sent: Thursday, September 12, 2013 4:09 PM
To: Neil Gullickson
Subject: FW: Rezoning of Canyon Del Rio

Categories: Red Category

fyi

From: Anne Vonesh [mailto:azvonesh@gmail.com]
Sent: Thursday, September 12, 2013 2:54 PM
To: brhoton@capstonecos.com; Mark Sawyers
Subject: Rezoning of Canyon Del Rio

Anne Vonesh
3885 Kokopelli Ln
Flagstaff, AZ 86004

I have some additional comments:

THE PROPOSED ZONING CHANGE IS NOT MINOR

Flagstaff needs Business Park properties in order to attract higher paying jobs - not jobs that coffee shops and other retail stores supply.
This location is only 10 minutes from the airport. In addition, when JW Powell go through it will only be 5 minutes away.

The zoning changes that are proposed for the site, the High Density and Highway Commercial will take up much of the acreage and I did not see a catch basin in the design. Consideration for the water runoff must be made in order to maintain the water flow rate at current levels. Over the last few weeks we have seen flooding of butler and Foxglenn park.

If the changes go through the 2500 + cars will not only impact Butler but Fourth St over the highway will need to be 4 lanes. In addition - it would be nice if Sidewalks we put in so children could walk to school safely.

The land was bought knowing the zoning. Keep the zoning - Develop the Business Park and develop the Single family and Medium Density homes sites.

Sincerely

Anne Vonesh

Neil Gullickson

From: Mark Sawyers
Sent: Thursday, September 12, 2013 4:07 PM
To: Neil Gullickson
Subject: FW: Comments on Canyon del Rio

Categories: Red Category

fyi

From: cathyuno@aol.com [mailto:cathyuno@aol.com]
Sent: Thursday, September 12, 2013 11:16 AM
To: brhoton@capstonecos.com; Mark Sawyers
Subject: Fwd: Comments on Canyon del Rio

To: Brian Rhoton, Capstone/Canyon del Rio Developers, LLC
CC: Mark Sawyers and Members of the Planning and Zoning Commission:

Thank you for providing me with the opportunity to provide input into the Canyon del Rio proposal that will clearly effect the quality of life for my family and the neighborhood I live in. My name is Thomas Uno and I own my home at 3915 E. Kokopelli Lane in Sinagua Heights. I have lived at my current residence since January 1996 and consider myself a long time resident and citizen in our city. I would like to make the following comments to the proposed Canyon del Rio Developers proposal:

- • I believe that the planned development will drastically change the quality of life and environment that make Flagstaff unique and unlike large metropolitan areas,
- • I believe that the proposal as presented does not capture the true impacts that it would have on the basic infrastructure of the city (i.e schools, roads, sidewalks, parks, etc) which will fall upon the taxpayers of the city,
- • I believe that with the proposed changing of the current zoning to high density, this may affect other characteristics of our city like crime, wildlife habitat, and open space, and lastly
- • I believe that since the last environmental impact study was done in 1984, another one should be completed with the changes that have occurred since then.

Again, thank you for providing me the opportunity to share my concerns and thoughts

Thomas Uno

September 11, 2013

To: Mark Sawyer, Flagstaff Planning and Zoning Department

From: Dirk Murphy, resident of Sinagua Heights Drive

Re: The rezoning of Canyon Del Rio Investors parcels, near 4th and Butler streets

I am writing with my concerns and opposition to the rezoning proposal from the Canyon Del Rio Investors of parcels owned by the developer near 4th and Butler streets. The proposal is to rezone parcels from light industrial research and development usage to 1425 dwellings the majority of those consisting of high density apartment units. The rezoning proposal also calls for 26 acres to be rezoned from light industrial research and development usage to big box retail stores and strip mall store fronts. My concerns and opposition to the proposal are environmental, traffic congestion, and the hidden costs not addressed by the developers.

The Canyon Del Rio Investors state they are conducting traffic impact analysis, drainage studies, resource studies, and sewer and water impact studies. They also tell us that this is a "minor" change to the already existing zoning and planning and should have very little change to the environment. I would argue that an independent third party contracted by the City of Flagstaff and paid for by Canyon Del Rio Investors conduct this study. These studies or analysis should not be conducted by a company contracted to the developer, where a conflict of interest might exist. Forested areas and open space areas border the area. A study or analysis should also include the environmental impacts to the areas bordering on this high density development.

For example, the Animal Defense League of Arizona (ADLA) helped relocate an entire prairie dog colony when urban development threatened to destroy its habitat. Helping Habitat Harmony Save Prairie Dogs: 299 Prairie Dogs Successfully Relocated in Flagstaff ADLA monitors them along with Arizona Game and Fish Department. This prairie dog community is near the Canyon Del Rio Investors rezoning area.

The nearby open space area also helps drain the surrounding areas and provides wetlands and has several miles of urban trails running through it. Flooding and washed up litter and debris are already problematic to this natural resource area. Building high density apartments, packed-in individual housing units, and big box retail stores will make these problems much worse.

The traffic flow and congestion along the 4th street and Butler Street corridors will be greatly impacted. This will possibly triple the current vehicular traffic in this area. This area already has notoriously long traffic lines during rush hour along 4th and Butler toward 4th and Route 66. Traffic congestion is already present near Butler and the I-40 entrance and exit ramps, which is

Neil Gullickson

From: Mark Sawyers
Sent: Thursday, September 12, 2013 4:05 PM
To: Neil Gullickson
Subject: FW: comments on Canyon del Rio

Categories: Red Category

fyi

From: cathyuno@aol.com [mailto:cathyuno@aol.com]
Sent: Wednesday, September 11, 2013 10:47 PM
To: brhoton@capstoncos.com
Cc: Mark Sawyers
Subject: comments on Canyon del Rio

Thank you for providing the opportunity to comment on the proposed plans for this development. I am very sorry that the website information was not available until near close of business on Monday September 9th with the closing of comments set for Thursday September 12. I will provide an outline of my comments in this e-mail and after having time to review the information recently provided, will add comments in a follow up e-mail if needed even if it is past the deadline.

I am a home owner in Sinagua Heights. I have lived in my home for 17 years and am an original owner occupant in the development. I have seen the area and
Flagstaff in general grow and change over those years. The comments I will focus on regarding this development proposal will center on concerns I feel could negatively impact the areas surrounding the proposed site of the development.

1. The representatives from Capstone identified that an Environmental Study on the impact this development would have to the area was completed in 1984. This was 29 years ago; much has been learned since then, much has changed and the plans for this development are very different than that proposed in 1984. The impact of light industrial vs high density housing and retail business will surely have different parameters for an impact study. I am also concerned that the study is out of date, lacks inclusiveness for any new guidelines and or rules and most concerning is that the type of development is vastly different than proposed at the time of the study.

2. If I recall the width correctly, the proposed street that would intersect at Butler and cross into 4th street, is 109 feet across - 2 lanes each direction with a possible center or turn lane. This boulevard style road will empty into streets that are half of that capacity. There are currently no sidewalks, no crosswalks and a traffic light at the intersection that will need to be upgraded to accommodate this significant increase. We were informed that the development will not have the responsibility of paying for this infrastructure. This would then be the burden of the Flagstaff community which I believe is unreasonable.

3. With the significant number of high density apartments and homes planned, there will be many children in need of schools. Our current neighborhood elementary school is at capacity. When the representatives were asked about their role in building a school or working with the schools system; they identified that this would be a Flagstaff community issue and they had no obligation to the community. This again puts all the burden on the Flagstaff taxpayer community to add classrooms for the children that would be added to the area.

4. With a development of this size with both significant high density housing and businesses; there will be significant increased use and stress on our current infrastructure system; water, sewer, power, etc. Has there been current and appropriate assessment on how our current system will manage the increased burden? Who is responsible for any necessary upgrades to those systems? Have the water, sewer, power use issues been thoroughly evaluated?

5. The proposed area in which this development hopes to build is home to many wildlife species; prairie dog colonies, elk herds, deer, coyote family groups and countless others. The representatives of Capstone indicated that they were depending on Game and Fish to complete studies on the impact their proposed development will have on their habitat. It

Neil Gullickson

From: Mark Sawyers
Sent: Thursday, September 12, 2013 4:05 PM
To: Neil Gullickson
Subject: FW: PUBLIC COMMENT & REQUEST FOR INFORMATION RE: Canyon Del Rio proposed rezoning and "minor plan amendment".

Categories: Red Category

fyi

From: John Gearhart [mailto:jgearhart@cybermesa.com]
Sent: Wednesday, September 11, 2013 9:49 PM
To: Brian Rhoton, RAC, LLC - Canyon del Rio Developers; Mark Sawyers, Flagstaff Planning & Zoning Staff
Subject: PUBLIC COMMENT & REQUEST FOR INFORMATION RE: Canyon Del Rio proposed rezoning and "minor plan amendment".

Mr Brian Rhoton, RAC, LLC
Staff
1750 Railroad Springs boulevard, Suite 10
Flagstaff, AZ 86001
brhoton@capstonecos.com

Mr. Mark Sawyers, Planning and Zoning

Flagstaff City Hall
Flagstaff, AZ 86001
msawyers@flagstaffaz.gov

Hello Mr. Rhoton, and Mr. Sawyers

My name is John Gearhart. My wife and I own our home in Sinagua Heights Subdivision here in Flagstaff, AZ. Family health issues precluded my ability to attend and the meeting Canyon del Rio held to present and discuss your proposed changes.

I understand from other residents who attended the meeting that Canyon del Rio Developers L.L.C. would provide, by email or online, information requested during the meeting and responses to questions put forth at the meeting by attendees.

This information was to be provided by Tuesday September 3rd. An email with your website was sent that day to a Sinagua Heights resident but apparently was withdrawn shortly after that. I did not learn that access to your website, http://www.canyondelrio.com/ was available until September 9th.

Comments & Requests for Information

1. Are there any minutes or notes of the comments or questions from that meeting available? If not why not?

2. I would like to see that information provided if only in general terms if no notes were taken?

3. For all the effort put into the website it is **critically important** to have a useful scale for the "map" drawings (shown on several web page but doesn't show up when printed). In order to be able to fairly evaluate the the information provided a usable scale is basic for any proposal. Please provide usable scaled drawings **prior** to closing the period of time for making comments.

Neil Gullickson

From: Mark Sawyers
Sent: Thursday, September 12, 2013 4:05 PM
To: Neil Gullickson
Subject: FW: comments on proposed zoning changes - Canyon Del Rio

Categories: Red Category

fyi

-----Original Message-----
From: Peter Vermilyea [mailto:peter.vermilyea@gmail.com]
Sent: Wednesday, September 11, 2013 9:42 PM
To: brhoton@capstoncos.com
Cc: Mark Sawyers
Subject: comments on proposed zoning changes - Canyon Del Rio

We wanted to voice our opposition to the rezoning of the land by the intersection of 4th Street and Butler Ave from Light Industrial to commercial. Businesses that come with this type of zoning will open the doors to stores selling liquor and cigarettes on property nearly adjacent to Sinagua Middle School and Thomas Knoles Elementary School. It will also encourage the vagrant population to take up residence in the open space directly behind Sinagua Heights Neighborhood. Lastly, the added noise of delivery trucks and trash removal at early morning/night hours will be disruptive to the residential areas nearby.

Flagstaff already has several strip malls that are not fully occupied, which should be utilized before building additional commercial properties. This proposal is wasteful and will only serve the financial interests of the Canyon del Rio investors, and not Flagstaff as a community.

Peter and Denise Vermilyea
925 N. Sinagua Heights Drive
Flagstaff, AZ 86004

Neil Gullickson

From: Mark Sawyers
Sent: Thursday, September 12, 2013 4:04 PM
To: Neil Gullickson
Subject: FW: Proposed Canyon del Rio Plan

Categories: Red Category

fyi

-----Original Message-----
From: karmar@npgcable.com [mailto:karmar@npgcable.com]
Sent: Wednesday, September 11, 2013 8:43 PM
To: brhorton@capstonecos.com
Cc: Mark Sawyers
Subject: Proposed Canyon del Rio Plan

Brian,

Below is the e-mail we just sent to Mark Sawyers with the city of Flagstaff concerning the proposed Canyon del Rio rezoning plan. We wanted to make sure you received this since we got a bounceback for you with our original e-mail.

Mark and Karen

Dear Mark,

We are writing today to express our vehement concerns about the plans put forward by Canyon del Rio Developers L.L.C. for the southwest corner of 4th and Butler. The information shared at the Citizen Participation Plan meeting described the proposed rezoning as a "minor plan amendment". For those of us living in Sinagua Heights, this is a major zoning change that would profoundly affect our lives and home values.

THE PROPOSED ZONING CHANGE IS NOT MINOR: We have lived in Sinagua Heights eleven years. When we moved here, we trusted that the city would not allow for extreme zoning changes that would significantly disrupt and absolutely change our neighborhood. The 41 homes in our neighborhood would be completely overwhelmed by the estimated 1,425 dwelling units as described in the materials put forth by Canyon del Rio Developers L.L.C. It is ludicrous for the developers to propose increasing the population density by a factor of 35 and call this a "minor change".

NO AMOUNT OF ROAD WORK COULD UPGRADE BUTLER TO HANDLE THE ADDITIONAL TRAFFIC LOAD: The proposed housing development would wreak havoc on the traffic patterns in our area. Butler is already extremely congested. We currently have three different schools which make it nearly impossible at times to get out of our neighborhood onto Butler during certain times of the day. Adding 2,850 more vehicles (estimate 2 vehicles per residence) to this neighborhood would make our already difficult situation impossible! Even if Butler was increased from 2 lanes to a major 6 lane thoroughfare, the traffic congestion in this small area as all these vehicles move in and out would be unimaginable. Additionally, the intersection of Butler and Hwy 40 is already very congested with 4 lanes of traffic. Little America already has plans to expand creating an even heavier load of trucks and other vehicles at this intersection. How will this intersection also accommodate 2,850 more vehicles from the new metropolis proposed by these developers? Even if the number of lanes were to be increased, the lines of vehicles waiting to gain highway access at this intersection

Neil Gullickson

From: Mark Sawyers
Sent: Thursday, September 12, 2013 4:04 PM
To: Neil Gullickson
Subject: FW: Comments on Canyon del Rio

Categories: Red Category

fyi

From: cathyuno@aol.com [mailto:cathyuno@aol.com]
Sent: Thursday, September 12, 2013 11:16 AM
To: brhoton@capstonecos.com; Mark Sawyers
Subject: Fwd: Comments on Canyon del Rio

To: Brian Rhoton, Capstone/Canyon del Rio Developers, LLC
CC: Mark Sawyers and Members of the Planning and Zoning Commission:

Thank you for providing me with the opportunity to provide input into the Canyon del Rio proposal that will clearly effect the quality of life for my family and the neighborhood I live in. My name is Thomas Uno and I own my home at 3915 E. Kokopelli Lane in Sinagua Heights. I have lived at my current residence since January 1996 and consider myself a long time resident and citizen in our city. I would like to make the following comments to the proposed Canyon del Rio Developers proposal:

- I believe that the planned development will drastically change the quality of life and environment that make Flagstaff unique and unlike large metropolitan areas,
- I believe that the proposal as presented does not capture the true impacts that it would have on the basic infrastructure of the city (i.e schools, roads, sidewalks, parks, etc) which will fall upon the taxpayers of the city,
- I believe that with the proposed changing of the current zoning to high density, this may affect other characteristics of our city like crime, wildlife habitat, and open space, and lastly
- I believe that since the last environmental impact study was done in 1984, another one should be completed with the changes that have occurred since then.

Again, thank you for providing me the opportunity to share my concerns and thoughts

Thomas Uno

below and mail to:

Mr. Brian Rhoton
RAC, LLC
1750 Railroad Springs Boulevard, Suite 10
Flagstaff, AZ 86001
(928) 699-1169
brhoton@capstonecos.com

Sincerely,

Guillermo E. Cortes, P.E.

— 4th St. which will be J.W. Powell to airport which is designated as Business Park!!

Anne Vonesh
3885 Kokopelli Cr.
Flag 86004

COMMENTS REGARDING THIS DEVELOPMENT

To Canyon Del Rio Investors —

I DO NOT approve of the re-zoning plans of the parcels that were originally zoned BP — business park or light industrial. It is a radical change to have grocery stores and strip malls and high density residents. Noise, traffic & crime will increase. It already has, when the apts on 4th moved in! We purchased our home in Sinagua heights in 1995 we were given the 1991 official Zoning map dated April 8 1991 - ordinance # 1690. There is plenty of commercial land — between 66 & train tracks along industrial ave etc better suited than in a neighborhood. Also — has anyone considered impact on Schools - Mt Will need another whole school minimum Knoles is at capacity!

Leather Flower Comments

Neil Gullickson

From: Bruce J Higgins <ppr1_llc@yahoo.com>
Sent: Thursday, September 13, 2012 7:08 PM
To: Neil Gullickson
Cc: Tish Bogan-Ozmun
Subject: Info on Arizona clematis or Arizona leatherflower or Clustered Leatherflower, Clematis hirsutissima Pursh var. arizonica (A. Heller) Erickson

Categories: Red Category

The state contact is:

Sabra Tonn - HDMS Program Coordinator
Phone: (623) 236-7618
Fax: (623) 236-7366
Email: stonn@azgfd.gov

Here is the link to this clematis in the USDA's PLANTS database:
http://plants.usda.gov/java/profile?symbol=CLHIA

It status:

Threatened and Endangered Information:

Clematis hirsutissima Pursh var. *arizonica* (A. Heller) Erickson

This plant is listed by the U.S. federal government or a state. Common names are from state and federal lists. Click on a place name to get a complete protected plant list for that location.

Arizona:
Arizona clematis Highly Safeguarded

It is also a Forest Service "sensitive species*" under the species (no variety recognized): This plant was formerly considered to be a narrow endemic with the name Clematis hirsutissima var. arizonica. Variety arizonica was placed in synonomy with variety hirsutissimain the Flora of North America, Vol. 3, thus the variety now has a much broader range. The plant remains rare in Arizona and has been retained by the State as an endangered plant (Highly Safeguarded under the Arizona Native Plant Law).

*- those taxa occurring on National Forests in Arizona which are considered sensitive by the Regional Forester. [Practically, this means the FS must address the affect of activities on them in projects and ensure their continued presence on the Forest.]

It's range: is Az & NM. In Az, it is only known from Coconino County. Specifically, "from the Flagstaff vicinity along the Rio de Flag and Lower Lake Mary, upper Volunteer Canyon, San Francisco Peaks, and the Tusayan area...."

Notes:
Source 1:

This taxon's standing as a true variety has been called into question, and a morphological study showed that there was no clear difference between this variety (var. arizonica) and the more common variety (var. hirsutissima). (Pringle 1997) However, the U.S. Forest Service lists it as a sensitive species.

Arizona leatherflower is an herbaceous perennial understory species with purple nodding bell-shaped

flowers. It is found on limestone outcroppings in ponderosa pine forest. Plants are 20-70 cm high with erect, weak, or trailing stems emerging from a somewhat woody base. Leaves are pinnately compound with 7-13 leaflets. The showy purple flowers are displayed individually at the end of each stem and become heads of golden feathery seeds in late summer.

These plants may be a great indicator of forest health. Their greatest reproduction occurs in intermediate shade with little forest litter. Extremely heavy shade reduces growth and reproduction, but full sun can dry seeds and plants. In the ponderosa pine forest, this species faces threats including timber harvest, controlled thinning and burning, cattle and elk grazing, and development. (Maschinski & Phillips 1993)

In Arizona, the taxa most commonly grows on soils derived from Kaibab limestone in small colonies in ponderosa pine forests sometimes covering only fractions of an acre. Requires only moderate shade.

Northern reaches of the species habitat is mixed conifer forest and much more mesic than the Arizona populations experience.

Photos:



Neil Gullickson

From: Bruce J Higgins <ppr1_llc@yahoo.com>
Sent: Wednesday, September 4, 2013 12:02 PM
To: Neil Gullickson
Cc: Tish Bogan-Ozmun; Rick/Ann Miller; brhorton@capstonecos.com
Subject: Re: Comments on Canyon del Rio Developers, LLC proposed re-zoning

Categories: Red Category

Hi, Neil:

I'm not a botanist, although I took several classes in school long ago and have lots of work experience with local native ecosystems.

I think the clematis may survive if it is simply not:

- dug up or paved over
- trampled by human use patterns created by development (including pedestrians/bicyclists cutting corners)
- dewatered or flooded by development
- unshaded or shaded out by development (seems to prefer partial shade)
- crowded out by introduced weeds (especially knapweed & thistles) arising from development

bjh

On 9/3/2013 4:23 PM, Neil Gullickson wrote:

> Bruce, thanks for the note, I will make sure it gets to the Planning and Zoning Commission prior to their review of the application, which I do not anticipate happening for some time yet.
>
> I still have the information your forward to me a year ago regarding the Arizona Clematis. I mentioned the flower to the developer's representative several weeks ago and am anticipating discussing the possible impacts and mitigations with the developer as the application matures. Let me know if you don't start getting the P&Z agendas. Best N.
>
> ---
>
> **From:** Bruce J Higgins [mailto:ppr1_llc@yahoo.com]
> **Sent:** Tuesday, September 03, 2013 11:25 AM
> **To:** Neil Gullickson; brhorton@capstonecos.com
> **Cc:** Tish Bogan-Ozmun; Bruce J Higgins
> **Subject:** Comments on Canyon del Rio Developers, LLC proposed re-zoning
>
> Hello:
>
> I am a resident of the City of Flagstaff in the Foxglenn neighborhood. I frequently jog by the area proposed for rezoning, both along Butler Avenue and on the FUTS trail through the property.
>
> I am not opposed to the changes proposed, since Flagstaff has a need for more housing, particularly affordable/attainable housing. Higher density housing is likely to be more affordable

than less dense housing. However, to maintain many of the environmental amenities most of us cherish in Flagstaff, and to address the need for a business activity center (S18 in the draft Regional Plan), my support comes with some caveats:

- There are populations of Arizona clematis on parcels E1, F and probably E2. The plant is rare in Arizona and has been retained by the State as an endangered plant (Highly Safeguarded - No collection allowed - under the Arizona Native Plant Law). **It's range:** is Az & NM. In Az, it is ***only known from Coconino County; specifically, "from the Flagstaff vicinity along the Rio de Flag and Lower Lake Mary, upper Volunteer Canyon, San Francisco Peaks, and the Tusayan area...."*** It is also a Forest Service "sensitive species" under the species, *Clematis hirsutissima*. I have walked through the area and can provide some site-specific locations, if desired. Most are on steeper north or east-facing slopes and could probably be generally avoided & protected without a lot of effort.



- The Flagstaff Urban Trails and Bikeways Map (Third Edition, June 2013), produced by the City of Flagstaff, shows a FUTS trail that crosses the Canyon del Rio property, from 4th St to Herold Ranch Rd. This trail has fallen into disrepair, including the removal of the vehicle barriers at both ends and at numerous points along the trail. It is suffering damage as a result. One driver I confronted in a vehicle on the trail said she knows the owners and that it is no longer part of FUTS. I don't know if this is true or not, but a route through this area is essential to connect east Flagstaff to downtown in a scenic and safe manner. Since the existing route does pass through the corner of parcel N, it seems reasonable to reestablish the trail's FUTS status, if it is no longer part of the system, thus providing for it in any re-zoning action. Protection for the trail's non-motorized status should be designed into any development plans, as well.
- Currently, residents of nearby neighborhoods must drive at least 3 miles for groceries and some other commercial services that are frequently used by nearly all residents. It would be important to retain the commercial capability for a suburban activity center very near here, as envisioned by the draft Regional Plan.

Thanks for the opportunity to comment.

Bruce J. Higgins

PS - It has proven to be very difficult to remain on P&Z mailing lists, and notice of this proposal was no exception. I spoke with Tammy Bishop this morning and am hopefully back on the list now. A more robust system should be in place to retain mailing lists as employee turnover or other changes occur. - bjh





Canyon del Rio

Zoning Map Amendment

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

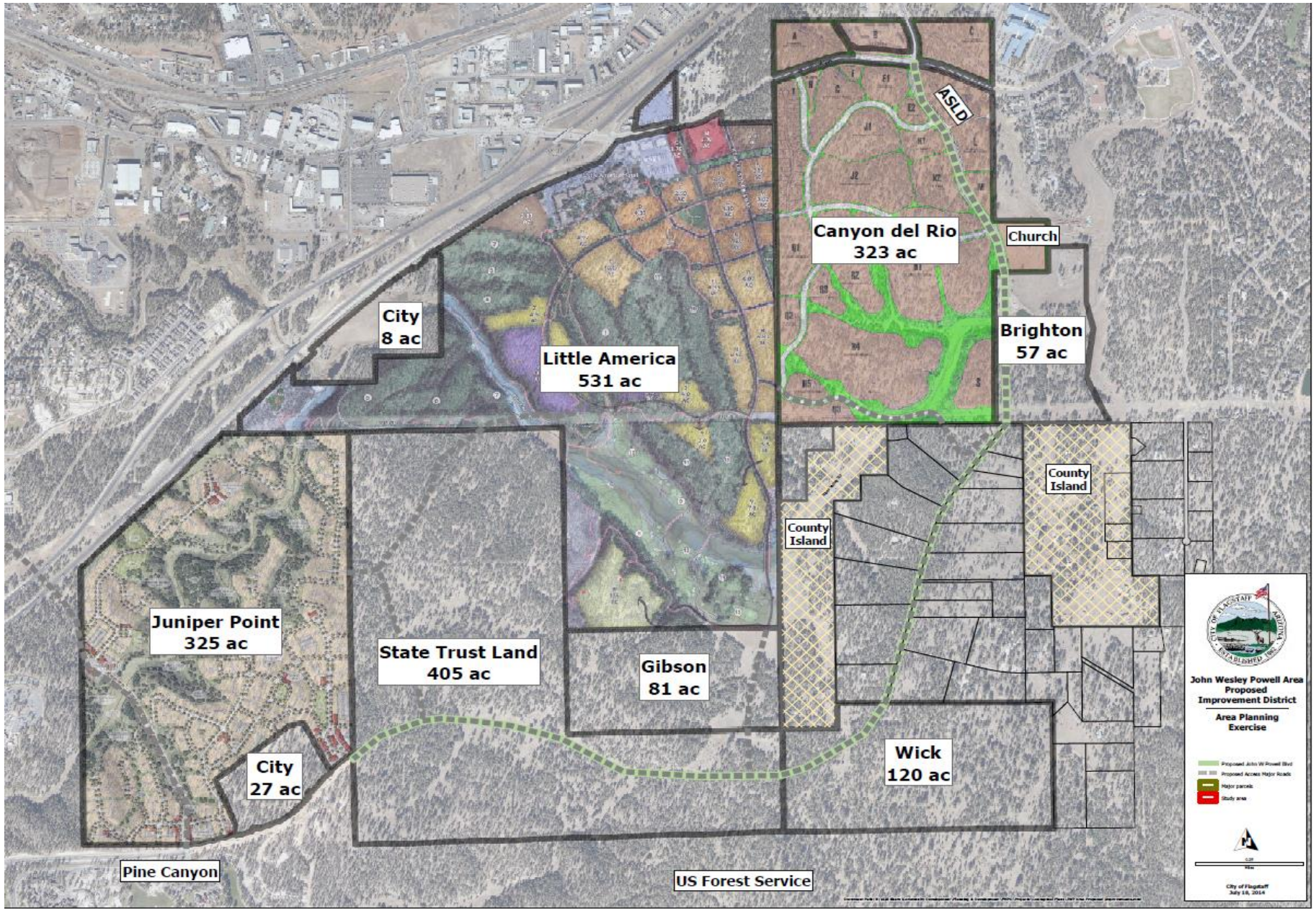
Schedule

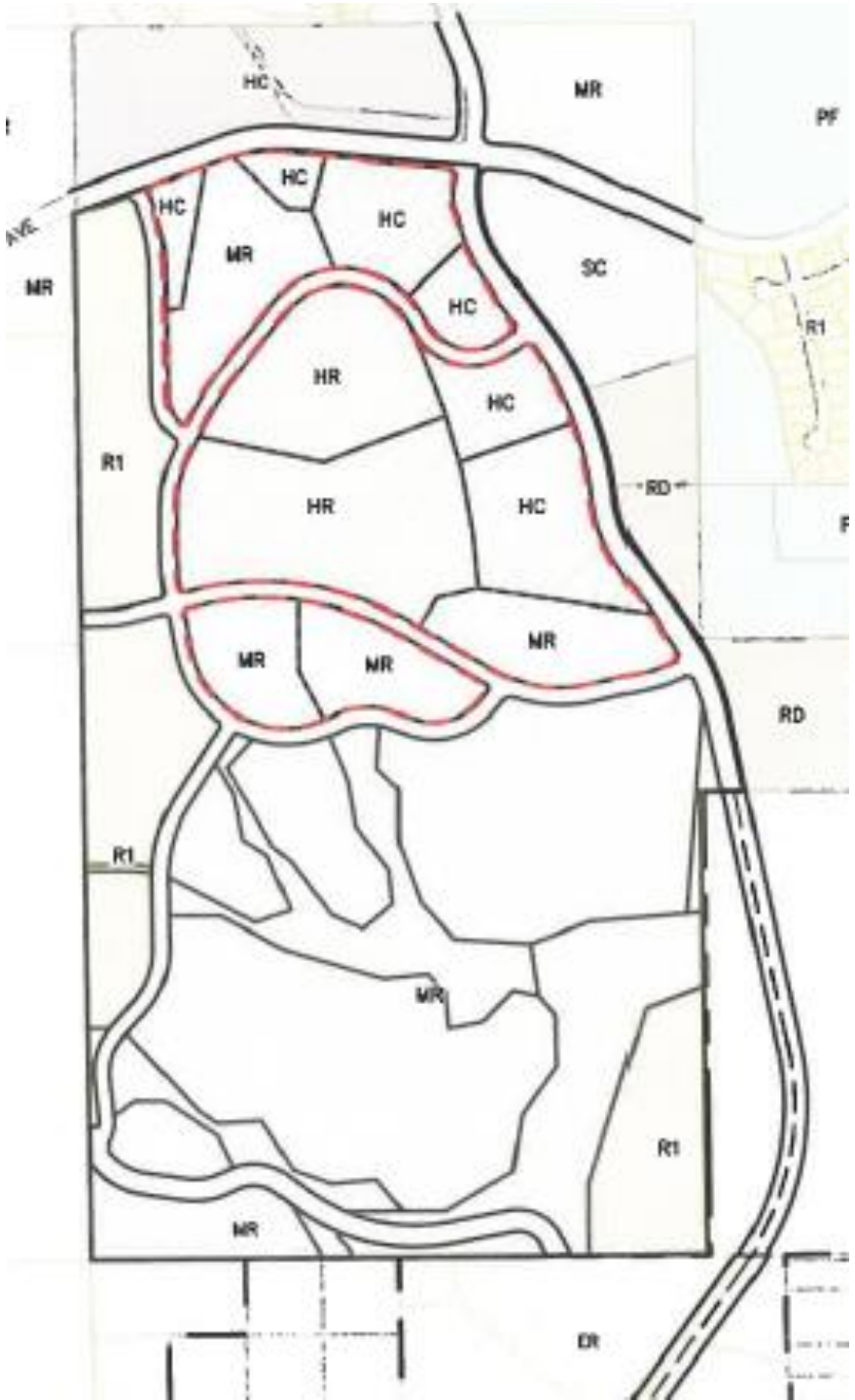
April 10, 2019 first review by P&Z Commission of the Concept Zoning Map Amendment (CZMA)

April 24, 2019 P&Z Commission recommends that the Council approve (vote 5-0) to approve the CZMA and the Preliminary Block Plat (P-plat)

May 21, 2019 Council review of the CZMA and first reading of the ordinance

June 4, 2019 Council review and second reading of CZMA, review of the P-plat and consider resolution approving the Development Agreement


ASLD
Canyon del Rio
323 ac
Church
City
8 ac
Little America
531 ac
Brighton
57 ac
County
Island
County
Island
Juniper Point
325 ac
State Trust Land
405 ac
Gibson
81 ac
Wick
120 ac
City
27 ac
Pine Canyon
US Forest Service
John Wesley Powell Area
Proposed
Improvement District
Area Planning
Exercise
City of Flagstaff
July 16, 2014



The Concept Zoning Plan proposes the following development:

Highway Commercial 25.9-acres
225,000 sq. ft. of development.

High Density 30-acres parcels
672 residential units

Medium Density 27.9-acres
180 attached residential units

Findings

Finding 1 Conformance with the General Plan

A. Commercial zoning along Butler and 4th Street corridors supports the Activity Center (S18)

B. MR & HR zones support a mix of uses and minimum density (14 units/acre) within the pedestrian shed of the Activity Center

C. HOH plan supports higher densities at this location but does not exceed 29 units/acre

D. HOH indicates this location will have low impact to existing low-income neighborhoods

E. Development supports arterial connection to the south (JWP Boulevard), FUTS and non motorized connections.

F. 58-acres of Open Space supports Environmental Planning & Conservation and Open Space and Water Resources goals through dedication of Rio de Flag

G. Affordable Housing parcel donation supports Neighborhoods, Housing and Urban Conservation goals of the Regional Plan.

Findings

Finding 2 Community Benefits and Public Good

A. Affordable Housing property donation per the terms of the Settlement Agreement; Incentive to subsequent developers to provide Affordable Housing

B. Higher density and intensity of development supports regional transit system; reduces trips with closer destinations and fewer travel miles with neighborhood commercial development

C. Increased density and intensity at CDR implements the Regional Plan development patterns which reduces impacts to water demand, fuel consumption and is supported by the Climate Action and Adaptation Plan

Findings

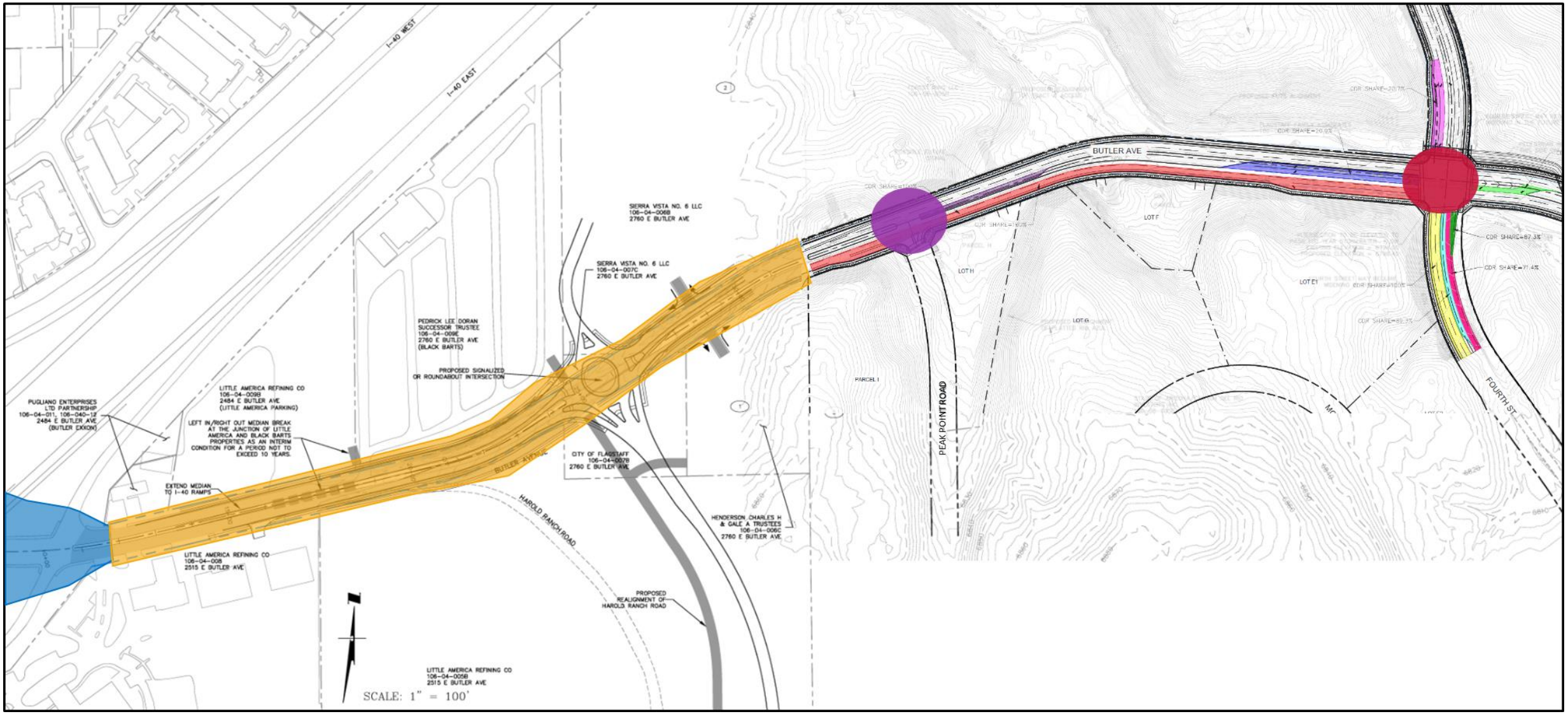
Finding 3 Site is Physically Suitable

A. Adequate transportation infrastructure is being provided to support public and emergency services on- and off-site.

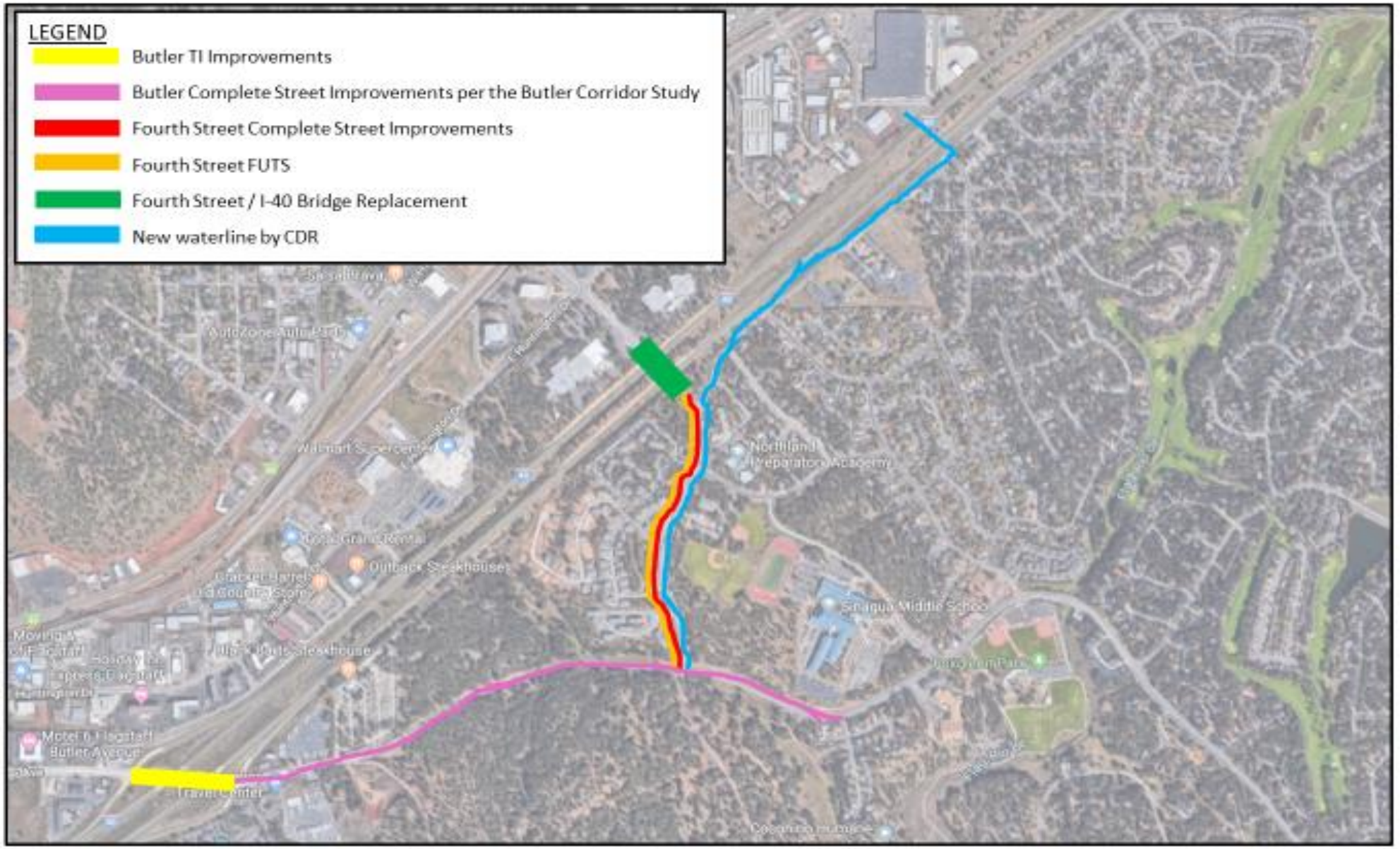
B. Potable water, sewer and franchise utilities needs have been evaluated and required improvements have been identified and will be provided

C. Solid waste removal and capacity to accept waste at the landfill is available

The Proposed zoning districts are in compliance with the Regional Plan designations and the proposed land uses are in conformance with the proposed zoning designations. It is not anticipated that this proposal will result in land uses that will jeopardize or constitute a hazard to this site, the neighborhoods or the community.


I-40 WEST
I-40 EAST
BUTLER AVE
SIERRA VISTA NO. 6 LLC
106-04-006B
2760 E BUTLER AVE
SIERRA VISTA NO. 6 LLC
106-04-007C
2760 E BUTLER AVE
PEDRICK LEE DORAN
SUCCESSOR TRUSTEE
106-04-009E
2760 E BUTLER AVE
(BLACK BARTS)
PROPOSED SIGNALIZED
OR ROUNDABOUT INTERSECTION
LITTLE AMERICA REFINING CO
106-04-009B
2484 E BUTLER AVE
(LITTLE AMERICA PARKING)
PUGLIANO ENTERPRISES
LTD PARTNERSHIP
106-04-011, 106-040-12
2484 E BUTLER AVE
(BUTLER EXXON)
LEFT IN/RIGHT OUT MEDIAN BREAK
AT THE JUNCTION OF LITTLE
AMERICA AND BLACK BARTS
PROPERTIES AS AN INTERIM
CONDITION FOR A PERIOD NOT TO
EXCEED 10 YEARS.
EXTEND MEDIAN
TO I-40 RAMPS
BUTLER AVENUE
CITY OF FLAGSTAFF
106-04-007B
2760 E BUTLER AVE
HAROLD RANCH ROAD
HENDERSON, CHARLES H
& GALE A TRUSTEES
106-04-009C
2760 E BUTLER AVE
LITTLE AMERICA REFINING CO
106-04-008
2515 E BUTLER AVE
PROPOSED
REALIGNMENT OF
HAROLD RANCH ROAD
LITTLE AMERICA REFINING CO
106-04-005B
2515 E BUTLER AVE
SCALE: 1" = 100'
LOT F
LOT H
LOT G
LOT E1
PARCEL I
PEAK POINT ROAD
FOURTH ST
CDR SHARE=87.3%
CDR SHARE=71.4%

Other City Projects in the Area



Proportional Roadway improvements

Regional Roadway Projects

	Roadway Projects	*CDRI's Obligation*	
1	Butler Avenue Half Street	$698,295	First Final Plat or Site Plan Approval
2	Fourth Street SB Dual Right	$21,927	
3	Offsite Butler Avenue - Little A to CDR	$219,893	
4	Butler / Fourth Signal	$123,391	
5	Butler / Fourth EB Dual Left	$38,092	
6	Butler / Fourth WB Left	$35,541	
7	Butler / Peak Point Left Turn Lane	$60,177	
8	Fourth Street South Half Street	$211,527	
9	Fourth Street NB Left Turn Lane	$62,600	
10	Fourth Street NB Intersection Transition	$42,175	
11	Butler / Peak Point Signal	$250,000	Peak Point Traffic Exceeds 1,000 vpd
12	Butler / I-40 Interchange Improvements	$698,112	CDR Exceeds 500 Residential Units
	TOTAL	**$2,461,730**	

Utility Improvements

- New secondary water line 1.3-million dollar contribution
- New 1-million gallon zone B water storage tank, proportion share $667,943
- Donation of up to 2 well sites within Canyon del Rio

Recommendation

- Planning & Zoning Commission unanimously (5-0) recommends the City Council approve the Concept Zoning Map Amendment for Canyon del Rio subject to conditions.

- Read Ordinance 2019-14 for the first time this evening
- Read Ordinance 2019-14 for the second and final time on June 4, 2019

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Leah Bloom, Housing and Grants Administrator

Co-Submitter: Patrick Brown

Date: 05/13/2019

Meeting Date: 05/21/2019

TITLE:

Consideration and Approval of Contract: Consideration and approval of the Professional Services Contract for the Mobile Home Assistance for Displaced Residents Program, Contract No. 2019-62 between City of Flagstaff and Flagstaff Shelter Services (FSS).

STAFF RECOMMENDED ACTION:

Approve the contract with Flagstaff Shelter Services for the administration of the Mobile Home Assistance for Displaced Residents Program.

Executive Summary:

In an effort to avoid future emergency situations concerning displaced populations due to the closure of mobile home parks, a Request for Statement of Qualifications (RSOQ 2019-62) was conducted to identify housing service providers that had established programs in place to assist families and individuals in achieving housing permanency. The goal of the program is to keep displaced populations housed and prevent them from entering Flagstaff's homeless system. Additionally, RSOQ 2019-62 called for leveraging capacity to maximize City resources and required the successful respondent to provide housing case management services.

Flagstaff Shelter Services (FSS) was the single respondent to RSOQ 2019-62. The local non-profit agency provided sufficient information to adequately score on the evaluation criteria based on the parameters within scopes of work. FSS is Northern Arizona's largest homeless shelter and has extensive experience in providing housing case management services.

*****A PowerPoint presentation is attached*****

Financial Impact:

The FY 2019 budget included $100,000 in one-time general fund dollars for the purpose of assisting households being displaced from the closure of mobile home parks.

As outlined in the attached City Council Report dated December 6, 2018, a total of 35 Arrowhead households received relocation assistance support during the Arrowhead Village Park closure. Of those 35 households, 14 households received assistance with city funding totaling $15,438.

With this, there is a remaining balance of $84,562 available for the Mobile Home Assistance for Displaced

Residents Program.

Policy Impact:

None.

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

<u>Affordable Housing Goal</u>
Pursue financing strategies for affordable housing to create additional rental and ownership housing opportunities.

Regional Plan: Goal NH.3. Make available a variety of housing types at different price points, to provide housing opportunity for all economic sectors. Policy NH.3.3. Increase the availability of affordable housing for very low-income persons, through innovative and effective funding mechanisms.

Has There Been Previous Council Decision on This:

N/A

Options and Alternatives:

1. Approve the contract as recommended, allowing Flagstaff Shelter Services to administer the Mobile Home Park Assistance for Displaced Residence Program.
2. Do not approve the contract.
3. Direct staff to operate the programs internally, which would require additional staffing with administrative cost considerations.

Background/History:

During Council budget retreat in April of 2018, a discussion was held considering decreasing the contingency fund balance by half of one percent to provide an ongoing funding source for emergency housing relocation assistance. The goal of the ongoing program would be to leverage other funding opportunities to provide relocation assistance. In the end, this option was set aside, resulting in Council budgeting $100,000 in one-time general funds for households being displaced from the closure of mobile home parks.

Staff was directed to work with Flagstaff Shelter Services' and Coconino County Community Services' existing programs as an interim measure to expedite assistance to residents pending displacement from the closure of Arrowhead Village. $15,438 of the original $100,000 allocated was used to assist the residents of Arrowhead Village. Staff was directed to create a relocation assistance program with the remaining $84,526 in funding allocated for this purpose.

On January 31, 2019, Purchasing staff posted a Request for Statements of Qualifications (RSOQ) solicitation on PlanetBids online bidding website and advertised it in the Arizona Daily Sun on February 3 and February 10, 2019. A pre-statement meeting was held on February 19, 2019, at City Hall. On March 1, 2019, Statements of Qualifications (SOQ) were due and one (1) SOQ was received from Flagstaff Shelter Services. A four-member evaluation committee evaluated the SOQ from Flagstaff Shelter Services and determined they were high scoring and the most qualified to provide the services solicited.

Key Considerations:

1. Mobile Home Park Relocation Assistance funds will be distributed through the provider's existing housing programs or approved community partner programs and will be offered to residents being displaced due to closures of mobile home parks or other qualifying events.
2. The Provider will aim to utilize leveraged resources to maximize City investment.
3. The Provider will provide housing case management services.
4. The Provider will have access to Rapid Rehousing Funding or similar funding source with a housing permanency purpose and will aim to utilize the funding whenever appropriate.

Expanded Financial Considerations:

None.

Community Benefits and Considerations:

The goal of the program would be to keep displaced populations housed and avoid households entering into Flagstaff's homeless system. Assistance funds to be provided to tenants of mobile home parks facing eviction due to park closure, or similar events as determined by the Flagstaff City Manager, with a goal of achieving housing. Existing housing programs may include but are not limited to housing case management services and temporary financial assistance. Examples of temporary financial assistance are rapid rehousing funding, rental assistance, down payment or payment of security deposits or utilities.

permanency.

Expanded Options and Alternatives:

None.

Attachments: Arrowhead CCR Dec. 2018
Contract for Consulting Services
Presentation

PUBLIC

CITY COUNCIL REPORT

DATE: December 6, 2018

TO: Mayor and Councilmembers

FROM: Leah Bloom, Housing and Grants Administrator
Daniel Folke, Acting Community Development Director

CC: Barbara Goodrich, City Manager; Shane Dille, Deputy City Manager; Sarah Darr, Housing Director; Justyna Costa, Housing Manager

SUBJECT: Update on Assistance to Displaced Households from the Closure of Arrowhead Mobile Home Park

Background:

During Council budget retreat in April 2018, a discussion was held considering decreasing the contingency fund balance by half of one percent to provide an ongoing funding source for emergency housing relocation assistance. The goal of the ongoing program would be to leverage other funding opportunities to provide relocation assistance. In the end, this option was set aside, resulting in Council budgeting $100,000 in one-time general funds for households being displaced from the closure of mobile home parks.

Staff was directed to work with Flagstaff Shelter Services' and Coconino County Community Services' existing programs as an interim measure to expedite assistance to residents pending displacement from the closure of Arrowhead Village. There was an initial $20,000 of funding specific to Arrowhead Village, with stated flexibility to allocate more should there be need.

In addition to Arrowhead Village, staff was directed to create a relocation assistance program with the remaining funds allocated for this purpose.

Arrowhead Village Assistance

- Four community meetings and three outreach meetings were hosted by Flagstaff Shelter Services and Coconino County Community Services – with City staff support.
- The Front Door via Flagstaff Shelter Services provided a Specialist to triage each household.
- A total of 35 Arrowhead households received Relocation Assistance Support via Flagstaff Shelter Services and Coconino County, 14 with city funding.

- The 14 households were assisted with $13,424.34 in city funding for relocation assistance, costing $2,013.65 in administrative fees payable to the fiscal agent.
    - Other leveraged funds: (more than $63k)
        - $2,500 - United Way of Northern Arizona contributed for professional interpretation services and printing costs.
        - $26,500 - Flagstaff Shelter Services leveraged rapid rehousing and other funding to support 12 additional households.
        - $12,225 - Coconino County assisted nine additional households.
        - $22,500 (estimate) - Arizona Department of Housing leveraged abandonment funds for 20 households
        - Staff estimates Arizona Department of Housing also assisted three households with relocation funds. ADOH has not been responsive to staff's request in obtaining the funding spent on relocation assistance.

In an effort to avoid future emergency situations concerning displaced populations due to the closure of mobile home parks, a Request for Proposals (RFP) will be published to identify housing service providers that have established programs in place to assist families and individuals in achieving housing permanency. The goal of the program will be to keep displaced populations housed and prevent them from entering Flagstaff's homeless system. Additionally, the RFP will seek leveraged capacity to maximize City resources and require the successful bidder to provide housing case management services.

Recommendation / Conclusion:

This City Council Report is for information only.

CONTRACT FOR CONSULTING SERVICES
Contract No.: 2019-62

MOBILE HOME PARK CLOSURE ASSISTANCE FOR DISPLACED RESIDENTS

This Contract is entered into this _____ day of _____, 2019 by and between the City of Flagstaff, a political subdivision of the State or Arizona ("City"), and Flagstaff Shelter Services, an Arizona non-profit organization ("Provider").

RECITALS

WHEREAS, the City of Flagstaff desires to enter into this Contract to obtain services related to mobile home park closure assistance for displaced residents and Provider is able to provide those services;

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

SERVICES

1. Scope of Work: Provider shall provide the services generally described as follows:

MOBILE HOME PARK CLOSURE ASSISTANCE FOR DISPLACED RESIDENTS

and as more specifically described in the scope of work attached hereto as ***Exhibit A.*** Amendments to the program criteria set forth in the Scope of Work, must be requested in written form only and must be approved by the City of Flagstaff Housing Director. Amendments shall only take effect if and after approval by the Housing Director.

2. Schedule of Services: Provider shall perform all work upon notification by the City of a qualifying event as set forth in ***Exhibit A.***

3. Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached hereto as ***Exhibit B*** are hereby incorporated by reference by reference and shall apply to performance of this Contract, except to the extent modified in Exhibit A.

4. Key Personnel/Subcontractors: Provider's Key Personnel, Subcontractors (if any), and contact information are designated in Exhibit A. Key Personnel are those employees whose license number and signature will be placed on key documents and those employees who have significant responsibilities for completion of the services. The City Representative for this Contract has the right to approve any proposed substitution of Key Personnel or Subcontractors.

CITY RESPONSIBILITIES

5. City Representative: The City Representative is Sarah Darr, Housing Director or her designee. All communications to the City shall be through the City Representative. City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the City Buyer.

6. City Cooperation: City will cooperate with Provider by placing at its disposal all available information concerning the City, City property, or the City program reasonably necessary for Provider's performance of this Contract.

CONTRACT TERM

7. Contract Term: The Contract shall be effective as of the date signed by both parties for a term of one (1) year. Performance shall commence within ten (10) days from the City's issuance of the Notice to Proceed, and shall be completed consistent with the Schedule of Services.

8. Renewal: This Contract may be renewed for four (4) additional one (1) year terms, upon the same terms by mutual written consent of the parties. The City Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.

9. Termination: This Contract may be terminated pursuant to the Standard Terms and Conditions attached hereto.

PAYMENT

10. Compensation: Provider shall not exceed $84,562.00 per annum the first year and based on satisfactory performance of work. Compensation will be pursuant to budget award by council the following renewal years and will be based on satisfactory performance of the work, in accordance with the Scope of Work attached hereto as part of ***Exhibit A.***

11. Price Adjustment: Any price adjustments must be approved by the City in writing as a formal Contract Amendment. The City Council must approve the price adjustment if the annual contract price exceeds $50,000; otherwise the City Manager or his designee (the Purchasing Director) shall have authority to approve a price adjustment on behalf of the City.

DATA AND RECORDS

12. City Ownership of Document and Data: Any original documents prepared or collected by Provider in performance of this Contract such as models, samples, reports, test plans, survey results, graphics, tables, charts, plans, maps, specifications, surveys, computations and other data shall be the property of City ("City's work product"), unless otherwise agreed by the parties in writing. Provider agrees that all materials prepared under this Contract are "works for hire" within the meaning of the copyright laws of the United States and hereby assigns to the City all rights and interests Provider may have in the materials it prepares under this Contract, including any right to derivative use of the material.

13. Re-Use. City may use City's work product without further compensation to Provider; provided, however, City's reuse without written verification or adaption by Provider for purposes other than contemplated herein is at City's sole risk and without liability to Provider. Provider shall not engage in any conflict of interest nor appropriate any portion of City's work product for the benefit of Provider or any third parties without City's prior written consent.

14. Delivery of Document and Data: Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Provider shall immediately deliver to City copies all of City's work product and any other documents and data accumulated by Provider in performance of this Contract, whether complete or in process.

INSURANCE

15. Insurance: Provider shall meet insurance requirements of the City, set forth in *Exhibit C.*

MISCELLANEOUS

16. Monthly Reports to City. Upon notification of a qualifying event from the City of Flagstaff, the Provider shall prepare and submit to the City by the second (2nd) Friday of each month a Monthly Performance Report. If the scope of the Contract has been fully completed and implemented, no further updates will be required. When the scope of this Contract is complete, Provider will provide a final report. The final report should be marked as final and should be inclusive of all necessary and pertinent information regarding the Contract as deemed necessary by the City. Notwithstanding anything to the contrary, the Provider shall not be required to provide any of the Provider's confidential or proprietary information in reports provided to the City, including without limitation, any information regarding research collaborators, research plans or any data, results or other information resulting from Provider's performance of research or any other activities relating thereto.

17. Notice: Any notice concerning this Contract shall be in writing and sent by certified mail and email as follows:

City of Flagstaff:
Patrick Brown, C.P.M. CPPB
City of Flagstaff
211 W. Aspen
Flagstaff, AZ 86001
pbrown@flagstaffaz.gov

Copy to:
Leah Bloom
City of Flagstaff
211 W. Aspen
Flagstaff, AZ 86001
lbloom@flagstaffaz.gov
Phone: (928) 213-2752

To Provider:
Ross Altenbaugh
Flagstaff Shelter Services
4185 E. Huntington Drive
Flagstaff, AZ 86004

Copy to:

18. Authority: Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

19. Program Criteria Amendments: Any program criteria amendments , whether requested by the Provider or directed by the City, will be approved at the City's sole discretion and in writing by the City of Flagstaff Housing Director.

FLAGSTAFF SHELTER SERVICES

_____

Print name:_____

Title:_____

CITY OF FLAGSTAFF

_____

Print name:_____

Title:_____

Attest:

_____

City Clerk

Approved as to form:

_____

City Attorney's Office

Notice to Proceed issued:_____, 2019

EXHIBIT A
SCOPE OF WORK

The Provider will provide the following professional services, in accordance with program criteria developed by the City of Flagstaff, attached to this Scope of Work as Attachment 1. The Program Criteria is subject to change in the sole discretion of the City of Flagstaff;

Upon notification by the City that an eligible event has occurred, distribute and seek reimbursement from the City for up to $84,562 in Mobile Home Park Relocation Assistance funds through the Provider's existing programs and/or through programs of community partners, as approved by the Provider, in a cost- effective, timely and efficient manner. Assistance funds to be provided to tenants of mobile home parks facing eviction due to park closure, or similar events as determined by the Flagstaff City Manager, with a goal of achieving housing permanency. The goal of the program would be to keep displaced populations housed and avoid households entering into Flagstaff's homeless system.

Assistance Requirements:

1. Mobile Home Park Relocation Assistance funds will be distributed through the provider's existing housing programs or approved community partner programs, and will be offered to residents being displaced due to closures of mobile home parks or other qualifying events.

1.1 The Provider will aim to utilize leverage resources to maximize City investment.

1.2 The Provide will provide housing case management services.

1.3 The Provider will have access to Rapid Rehousing Funding or similar funding source with a housing permanency purpose and will aim to utilize the funding whenever appropriate.

Project Administration:

2. Work collaboratively with the City's Housing Section to comply with the terms of this Contract.

2.1 Provide an invoice documenting all procurement and accounting records, including, receipts for all costs and expenditures (See Attachment B, parts I and II); and

2.2 Provide a "Performance Report" that incudes statistics on how many households received services and describes the progress on the performance of services.

2.3 The Provider must abide by City of Flagstaff audit requirements.

Program Criteria

Project Implementation Agency shall have responsibility for day-to-day management and implementation of the Project.

Changes in Scope of Services. No change(s) shall be made to the Scope of Services except by written Agreement amendment. To obtain an Agreement amendment, Agency must submit a revised Scope of Services with a written request for authorization for a Scope of Services amendment. If authorized, an Agreement amendment must be approved by the City Manager, and executed by duly authorized signatories, before the amendment will become effective.

Payments. Payment by the City to the Agency shall be made on a reimbursement basis. Reimbursement may be requested as frequently as monthly, but not less than quarterly. Reimbursement will be paid in dollar amounts approved by the City for work complete. The Agency must submit a final reimbursement request for expenses received and invoiced prior to the end of the termination of this Agreement no more than forty-five (45) days after the end of the Agreement. Requests for reimbursement received later than the forty-five (45) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL. All reports shall be submitted to the contact person as described in Section 23.3 of this Agreement. All payment requests must be submitted by line item and activity in conformance with the Budget attached as Exhibit C and incorporated by reference in this Agreement. All claims against this Agreement shall be made only for expenses incurred within the Agreement time period defined in Section 4. Final payment invoices must be received no later than sixty (60) days after completion of the scope of work or Agreement time period, whichever comes first. No payments shall be made on invoices received after that date.

Changes in Budget. Agency's variances from the Budget require a budget amendment. To obtain a budget amendment, Agency must submit a new budget to the City with a written request for authorization for a budget amendment. The City Manager or her designee is authorized to approve budget amendments as long as the amendment does not increase the total budget of the Project.

Agreement Commencement, Completion and Renewal. Authorization to proceed will be provided by the City in the form of a Notice to Proceed. There will be a written Notice to Proceed for each mobile home park closure. The Notice to Proceed will be provided to the Agency within reasonable time after the City is formally notified of a mobile home park closure. A formal notification for a mobile home park closure must be in written form from the property owner or a written letter to the tenant notifying the resident of relocation due to park closure. The Agency shall not proceed with the work without such authorization. The Agency agrees to complete the Project by three hundred sixty-five (365) days from the Issuance of the Notice to Proceed.

Reports to City. The Agency is responsible for a Performance Report and a Pay Request Form per mobile home park closure project.

Final Contract Close Out and Monitoring. The City shall monitor all mobile home park closure assistance projects for displaced residents once the contract is complete. Monitoring includes but is not limited to reviewing financial and programmatic reports provided by the Agency. The City shall follow-up and ensure that the Agency takes timely and appropriate action on all deficiencies pertaining to the project detected through audits, on-site reviews and other means. The Agency agrees to cooperate and provide all information necessary for the City to monitor the Agency periodically to ensure compliance with this Agreement, fiscal responsibility, adequate performance, and any other item of concern relating to the use of Mobile Home Park Closure Assistance for Displaced Residents funds and the provisions defined in this Agreement. The monitoring will take the form of at least one site visit of Agency's place of business. During the term of this Agreement, the Agency shall be monitored periodically by the City, both programmatically and financially, to ensure that the program's goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria, are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring can involve aspects of the work involved under this contract including but not limited to the review and analysis of the financial, programmatic, performance, and administrative issues relative to each program, and will identify areas where technical assistance and other support may be needed. All on-site monitoring shall take place during normal business hours, upon advance written notice, on dates and at times as mutually agreed upon by Agency and the City.

Final Contract Close-Out The Agency's obligation to the City shall not end until all close-out requirements and monitoring are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records. The City will send the Agency written notification that a Final Contract Close-Out Report is due when one of the following contractual obligations have been met, and the Agency shall submit the Final Contract Close-Out Report attached in that letter within sixty (60) days of receiving this notification:

1. The Mobile Home Park Closure Assistance for Displaced Residents funds have been expended and the Scope of Work has been completed; or
2. The Agreement period stated in Contract has expired.

EXHIBIT B
CITY OF FLAGSTAFF
STANDARD TERMS AND CONDITIONS

IN GENERAL

1. **NOTICE TO PROCEED:** Contractor shall not commence performance until after City has issued a Notice to Proceed.

2. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract, and provide copies to City upon request.

3. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of this Contract.

4. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, this Contract is non-exclusive and the City reserves the right to contract with others for materials or services.

5. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

MATERIALS

6. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.

7. **QUALITY:** Contractor warrants that all materials supplied under this Contract will be new and free from defects in material or workmanship. The materials will conform to any statements made on the containers or labels or advertisements for the materials, and will be safe and appropriate for use as normally used. City's inspection, testing, acceptance or use of materials shall not serve to waive these quality requirements. This warranty shall survive termination or expiration of the Contract.

8. **ACCEPTANCE:** All materials and services provided by Contract are subject to final inspection and acceptance by the City. Materials and services failing to conform to the Contract specifications may be rejected in whole or part. If rejected, Contractor is responsible for all costs associated arising from rejection.

9. **MANUFACTURER'S WARRANTIES:** Contractor shall deliver all Manufacturer's Warranties to City upon City's acceptance of the materials.

10. **PACKING AND SHIPPING:** Contractor shall be responsible for industry standard packing which conforms to requirements of carrier's tariff and ICC regulations. Containers shall be clearly marked as to lot number, destination, address and purchase order number. All shipments shall be F.O.B. Destination, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001, unless otherwise specified by the City. C.O.D. shipments will not be accepted.

11. **TITLE AND RISK OF LOSS:** The title and risk of loss of material shall not pass to the City until the City actually receives the material at the point of delivery, and the City has completed

inspection and has accepted the material, unless the City has expressly provided otherwise in the Contract.

12. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender without prior written approval from the City.

13. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor and may not substitute nonconforming materials, or services. Delivery of nonconforming materials, and/or services, or a default of any nature, at the option of the City, shall constitute shall deliver conforming materials, or services, in each installment or lot of the contract a breach of the contract as a whole.

14. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials.

15. **LIENS:** All materials and other deliverables supplied to the City shall be free of all liens other than the security interest held by Contractor until payment in full is made by the City. Upon request of the City, Contractor shall provide a formal release of all liens.

16. **CHANGES IN ORDERS:** The City reserves the right at any time to make changes in any one or more of the following: (a) methods of shipment or packing; (b) place of delivery; and (c) quantities. If any change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be evidenced in writing and approved by the City Purchasing Director prior to the institution of the change.

PAYMENT

17. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number, and dates when goods were shipped or work performed. Invoices shall be sent within 30 days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.

18. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.

19. **TAXES:** Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of this Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

    Exception: The City will pay any taxes which are specifically identified as a line item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.

20. FEDERAL EXCISE TAXES: The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.

21. FUEL CHARGES: Contractor at its own expense is liable for all fuel costs related to performance. No fuel surcharges will be accepted or paid by City.

22. DISCOUNTS: If the Contract provides for payment discounts, payment discounts will be computed from the later date of the following: (a) when correct invoice is received by the City; or (b) when acceptable materials and/or materials were received by City.

23. AMOUNTS DUE TO THE CITY: Contractor must be current and remain current in all obligations due to the City during performance. Payments to Contractor may be offset by any delinquent amounts due to City or fees and charges owed to City under this Contract.

24. OFAC: No City payments may be made to any person in violation of Office of Foreign Assets Control regulations, 31 C.F.R. Part 501.

SERVICES

25. INDEPENDENT CONTRACTOR: Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.

26. CONTROL: Contractor shall be responsible for the control of the worksite.

27. WORK SITE: Contractor shall inspect the worksite and notify the City in writing of any deficiencies or needs prior to commencing work.

28. SAFEGUARDING PROPERTY: Contractor shall responsible for any damage to real property of the City or adjacent property in performance of the work and safeguard the worksite.

29. QUALITY: All work shall be of good quality and free of defects, performed in a diligent and professional manner.

30. ACCEPTANCE: If work is rejected by the City due to noncompliance with the Contract, The City, after notifying Contractor in writing, may require Contractor to correct the deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.

31. WARRANTY: Contractor warrants all work for a period of one (1) year following final acceptance by the City. Upon receipt of written notice from the City, Contractor at its own expense shall promptly correct work rejected as defective or as failing to conform to the Contract, whether observed before or after acceptance, and whether or not fabricated, installed or completed by Contractor, and shall bear all costs of correction. If Contractor does not correct deficiencies within a reasonable time specified in the written notice from the City, the City may perform the work and Contractor shall be liable for the costs. This one-year warranty is in addition to, and does not limit Contractor's other obligations herein. This warranty shall survive termination or expiration of the Contract.

INSPECTION, RECORDS, ADMINISTRATION

32. RECORDS: The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five (5) years after completion of the Contract.

33. RIGHT TO INSPECT BUSINESS: The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.

34. PUBLIC RECORDS: This Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law, A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.

35. CONTRACT ADMINISTRATION: Contractor will be required to participate in the City's Contract Administration Process. Contractor will be closely monitored for contract compliance and will be required to promptly correct any deficiencies.

INDEMNIFICATION, INSURANCE

36. GENERAL INDEMNIFICATION: Contractor shall indemnify, defend and hold harmless the City, its council, boards and commissions, officers, employees from all losses, claims, suits, payments and judgments, demands, expenses, attorney's fees or actions of any kind resulting from personal injury to any person, including employees, subcontractors or agents of Contractor or damages to any property arising or alleged to have arisen out of the negligent performance of the Contract, except any such injury or damages arising out of the sole negligence of the City, its officers, agents or employees. This indemnification provision shall survive termination or expiration of the Contract. This indemnification clause shall not apply, if a different indemnification clause is included in the City's Specific Terms and Conditions.

37. INSURANCE: Contractor shall maintain all insurance coverage required by the City, including public liability and worker's compensation.

38. INTELLECTUAL PROPERTY INDEMNIFICATION: Contractor shall indemnify and hold harmless the City against any liability, including costs and expenses, for infringement of any patent, trademark or copyright or other proprietary rights of any third parties arising out of contract performance or use by the City of materials furnished or work performed under this Contract. Contractor shall promptly assume full responsibility for the defense of any suit or proceeding which is, has been, or may be brought against the City and its agents for alleged infringement, or alleged unfair competition resulting from similarity in design, trademark or appearance of goods, and indemnify the City against any and all expenses, losses, royalties, profits and damages, attorneys fees and costs resulting from such proceedings or settlement thereof. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

39. PRICE INCREASES: Except as expressly provided for in the Contract, no price increases will be approved.

40. COMPLETE AGREEMENT: The Contract is intended to be the complete and final agreement of the parties.

41. AMENDMENTS: This Contract may be amended by written agreement of the parties.

42. SEVERABILITY: If any term or provision of this Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted, and the remainder of this Contract shall remain in full force and effect.

43. NO WAIVER: Each party has the right insist upon strict performance of the Contract, and the prior failure of a party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.

44. ASSIGNMENT: This Contract may be assigned by Contractor with prior written consent of the City, which will not be unreasonably withheld. Any assignment without such consent shall be null and void. Unless expressly provided for in a separately executed Consent to Assignment, no assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to City. The Purchasing Director shall have authority to consent to an assignment on behalf of City.

45. BINDING EFFECT: This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

46. SUBCONTRACTING: Contractor may subcontract work in whole or in part with the City's advance written consent. City reserves the right to withhold consent if subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.

47. NONDISCRIMINATION: Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition any Contractor located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02Civil Rights which also prohibits discrimination based on sexual orientation, or gender identity or expression.

48. DRUG FREE WORKPLACE: The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and programs. Contractor personnel shall abstain from use or possession of illegal drugs while engaged in performance of this Contract.

49. IMMIGRATION LAWS: Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all State and Federal Immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty"). A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City. The City retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on this Contract to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections. The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any subcontractors to ensure compliance with Contractor's Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed. Neither Contractor nor any subcontractor shall

be deemed to have materially breached the Contractor Immigration Warranty if Contractor or subcontractor if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

DEFAULT AND TERMINATION

50. TERMINATION FOR DEFAULT: Prior to terminating this Contract for a material breach, the non-defaulting party shall give the defaulting party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting party in writing. In the event the breach is not timely cured, or in the event of a series of repeated breaches the non-defaulting party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the parties may execute all remedies available at law in addition Contract remedies provided for herein.

51. CITY REMEDIES: In the event of Contractor's default, City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.

52. CONTRACTOR REMEDIES: In the event of City's default, Contractor may pursue all remedies available at law, except as provided for herein.

53. SPECIAL DAMAGES: In the event of default, neither party shall be liable for incidental, special, or consequential damages.

54. TERMINATION FOR NONAPPROPRIATION OF FUNDS: The City may terminate all or a portion of this Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.

55. TERMINATION FOR CONVENIENCE: Unless expressly provided for otherwise in the Contract, this Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If this Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by City before the effective date of termination.

56. TERMINATION DUE TO INSOLVENCY: If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate this Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.

57. PAYMENT UPON TERMINATION: Upon termination of this Contract, City will pay Contractor for satisfactory performance up until the effective date of termination. City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.

58. CANCELLATION FOR GRATUITIES: The City may cancel this Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant ("Gratuities") in connection with award or performance of the Contract.

59. CANCELLATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511): The City may cancel this Contract within three (3) years after its execution, without penalty or further liability to Contractor.

MISCELLANEOUS

60. ADVERTISING: Contractor shall not advertise or publish information concerning its Contract with City, without the prior written consent of the City.

61. NOTICES: All notices given pursuant to this Contract shall be delivered at the addresses as specified in the Contract, or updated by Notice to the other party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four (4) days after being sent; (c) or sent by overnight courier, with receipt deemed effective two (2) days after being sent Notice may be sent by email as a secondary form of notice.

62. THIRD PARTY BENEFICIARIES: This Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.

63. GOVERNING LAW: This Contract shall be construed in accordance with the laws of Arizona.

64. FORUM: In the event of litigation relating to this Contract, any action at law or in equity shall be filed in Coconino County, Arizona.

65. ATTORNEYS FEES: If any action at law or in equity is necessary to enforce the terms of this Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, professional fees and expenses.

EXHIBIT C
CITY OF FLAGSTAFF
STANDARD INSURANCE REQUIREMENTS

1. In General. Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with this Contract by the Contractor, its agents, representatives, employees or contractors.

2. Requirement to Procure and Maintain. Each insurance policy required by this Contract shall be in effect at, or before, commencement of work under this Contract and shall remain in effect until all Contractor's obligations under this Contract have been met, including any warranty periods. The Contractor's failure to maintain the insurance policies as required by this Contract or to provide timely evidence of renewal will be considered a material breach of this Contract.

3. Minimum Scope and Limits of Insurance. The following insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City does not represent or warrant that the minimum limits set forth in this Contract are sufficient to protect the Contractor from liabilities that might arise out of this Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

   Contractor shall provide coverage at least as broad and with limits not less than those stated below.

   a. Commercial General Liability - Occurrence Form

      General Aggregate $2,000,000
      Products/Completed Operations $1,000,000
      Each Occurrence $1,000,000

   b. Umbrella Coverage $2,000,000

   c. Automobile Liability –
      Any Automobile or Owned, Hired
      and Non-owned Vehicles
      Combined Single Limit Per Accident
      for Bodily Injury & Property Damage $1,000,000

   d. Workers' Compensation and Employer's Liability

      Workers' Compensation Statutory
      Employer's Liability: Each Accident $500,000
      Disease - Each Employee $500,000
      Disease - Policy Limit $500,000

   [OPTION: e. Professional Liability $2,000,000]

4. Self-Insured Retention. Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that the insurer reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and volunteers. Contractor shall be solely responsible for any self-insured retention amounts. City at its option may require Contractor to secure payment of such self insured retention by a surety bond or irrevocable and unconditional letter of credit.

5. Other Insurance Requirements. The policies shall contain, or be endorsed to contain, the following provisions:

   a. Additional Insured. In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents and employees shall be named and endorsed as additional insureds with respect to liability arising out of this Contract and activities performed by or on behalf of the Contractor, including products and completed operations of the Contractor, and automobiles owned, leased, hired or borrowed by the Contractor.

   b. Broad Form. The Contractor's insurance shall contain broad form contractual liability coverage.

   c. Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, agents and employees, shall be in excess of the coverage of the Contractor's insurance and shall not contribute to it.

   d. Each Insured. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

   e. Not Limited. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

   f. Waiver of Subrogation. The policies shall contain a waiver of subrogation against the City, its officers, officials, agents and employees for losses arising from work performed by Contractor for the City.

6. Notice of Cancellation. Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, cancelled, reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Buyer listed in the original Solicitation and shall reference the Contract Number:

   Attention: Patrick Brown, Purchasing Manager
   Contract No. 2019-62
   Purchasing Department
   City of Flagstaff,
   211 W. Aspen Avenue
   Flagstaff, Arizona 86001

7. Acceptability of Insurers. Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

8. Certificates of Insurance. The Contractor shall furnish the City with certificates of insurance (ACORD form) as required by this Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City program/contract number and program description shall be noted on the certificates of insurance. The City must receive and approve all certificates of insurance and endorsements before the Contractor commences work.

9. Policies. The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by this Contract at any time. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under this Contract.

10. Modifications. Any modification or variation from the insurance requirements in this Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.

ATTACHMENT C

PAY REQUEST (Part I) AND EXPENSE REPORT (Part II)

ATTACHED IN SEPARATE DOCUMENT

ATTACHMENT D

PERFORMANCE REPORT

ATTACHED IN SEPARATE DOCUMENTS

END OF RSOQ

Mobile Home Assistance for Displaced Residents Program

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Leah Bloom, Housing & Grants

Historical Timeline

2019 Budget

- Council allocated $100,000 in one-time general funds for households being displaced from the closure of mobile home parks

2018 & 2019

- Staff worked with Flagstaff Shelter Services and Coconino County Community Services' existing programs to assist Arrowhead Residents
  - Successful collaboration which assisted 35 households

- Staff was directed to create a relocation assistance program with the remaining $84,526 in funding allocated for this purpose.

Procurement & Program Creation

Request for Statement of Qualifications was established to identify housing service providers that had established programs in place to assist families and individuals in achieving housing permanency

FLAGSTAFF SHELTER SERVICES

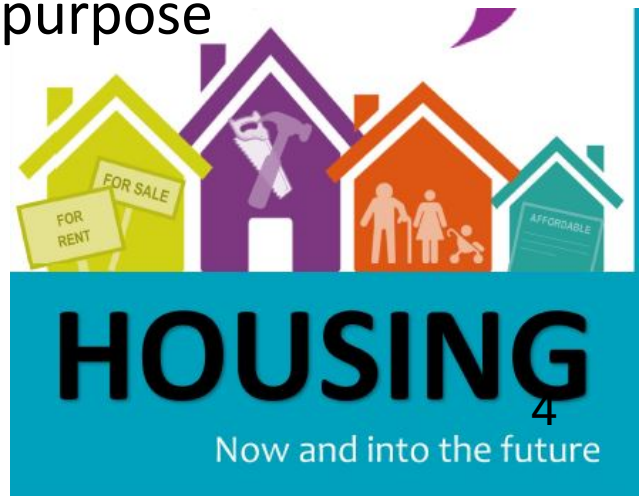
Flagstaff Shelter Services was the single respondent

Program Goal

To keep displaced populations housed and prevent them from entering Flagstaff's homeless system

Flagstaff Shelter Services will

- Utilize leveraged resources to maximize City investment.
- Provide housing case management services
- Access to Rapid Rehousing Funding or similar funding source with a housing permanency purpose



13. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Cliff Bryson, Labor Standards Manager
Co-Submitter:	Sarah Langley
Date:	05/17/2019
Meeting Date:	05/21/2019

TITLE

Discussion/Direction: Current Issues Before Arizona Legislature and Federal Issues.

STAFF RECOMMENDED ACTION:

Information Only

EXECUTIVE SUMMARY:

On Friday May 17, 2019 the state legislative completed its 124th day of the session. To date, 258 bills have been submitted to the Governor with Governor Ducey signing 237 bills into law. The Governor has vetoed 7 bills with one bill receiving a lot of support throughout the session HB2473 (State Liquor Board; Membership) being one of seven bills being vetoed. The active bills will continue to decline as the Senate, House and Governor's office continue complete the FY2020 state budget.

As far as the state budget, Senate Leadership plans to begin introducing budget bills as early as Monday May 20, 2019. From January of 2019 through March of 2019 there was a 6.2% increase or $598 million-dollar growth in state revenues compared to 2018 during the same time range. The Governor wants to place roughly ½ billion dollars into rainy day fund after many have estimated the state will have a 1 billion surplus. This is after a slight decline in revenues in January of 2019. There is still a lot of support for passing tax cuts consistent with federal tax adjustments and/or paying down state debt that added up during the recession. There is continual support to increase education spending. During the 2019 session, several bills were introduced directing general fund revenues to infrastructure that continue to be part of the budget discussion. For example, I-17, I-10 Widening study, Globe Bridge Project, tribal roads & Bridges, airports and statewide funding for county and municipal road systems.

General Bill Overview:

SB1225 (Appropriation; Developmental Disabilities Services Providers) introduced by Sen. Allen which would appropriates funding for social service providers in the city of Flagstaff with a match base clause continues to be at the discussion table in the budget. The city is continuing to work with the state to provide legal language on reporting requirements (AHCCCS).

HB2115 (Landlord Tenant; State Preemption) state preemption bill preempting cities and towns from enacting any regulations related to landlord-tenant issues. HB2115 as amended will exclude those regulations/ordinances addressing landlord tenant issues by a city and town adopted before December 31, 2018. HB2115 is awaiting Senate Committee of the Wholes and vote.

SB1001 (Highway Safety Fee) repeals the $32 Highway safety fee passed in 2018 to eliminate the HURF transfers to Highway Patrol is still being held in House Rules Committee.

SB1147 S/E (Tobacco Products; Vapor Products) strike everything bill and an unnecessary preemption of local public health and safety regulations, passed amended on May 15.

HB2473 (State Liquor Board; Membership) which would have provided more local representation on the state local board was vetoed by the Governor on May 14.

HB2672 (Vacation Rentals; Short-Term Rentals; Regulation) providing regulations on short-term rentals and providing penalties for violations was transmitted to the Governor.

Wayfair: The first amended language reviewed included all toggles excluding the feedstore toggle. An additional amendment was received with a 5-year moratorium instead of a 7-year moratorium. The senate amendment was reviewed containing language for all toggles. There was no language regarding offsetting funding from cities, which is positive for the cities and towns. The Senate wants to bundle conformity and Wayfair, but House wants standalone bills (Conformity, Wayfair, Digital Goods). Further discussions are continuing with Wayfair within the budget process.

Federal Legislative Update:

Draft House Energy and Water bill which includes language making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2020, and for other purposes to introduced on May 13 2019. The bill provides substantial increases for the Army Corps budget.

INFORMATION:

No Additional Information

Attachments: State and Federal Legislative Update



STATE & FEDERAL LEGISLATIVE UPDATE

CLIFF BRYSON

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

05/21/19 Presentation Outline

1. State Legislative Overview
2. State Budget Overview
3. Federal Legislative Overview
4. Bill Overview

State Legislative Update

General Legislative Overview

- 124 days of the session completed
- 258 bills transmitted to the Governor
- 237 bills signed by the Governor
- 7 bills were vetoed

State Legislative Update

State Budget Overview

- Senate Leadership plans to begin introducing budget bills as early as Monday May 20, 2019.
- January 19-March 19 showed a 6.2% ($598 million dollar) state revenue growth which is above same time range in 2018.
- Governor Ducey wants to place roughly ½ billion dollars into rainy day fund (estimated to be a 1 billion surplus).
- Support for passing tax cuts consistent with federal tax adjustments and/or paying down state debt that added up during the recession.

State Legislative Update

State Budget Overview

- Continual support to increase education spending.
- Several bills introduced early in the sessions directing general fund revenues to infrastructure continue to part of the budget discussion. (*I-17, I-10 Widening study, Globe Bridge Project, tribal roads & Bridges, airports and statewide funding for county and municipal road systems*).

Federal Legislative Update

Federal Legislative Overview

- Draft House Energy and Water bill includes language making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2020 submitted on May 13.
- Bill provides substantial increases for the Army Corps budget.

State Legislative Update

SB1225: Appropriation; Developmental Disabilities Services Providers

- Introduced by Sen. Allen which would appropriates funding for social service providers in the city of Flagstaff with a match base clause.
- Continues to be a discussion item for the budget.
- City is continuing to work with the state to provide legal language on reporting requirements (AHCCCS).

State Legislative Update

HB2115: Landlord Tenant; State Preemption

- State preemption bill preempting cities and towns from enacting any regulations related to landlord-tenant issues.
- Excludes those regulations/ordinances addressing landlord tenant issues by a city and town adopted before December 31, 2018.
- Contains preemption clause still
- HB2115 is awaiting Senate Committee of the Wholes and vote.

State Legislative Update

SB1001: Highway Safety Fee

- Sponsored by Sen. Ugenti-Rita
- Would repeals the $32 Highway safety fee passed in 2018 to eliminate the HURF transfers to Highway Patrol.
- Amendment adopted to require the Highway Patrol to be fully funded by the General Fund.
- Possibility of driving down the fee to $24

State Legislative Update

SB1147 S/E Tobacco Products; Vapor Products

- Strike everything amendment bill.
- Unnecessary preemption of local public health and safety regulations.
- passed with a (Do Passed Amended) on May 15.

State Legislative Update

HB2473: State Liquor Board; Membership

- Introduced by Rep. Kern
- which would have provided more local representation on the state local board.
- Governor vetoed on May 14
- Governor stated that the bill added an additional step to the nomination process resulting in inconsistencies in the selection process.
- Supportive of future discussion

State Legislative Update

HB2672:Vacation Rentals; Short-Term Rentals; Regulation

- Introduced by Rep. Kavanagh
- Provides regulations on short-term rentals and providing penalties for violations for cities and towns.
- Transmitted to Governor on May 15.

State Legislative Update

Wayfair

- Amended Language excluded Feedstore toggle (All other toggles were included)
- Amended language include a 5-year moratorium instead of a 7-year moratorium
  - Addresses no attacks on the Model City Tax Code
- No offsetting of revenues include in language

STATE & FEDERAL LEGISLATIVE UPDATE

Questions

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

15. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	05/13/2019
Meeting Date:	05/21/2019

TITLE:

Future Agenda Item Request (F.A.I.R.): A request by Councilmember Whelan to place on a future agenda a discussion about a committee of two councilmembers and staff to look at the I-40 corridor lands and Red Gap Ranch for economic development and give direction for our economic development and land use.

STAFF RECOMMENDED ACTION:

Council direction.

Executive Summary:

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Councilmember Whelan has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there are another three members of Council interested in placing it on a future agenda.

Financial Impact:

Policy Impact:

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

Previous Council Decision on This:

Attachments:

15. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	05/13/2019
Meeting Date:	05/21/2019

TITLE:

Future Agenda Item Request (F.A.I.R.): A request by Councilmember Odegaard to place on a future agenda a discussion on how the city can add more residential units within the single-family residential zoning parcels.

STAFF RECOMMENDED ACTION:

Council direction.

Executive Summary:

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Councilmember Odegaard has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there are another three members of Council interested in placing it on a future agenda.

Financial Impact:

Policy Impact:

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:

Previous Council Decision on This:

Attachments: