FINAL AGENDA

REGULAR COUNCIL MEETING **COUNCIL CHAMBERS**
TUESDAY **211 WEST ASPEN AVENUE**
SEPTEMBER 3, 2019 **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. PROCLAMATIONS AND RECOGNITIONS

A. Recognition of Terra BIRDS

6. 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:** Housing Commission

STAFF RECOMMENDED ACTION:

Make four appointments to terms expiring in September 2022.
Make four appointments to terms expiring in September 2021.
Make four appointments to terms expiring in September 2020.

7. LIQUOR LICENSE PUBLIC HEARINGS

A. **Consideration and Action on Liquor License Application:** Rafael Ilishayev, Yakit Gola, and Andrea Lewkowitz "GoBooze," 2001 E. Huntington Dr., Suite 1, Series 10 (beer and wine store), New License.

STAFF RECOMMENDED ACTION:

Open the public hearing.
Receive citizen input.
Close the public hearing.

The City Council has the option to:
(1) Forward the application to the State with a recommendation for approval;
(2) Forward the application to the State with a recommendation for denial based on information from staff, the testimony received at the public hearing and/or other factors.

B. **Consideration and Action on Liquor License Application:** Michael Dean Diesemeyer and Andrea Lewkowitz "ATL Wings," 1300 S. Milton Road, Suite 107A, Series 12 (restaurant), New License.

STAFF RECOMMENDED ACTION:

Open the public hearing.
Receive citizen input.
Close the public hearing.

The City Council has the option to:
(1) Forward the application to the State with a recommendation for approval;

(2) Forward the application to the State with a recommendation for denial based on information from staff, the testimony received at the public hearing and/or other factors.

C. **Consideration and Action on Liquor License Application:** Mitul Patel and Juanita Alicia Esparza "Country Host Restaurant & Porky's Pub," 2285 E. Butler Avenue, Series 12 (restaurant), New License.

STAFF RECOMMENDED ACTION:

Open the public hearing.
Receive citizen input.
Close the public hearing.

The City Council has the option to:
(1) Forward the application to the State with a recommendation for approval;
(2) Forward the application to the State with a recommendation for denial based on information from staff, the testimony received at the public hearing and/or other factors.

8. CONSENT ITEMS

All matters under Consent Agenda are considered by the City Council to be routine and will be enacted by one motion approving the recommendations listed on the agenda. Unless otherwise indicated, expenditures approved by Council are budgeted items.

A. **Consideration and Approval:** Cooperative Purchase Contract with SiteOne Landscape Supply, Inc., in the amount of $105,678.71, for a smart irrigation management system for all park grounds.

STAFF RECOMMENDED ACTION:

1. Approve the cooperative purchase contract in the amount of $105,678.71 with SiteOne Landscape Supply, Inc. ("SiteOne") to purchase a smart irrigation system for all park grounds through BuyBoard Contract #529-17; and
2. Authorize the City Manager to execute the necessary documents.

B. **Consideration and Approval:** Service Provider Contract with United Way of Northern Arizona in the amount of $363,750 for Fiscal Year 2019-2020.

STAFF RECOMMENDED ACTION:

1. Award the Service Provider Contract and allocate funds to United Way of Northern Arizona ("UWNA") in the amount of $363,750 for the fiscal year 2019-2020 to provide community health and human services; and
2. Authorize the City Manager to execute the necessary documents.

C. **Consideration and Approval:** Cooperative Purchase of Server Hardware from Dell Marketing, L.P. in the amount of $59,742.48 plus applicable sales tax.

STAFF RECOMMENDED ACTION:

1. Approve the purchase of server hardware in the amount of $59,742.48, plus applicable sales tax, from Dell Marketing, L.P. ("Dell") using Dell's cooperative purchasing agreement with the State of Arizona - State Procurement Office; and
2. Authorize the City Manager to execute the necessary documents.

D. **Consideration and Approval of Contract:** Purchase of Annual Software Maintenance for GIS Software from Environmental Systems Research Institute, Inc.

STAFF RECOMMENDED ACTION:

1. Approve the Master Agreement and 3-year Small Enterprise Agreement - County and Municipality Government Agreement ("Software Maintenance Agreement") with Environmental Systems Research Institute, Inc. ("Esri") in an amount not to exceed $50,000 annually (plus applicable taxes); and
2. Authorize the City Manager to execute the necessary documents.

E. **Consideration and Approval of Purchase:** The purchase of five (5) 2020 Ford Police Interceptor Utility Hybrid vehicles, in the amount of $199,552.40 from Babbitt Ford Lincoln Mercury. It should be noted the total includes all applicable fees and taxes, as well as the local Transaction Privilege Tax; the actual cost to the City will be slightly less, once the TPT is paid back to the city. (TPT- 2.051%)

STAFF RECOMMENDED ACTION:

1. Approve the purchase to Babbitt Ford for the purchase of five (5) 2020 Ford Police Interceptor Utility Hybrid vehicles, a total cost of $199,552.40 (includes all applicable taxes and fees).
2. Authorize the City Manager to execute the necessary documents.

F. **Consideration and Approval of Final Plat:** Request by Capital Equity Investments, LLC, for Final Plat approval for Flagstaff Lofts Condominiums, consisting of six (6) residential condominium units and one (1) commercial unit on approximately 0.37 acres, located at 602 West Coconino Avenue in the High Density Residential (HR) Zone. **(Subdivision of 0.37 acres into 7 units located at 602 W. Coconino Avenue)**

STAFF RECOMMENDED ACTION:

Staff recommends the City Council approve the final plat and authorize the Mayor to sign the plat when notified by staff that the documents are ready for recording. Note that a city/subdivider agreement is not required for this condominium subdivision since no public improvements are required.

9. **ROUTINE ITEMS**

A. **Discussion and Direction:** Joint Meetings with Community Partners

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).

10. ROLL CALL

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

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

11. PLEDGE OF ALLEGIANCE

12. PUBLIC PARTICIPATION

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

14. REGULAR AGENDA

A. Consideration and Adoption of Ordinance No. 2019-27: Direct to Ordinance Zoning Map Amendment, by Miramonte Arizona, LLC, for Ponderosa Parkway of approximately 11.97 acres located at 1650 East Ponderosa Parkway from the Rural Residential (RR) zone to the High Density Residential (HR) zone. The development site is located within the Resource Protection Overlay (RPO).

STAFF RECOMMENDED ACTION:

Staff recommends the City Council, in accordance with the findings presented by staff, approve the requested Direct to Ordinance Zoning Map Amendment for Ponderosa Parkway, LLC (PZ-17-00227-03) and take the following action:

1) Read Ordinance No. 2019-27 by title only for the final time
2) City Clerk reads Ordinance No. 2019-27 by title only (if approved above)
3) Adopt Ordinance No. 2019-27

B. **Consideration and Adoption of Resolution No. 2019-43:** A resolution authorizing the execution of a Development Agreement between Ponderosa Parkway, LLC and the City of Flagstaff related to the development of approximately 11.97 acres of real property located 1650 East Ponderosa Parkway. (Miramonte at Ponderosa Parkway Condominiums Development Agreement)

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-43 by title only
2) City Clerk reads Resolution No. 2019-43 by title only (if approved above)
3) Adopt Resolution No. 2019-43

C. **Consideration and Adoption of Ordinance No. 2019-28:** An ordinance of the Flagstaff City Council accepting drainage and slope easements along Ponderosa Parkway; delegating authority, and establishing an effective date.

STAFF RECOMMENDED ACTION:

At the September 3, 2019 Council Meeting:
1) Read Ordinance No. 2019-28 by title only for the first time
2) City Clerk reads Ordinance No. 2019-28 by title only (if approved above)
At the September 17, 2019 Council Meeting:
3) Read Ordinance No. 2019-28 by title only for the final time
4) City Clerk reads Ordinance No. 2019-28 by title only (if approved above)
5) Adopt Ordinance No. 2019-28

D. **Consideration and Adoption of Resolution No. 2019-42:** A resolution of the Flagstaff City Council, declaring, for the purposes of Section 1.150-2 of the Federal Treasury Regulations, official intent to be reimbursed in connection with certain capital expenditures relating to the Municipal Court Facilities Project, Water Projects, Wastewater Projects and Stormwater Projects, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-42 by title only
2) City Clerk reads Resolution No. 2019-42 by title only (if approved above)
3) Adopt Resolution No. 2019-42

E. **Consideration and Adoption of Resolution No. 2019-40:** A resolution approving an Intergovernmental Agreement (IGA) with Coconino County for shared building inspection and plan review services.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-40 by title only
2) City Clerk reads Resolution No. 2019-40 by title only (if approved above)
3) Adopt Resolution No. 2019-40

F. **Consideration and Adoption of Resolution No. 2019-41:** A resolution urging the Arizona Legislature to hear and ratify an amendment to the Constitution of the United States relative to equal rights for men and women.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-41 by title only
2) City Clerk reads Resolution No. 2019-41 by title only (if approved above)
3) Adopt Resolution No. 2019-41

G. **Consideration and Approval of a Contract:** With Gotcha Mobility, LLC ("Gotcha") for Bike Share Systems.

STAFF RECOMMENDED ACTION:

Approve award of contract with Gotcha, a bike share system company, to provide an innovative and cost-effective bike share system that will advance multi-modal transportation options for Flagstaff and Northern Arizona University.

H. **Consideration and Adoption of Resolution No. 2019-38:** A resolution of the Flagstaff City Council, repealing Resolution No. 2016-33 which adopted the *2016 Board and Commission Members' Rules and Operations Manual*, and adopting the *2019 Board and Commission Members' Rules and Operations Manual* and the *2019 Board and Commission Staff Liaison Resource Guide.*

RECOMMENDED ACTION:

1) Read Resolution No. 2019-38 by tittle only
2) City Clerk reads Resolution No. 2019-38 by title only (if approved above)
3) Adopt Resolution No. 2019-38

I. **Consideration and Direction:** Board and Commission Council Representative Assignments

STAFF RECOMMENDED ACTION:

Make Council Representative Assignments to the following Commissions:

1. Airport Commission
2. Beautification and Public Art Commission
3. Commission on Diversity Awareness
4. Commission on Inclusion and Adaptive Living
5. Heritage Preservation Commission
6. Housing Commission
7. Open Spaces Commission
8. Parks and Recreation Commission
9. Planning and Zoning Commission
10. Sustainability Commission
11. Tourism Commission
12. Transportation Commission
13. Water Commission
14. Any other commissions Council feels necessary

15. COUNCIL LIAISON REPORTS

16. 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 Mayor Evans to place on a future agenda a discussion about the fees the City assesses for special events on private property and the possibility of implementing a staggered fee schedule similar to what is done for events on public property.

B. **Future Agenda Item Request (F.A.I.R.)** A Citizens' Petition requesting Council consideration of adding a grandfather clause to Ordinance 2019-24 (T21 Smoking Ordinance).

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

18. 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

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration of Appointments: Housing Commission

STAFF RECOMMENDED ACTION:

Make four appointments to terms expiring in September 2022.
Make four appointments to terms expiring in September 2021.
Make four appointments to terms expiring in September 2020.

Executive Summary:

The Housing Commission will consist of thirteen (13) voting members; twelve (12) members appointed by the City Council and one (1) representative from the Flagstaff Housing Authority Board of Commissioners. The Commission will serve as an advisory board to City Council regarding housing policies, needs, and programs in Flagstaff. As this is a new commission, there are currently 13 seats available with 12 seats available for appointment at this time. The Flagstaff Housing Authority Board of Commissioners will appoint a representative at a later FHA meeting.

With 12 appointments occurring simultaneously, Council may wish to consider discussing the appointments in Executive Session to avoid discussion outside of a public meeting and duplication of appointments.

The authority for the commission requires that the members shall be appointed into one of three professional categories: Building and Real Estate Professionals (6 members requiring at least one builder, one developer, one realtor, one lender, and one residential multi-family/property management representative); Low Income Housing Experts (3 members); and Community Representatives (3 members).

There are 33 applications on file for consideration by the Council. A listing of applicants and the categories they have self-identified as is attached.

Please note that Khara House is currently seated on the Commission on Diversity Awareness; her term expires in September. According to the Board and Commission Members' Rules and Operations Manual she is eligible to apply for another commission and if appointed her service would immediately end on the Commission on Diversity Awareness. In clarifying this for Ms. House, she has indicated that her first choice is the Housing Commission.

In an effort to reduce exposure to personal information, the applicant roster and applications will be submitted to the City Council separately.

To maintain the randomness of Councilmember appointments the appointment assignment list will be repeated. Some Councilmembers will be able to make two appointments and some will only make one appointment.

COUNCIL APPOINTMENT ASSIGNMENT: Councilmember McCarthy, Councilmember Whelan, Vice Mayor Shimoni, Mayor Evans, Councilmember Odegaard, Councilmember Salas, and Councilmember Aslan.

Financial Impact:

These are voluntary positions and there is no budgetary impact to 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 12 Commissioners: By appointing members at this time, the Housing Commission will be at full membership, 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 were posted on the City's website and multiple social media posts were made. An article was printed in the Arizona Daily Sun along with a printed advertisement calling for members. Additionally, outreach was done through the online community forum and through word of mouth.

Attachments: Housing Commission Authority
Listing of Applicants

ORDINANCE NO. 2019-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 2, *BOARDS AND COMMISSIONS*, BY ADDING A NEW CHAPTER 2-25, CREATING A HOUSING COMMISSION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the Council has an Affordable Housing goal to "Support development and increase the inventory of public and private affordable housing for renters and home-owners"; and

WHEREAS, the Regional Plan includes goal NH.3. "Make available a variety of housing types at different price points, to provide housing opportunity for all economic sectors"; and

WHEREAS, affordable/workforce housing is integral to the community regional quality of life and sustainability; and

WHEREAS, the creation of the Housing Commission will assure that an open, inclusive, and transparent process is utilized in the discussion, prioritization, and presentation of recommendations that address the community's housing needs.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

Flagstaff City Code, Title 2, *Boards and Commissions*, is hereby amended by adding a new chapter to read as follows:

CHAPTER 2-25
FLAGSTAFF HOUSING COMMISSION

2-25-001-0001 CREATION OF COMMITTEE

A Housing Commission is hereby created.

2-25-001-0002 MEMBERS AND OFFICERS

The Housing Commission shall have thirteen (13) voting members; twelve (12) members appointed by the City Council and one (1) representative from the Flagstaff Housing Authority Board of Commissioners. All members shall reside within the Flagstaff City limits.

A. Members shall be appointed to fit into one of the professional categories listed below, however, the members identified as required must be appointed. Any member may satisfy

more than one (1) of the below qualifications and any "professional" category may be filled by a person who is retired from that profession.

1. Building and Real Estate Professionals (6 members)
    a. Builders (required)
    b. Developers (required)
    c. Architects
    d. Land Use Experts
    e. Realtors (required)
    f. Lenders (required)
    g. Residential Multi-Family/Property Management Representative (required)
    h. Other Building or Real Estate Professional

2. Low Income Housing Experts (4 members)
    a. Housing Nonprofits
    b. Low Income Representatives
    c. Flagstaff Housing Authority Board of Commissioners member (required)
    d. Other Low Income Housing Expert

3. Community Representatives (3 members)
    a. General Public
    b. Private Business Representatives
    c. Workforce Representatives
    d. Neighborhood Associations
    e. HOA Representatives

B. Appointed members shall have an interest in housing and be committed to represent not only their specific areas of expertise, but also the community at large.

2-25-001-0003 TERMS AND OFFICERS

A. Appointments to the Housing Commission from the Housing Authority Board of Commissioners shall be for no longer than the remaining term of the appointing Commission's designee. Terms of all other appointees shall be for three years except for the first appointments creating staggered terms as follows: The City Council shall appoint four members for three year (3) terms, four members for two (2) year terms, and four members for one (1) year terms. After the initial appointment all terms thereafter will be three (3) year terms.

B. The Commission shall, during its first meeting, elect a chairperson and a vice-chairperson from and by the voting membership of the Commission to serve one-year terms. A chairperson may serve no more than two consecutive terms as chairperson (exclusive of a term as vice-chairperson). Upon the conclusion of a second consecutive term as chairperson, such commission member shall be ineligible to serve as either chairperson or vice-chairperson until a calendar year has expired.

2-25-001-0004 ELIGIBILITY

Any resident of the City of Flagstaff shall be eligible for appointment by the City Council to the

Committee, in accordance with the membership requirements outlined above, and shall serve at the pleasure of the City Council and without compensation.

2-25-001-0005 PURPOSE AND DUTIES

A. The Housing Commission serves as an advisory board to City Council, makes recommendations with respect to housing policies, needs, and programs in Flagstaff, and furnishes the Council with information through the Housing Director.

B. The Housing Commission shall:

1. Examine funding sources available for housing in Flagstaff, make recommendations to City Council on potential funding sources, including bond measures, and provide oversight of any funds approved by the electorate for housing purposes.
2. Make recommendations on the creation and implementation of housing and housing policies and programs for the benefit of Flagstaff and its citizens.
3. Make recommendations regarding the prioritization of the community's housing needs.
4. Make recommendations regarding how affordable market rate housing can be responsibly stimulated through changes in the City Code as well as other potential solutions.
5. Examine and make recommendations regarding increasing the affordability of housing in Flagstaff.
6. Explore alternative models of housing and make recommendations to Council.
7. Advise and assist the City Council on ways to educate the community on housing, including the role housing plays as infrastructure in Flagstaff.
8. Upon request, serve as a resource on implementation of housing policy and programs.

C. To further assist the Commission in carrying out its duties, the Commission may request the assistance of technical experts and/or employees and agents of the City and other entities.

2-25-001-0006 MEETINGS; ATTENDANCE

A. The Commission shall meet no less than quarterly from the first month following the initial appointment of Commission members.

B. The Housing Commission shall not conduct any business at a meeting unless a quorum is present. A quorum shall consist of a simple majority of the voting membership of the Commission, excluding current vacancies.

C. Official business shall be conducted pursuant to the Board and Commission Members' Rules and Operations Manual adopted by Resolution No. 2016-33 of the City Council, as may be amended from time to time, and in accordance with meeting procedures, if any, adopted by the Commission insofar as they are not in conflict with the Board and Commission Members' Rules and Operations Manual. In the event of any such conflict, the provisions of the Board and Commission Members' Rules and Operations Manual shall prevail.

SECTION 2. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

SECTION 3. Severability.

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 4. 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 July, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Housing Commission Applicants

Applicants by Professional Category		
Building and Real Estate Professionals	**Low Income Housing Experts**	**Community Representatives**
Robert Baronas - Realtor	Ross Altenbaugh	Joseph Arel
Eric Davis - Realtor	Nicole Ellman	KaiJaylaan Beattie
Melinda DeBoer-Ayrey - Realtor	Sandi Flores	Jason Costello
Karen Flores - Lender	Tom Isakson	Jennifer Dufrense
Khara House - Property Management	Devonna McLaughlin	Catherine Esquivel
Pamela Leffel - Loan Officer	Emily Melhorn	Jake Moeller
Erin Moore - Lender	Kristine Pavlik	Monica Polingyouma
Erin O'Loughlin - Architect		Christopher Alexander Schiller
Brian Rhoton - Developer		Andrea Szyman
Tad Riggs - Builder		Joseph Thomas
Brenda Silveus - Marketing at Title Agency		Tallerita Tunney Rogers
Meliza Villarreal - Realtor		Alice Wallace
Jessica Zuehl-Miller - Realtor/Property Management		Linda Webb

Categories within Building and Real Estate Professionals (Required: Builder, Developer, Realtor, Lender, and Residential Multi-Family/Property Management Representative)				
Realtors	**Developers**	**Lenders**	**Multi-Family/Property Management Representatives**	**Builder**
Robert Baronas - Realtor	Brian Rhoton - Developer	Karen Flores - Lender	Khara House	Tad Riggs
Eric Davis - Realtor		Pamela Leffel - Loan Officer	Jessica Zuehl-Miller	
Melinda DeBoer-Ayrey - Realtor		Erin Moore - Lender		
Meliza Villarreal - Realtor				

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Action on Liquor License Application: Rafael Ilishayev, Yakit Gola, and Andrea Lewkowitz "GoBooze," 2001 E. Huntington Dr., Suite 1, Series 10 (beer and wine store), New License.

STAFF RECOMMENDED ACTION:

Open the public hearing.
Receive citizen input.
Close the public hearing.

The City Council has the option to:
(1) Forward the application to the State with a recommendation for approval;
(2) Forward the application to the State with a recommendation for denial based on information from staff, the testimony received at the public hearing and/or other factors.

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A series 10 license allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises. This is a non-quota type of license.

GoBooze is a new business in Flagstaff. If approved, it will be the 38th active series 10 license in Flagstaff. To view surrounding liquor licenses, please visit https://flagstaff.maps.arcgis.com/apps/webappviewer/index.html?id=4d39e746dc8747549e22fde1480ee06a.

The property has been posted as required, and the Police and Community Development divisions have reviewed the application and provided their respective reports.

Financial Impact:

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

Policy Impact:

Not applicable.

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

Liquor licenses are a regulatory action and there is no Council goal that applies.

Has There Been Previous Council Decision on This:

Not applicable.

Key Considerations:

Because the application is for a new license, consideration may be given to both the applicant's personal qualifications and the location.

The deadline for issuing a recommendation on this application is September 4, 2019.

Community Benefits and Considerations:

This business will contribute to the tax base of the community. We are not aware of any other relevant considerations.

Community Involvement:
The application was properly posted on August 13, 2019. No written protests have been received to date.

Attachments:
GoBooze - Letter to Applicant
Hearing Procedures
Series 10 Description
GoBooze - PD Memo
GoBooze - Code Memo Updated
GoBooze - Map

OFFICE OF THE CITY CLERK

August 19, 2019

GoBooze
Attn: Andrea Lewkowitz
2600 N. Central Avenue, #1775
Phoenix, AZ 85004

Dear Ms. Lewkowitz

The application for a new Series 10 Liquor License for GoBooze located at 2001 E. Huntington Drive, Suite 1, was posted on August 13, 2019. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, September 3, 2019 which begins at 4:30 p.m.**

It is important that you or your representative attend this Council Meeting and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures as well as the Police Department and Zoning Code staff memos for your review.

The twenty-day posting period for your liquor license application is set to expire on September 2, 2019 and the application may be removed from the premises at that time.

There is an $815 application fee which needs to be received prior to the hearing date. Payment can be made online at https://www.flagstaff.az.gov/2452/E--Services under Business Licensing Payment Online Services by clicking Liquor License Request Payment, in person at the payment window, or you can send a check to my attention at 211 W. Aspen Ave., Flagstaff, AZ 86001.

If you have any questions, please feel free to call me at 928-213-2077.

Sincerely,

Stacy M. Fobar
Deputy City Clerk

Enclosure

City of Flagstaff

Liquor License Application
Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.

2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.

3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.

4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.

5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.

6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.

7. The presiding officer will then close the public hearing.

8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

R19-1-702. Determining Whether to Grant a License for a Certain Location

A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:

1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;

2. Number and types of licenses within one mile of the proposed premises;

3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;

4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;

5. Residential and commercial population density within one mile of the proposed premises;

6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;

7. Effect on vehicular traffic within one mile of the proposed premises;

8. Compatibility of the proposed business with other activity within one mile of the proposed premises;

9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;

10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;

11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and

12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.

B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 10 Beer and Wine Store License (Beer and wine only)

Non-transferable
Off-sale retail privileges
Note: Terms in **BOLD CAPITALS** are defined in the glossary.

PURPOSE:
Allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:
A retailer with off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. Payment must be made no later than the time of **DELIVERY**. The retailer must complete a Department approved "Record of Delivery" form for each spirituous liquor retail delivery.

On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept delivery of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

FLAGSTAFF POLICE DEPARTMENT
911 SAWMILL RD • FLAGSTAFF, ARIZONA 86001• (928) 779-3646
ADMIN FAX (928)213-3372
TDD 1-800-842-4681

Chief of Police
Kevin D. Treadway

MEMORANDUM

Memo # 19-048

TO **Chief Kevin Treadway**

FROM **Sgt. Collin Seay**

DATE **August 16th, 2019**

REF **Liquor License Series 10 (Beer and Wine Store) Application for "Go Booze"**

On August 16th, 2019, I initiated an investigation into an application for a new series 10 (Beer and Wine Store) liquor license for Go Booze located at 2001 E Huntington Dr, Suite 1. The application license number is 67335.

The new series 10 liquor license is being requested by Rafael Ilishayev (Controlling Person), Yakir Gola (Controlling Person), and Andrea Lewkowitz (Agent). I contacted Andrea over the phone, and she advised Rafael and Yakir live out of state and will not be overseeing the daily operations of this business as they have over a hundred of these locations nationwide. She advised me that they have appointed Jenna Brockman as the Premises Manager and have submitted her paperwork to the Arizona Department of Liquor Control. She advised Jenna will have completed her mandatory liquor law training.

I conducted a public access and local systems search of all of the parties in this application, and no derogatory records could be found of the applicants. Go Booze has four other locations in Arizona with Series 10 liquor licenses (2 in Phoenix, 1 in Tempe, and 1 in Tucson). I located two administrative violations against the Tempe store (#10076851) for not keeping record of a delivery and storing liquor on an unlicensed premise in April of 2019 and both violations were paid.

Andrea explained Go Booze will be a retail liquor delivery store where the store will deliver liquor to customers upon request for off-site consumption. Series 10 liquor licenses do allow for liquor deliveries for off-site consumption following a retail purchase. Andrea advised me she and Jenna Brockman would be present for the September 3rd, 2019 council meeting.

Planning and Development Services Memorandum

To: Stacy Fobar, Deputy City Clerk

From: Reggie Eccleston, Code Compliance Manager

CC: Tiffany Antol, Planning Director

Date: August 30, 2019

Re: Application for Liquor License #67335
2001 E. Huntington Dr. Ste. 1, Flagstaff, Arizona 86004
Assessor's Parcel Number 106-03-005C
GB License LLC on behalf of GoBooze

This application is a request for a new Series 10 Beer & Wine Store liquor license by GB License LLC on behalf of GoBooze. This business is located within the Light Industrial Zone. On-site retail sales are not permitted without the issuance of a Conditional Use Permit. The use currently permitted on site is warehousing and distribution. This request does not include on-site retail. Should the applicant want to include this option they will need to request a Conditional Use Permit.

ArcGIS Web Map



8/28/2019, 9:33:17 AM

Liquor Licenses

- Bar
- Beer and Wine Bar
- Beer and Wine Store
- Liquor Store
- Restaurant
- Wholesaler

1:4,514

0 0.03 0.06 0.12 mi

0 0.05 0.1 0.2 km

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

Web AppBuilder for ArcGIS

Coconino County, County of Yavapai, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, NGA, USGS |

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Action on Liquor License Application: Michael Dean Diesemeyer and Andrea Lewkowitz "ATL Wings," 1300 S. Milton Road, Suite 107A, Series 12 (restaurant), New License.

STAFF RECOMMENDED ACTION:

Open the public hearing.
Receive citizen input.
Close the public hearing.

The City Council has the option to:
(1) Forward the application to the State with a recommendation for approval;
(2) Forward the application to the State with a recommendation for denial based on information from staff, the testimony received at the public hearing and/or other factors.

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A Series 12 license allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food. ATL Wings is a new business in Flagstaff applying for a new series 12 restaurant license. If approved it will be the 101st active series 12 license in Flagstaff. Series 12 licenses are non-quota licenses. To view surrounding liquor licenses, please visit https://flagstaff.maps.arcgis.com/apps/webappviewer/index.html?id=4d39e746dc8747549e22fde1480ee06a.

The property has been posted as required, and the Police and Community Development divisions have reviewed the application and provided their respective reports.

Financial Impact:

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

Policy Impact:

Not applicable.

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

Liquor licenses are a regulatory action and there is no Council goal that applies.

Has There Been Previous Council Decision on This:

Not applicable.

Key Considerations:

Because the application is for a new license, consideration may be given to both the location and the applicant's personal qualifications.

The deadline for issuing a recommendation on this application is September 4, 2019.

Community Benefits and Considerations:

This business will contribute to the tax base of the community.

Community Involvement:
The application was properly posted on August 13, 2019. No written protests have been received to date.

Attachments:
ATL Wings - Letter to Applicant
Hearing Procedures
Series 12 Description
ATL Wings - PD Memo
ATL Wings - Code Memo
ATL Wings - Map

OFFICE OF THE CITY CLERK

August 19, 2019

ATL Wings
Attn: Andrea Lewkowitz
2600 N. Central Avenue, #1775
Phoenix, AZ 85004

Dear Ms. Lewkowitz

The application for a new Series 12 Liquor License for ATL Wings located at 1300 S. Milton Road, Suite 107A, was posted on August 13, 2019. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, September 3, 2019 which begins at 4:30 p.m.**

It is important that you or your representative attend this Council Meeting and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures as well as the Police Department and Zoning Code staff memos for your review.

The twenty-day posting period for your liquor license application is set to expire on September 2, 2019 and the application may be removed from the premises at that time.

There is an $815 application fee which needs to be received prior to the hearing date. Payment can be made online at https://www.flagstaff.az.gov/2452/E--Services under Business Licensing Payment Online Services by clicking Liquor License Request Payment, in person at the payment window, or you can send a check to my attention at 211 W. Aspen Ave., Flagstaff, AZ 86001.

If you have any questions, please feel free to call me at 928-213-2077.

Sincerely,

Stacy M. Fobar
Deputy City Clerk

Enclosure

City of Flagstaff

Liquor License Application
Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.

2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.

3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.

4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.

5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.

6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.

7. The presiding officer will then close the public hearing.

8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

R19-1-702. Determining Whether to Grant a License for a Certain Location

A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:

1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;

2. Number and types of licenses within one mile of the proposed premises;

3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;

4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;

5. Residential and commercial population density within one mile of the proposed premises;

6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;

7. Effect on vehicular traffic within one mile of the proposed premises;

8. Compatibility of the proposed business with other activity within one mile of the proposed premises;

9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;

10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;

11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and

12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.

B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 12 Restaurant License

Non-transferable
On-sale retail privileges
Note: Terms in **BOLD CAPITALS** are defined in the glossary.

PURPOSE:
Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:
An applicant for a restaurant license must file a copy of its restaurant menu and Restaurant Operation Plan with the application. The Plan must include listings of all restaurant equipment and service items, the restaurant seating capacity, and other information requested by the department to substantiate that the restaurant will operate in compliance with Title 4.

The licensee must notify the Department, in advance, of any proposed changes in the seating capacity of the restaurant or dimensions of a restaurant facility.

A restaurant licensee must maintain complete restaurant services continually during the hours of selling and serving of spirituous liquor, until at least 10:00 p.m. daily, if any spirituous liquor is to be sold and served up to 2:00 a.m.

On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept **DELIVERY** of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

Bar, beer and wine bar, and restaurant licensees must pay an annual surcharge of $20.00. The money collected from these licensees will be used by the Department for an auditor to review compliance by restaurants with the restaurant licensing provisions of ARS 4-205.02.

FLAGSTAFF POLICE DEPARTMENT
911 SAWMILL RD • FLAGSTAFF, ARIZONA 86001• (928) 779-3646
ADMIN FAX (928)213-3372
TDD 1-800-842-4681

Chief of Police
Kevin D. Treadway

MEMORANDUM

Memo #19-047

TO: **Chief Treadway**

FROM: **Sgt. Collin Seay**

DATE: **August 16th, 2019**

RE: **LIQUOR LICENSE APPLICATION – SERIES 12- FOR "ATL Wings"**

On August 16th, 2019, I initiated an investigation into an application for a series 12 (restaurant) liquor license filed by Michael Biesemeyer (Controlling Person) and Andrea Lewkowitz (Agent). ATL Wings is located at 1300 S Milton Rd. #107A and has been operating with a temporary liquor license for the past month pending approval of this application. This is an application for a new series 12 license #70199.

I conducted a query through local systems and public access on Michael and Andrea, and no derogatory records were found. Michael provided proof with his application of completing the mandatory liquor courses, and he advised he was in the process of getting a manager through the courses as well. Michael reported to me that he possesses four other Series 12 liquor licenses in Phoenix, Mesa, and Tucson, and he has not had any liquor violations with these locations. I was able to confirm that he has not received any liquor violations on these businesses. Michael said this location will only serve three types of beer only along with food.

Andrea confirmed she would attend the council meeting on September 3rd, 2019, and Michael advised he or his business partner would be present. Michael advised the business hours would be from 1100 am to possibly 9 pm at night but may change depending on the demand. He advised they wouldn't stay open any later than midnight.

Planning and Development Services Memorandum

To: Stacy Fobar, Deputy City Clerk

From: Reggie Eccleston, Code Compliance Manager

CC: Tiffany Antol, Planning Director

Date: August 13, 2019

Re: Application for Liquor License #70199
1300 S. Milton Rd. Ste 107, Flagstaff, Arizona 86001
Assessor's Parcel Number 103-19-002
True Taste 2 on behalf of Atlanta Wings Flagstaff

This application is a request for a new Series 12 Restaurant liquor license by True Taste 2 on behalf of Atlanta Wings Flagstaff. This business is located within the Highway Commercial district. This district does allow for this use.

There are no active Zoning Code violations associated with the applicant or the property at this time.

ATL Wings



8/28/2019, 9:36:43 AM

Liquor Licenses

- Beer and Wine Bar
- Beer and Wine Store
- Liquor Store
- Restaurant

1:2,257

0 0.01 0.03 0.06 mi

0 0.03 0.05 0.1 km

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

Web AppBuilder for ArcGIS

Coconino County, County of Yavapai, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, NGA, USGS |

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Action on Liquor License Application: Mitul Patel and Juanita Alicia Esparza "Country Host Restaurant & Porky's Pub," 2285 E. Butler Avenue, Series 12 (restaurant), New License.

STAFF RECOMMENDED ACTION:

Open the public hearing.
Receive citizen input.
Close the public hearing.

The City Council has the option to:
(1) Forward the application to the State with a recommendation for approval;
(2) Forward the application to the State with a recommendation for denial based on information from staff, the testimony received at the public hearing and/or other factors.

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. A Series 12 license allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food. Country Host Restaurant & Porky's Pub is an existing business in Flagstaff applying for a new series 12 restaurant license. If approved, this restaurant would be the 102nd active series 12 license in Flagstaff. Series 12 licenses are non-quota licenses. To view surrounding liquor licenses, please visit https://flagstaff.maps.arcgis.com/apps/webappviewer/index.html?id=4d39e746dc8747549e22fde1480ee06a.

The property has been posted as required, and the Police and Community Development divisions have reviewed the application and provided their respective reports.

Financial Impact:

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

Policy Impact:

Not applicable.

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

Liquor licenses are a regulatory action and there is no Council goal that applies.

Has There Been Previous Council Decision on This:

Not applicable.

Key Considerations:

Because the application is for a new license, consideration may be given to both the location and the applicant's personal qualifications.

The deadline for issuing a recommendation on this application is September 4, 2019.

Community Benefits and Considerations:

This business will contribute to the tax base of the community.

Community Involvement:
The application was properly posted on August 13, 2019. No written protests have been received to date.

Attachments:
Country Host - Letter to Applicant
Hearing Procedures
Series 12 Description
Country Host - PD Memo
Country Host - Code Memo
Country Host - Map

OFFICE OF THE CITY CLERK

August 19, 2019

Country Host Restaurant & Porky's Pub
Attn: Juanita Alicia Esparza
PO Box 1189
Tolleson, AZ 85353

Dear Ms. Esparza

The application for a new Series 12 Liquor License for Country Host Restaurant & Porky's Pub located at 2285 E. Butler Avenue, was posted on August 13, 2019. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, September 3, 2019 which begins at 4:30 p.m.**

It is important that you or your representative attend this Council Meeting and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures as well as the Police Department and Zoning Code staff memos for your review.

The twenty-day posting period for your liquor license application is set to expire on September 2, 2019 and the application may be removed from the premises at that time.

There is an $815 application fee which needs to be received prior to the hearing date. Payment can be made online at https://www.flagstaff.az.gov/2452/E--Services under Business Licensing Payment Online Services by clicking Liquor License Request Payment, in person at the payment window, or you can send a check to my attention at 211 W. Aspen Ave., Flagstaff, AZ 86001.

If you have any questions, please feel free to call me at 928-213-2077.

Sincerely,

Stacy M. Fobar
Deputy City Clerk

Enclosure

City of Flagstaff

Liquor License Application
Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.

2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.

3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.

4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.

5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.

6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.

7. The presiding officer will then close the public hearing.

8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

R19-1-702. Determining Whether to Grant a License for a Certain Location

A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:

1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;

2. Number and types of licenses within one mile of the proposed premises;

3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;

4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;

5. Residential and commercial population density within one mile of the proposed premises;

6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;

7. Effect on vehicular traffic within one mile of the proposed premises;

8. Compatibility of the proposed business with other activity within one mile of the proposed premises;

9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;

10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;

11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and

12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.

B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 12 Restaurant License

Non-transferable
On-sale retail privileges
Note: Terms in **BOLD CAPITALS** are defined in the glossary.

PURPOSE:
Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:
An applicant for a restaurant license must file a copy of its restaurant menu and Restaurant Operation Plan with the application. The Plan must include listings of all restaurant equipment and service items, the restaurant seating capacity, and other information requested by the department to substantiate that the restaurant will operate in compliance with Title 4.

The licensee must notify the Department, in advance, of any proposed changes in the seating capacity of the restaurant or dimensions of a restaurant facility.

A restaurant licensee must maintain complete restaurant services continually during the hours of selling and serving of spirituous liquor, until at least 10:00 p.m. daily, if any spirituous liquor is to be sold and served up to 2:00 a.m.

On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept **DELIVERY** of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

Bar, beer and wine bar, and restaurant licensees must pay an annual surcharge of $20.00. The money collected from these licensees will be used by the Department for an auditor to review compliance by restaurants with the restaurant licensing provisions of ARS 4-205.02.

FLAGSTAFF POLICE DEPARTMENT
911 SAWMILL RD • FLAGSTAFF, ARIZONA 86001• (928) 779-3646
ADMIN FAX (928)213-3372
TDD 1-800-842-4681

Chief of Police
Kevin D. Treadway

MEMORANDUM

Memo #19-049

TO: **Chief Kevin Treadway**

FROM: **Sgt. Collin Seay**

DATE: **August 16th, 2019**

RE: **LIQUOR LICENSE APPLICATION – SERIES 12- FOR "Country Host Restaurant and Porky's Pub"**

On August 16th, 2019, I initiated an investigation into an application for a series 12 (restaurant) liquor license filed by Mitul Patel (Controlling Person) and Juanita Esparza (Agent). Country Host Restaurant and Porky's Pub is located at 2285 E Butler Ave. This is an application for a new series 12 license #70738. Mitul is the owner of the building, and he is taking over the restaurant, bar, and liquor license from the previous tenant.

I conducted a query through local systems and public access on Mitul Patel and Juanita Esparza, and no derogatory records were found. Mitul and Juanita have both completed the required training provided by the Arizona Department of Liquor Control. I conducted a search of the current and previous liquor licenses possessed by Mitul and I could not locate any other licenses he possesses or liquor violations. Mitul advised me over the phone this was their first liquor license. Juanita disclosed in her application that two of the liquor licenses she is an agent for received citations from the Arizona Department of Liquor Control. She advised me over the phone that she was only the agent for the two businesses and was not involved with the violations against those businesses. Both businesses had paid the fees for the violations.

Mitul and Juanita confirmed they would attend the council meeting on September 3rd, 2019. Mitul said the restaurant is currently open, and he is not operating with a temporary liquor license. He said he is awaiting final approval to sell liquor.

Planning and Development Services Memorandum

To: Stacy Fobar, Deputy City Clerk

From: Reggie Eccleston, Code Compliance Manager

CC: Tiffany Antol, Planning Director

Date: August 13, 2019

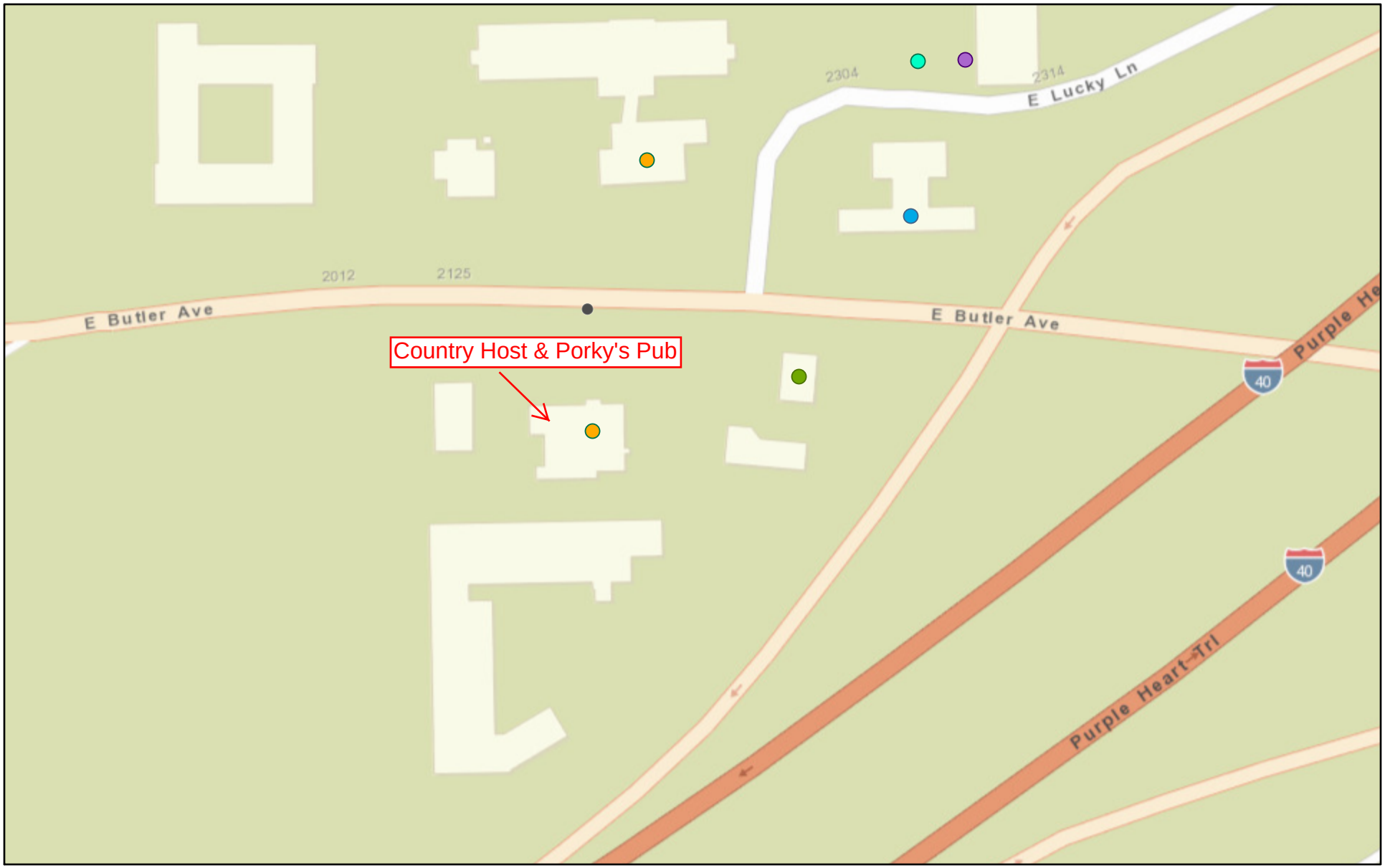
Re: Application for Liquor License #70738
2285 E. Butler Ave., Flagstaff, Arizona 86004
Assessor's Parcel Number 106-04-004W
Eshan Hospitality LLC on behalf of Country Host Restaurant & Porky's Pub

---

This application is a request for a new Series 12 Restaurant liquor license by Eshan Hospitality LLC on behalf of Country Host Restaurant & Porky's Pub. This business is located within the Highway Commercial district. This district does allow for this use.

There are no active Zoning Code violations associated with the applicant or the property at this time.

Country Host & Porky's Pub



8/28/2019, 10:01:19 AM

Liquor Licenses

- Bar
- Beer and Wine Bar
- Beer and Wine Store
- Liquor Store
- Restaurant

1:2,257

0 0.01 0.03 0.06 mi

0 0.03 0.05 0.1 km

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

Web AppBuilder for ArcGIS

Coconino County, County of Yavapai, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, NGA, USGS |

8. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Amy Hagin, Public Works - Parks Manager

Date: 08/28/2019

Meeting Date: 09/03/2019

TITLE:

Consideration and Approval: Cooperative Purchase Contract with SiteOne Landscape Supply, Inc., in the amount of $105,678.71, for a smart irrigation management system for all park grounds.

STAFF RECOMMENDED ACTION:

1. Approve the cooperative purchase contract in the amount of $105,678.71 with SiteOne Landscape Supply, Inc. ("SiteOne") to purchase a smart irrigation system for all park grounds through BuyBoard Contract #529-17; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Approval of this cooperative purchase contract with SiteOne will allow the City to purchase a smart irrigation management system for all park grounds. The existing irrigation system, Maxicom, is a radio-controlled central control system where the line of sight in many park locations no longer allows for functionality as originally intended when the system was purchased in 2000. As of July 2018, the data plan for the existing Maxicom system is no longer supported and is virtually obsolete for Parks' continued usage. In addition, the existing system does not have water conserving or remote real-time internet control.

The new smart irrigation management system is EPA WaterSense® using real-time cloud-based data allowing the right amount of water at the right time. Through weather data from the 45,000 weather stations, data points are provided creating the greatest accuracy to manage site-specific evaporation and transpiration of water usage every day. On top of the real time water management through accurate weather data, the system contains a flow management solution to ensure that the right amount of landscape water is being emitted while achieving sustainable goals along with reduced operating costs. By using the right amount of irrigation based on weather data, plant/tree type, and zone requirements, wasted water is limited along with using the soak from precipitation. A smart irrigation system accessible via computer, tablet and smart phone receiving an instant alert of a water leak/break would allow Parks staff to instantly remote shut-off a water issue and instantaneously execute pauses for events held on grassy areas. The smart irrigation management system is a direct approach to the Climate Adaptation Action Plan and the Water Conservation Strategic Plan.

Financial Impact:
The amount of $115,000 is budgeted in account 001-06-155-0561-5-4433.

Policy Impact:
There are no policy impacts.

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:
The new smart irrigation system supports the Council goals of Water Conservation and Climate Change.

Has There Been Previous Council Decision on This:
There has not been a previous Council decision on this purchase.

Options and Alternatives:
1. Approve the cooperative purchase contract as recommended; or
2. Not approve the cooperative purchase contract and direct Staff to open a formal procurement

Background/History:

Over a few months, Parks staff reviewed three (3) smart irrigation systems and opted for a robust system utilizing existing pedestals and cabinets through a confirmed retrofitting process. The existing irrigation components such as flow sensors, master valves, and irrigation rotors are also cross-compatible with the new system. A new smart irrigation management system is a direct approach to the Climate Adaptation Action Plan (WR-1-C, WR-3-B, EPR-3-B, EPR-3-C and EPR-3-D) and the Water Conservation Strategic Plan.

Key Considerations:
When considering replacing a no longer supported and virtually obsolete irrigation management system, key considerations were ensuring water conservation, efficiencies with control on water issues and identifying a product that would be robust for all parks grounds.

Community Benefits and Considerations:
A smart irrigation system that includes water conservation measures, real-time cloud data and immediate notification of a water issue benefits the community by equipping park grounds with a robust system and addressing four (4) strategies in the Climate Action Adaptation Plan.

Attachments: Contract
Exhibit A - Scope of Work
Cooperative Purchase Contract

COOPERATIVE PURCHASE CONTRACT
Contract No. 2020-04

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 SiteOne Landscape Supply, Inc., a Delaware corporation ("Contractor").

RECITALS:

A. Contractor has a Local Government Purchasing Cooperative Contract 529-17 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:

Landscape Irrigation Controller Upgrades

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 one hundred eleven thousand two hundred forty dollars and seventy-five cents ($105,678.71) 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, MBA, CPP
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 Extension through 25/31/2020
- Original Cooperative Purchasing Contract Number: 529-17

SiteOne Green Tech

December 18, 2018

Proposed Controller Upgrades for the City of Flagstaff

Park Site	Controller Type	Model	Flow Sensor	Master Valve	Wall Mount or Pedistal	WeatherTRAK Replacement	Description	Cost	
89A	Rain Bird	ESP32SAT	X	X	P	WTPRO3-C-36-CH7	WeatherTRAK® ET Pro3 Chassis (Maxicom®, 36 stations). 18-gauge, adonized, pre-assembled, aluminium back panel retrofit for RainBird Maxicom® ESP-Sat stainless steel enclosure. Includes WeatherTRAK® Central Service for one year.	$ 2,713.20	
Aquaplex	Rain Bird	ESP40SAT	X	X	WM	WTPRO3-C-42-CWM	WeatherTRAK® ET Pro3 Wall Mount (42 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 2,925.37	
BMX Park	Rain Bird	ESP24SAT			P	WTPRO3-C-24-CH7	WeatherTRAK® ET Pro3 Chassis (Maxicom®, 24 stations). 18-gauge, adonized, pre-assembled, aluminium back panel retrofit for RainBird Maxicom® ESP-Sat stainless steel enclosure. Includes WeatherTRAK® Central Service for one year.	$ 2,231.87	
Bow and Arrow Park	Rain Bird	ESP24SAT	X		P	WTPRO3-C-24-CH7	WeatherTRAK® ET Pro3 Chassis (Maxicom®, 24 stations). 18-gauge, adonized, pre-assembled, aluminium back panel retrofit for RainBird Maxicom® ESP-Sat stainless steel enclosure. Includes WeatherTRAK® Central Service for one year.	$ 2,231.87	
Bushmaster Park West	Rain Bird	ESP40SAT	X	X	WM	WTPRO3-C-42-CWM	WeatherTRAK® ET Pro3 Wall Mount (42 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 2,925.37	
Bushmaster Park East	Rain Bird	ESP24SAT	X	X	WM	WTPRO3-C-24-CWM	WeatherTRAK® ET Pro3 Wall Mount (24 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 2,203.37	
Cheshire Park	Rain Bird	ESP8MC			WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 1,722.04	
Christensen School	Rain Bird	ESP24MC	X	X	P (not in good contition)	WTPRO3-C-24-SPT	WeatherTRAK® ET Pro3 Pedestal (top-entry, 24 stations). 14-gauge, stainless steel, NEMA 3R-rated, slope, top-entry enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 5,040.71	
City Hall	Rain Bird	ESP24SAT	X	X	WM	WTPRO3-C-24-CWM	WeatherTRAK® ET Pro3 Wall Mount (24 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 2,203.37	
Cogdill Rec Center	Rain Master	RME 6			WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 1,722.04	
Continental Park	Rain Bird	ESP40MC			WM	WTPRO3-C-42-CWM	WeatherTRAK® ET Pro3 Wall Mount (42 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 2,925.37	
Enterprise	Rain Bird	ESP12SAT	X	X	P	WTPRO3-C-12-CH7	WeatherTRAK® ET Pro3 Chassis (Maxicom®, 12 stations). 18-gauge, adonized, pre-assembled, aluminium back panel retrofit for RainBird Maxicom® ESP-Sat stainless steel enclosure. Includes WeatherTRAK® Central Service for one year.	$ 1,750.53	
Flagstaff Little League	Rain Bird	ESP24SAT	X	X	WM	WTPRO3-C-24-CWM	WeatherTRAK® ET Pro3 Wall Mount (24 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 2,203.37	
Flagstaff Rec Center	Rain Master	RME 6			WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 1,722.04	
Foxglenn Park 1	Rain Bird	ESP24MC	X	X	WM	WTOXR-C-48-CWM	WeatherTRAK® OptiFlow® XR Wall Mount (48 stations). 18-gauge, powder-coated, cold-rolled steel enclosure with keylock entry. Includes WeatherTRAK® Central Service and OptiFlow® Service for one year.	$ 3,799.37	Controllers side by side with one POC
Foxglenn Park 2	Rain Bird	ESP24SAT	X	X	WM		The above controller will take the place of both controllers on-site. This is an OptiFlow XR so it will share the POC properly.		
Foxglenn Park 3	Rain Bird	ESP24SAT	X	X	WM	WTPRO3-C-24-CWM	WeatherTRAK® ET Pro3 Wall Mount (24 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 2,203.37	
Guadalupe Park	Rain Bird	ESP12(SAT)			WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 1,722.04	
Industrial	Rain Bird	ESP12SAT	X	X	P	WTPRO3-C-12-CH7	WeatherTRAK® ET Pro3 Chassis (Maxicom®, 12 stations). 18-gauge, adonized, pre-assembled, aluminium back panel retrofit for RainBird Maxicom® ESP-Sat stainless steel enclosure. Includes WeatherTRAK® Central Service for one year.	$ 1,750.53	
Joel Montalvo Field	Rain Bird	ESP24MC	X	X	WM	WTPRO3-C-24-CWM	WeatherTRAK® ET Pro3 Wall Mount (24 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 2,203.37	
Killip School	Rain Bird	ESP24MC	X	X	P (not in good contition)	WTPRO3-C-24-SPT	WeatherTRAK® ET Pro3 Pedestal (top-entry, 24 stations). 14-gauge, stainless steel, NEMA 3R-rated, slope, top-entry enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 5,040.71	
Library	Rain Bird	ESP24SAT	X	X	P (not in good contition)	WTPRO3-C-24-SPT	WeatherTRAK® ET Pro3 Pedestal (top-entry, 24 stations). 14-gauge, stainless steel, NEMA 3R-rated, slope, top-entry enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 5,040.71	
Mark Grace Field	Rain Bird	ESP12SAT			WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 1,722.04	
MEMS	Rain Bird	ESP16Site	X	X	P (not in good contition)	WTPRO3-C-18-SPT	WeatherTRAK® ET Pro3 Pedestal (top-entry, 18 stations). 14-gauge, stainless steel, NEMA 3R-rated, slope, top-entry enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$ 4,800.04	

Mobile Haven Park	Rain Bird	ESP24SAT	X	X	WM	WTPRO3-C-24-CWM	WeatherTRAK® ET Pro3 Wall Mount (24 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	2,203.37	
Mountain View	Rain Bird	ESP12SAT	X		WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	1,722.04	
Ponderosa Park	Rain Master	RME 6			WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	1,722.04	
Ponderosa Trails Park	Rain Bird	ESP32MC	X	X	P	WTPRO3-C-36-SPT	WeatherTRAK® ET Pro3 Pedestal (top-entry, 42 stations). 14-gauge, stainless steel, NEMA 3R-rated, slope, top-entry enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	5,522.04	
Sechrist School	Rain Bird	ESP24SAT	X	X	WM	WTPRO3-C-24-CWM	WeatherTRAK® ET Pro3 Wall Mount (24 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	2,203.37	
Smokerise Park	Rain Bird	ESP12SAT			WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	1,722.04	
T.I.	Rain Bird	ESP40SAT	X	X	P	WTPRO3-C-42-CH7	WeatherTRAK® ET Pro3 Wall Mount (42 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	2,953.87	
Thomas School	Rain Bird	ESP24SAT	X	X	P	WTPRO3-C-24-CH7	WeatherTRAK® ET Pro3 Chassis (Maxicom®, 24 stations). 18-gauge, adonized, pre-assembled, aluminium back panel retrofit for RainBird Maxicom® ESP-Sat stainless steel enclosure. Includes WeatherTRAK® Central Service for one year.	$	2,231.87	
Thorpe Multi Purpose	Rain Bird	ESP12SAT	X	X	WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	1,722.04	
Thorpe Office	n/a	n/a								
Thorpe Park	Rain Bird	ESP40SAT			WM	WTPRO3-C-42-CWM	WeatherTRAK® ET Pro3 Wall Mount (42 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	2,925.37	
Thorpe Softball 1	Rain Bird	ESP40MC	X	X	WM	WTOXR-C-42-CWM	WeatherTRAK® OptiFlow® XR Wall Mount (42 stations). 18-gauge, powder-coated, cold-rolled steel enclosure with keylock entry. Includes WeatherTRAK® Central Service and OptiFlow® Service for one year.	$	3,558.71	
Thorpe Softball 2	Rain Bird	ESP32SAT	X	X	WM	WTOXR-C-48-CWM	WeatherTRAK® OptiFlow® XR Wall Mount (48 stations). 18-gauge, powder-coated, cold-rolled steel enclosure with keylock entry. Includes WeatherTRAK® Central Service and OptiFlow® Service for one year.	$	3,799.37	Controllers side by side with one POC
Thorpe Softball 3	Rain Bird	ESP16SAT	X	X	WM		The 32 and 16 station controllers will be combined into one controller. Both controllers on-site will be Optiflow XR to properly work with the single POC.			
Wheeler Park	Rain Bird	ESP12SAT	X	X	P (not in good contition)	WTPRO3-C-12-SPT	WeatherTRAK® ET Pro3 Pedestal (top-entry, 12 stations). 14-gauge, stainless steel, NEMA 3R-rated, slope, top-entry enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	4,559.37	
Cemetery	Rain Bird	ESP40SAT		X	WM	WTPRO3-C-42-CWM	WeatherTRAK® ET Pro3 Wall Mount (42 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	2,925.37	
Heritage Square	Rain Bird	ESP12SAT	X		WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	1,722.04	
DownTown	Rain Master	RME12			WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	1,722.04	
PHX Parkinglot	Rain Bird	ESP8MC			WM	WTPRO3-C-12-CWM	WeatherTRAK® ET Pro3 Wall Mount (12 stations). 18-gauge, powder-coated, cold-rolled steel Enclosure with keylock entry. Includes WeatherTRAK® Central Service for one year.	$	1,722.04	
Beaver Street	Rain Bird	ESP12SAT	X	X	P	WTPRO3-C-12-CH7	WeatherTRAK® ET Pro3 Chassis (Maxicom®, 12 stations). 18-gauge, adonized, pre-assembled, aluminium back panel retrofit for RainBird Maxicom® ESP-Sat stainless steel enclosure. Includes WeatherTRAK® Central Service for one year.	$	1,750.53	
Sanfrancisco/PHX	Rain Bird	ESP12SAT	X	X	P	WTPRO3-C-12-CH7	WeatherTRAK® ET Pro3 Chassis (Maxicom®, 12 stations). 18-gauge, adonized, pre-assembled, aluminium back panel retrofit for RainBird Maxicom® ESP-Sat stainless steel enclosure. Includes WeatherTRAK® Central Service for one year.	$	1,750.53	

Total for these upgrades as quoted: **$ 111,240.75**

If all of the controllers are purchased on one order we will give a 5% discount: **$ 105,678.71**

Notes:

All of the items quoted were based on the current inventory list provided by the City of Flagstaff. Minor changes may be needed on some sites.
I quoted you for powdercoated steel enclosures for all wall-mounted controllers. Stainless steel is available if needed.
All Maxicom pedestals that were in good condition were quoted upgrade kits that will re-use the existing enclosures.
All pedestals marked "poor condition" or non-Maxicom were quoted VIT Strongbox heavy-duty stainless steel enclosures. We can quote you for lighter-duty units if desired.
I did not quote you for adding flow sensors and master valves at this time for sites that do not have them already. I would need some more information and we can discuss that.
All of the controllers quoted include one year of cellular and software service. Each additional year of service is $235 per controller.
We can bundle multiple years of cellular and software service with the controller purchase if desired.
All quoted prices are good until at least February 28, 2019.

Mike Wagner
SiteOne Green Tech of Arizona and New Mexico
480-389-8242
Mwagner@SiteOne.com

P.O. Box 400
Austin, TX 78767-0400
800.695.2919 | 512.467.0222 | Fax: 800.211.5454
buyboard.com

April 23, 2019

Sent via Email to:bids@siteone.com

Monique Potts
SiteOne Landscape Supply
1385 E. 36th Street
Cleveland OH 44114

Re: Grounds Maintenance Equipment, Irrigation Parts, Supplies, & Installation
BuyBoard Contract 529-17

The Local Government Purchasing Cooperative d/b/a BuyBoard® (Cooperative) awarded your company a contract under Grounds Maintenance Equipment, Irrigation Parts, Supplies, & Installation, Contract 529-17, for which the current term is set to expire May 31, 2019. At this time, we are renewing your contract through May 31, 2020. 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, *CTSBS*
Contract Administrator

P.O. Box 400
Austin, TX 78767-0400
800.695.2919 | 512.467.0222 | Fax: 800.211.5454
buyboard.com

April 26, 2017

Sent Via E-mail: bids@siteone.com

Bids Department
SiteOne Landscape Supply
1385 E. 36th St.
Cleveland, OH 44114

Re: Notice of The Local Government Purchasing Cooperative Award
Proposal Name and Number: Grounds Maintenance Equipment, Irrigation Parts, Supplies and Installation, Proposal No. 529-17

Congratulations, The Local Government Purchasing Cooperative (Cooperative) has awarded your company a BuyBoard® contract based on the above-referenced Proposal. The contract is effective 6/1/2017 through 5/31/2018, 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. 529-17 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.

Finally, your proposal was awarded based on a number of factors, one was the marketing strategy you outlined in your response. The BuyBoard does provide some co-branding resources to assist in your marketing efforts if interested.

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
Director of Cooperative Procurement
v.3.17

6547

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: Grounds Maintenance Equipment, Irrigation Parts, Supplies and Installation

Proposal Number: 529-17

Contract Time Period: June 1, 2017 through May 31, 2018 with two (2) possible one-year renewals.

Proposal Opening Date and Time:
October 20, 2016 at 2:00 PM

Location of Proposal Opening:
Texas Association of School Boards, Inc.
BuyBoard Department
12007 Research Blvd.
Austin, TX 78759

Anticipated Cooperative Board Meeting Date:
April 2017

SiteOne Landscape Supply	10/25/16
Name of Proposing Company	Date
Bid Dept: 1385 East 36th St.	Molly M. Vorous
Street Address	Signature of Authorized Company Official
Cleveland, OH 44114	Molly M. Vorous
City, State, Zip	Printed Name of Authorized Company Official
800-321-5325 ex 2550	Senior Bid Representative
Telephone Number of Authorized Company Official	Position or Title of Authorized Company Official
248-581-1433	36-4485550
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;

H-N
N-N
E-4 letters

2 CD's

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: SiteOne Landscape Supply General Contact Name: Bids Department

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: bids@siteone.com

Internet Contact: Bids Dept Phone: 800-321-5325 ex 2550

Alternate E-mail Address: MPotts@siteone.com

Alternate Internet Contact: Monique Potts Phone: 800-321-5325 ex 2126

☐ 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: bids@siteone.com

Alternate E-mail Address: mvorous@siteone.com; mpotts@siteone.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: 1385 E. 36th St. **Department:** Bids Dept

City: Cleveland **State:** OH **Zip Code:** 44114

Contact Name: Bids Dept **Phone:** 800-321-5325 ex 2550

Fax: 248-581-1433 **E-mail Address:** bids@siteone.com

Alternative E-mail Address: mpotts@siteone.com; mvorous@siteone.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.

SiteOne Landscape Supply
Company Name

Signature of Authorized Company Official

Molly M. Vorous
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.

SiteOne Landscape Supply
Company Name

Signature of Authorized Company Official

Molly M. Vorous
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):

SiteOne Landscape Supply	Headquarters: 300 Colonial Center Pkwy Ste 600	
Company Name	Address	
Roswell	GA	30076
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.

SiteOne Landscape Supply
Company Name

Signature of Authorized Company Official

Molly M. Vorous
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.

SiteOne Landscape Supply
Company Name

Molly M. Vorous
Signature of Authorized Company Official

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.

SiteOne Landscape Supply
Company Name

Signature of Authorized Company Official

Molly M. Vorous
Printed Name

10/25/16
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.

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:

FOB Shipping Point - Product picked up from branch is freight free. Product that is shipped/Delivered to the customer may have a freight charge added to the order. Contact Local branch at time of order to verify

PLEASE PROVIDE THE FOLLOWING INFORMATION:

1. Shipping Via: ☒ Common Carrier ☒ Company Truck ☒ Prepaid and Add to Invoice ☒ Other: BEST

2. Payment Terms: ☒ Net 30 days ☐ 1% in 10/Net 30 days ☐ Other:

3. Number of Days for Delivery: 2-10 ARO

4. Vendor Reference/Quote Number: 529-17

5. State your return policy:

will vary based on product, manufacturer, reason for return, etc. Contact local branch for more info

6. Are electronic payments acceptable? ☒ Yes ☐ No

7. Are credit card payments acceptable? ☒ Yes ☐ No

SiteOne Landscape Supply
Company Name

Molly M Vorous
Signature of Authorized Company Official

Molly M. Vorous
Printed Name

Ava Benford-Clay

From: Vorous, Molly <MVorous@siteone.com>
Sent: Friday, February 3, 2017 1:53 PM
To: Ava Benford-Clay
Cc: Potts, Monique; Parish, Phillip
Subject: RE: Deviations - 529-17 for Ground Maintenance Equipment, Irrigation Parts, Supplies and Installation

Hi Ava.
Yes, please remove the red line deviation from our bid.
We appreciate the opportunity to respond.

Thanks.

Molly M. Vorous
SiteOne Landscape Supply
Senior Bids Representative
1385 E 36th St
Cleveland OH 44114-4114
Phone: 216-706-9250 x2545
Email: bids@siteone.com

SiteOne LANDSCAPE SUPPLY
Stronger Together

From: Ava Benford-Clay [mailto:Ava.Benford-Clay@tasb.org]
Sent: Friday, February 03, 2017 2:45 PM
To: Vorous, Molly
Cc: Potts, Monique
Subject: Deviations - 529-17 for Ground Maintenance Equipment, Irrigation Parts, Supplies and Installation

Good Afternoon Ms.Vorous,

SiteOne Landscape Supply response to BuyBoard Proposal No. 529-17 for Ground Maintenance Equipment, Irrigation Parts, Supplies and Installation included multiple deviation(s) to the terms and conditions of the proposal. Unfortunately, some of these deviation(s) are not acceptable or beneficial to the Cooperative.

Please see enclosed the redline version with the unacceptable deviation(s).

As noted on **Form G-Deviation and Compliance Signature Form** of this proposal, the Cooperative reserves the right to accept or reject a proposal based upon any submitted deviation. Therefore, unless your company considers the removal of these deviations the Cooperative may recommend to not award your company the proposal.

Please respond no later than **Friday, February 10 , 2017,** and feel free to contact me at the BuyBoard should you need any further information regarding this matter.

Thanks

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.

SiteOne Landscape Supply
Company Name

MULTIPLE locations, see attached
Address

City | State | Zip

Phone Number | Fax Number

Contact Person

Company Name

Address

City | State | Zip

Phone Number | Fax Number

Contact Person

WITH OVER 450 LOCATIONS NATIONWIDE WE ARE THERE EVERY STEP OF THE WAY.

TEXAS BRANCHES

Arlington, TX 76001
811 West Harris Road
817-557-9732

Amarillo, TX 79109
6018 Canyon Drive, Unit B
806-463-6334

Austin, TX 78758
10805 Metric Blvd
512-833-5070

Beaumont, TX 77707
5360 Washington Blvd.
409-840-9415

Benbrook, TX 76126
106 Goliad
817-249-2700

College Station, TX 77845
10500 Highway 30 East,
Bldg. 300
979-776-8000

Conroe, TX 77385
8823 Fawn Trai Ste B
936-273-7717

Corpus Christi, TX 78416
5045 Ambassador Row
361-854-7499

Dallas, TX 75243
13510 Floyd Circle
972-231-0535

Dallas, TX 75220
10588 Shady Tri
214-352-7755

El Paso, TX 79935
11145 Rojas Drive
915-850-0463

Ft. Worth, TX 76244
4733 Keller-Hasiet Road
817-490-0330

Ft. Worth, TX 76107
1019 N Henderson St. Ste 101
817-332-1521

Garland, TX 75044
1901 Holford Rd.
972-530-0500

Hoston, TX 77084
3802 Barker Cypress Road
281-398-3040

Hoston, TX 77041
4519 Brittmore Road
713-849-2700

Houston, TX 77041
4320 Brittmoore Road
713-849-1910

Katy, TX 77449
20120 Park Row Dr
281-398-9388

Lewisville, TX 75056
521 Huffines Blvd
972-939-1144

Lewisville, TX 75067
701 S. Stemmons Fwy., Ste 60
972-434-0408

Lubbock, TX 79424
5815 West 50th St.
806-780-7995

Manor, TX 78653
12550 Harris Branch Pkwy
512-278-0997

McKinney, TX 75071
1501 Mercury Circle
469-742-0953

Mesquite, TX 75150
2945 E. Meadows Blvd.
972-681-5511

Pflugerville, TX 78660
1938 Waukesha Drive
512-989-7510

Pharr, TX 78577
807 W Ferguson Street
956-782-7777

Plano, TX 75074
1200 Summit Ave
972-881-0205

Prosper, TX 75078
544 S Dallas Parkway
972-346-3577

Round Rock, TX 78664
1816 Central Commerce Ct.
512-837-7997

San Antonio, TX 78247
3535 Metro Parkway
210-545-2266

San Antonio, TX 78247
15934 Nacogdoches Rd.
210-656-8100

San Antonio, TX 78249
16113 University Oak
210-764-0619

Southlake, TX 76092
260 Bank Street
817-488-9392

Spring, TX 77388
21145 Falvel Road
281-353-6502

Stafford, TX 77477
10410 Mula Rd
281-498-0904

Tyler, TX 75703
1913 Deerbrook Drive
903-581-8877

SiteOne LANDSCAPE SUPPLY

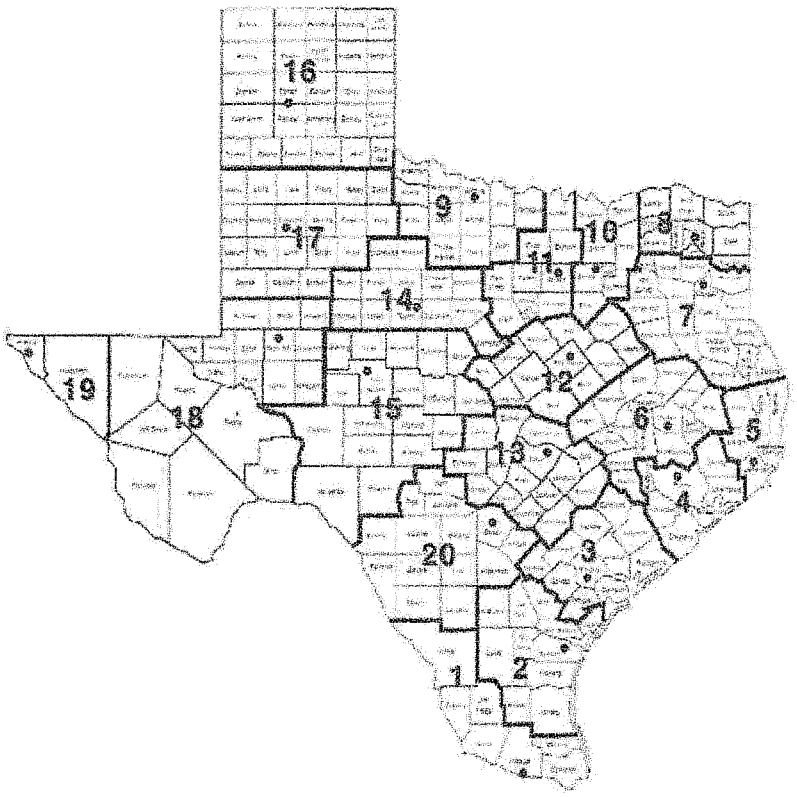
BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439
PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

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



☒ **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

SiteOne Landscape Supply
Company Name

Signature of Authorized Company Official

Molly M. Vorous
Printed Name

☐ 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.vendor.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 Form I, Texas Regional Service Designation.)*

☒ 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.

SiteOne Landscape Supply
Company Name

Signature of Authorized Company Official

Keith McGinty
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.

Molly M. Vorons

SiteOne Landscape Supply
Name of Vendor

Does NOT agree to National Purchasing CoOp
Proposal Invitation Number

Molly M. Vorons
Signature of Authorized Company Official

Molly M. Vorons
Printed Name of Authorized Company Official

10/25/16
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: $ 1.6 Million (The period of the 12 month period is 1/1/15 /12/31/15). 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.			
2. T-PASS			
3. U.S. Communities Purchasing Alliance			
4. The Cooperative Purchasing Network			
5. Houston-Galveston Area Council			
6. Other			

☒ **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 (%): varies based on category **Proposed Discount (%):** varies based on category/manufacturer, see attached

Explanation: Proposal discount are based on SiteOne Landscape Supply lines with various manufacturer and by product line.

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.

SiteOne Landscape Supply
Company Name

Signature of Authorized Company Official

Molly M. Vorous
Printed Name

FORM L

COMM.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. Please see attached					
2.					
3.					
4.					
5.					

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.

SiteOne Landscape Supply
Company Name

Molly M Vorous
Signature of Authorized Company Official

Molly M. Vorous
Printed Name

SiteOne
LANDSCAPE SUPPLY

REFERENCES:

All buying w/ Texas Buyboard discounts from Contract: 447-14, FOB: Destination

KATY Independent School District
 # 281-391-2184
PO Box 159
Katy, TX 77492

City of Carrollton
 # 972-466-3115
PO Box 110535
Carrollton, TX 75011

Fort Worth Independent School District
 # 817-871-2166
100 North University Drive
Fort Worth, TX 76107

Tarrant County College District
 # 817-263-8599
4801 Marine Creek Parkway
Fort Worth, TX 76179

Arlington Independent School District
 # 682-867-7352
1203 West Pioneer Parkway
Arlington, TX 76013

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.

Please see attached

SiteOne Landscape Supply
Company Name

Signature of Authorized Company Official

Molly M. Vorous
Printed Name

(E) bids@siteone.com
(P) 216-706-9250
(F) 248-581-1433

Supporting Cooperative Members

Working with SiteOne Landscape Supply means more than just quality products and the best service in the industry – it means having a true business partner, dedicated to your needs and the needs of your members.

We will initially inform all BuyBoard Cooperative Members that SiteOne Landscape Supply is an awarded vendor of products by emailing BuyBoard members with our company name and contact information along with other information as it applies.

We will provide ongoing support to BuyBoard Cooperative Members with ease due to our many branches located throughout Texas. We also have sales representatives that travel to meet with you and your municipality – such as our Agronomic Sales Representatives, Golf Sales Representatives, and our Outside Sales Representatives. Please see the attached list for locations, phone numbers, and Sales person names.

Our heritage is one of true value-added customer service, and our combined companies offer over 45 years of success in the industry. We want to be where you need us; and we strive every day to support the industry's top professionals.

For more information, visit us at www.siteone.com

SiteOne
LANDSCAPE SUPPLY

FIND WHAT YOU ARE AFTER

To build great things, you need a great resource. Whether it's sitting on the shelf in a product or standing behind the counter in an answer - find what you're after at SiteOne Landscape Supply

Irrigation

Drip Irrigation
- Nursery Propagation Materials
- Ag Products

Backflow

Controllers & Remotes
- Remote Control Technology
- Central Control Systems

Enclosures

Heads

Fittings
- Brass
- Copper
- Ductile Iron
- Electrical
- Galvanized
- Gasket
- PVC/Nylon Insert
- PVC Schedule 40, 80
- Sewer and Drain
- UVR

Irrigation Supplies
- Glue
- Cement/Solvents
- Primer
- Pipe & Wire Cutters
- Duct Tape
- Electrical Tape

Nipples/Riser Assemblies
- Brass
- Galvanized
- Poly
- Cobra Connectors
- Flex Risers
- PVC Schedule 80

Pipe
- Copper
- Drainage
- Galvanized
- PVC/Gasketed
- PVC-Solvent Weld
- PE Pipe
- Reclaimed (Purple)
- UVR

Specialty Valves/ Pumps
- Ball Valves
- Butterfly Valves
- Check Valves
- Gate Valves
- Pressure Regulating
- Pumps
- Pump Stations
- Quick Coupling Valves

Valves & Valve Boxes

Brands
- Agrifim
- All Spec
- Applied Engineering
- Armor Access
- BES Concrete
- Brooks Concrete
- Bow Smith
- Calsense
- Champion
- Christy's
- DIG
- Elcon
- Febco
- Griswold
- Hit
- Hot Box
- Hunter
- IPS Weld-On
- Irrigation
- Irritrol
- L.R. Nelson
- NDS
- Netafim
- Pepco
- Rain Bird
- Rain Master
- Salco
- Senninger
- Spears
- Superior
- Toro
- V.I.T./Strongbox
- Watts
- Wilkins
- Weather Guard
- Weathermatic

Turf & Landscape Supplies

Fertilizers & Chemicals
- Slow-Release
- Custom Blends
- Glyphosate
- Herbicides
- Insecticides
- Fungicides
- Rodenticides
- Combination Products
- Fertilizer Injectors
- Planting Tablets
- Sprayers/ Spreaders

Fertilizer & Chemical Brands
- Arysta
- Arborjet
- BASF
- Bayer
- Dow AgroSciences
- Dupont
- Hydro Agri
- LESCO®
- Monsanto
- Plant Health Care
- Pro Pax
- Ronstar
- Roots
- Syngenta

Drainage
- Catch Basins
- Fittings
- Grates
- Pipe

Drainage Brands
- ADS
- NDS

Erosion Control
- Filter Fabrics
- Jute Net
- Sand Bags
- Silt Fence
- Straw Matting
- Straw Wattles
- Wood Stakes

Misc. & Accessories
- WD-40
- Garden Hoses
- Marking Paint
- Pond Supplies
  - Pumps
  - Liners
  - Skimmers
- Staking Flags
- Tarps
- Treegator
- Tapes

Landscape Materials
- Jute Mesh
- Rebar Stakes
- Fabrics
- Grass Seed
- Edging
- Hydromulch
- Tree Stakes & Ties
- Root Barriers
- Rock
- Boulders
- 2 Cycle Oil
- Blades
- Trimmer Line
- Top Soil
- Soil Amendments
- Wood Products

Landscape Material Brands
- American Excelsior
- Bend-A-Board
- DeWitt
- LESCO®
- Pennington
- Profile/Turface

Tools
- Brooms
- Hand Tools
- Pipe Cutters/Saws
- Pruning Tools
- Shovels
- Tampers
- Safety Equipment
- Sprayers
- Wheelbarrows

Tool Brands
- Corona

Outdoor Lighting

Lighting Materials
- Fixtures
- Wire
- Connectors
- Control Cable
- Sweeps & Ells
- Electrical Covers
- PVC/UL Conduit
- Transformers

Brands
- 3M Products
- FX Luminaire
- Focus
- Hadco
- Kichler
- King Safety
- Pen-Tite Connectors
- Unique
- Vista
- X10 Pro

Hardscapes

Hardscape Products
- Appliances
- Stone Veneer
- Concrete Pavers & Walls
- Natural Stone
- Boulders
- Gravel
- Sand
- Polymeric Sand
- Sealers
- Specialized Tools

Brands
- Alliance Designer Products
- Belgard
- Coyote
- Eldorado Stone
- Keystone
- Techniseal

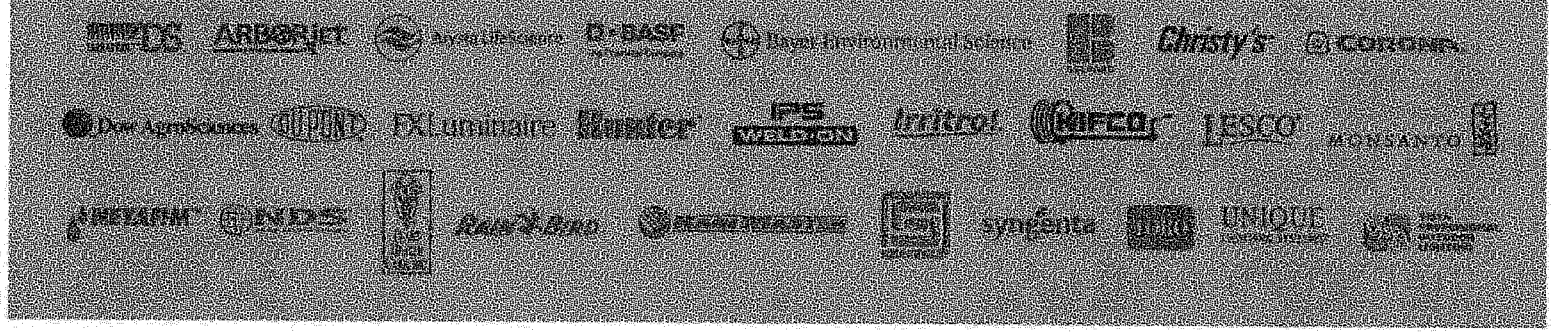
Equipment

Products
- Aerators
- Renovators
- Sprayers
- Spreaders
- Combo Equipment

Brands
- GNC Sprayers
- LESCO®
- LF Rich
- Permagreen

Nursery Direct

- Grasses
- Perennials
- Shrubs
- Annuals
- Trees
- Sod



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:

_____

_____

_____

_____

(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.

SiteOne Landscape Supply
Company Name

Molly M Vorous
Signature of Authorized Company Official

Molly M. Vorous
Printed Name

10/25/16
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: SiteOne Landscape Supply

*(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	____	
Limited Liability Company	xxxxx	
Partnership	____	
Other	____	If other, identify ____

State of Incorporation (if applicable): Delaware

Federal Employer Identification Number: 36-4485550
(Vendor must include a completed IRS W-9 form with their proposal) * See attached

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.)*

SiteOne Landscape Supply

Form **W-9**
(Rev. August 2013)
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.

Name (as shown on your income tax return)
SiteOne Landscape Supply, LLC

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:
☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☑ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ **C**

☐ Other (see instructions) ▶

Exemptions (see instructions):
Exempt payee code (if any) _____
Exemption from FATCA reporting code (if any) _____

Address (number, street, and apt. or suite no.)
1385 East 36th St.

Requester's name and address (optional)

City, state, and ZIP code
Cleveland, OH 44114

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 the "Name" line to avoid backup withholding. For individuals, this is 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 chart on page 4 for guidelines on whose number to enter.

Social security number
			–			–				

Employer identification number
3	6	–	4	4	8	5	5	5	0

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** ▶ Molly M Hamm | **Date** ▶ 10/25/16

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. The IRS has created a page on IRS.gov for information about Form W-9, at *www.irs.gov/w9*. Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

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.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

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: )

☐ **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: MMV)

☐ **NO, I do NOT agree to the above.** (Initial: _____)

---

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: _____)

☒ **NO, I do NOT agree to the above.** (Initial: MMV)

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: MMV)

☐ **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: MMV)

☐ **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: MMV)

☐ **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: MMV)

☐ **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: MW)

☐ **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: MW)

☐ **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: MMV)

☐ **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: MMV)

☐ **NO, I do NOT agree to the above.** (Initial: _____)

---

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: MMV)

☐ **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.

SiteOne Landscape Supply
Company Name

Molly M. Vorous
Signature of Authorized Company Official

Molly M. Vorous
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 and Manufacturer Letters** (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

THE LOCAL GOVERNMENT PURCHASING COOPERATIVE
ADDENDUM NO. 1

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Parts, Supplies and Installation

The following information becomes a permanent part of the Proposal Invitation document:

PROPOSER'S AGREEMENT AND SIGNATURE FORM:

Contract Time Period: June 1, 2017 through May 31, 2018 with two (2) possible one-year renewals.

Proposal Opening Date and Time: October 27, 2016 at 2:00 P.M.

Anticipated Cooperative Board Meeting Date: April 2017

Please sign and return one copy of the addendum with proposal as verification of receipt and compliance with addendum information.

Company Name: SiteOne Landscape Supply

Address: Bid Dept: 1385 E. 36th St., Cleveland OH 44114

Signature of Authorized Company Official: _____ Title: Sr. Bid Rep.

Telephone Number: 800-321-5325 ex 2550 Date: 10/13/16

WILKINS

a ZURN company

1747 Commerce Way, Paso Robles, CA 93446 Phone: (805) 238-7100

06 October 2015

Subject: Zurn Wilkins Authorized Distributor

To Whom It May Concern:

All business locations of John Deere Landscapes are authorized distributors of Zurn Wilkins products.

Paul D. Wait

Channel Manager - Irrigation
805-226-6296
paul.wait@zurnwilkins.com

To whom it may concern: Nov. 3rd 2016

This note confirms that Site One Landscape Solutions has been, and continues to be, a full product line distributor of Arborjet products throughout the US.

Sincerely,

Rob Gorden

Director of Business Development
Arborjet, Inc.
robgorden@arborjet.com
www.arborjet.com
401.487.3354

Aqua Master
FOUNTAINS AND AERATORS
MASTER THE POWER AND BEAUTY OF WATER

16024 CTH X • Kiel, WI 53042 • 800 693-3144 • Fax 920 693-3634
www.aquamasterfountains.com rudi@aquamasterfountains.com

November 3, 2016

Troy Oster
SiteOne Landscape Supply
650 Stephenson Hwy
Troy, MI 48083

Re: Distributorship

Dear Mr. Oster,

This letter serves as certification that SiteOne Landscape Supply is an authorized National Distributor of all products and parts manufactured by AquaMaster Fountains and Aerators.

Your Distributorship is active and in good standing.

Please contact me with any questions or comments.

Sincerely,

Rudi Huber
Global Sales Manager
AquaMaster Fountains & Aerators

BASF Corporation
26 Davis Drive
Research Triangle Park, NC 27709

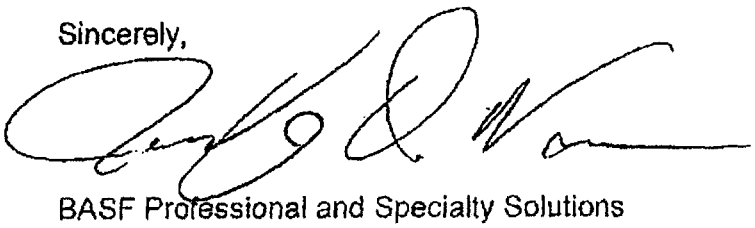
May 31, 2016

SiteOne Landscape Supply Authorized BASF Distributor

To whom it may concern:
This is to confirm that as of the date of this letter SiteOne Landscape Supply is an authorized BASF Distributor in the Turf and Ornamental and Pest Control Markets in good standing.

Please contact us should you have further questions.

Sincerely,



BASF Professional and Specialty Solutions
Jeffery Vannoy
Senior Product Manager

Science For A Better Life

June 7, 2016

To whom it may concern:

This letter is to confirm that SiteOne Landscape and Supply is an authorized distributor/agent of Bayer Professional Products in good standing.

Thank you,

Jose Milan
Bayer ES Americas

Christy's

11/04/16

To Whom It May Concern,

SiteOne Landscape Supply is authorized to distribute Christy's products (T. Christy Enterprises) throughout the United States. Please do not hesitate to contact me directly with any additional questions. Thank you.

Michael A. Snouse
Vice President, Sales

Christy's™ • 655 E. Ball Road • Anaheim, CA 92805-5910 • tel: (800) 258-4583 • fax: (800) 468-4583 • www.tchristy.com



November 7, 2016

To whom it may concern:

This letter is to confirm that SiteOne Landscape Supply, Atlanta, GA and their branches in USA and Canada are an authorized distributor/agent of Corona Tools USA in good standing.

If additional information or updates are needed, please contact us.

Sincerely

Shane

Shane Smith
Marketing Manager, Professional Channels
Shane.smith@corona.bellota.com
951-280-2011
800-847-7863 Ext. 311
www.coronatoolsusa.com

CC: Tom Hackworth, SiteOne, Category Manager – Equipment, GCA, Safety

CRESLINE®
CRESLINE PLASTIC PIPE CO., INC.

CORPORATE HEADQUARTERS: 600 CROSS POINTE BLVD. • EVANSVILLE, INDIANA 47715 • TELEPHONE (812) 488-9300
PLANT: 881 SOUTH U.S. 41 • HENDERSON, KENTUCKY 42420 • TELEPHONE (270) 826-0317
PLANT: 854 SILVER SPRING RD. • MECHANICSBURG, PENNSYLVANIA 17050 • TELEPHONE (717) 766-8656
PLANT: 200 SOUTH 35TH STREET • COUNCIL BLUFFS, IOWA 51501 • TELEPHONE (712) 322-2294
PLANT: 3801 EAST HIGHWAY 31 • CORSICANA, TEXAS 75109 • TELEPHONE (903) 872-8475
www.cpsc.com

REPLY TO: Evansville

November 3, 2016

SiteOne Landscape Supply
Attn: Troy Oster
650 Stephenson Hwy.
Troy, MI 48083-1100

Dear Troy:

This letter is to certify that SiteOne Landscape Supply is a national authorized Cresline Plastic Pipe Company Inc., Distributor, in good standing. SiteOne Landscape Supply supplies Cresline pipe products throughout the entire United States, and together we share a long history of success.

Please feel free to contact us at any time with any questions.

Sincerely,

Brad Boyd
Vice President – Sales

BTB/dj

EPIC MANUFACTURING

HydroSeeding & HydroMulching Equipment
Premium Hydroseeding Supplies
Lawn & Tree Sprayers
Hydrostatic Testers
Strawblowers

local: 864.942.5300 | toll free: (800) 228-1749 | fax: 864.942.5307 | www.epicmanufacturing.com

November 4, 2016

To whom it may concern:

This letter is to confirm that SiteOne Landscape and Supply is an authorized distributor/agent of Epic Manufacturing Products in good standing.

Thank you,

Jeff Clouser
President
Epic Manufacturing

Epic Manufacturing | 69609 Nantucket Business Park Drive | Greenwood, SC 29649

WATTS®
A Watts Water Technologies Company 815 Chestnut Street • North Andover, MA • 01845-6098 • Tel. (978) 688-1811 • Fax: (978) 794-1848

TO: Whomsoever it may concern November 3, 2016

SUBJECT: Authorized Distributor

This letter is to certify that SiteOne landscapes is our authorized wholesale stocking distributor for all product lines distributed by Watts Water Technologies, Inc.

Watts Water Technologies, Inc.

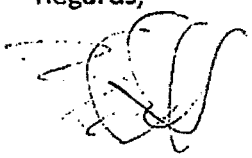
Terrie Yale
National Sales Manager

SiteOne

To Whom It May Concern:

Please be advised that SiteOne Landscape Supply is an approved nationwide direct distributor/manufacturer of all SiteOne Green Tech products and services.

Regards,



Brian Quill
Category Manager-Green Tech

MacLean HIGHLINE
A Division of MacLean Power
480 Munn Road, Suite 300
Fort Mill, SC 29715

Troy Oster
SiteOne Landscape Supply
Category Manager
650 Stephenson Hwy
Troy, MI 48083-1110
Phone : 248-837-4249
TOster@SiteOne.com

Dear Mr. Troy Oster,

SiteOne Landscape Supply is an authorized national distributor of our products. Please contact us directly if you need anything else.

Sincerely,

Robert Hickey

Robert Hickey
National Sales Manager- E&P Water
423-337-0675
rhickey@macleanhighline.com

November 3, 2016

To Whom It May Concern,

SiteOne Landscape Supply is an authorized North America distributor for products manufactured by Hunter Industries.

If you have any questions, please contact me at 760.591.7163 or judy.netteland@hunterindustries.com.

Judy Netteland
Global Services Manager
Hunter Industries, Inc.
760.591.7163 (Office)
judy.netteland@hunterindustries.com

November 7, 2016

To whom it may concern:

SiteOne Landscape Supply is an authorized National Distributor of King Innovation products.

Sincerely,

Nathan Burns
National Sales Manager
King Innovation
636-519-5467 Office
636-519-5410 Fax
nburns@kinginnovation.com

LESCO®
Professional Turf Products

January 1, 2016

To Whom It May Concern:

Please be advised that SiteOne Landscape Supply is an approved direct distributor of products from LESCO.

Regards,

Frank Bates

Director of Category Management

SiteOne Landscape Supply

SiteOne
LANDSCAPE SUPPLY



November 4th, 2016

To whom it may concern:
This letter is to confirm that SiteOne Landscape and Supply is an authorized distributor/agent of the LT Rich Products line and in good standing.

Thank you,

Shane K. Bell
LT Rich Products
Sales Manager

920 Hendricks Drive • Lebanon, IN 46052 • 877.482.2040 • 765.482.2040 • FAX: 765.482.2050 • www.zspray.com

MATCO-NORCA

Global sourcing. National compliance. Local service.

November 3, 2016

To All Concerned,

This is a letter confirming the fact that SiteOne Landscape Supply is a nationally stocking wholesale distributor for Matco-Norca products. They have access to any and all products provided by Matco-Norca.

Regards,
Todd Evans
National Market Manager
Waterworks and Irrigation Markets
Matco-Norca

ROUTE 22 • P.O. BOX 27 • BREWSTER • NEW YORK 10509 • TEL: (800) 431-2082 • (845) 278-7670 •
FAX: (800) 640-2252 • (845) 278-6952
1150 SILBER ROAD • HOUSTON • TEXAS 77055 (800) 935-5456 • FAX: (800) 883-4247
5593 FRESCA DRIVE • LA PALMA • CALIFORNIA 90623 (866) 532-8306 • (866) 532-8307

MONSANTO

May 31, 2016

To Whom It May Concern:

SiteOne™ Landscape Supply is an authorized distributor of Monsanto Company LLC. They are authorized to sell all Monsanto Company IT&O product SKUs.

If you have any questions, please contact Mark Helt at 314-341-9209.

Sincerely,

Gail Pollman

Gail Pollman
Monsanto Company LLC
National Account Specialist
800-325-1224

NDS
WE PUT WATER IN ITS PLACE

21300 Victory Blvd, Suite 215; Woodland Hills, CA 91367
800-726-1994 Phone 818-593-4872 Fax www.NDSPRO.com

John Deere Landscapes Authorized Stocking Distributor for NDS, Inc.

To Whom It May Concern,

John Deere Landscapes and all of their branches are an authorized stocking distributor for all NDS, Inc. product categories.

Drainage
Drip Irrigation
Fittings
Flow Management
Landscape Products
Meter Boxes
Permeable Pavers
Valve Boxes
All Products marketed by NDS, Inc.

BY: _____

TITLE: Vice President of Sales

DATE: July 7, 2015

NETAFIM™
GROW MORE WITH LESS

November 3, 2016

To Whom It May Concern,

SiteOne Landscape Supply is an authorized Netafim USA National Distributor who can sell our Landscape and Turf Division products throughout the United States. These products include driplines, filters, valves, control zone kits, pressure regulators, point source components, sprinklers, water meters, flow computers and miscellaneous components.

Please feel free to contact us if you have any further questions.

Sincerely,

Mauricio Troche
Director of Sales & Marketing, Landscape & Wastewater Divisions
Netafim USA
(805) 504-6145
Mauricio.Troche@netafim.com



From:
Blaine Pinkerton
Director, T&O Sales
June 1st, 2016

Nufarm Americas Inc.

11901 South Austin Avenue
Alsip, Illinois 60803
United States

Toll-Free 800 345 3330

nufarm.com/us

To Whom It May Concern:

This letter is to confirm that SiteOne Landscape is an authorized distributor of Nufarm Americas Inc. in good standing.

If you have any questions please contact:

Customer Service
800-345-3330

Sincerely,

Blaine Pinkerton

6800 Otter Lake Road
Lino Lakes, MN 55038-4427
T 651 429 4513
F 651 429 4519
E info@paraide.com

November 4, 2016

To whom it may concern,

This letter is a confirmation from Par Aide Products Co., that SiteOne Landscape and Supply is an authorized distributor of the Par Aide and Miltona line of products and is in good standing.

Thank you.

Dan Brown
Sales & Marketing Manager

QUALI-PRO

CONTROL SOLUTIONS incorporated

May 31, 2016

To Whom It May Concern;

SiteOne Landscape Supply is an authorized distributor in good standing of Control Solutions, Inc. products. SiteOne is a distributor for all Control Solutions Inc. branded items including the Quali-Pro branded items.

If you have any questions please contact Rick Grant whose information is provided below.

Sincerely,

Rick Grant
Business Director: T, N & O
(317) 650-8172
rgrant@controlsolutionsinc.com

April 13, 2016

To Whom It May Concern:

This letter is to confirm and validate that SiteOne Landscapes is a Distributor of Rain Bird products. Products SiteOne Landscapes is authorized to purchase from Rain Bird Corporation include;

Turf Products published in the Rain Bird Landscape Irrigation Equipment Price List

Specialized Central Control products in specific areas of Texas, Oklahoma and Southern California

Excluded products from this agreement are products sold for;

Consumer products

For a list of all SiteOne Landscape locations, please visit:
https://www.rainbird.com/dir_0scape/DistributorReferral.htm

To find out more about Rain Bird products please visit www.rainbird.com

Sincerely,

Jed Price
Marketing Manager
Rain Bird Corporation
6991 East Southpoint Dr.
Tucson, AZ 85756

SiteOne
LANDSCAPE SUPPLY

To Whom It May Concern:

Please be advised that SiteOne Landscape Supply is an approved Nationwide direct distributor of all products listed in the SiteOne Landscape Supply (formerly John Deere Landscapes) catalogs and price lists – which includes but is not limited to Nursery, Hydromulch, Erosion control products, Artificial turf, Grass Seed and Mulch.

Regards,

Frank Bates
Director of Category Management

SiteOne Landscape Supply

SiteOne
LANDSCAPE SUPPLY

SPEARS® MANUFACTURING COMPANY
CORPORATE OFFICE
16853 OLDEN STREET • SYLMAR, CALIFORNIA 91342
MAILING ADDRESS: P.O. BOX 9203 • SYLMAR, CALIFORNIA 91392
Telephone (818) 364-1611 • Fax (818) 741-1418
http://www.spearsmfg.com

November 3, 2016

To Whom It May Concern,

SiteOne Landscape Supply, headquartered at 300 Colonial Center Parkway, Roswell, GA is an authorized, stocking, national distributor of Spears® thermoplastic fittings and solvent cements.

SPEARS® MANUFACTURING COMPANY, INC.

Kevin Crouch
National Account Manager
Bolingbrook, IL

Dave Ravel
Head of Sales Turf and Landscape
North America

Tel: 336-509-1972
Dave.Ravel
@syngenta.com

Syngenta Lawn & Garden
4802 Worchester Place
Jamestown, NC 27282
www.syngenta.com

syngenta

Procurement Division
330 West Church Street, Room 150
Bartow, FL 33830

June 1, 2016

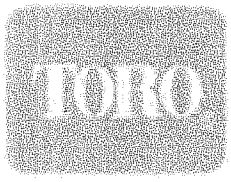
Syngenta Authorized Channel Partner; SiteOne Landscape Supply

To whom it may concern,

This is to confirm that SiteOne Landscape Supply is an authorized distributor and agent for the Syngenta Lawn and Garden product line. If you have any further questions, please feel free to contact me at 336-509-1972.

Sincerely,

Dave Ravel
Head of Sales, North America
Syngenta Turf, Ornamental and Pest Management



The Toro Company
8111 Lyndale Avenue South
Bloomington, MN 55420

April 12, 2016

Please use this document as certification that SiteOne Landscape Supply is a nationwide authorized distributor for Toro Res/Com Irrigation and Irritrol products.

Regards
Tom Tootle
Director of Sales
Toro Irrigation and Irritrol

To whom it may concern,

SiteOne is an authorized distributor of Tucor products for North America.

Larry C Sarver

President

Date: 11 | 06 | 2016

318 Wallace Road, Wexford, PA 15090-8862. Phone: 724-935-6830, Fax: 724-935-9235.
e-mail: [illegible] Website: [illegible] 11/4/2016

July 15, 2016

RE: Confirmation of Authorization to Distribute

To Whom It May Concern:

This letter is to inform you that SiteOne Landscape Supply, LLC, with offices at 1385 East 36th Street in Cleveland, Ohio, is a currently authorized distributor of products manufactured by Turf Care Supply Corp. under the brands *TCS GrowStar®* and *TurfCare* supply corp™.

Cordially,
TURF CARE SUPPLY CORP.

Gary Platek
VP, Regulatory Affairs

cc: M. Mangan

50 Pearl Road Suite 200 Brunswick, Ohio 44212 330-558-0910

Weathermatic
Water Conserving Innovation

To Whom It May Concern,

This letter is to confirm that SiteOne Landscape Supply is the preferred distributor and support & training provider for Weathermatic in the States of Texas. By virtue of this agreement, SiteOne is authorized to offer our products available on Weathermatic throughout the entire Texas markets.

Warm Regards,

Bill Savelle
E.V.P. Products Division

3301 W. Kingsley Road • Garland, TX 75041-2207 • Phone: 888-484-3776 • Fax: 972-271-5710 • www.weathermatic.com

BuyBoard Cooperative Purchasing

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

NOTE: Vendors proposing various manufacturer product lines per line item on the Proposal Specification Form (Form S) must submit the information as follows or proposal may not be considered:
· Manufacturers shall be listed in alphabetical order
· Vendor's must list one specific percentage discount for each Manufacturer listed.
If a vendor's response to Proposal Specification Form (Form S) states "please see attachment sheet," all manufacturers listed on the attachment sheet must indicate per manufacturer the line item that correlates to Proposal Specification Form (Form S) or Vendor's proposal may not be considered.
NOTE 2: An awarded Vendor must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposer's responding to this Proposal Invitation should submit an approval letter from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
Section I: Grounds Maintenance Equipment, Supplies, Parts and Accessories - PURCHASE ONLY					
1	Discount (%) Off Catalog/Pricelist for Golf and Turf Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Golf and Turf Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		
2	Discount (%) Off Catalog/Pricelist for Tractors, Equipment, Supplies, and Accessories, 20 to 200 Engine HP	Please state the discount (%) off catalog/pricelist for **Tractors, Equipment, Supplies, and Accessories, (20 to 200 Engine HP.)** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
3	Discount (%) Off Catalog/Pricelist for Lawn and Garden Tractors, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Lawn and Garden Tractors, Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		

PROPOSAL NOTE
1. Catalogs/Pricelists are required to be submitted with Proposal

BuyBoard Cooperative Purchasing

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
4	Discount (%) Off Catalog/Pricelist for Front Mowers, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Front Mowers, Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
5	Discount (%) Off Catalog/Pricelist for Wide Area Mowers, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Wide Area Mowers, Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
6	Discount (%) Off Catalog/Pricelist for Zero Turn Mowers, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Zero Turn Mowers, Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
7	Discount (%) Off Catalog/Pricelist for Walk Behind Mowers, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Walk Behind Mowers, Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
8	Discount (%) Off Catalog/Pricelist for Utility Vehicles, Equjipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Utility Vehicles, Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
9	Discount (%) Off Catalog/Pricelist for All Terrain Vehicles, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **All Terrain Vehicles, Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

BuyBoard

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
10	Discount (%) Off Catalog/Pricelist for Cutters and Shredders, Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Cutters and Shredders, Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
11	Discount (%) Off Catalog/Pricelist for Sprayers, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Sprayers, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		
12	Discount (%) Off Catalog/Pricelist for Scraper, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Scraper, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
13	Discount (%) Off Catalog/Pricelist for Hand Held Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Hand Held Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		
14	Discount (%) Off Catalog/Pricelist for Landscape and Turf Care Attachments	Please state the discount (%) off catalog/pricelist for **Landscape and Turf Care Attachments.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
15	Discount (%) Off Catalog/Pricelist for Parking Lot/Sidewalk Sweepers, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Parking Lot/Sidewalk Sweepers, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
16	Discount (%) Off Catalog/Pricelist for Turf Maintenance Sweepers and Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Turf Maintenance Sweepers and Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
17	Discount (%) Off Catalog/Pricelist for Outdoor Scrubbers, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Outdoor Scrubbers, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
18	Discount (%) Off Catalog/Pricelist for Hydroseeding Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Hydroseeding Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
19	Discount (%) Off Catalog/Pricelist for Bark and Straw Blowers and Crimper Equipment, Supplies, and Accessories	Please state the discount (%) off catalog/pricelist for **Bark and Straw Blowers and Crimper Equipment, Supplies, and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		
20	Discount (%) Off Catalog/Pricelist for All Other Types of Grounds Maintenance Equipment, Supplies and Accessories	Please state the discount (%) off catalog/pricelist for **All Other Types of Grounds Maintenance Equipment, Supplies and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		LT Rich is List plus Freight
21	Discount (%) Off Catalog/Pricelist for Ground Maintenance Equipment Repair Parts	Please state the discount (%) off catalog/pricelist for **Ground Maintenance Equipment Repair Parts.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

BuyBoard

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
22	Discount (%) Off Catalog/Pricelist for Ground Maintenance Equipment Service Agreements	Please state the discount (%) off catalog/pricelist for **Ground Maintenance Equipment Service Agreements.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
23	Discount (%) Off Catalog/Pricelist for Field and Turf Fertilizer, Conditioners, Dressings and Chemicals	Please state the discount (%) off catalog/pricelist for **Field and Turf Fertilizer, Conditioners, Dressings and Chemicals.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		No discount on Agency Priced Products
24	Discount (%) Off Catalog/Pricelist for Nursery Products	Please state the discount (%) off catalog/pricelist for **Nursery Products (shade trees, shrubs, and other related items).** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		
25	Discount (%) Off Catalog/Pricelist for Specialty Soils for Athletic Fields, Play Surfaces, or Park Surfaces	Please state the discount (%) off catalog/pricelist for **Specialty Soils for Athletic Fields, Play Surfaces, or Park Surfaces.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
26	Discount (%) Off Catalog/Pricelist for All Types of Fertilizer and Grounds Chemicals	Please state the discount (%) off catalog/pricelist for **All OtherTypes of Fertilizer and Grounds Chemicals.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		No discount on Agency Priced Products
Section II: Grounds Maintenance Equipment - RENTAL ONLY (Vendor must include Rental Rate Sheet)					
27	Discount (%) Off Catalog/Pricelist for Rental of All Types of Grounds Maintenance Equipment, Accessories and Attachments	Please state the discount (%) off catalog/pricelist for **Rental of All Types of Grounds Maintenance Equipment, Accessories and Attachments.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

BuyBoard Cooperative Purchasing

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

NOTE: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental" equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from workmanship and parts and shall cover equipment repairs and/or component replacement.

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
Section III: Grounds Maintenance Equipment (Pre-Owned/Reconditioned/Retired Rental)					
28	Discount (%) Off Catalog/Pricelist for Pre-Owned/ Reconditioned/ Retired Rental of All Ground Maintenance Equipment	Discount (%) Off Catalog/Pricelist for all **Pre-Owned/Reconditioned/Retired Rental of All Construction/Ground Maintenance Equipment.** Catalog/Pricelist MUST be included or proposal will not be considered.	No Bid %		
Section IV: Irrigation Supplies, Parts and Accessories					
29	Discount (%) Off Catalog/Pricelist for Residential/Commercial Irrigation Controllers	Please state the discount (%) off catalog/pricelist for **Residential/Commercial Irrigation Controllers** (solid state, light commercial application, 12 to 48 station capability.) **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
30	Discount (%) Off Catalog/Pricelist for Residential/ Commercial Irrigation Control Valves	Please state the discount (%) off catalog/pricelist for **Residential/Commercial Irrigation Control Valves** (1" to 3" pipe size, glass filled nylon or brass construction, electrically controlled, flow control capability.) **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached _____%		
31	Discount (%) Off Catalog/Pricelist for Residential/Commercial Irrigation Sprinkler Heads	Please state the discount (%) off catalog/pricelist for **Residential/Commercial Irrigation Sprinkler Heads** (fixed spray pattern, gear drive rotor 3/4" to 1" inlet, various fixed arcs, plastic construction.) **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached _____%		
32	Discount (%) Off Catalog/Pricelist for Large Commercial/Central Controllers	Please state the discount (%) off catalog/pricelist for **Large Commercial/Central Controllers** (solid state/digital, computer driven, software to manage water distribution, central location to command field satellites, hard wired or wireless signal commands to field satellites.) **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached _____%		
33	Discount (%) Off Catalog/Pricelist for Field Satellites	Please state the discount (%) off catalog/pricelist for **Field Satellites** (controls water distribution (sprinkler heads), stand alone or controlled by a central computer/controller, solid state, receives command signals either hard wire or radio link.) **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached _____%		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
34	Discount (%) Off Catalog/Pricelist for Large Turf Sprinkler Heads	Please state the discount (%) off catalog/pricelist for **Large Turf Sprinkler Heads** (water distribution (sprinklers) for large turf areas, 31' minimum radius, minimum 13.6 GPM, minimum 1" inlet, plastic construction.) **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		
35	Discount (%) Off Catalog/Pricelist for Drip Irrigation Products	Please state the discount (%) off catalog/pricelist for **Drip Irrigation Products. Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		
36	Discount (%) Off Catalog/Pricelist for Aerating Fountain Products, Equipment and Lighting	Please state the discount (%) off catalog/pricelist for **Aerating Fountain Products, Equipment and Lighting. Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		
37	Discount (%) Off Catalog/Pricelist for Industrial Aerating Products, Equipment and Lighting	Please state the discount (%) off catalog/pricelist for **Industrial Aerating Products, Equipment and Lighting. Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		
38	Discount (%) Off Catalog/Pricelist for Bunker Pumps, Equipment and Supplies	Please state the discount (%) off catalog/pricelist for **Bunker Pumps, Equipment and Supplies. Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

BuyBoard Cooperative Purchasing

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist[1]	State Name of Catalog/Pricelist[1]	Exceptions to Discount
39	Discount (%) Off Catalog/Pricelist for Water Chemicals and Dyes, Supplies and Accessories	Please state the discount (%) off catalog/pricelist for **Water Chemicals and Dyes, Supplies and Accessories.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
40	Discount (%) Off Catalog/Pricelist for Irrigation Equipment Repair Parts	Please state the discount (%) off catalog/pricelist for **Irrigation Equipment Repair Parts.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		
41	Discount (%) Off Catalog/Pricelist for Irrigation Equipment Service Agreements	Please state the discount (%) off catalog/pricelist for **Irrigation Equipment Service Agreements.** **Catalog/Pricelist MUST be included or proposal will not be considered.**	No Bid %		
42	Discount (%) Off Catalog/Pricelist for Commercial and Central Controllers Service Agreements	Please state the discount (%) off catalog/pricelist for **Commercial and Central Controllers Service Agreements (Automatic Software Updates and Technical Support 24/7.)** **Catalog/Pricelist MUST be included or proposal will not be considered.**	see attached %		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

BuyBoard

Proposal Invitation No. 529-17-Grounds Maintenance Equipment, Irrigation Supplies and Installation

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered[1].)

Section V: Installation and Repair Service			Not to Exceed Hourly Labor Rate	Detailed Information on Hourly Labor Rate	Exceptions to Hourly Labor Rate
43	Not to Exceed Hourly Labor Rate for Installation/Repair Service and of Grounds Equipment and Products	**Hourly Labor Rate for Installation/Repair of Grounds Maintenance Equipment and Related Products** -- State the **Not to Exceed** hourly labor rate for Installation/Repair Service of Grounds Maintenance Equipment and Products.	$ No Bid /Hour		
44	Not to Exceed Hourly Labor Rate for Installation/Repair Service and of Irrigation Equipment and Products	**Hourly Labor Rate for Installation/Repair of Irrigation Equipment and Related Products** -- State the **Not to Exceed** hourly labor rate for Installation/Repair Service of Irrigation Equipment and Products.	$ No Bid /Hour		
45	Not to Exceed Hourly Labor Rate for Field and Turf Preparation Work	**Hourly Labor Rate for Field and Turf Preparation Work** -- State the **Not to Exceed** hourly labor rate for Installation/Repair Service of Field and Turf Preparation Work.	$ No Bid /Hour		
46	Not to Exceed Hourly Labor Rate for Fertilizers, Chemicals, Specialty Soils, Play Surfaces, and Other Related Items	**Hourly Labor Rate for Application of Fertilizers, Chemicals, Specialty Soils, Play Surfaces, and Other Related Items.** -- State the **Not to Exceed** hourly labor rate for Application of Fertilizers, Chemicals, Specialty Soils, Play Surfaces, and Other Related Items..	$ No Bid /Hour		
47	Not to Exceed Hourly Labor Rate for Tree Service and Stump Grinding	**Hourly Labor Rate for Tree Service and Stump Grinding** - State the **Not to Exceed** hourly labor rate for Tree Service and Stump Grinding.	$ No Bid /Hour		
48	Not to Exceed Hourly Labor Rate for Installation/ Transplanting of Trees	**Hourly Labor Rate for Installation/Transplanting of Trees** -- State the **Not to Exceed** hourly labor rate for Installation/Transplanting of Trees.	$ No Bid /Hour		

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

SiteOne Landscape Supply bid 529-17

*See Attached CD for Pricelists + Catalogs

Manufacture Name If manufacturer or company has website with pricing you can use website (No http:// or www. No all capitals)	BuyBoard Discount (no % sign)	Item Number
Aquamaster	5	36
Arborjet	0	26
T. Christy's tchristy.com/price-lists/	40	40
Corona	40	13,20
Cresline SDR21	70	40
Cresline SCH40	65	40
Cresline SCH80	65	40
Febco	50	40
Highline (i.e. Amtek)	50	40
Hunter	50	32
Hunter	57	29,30,31, 34,35,40
Hunter	40	33
Irritrol	53	29,30,31,34,35,
Irritrol	45	32
Irritrol	40	33
Irritrol	25	40
King Innovation	45	40
L.T. Rich (List + Feright)	0	20
MATCO	64	40
NDS	53	40
Netafim	45	35
Par Aide Catalog	20	1,
Rainbird	52	29,30,31,34,35
Rainbird	45	32
Rainbird	40	33
Rainbird	25	40
SiteOne Landscape Supply (formerly John Deere Landscapes, *note catalog still shows John Deere Landscapes but it is for SiteOne) General Catalog	10	1,11,13,14,20,23,25,26,36 ,37
SiteOne Equipment Catalog	10	1,11,13,14,20
SiteOne Fertilizer & Chemical Price List	0	23
SiteOne Hydroseeding, Mulch, Equipment & Supplies Price List (includes Epic Manufacturing)	0	18,19,25
SiteOne GreenTech greentech.siteone.com/documents-drawings	0	42
SiteOne Nursery Price List	0	24
Spears SCH40	70	40
Spears SCH80	65	40
Spears, All other Items	40	40
Toro	53	29,30,31,34,35
Toro	45	32

SiteOne Landscape Supply bid 529-17

Toro	40	33
Toro	25	40
TUCOR Inc.	35	40
Weathermatic	45	29,30,31,32,34
Weathermatic	40	33
Wilkins	65	40

BuyBoard®
Cooperative Purchasing
12007 Research Boulevard • Austin, Texas 78759-2439 • PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

No Israel Boycott Certification

Effective September 1, 2017, a Texas governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. (Tex. Gov't Code Ch. 2270)

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Tex. Gov't Code §808.001(1).

By signature below, I certify and verify that Vendor does not boycott Israel and will not boycott Israel during the term of any contract awarded under this Proposal Invitation, that this certification is true, complete and accurate, and that I am authorized by my company to make this certification.

SiteOne Landscape Supply
Company Name

Signature of Authorized Company Official

Molly M Vorous
Printed Name

No Excluded Nation or Foreign Terrorist Organization Certification

Effective September 1, 2017, Chapter 2252 of the Texas Government Code provides that a Texas governmental entity may not enter into a contract with a company engaged in active business operations with Sudan, Iran, or a foreign terrorist organization – specifically, any company identified on a list prepared and maintained by the Texas Comptroller under Texas Government Code §§806.051, 807.051, or 2252.153. (A company that the U.S. Government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or any federal sanctions regime relating to a foreign terrorist organization is not subject to the contract prohibition.)

By signature below, I certify and verify that Vendor is not on the Texas Comptroller's list identified above; that this certification is true, complete and accurate; and that I am authorized by my company to make this certification.

SiteOne Landscape Supply
Company Name

Signature of Authorized Company Official

Molly M Vorous
Printed Name

8. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Rick Compau, Purchasing Director
Co-Submitter:	Rick Tadder
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Approval: Service Provider Contract with United Way of Northern Arizona in the amount of $363,750 for Fiscal Year 2019-2020.

STAFF RECOMMENDED ACTION:

1. Award the Service Provider Contract and allocate funds to United Way of Northern Arizona ("UWNA") in the amount of $363,750 for the fiscal year 2019-2020 to provide community health and human services; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

In Fiscal Year 2019-2020, the City is seeking to enter into a Service Provider Contract with UWNA to provide community health and human services. The procurement method for selecting UWNA was through a sole source. "Sole source" is defined as:

> A contract awarded for a material, service or construction item without competition if the director determines in writing that there is only one known source for the required material, service or construction item. The director may require the submission of cost or pricing data in connection with an award under this section. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A written determination of the basis for the sole source procurement shall be included in the contract file.

The Sole Source Justification Form for this Service Provider Contract is attached.

Financial Impact:

If approved, the allocation and administrative costs will be paid from and budgeted in account 001-09-402-1311-1-4273 (Service Provider Contract), in FY 2019-2020.

Policy Impact:

The Service Provider Contract, in summary, provides the allocation of funds to be used exclusively for assisting nonprofit entities located in Flagstaff in providing community health and/or human services. The recommended action approves the specific allocation of monies for FY 2019-2020 as reviewed and approved by the Board of Directors for UWNA. Given the total fund allocation of $363,750 to UWNA, $249,688 will be allocated by UWNA utilizing a formal application process to various social service agencies, $63,000 ($70K less 10% Admin Fee for UW administering the funding) for early childhood education (LAUNCH Program) and $51,062 for administrative fees for UWNA to administer the programs.

Historically, formal competitive Requests for Proposals ("RFP") were conducted, however, UWNA has been the only proposer to respond to the RFP. Based on our research, UWNA is the only local Flagstaff non-profit organization who provide these services. The initial contract term is for one (1) year, with the option to renew the contract for up to four (4) additional one (1) year periods.

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

11. Effective governance

Has There Been Previous Council Decision on This:

Yes. In June of 2009, Council approved a 3-year Service Provider Contract, which expired June 30, 2012, with two (2) one (1) year options to extend. The City exercised both extension years, with the last extension expiring on June 30, 2014. Prior to the expiration of this multi-year contract, the Purchasing Section conducted a new formal competitive Request for Proposals, with UWNA submitting the only proposal response. Council approved the 3-year Service Provider Contract, and subsequent two (2) one (1) year options to extend, with the last extension expiring on June 30, 2019.

Options and Alternatives:

1.) Approve the contract with UWNA
2.) Consider reducing the funding allocation and have UWNA submit information as to where the cuts would occur (in priority) and the impact of these proposed reductions
3.) Direct Purchasing staff to conduct a formal competitive Request for Proposals

Background/History:

In 1992, the City worked with UWNA to establish a program that allocates City funds to agencies that provide community health and human services. Because of this program, the City, UWNA, and the citizens of Flagstaff have benefited from that partnership for the allocation and disbursement of City general funds for social services to be administered throughout the community. As mentioned earlier, a formal RFP process was conducted to give other organizations an opportunity to submit a proposal as to how they would serve the City and its citizens, ensuring that City funds are used effectively to benefit targeted populations, and distributed through a volunteer driven and fair process and leveraged with multiple types of resources.

Key Considerations:

An organization acting on behalf of the City to allocate funds for community health and human services is an arrangement that is very beneficial to the City and provides a “one-stop-shop” for the various social service agencies.

Expanded Financial Considerations:

None.

Community Benefits and Considerations:

Approval of this Service Provider Contract will permit UWNA to distribute funds to those agencies that are able to provide the necessary health and human services identified as community goals. The Service Provider Contract requires that a report/presentation be given by UWNA to Council shortly after the Board takes action to approve all funding allocations.

Community Involvement:

Involve and collaborate. The UWNA Board is a broad representative of the community and includes a participating provider. The Board sets the goals of the UWNA organization necessary to achieve their mission. The Board continues to involve representatives from the public in review of the agency's activities.

Expanded Options and Alternatives:

None.

Attachments: Service Provider Contract
Sole Source Justification

SERVICE PROVIDER CONTRACT
Contract No. _____

This Contract is entered into this _____ day of _____, 2019 by and between the City of Flagstaff, a political subdivision of the State of Arizona ("City"), and United Way of Northern Arizona, an Arizona nonprofit corporation ("Provider").

RECITALS

WHEREAS, the City desires to enter into this Contract to obtain services related to Community Health and Human Services, via a social service contribution from the City and Provider is able to provide those services;

Provider has available and offers to provide the personnel necessary to organize and provide said services in accordance with the Scope of Work section, attached to this Agreement as Exhibit A; and

The City has made available a sum of money to provide financial assistance to non-profit organizations to provide Community Health and Human Services to primarily low and moderate income residents of the City; and

The City wishes to delegate certain program administration and monitoring responsibilities to Provider regarding the allocation of funds reserved for city-wide Community Health and Human Service programs to local social service agencies.

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:

   Community Health and Human Services, via a social service contribution from the City of Flagstaff 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 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 Rick Tadder, Management Services Director or his 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 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 $363,750.00 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:
Rick Compau, C.P.M., CPPO, CPPB
City of Flagstaff
211 W. Aspen
Flagstaff, AZ 86001
rcompau@flagstaffaz.gov

To Provider:
Carol Dykes
United Way of Northern Arizona
1515 East Cedar Ave., Ste. D-1
Flagstaff, Arizona 86004
cdykes@nazunitedway.org

Copy to:
Rick Tadder
City of Flagstaff
211 W. Aspen
Flagstaff, AZ 86001
rtadder@flagstaffaz.gov
Phone: (928) 213-2752

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.

PROVIDER

_____

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/FEE SCHEDULE

Scope of Work:

1) Identify community health and human services critical needs and opportunities and provide the City funds for them through a fair process.

Dialogue and data collection shall occur on an on-going basis with social services providers. Provider shall:

- Conduct email surveys with partner agencies to determine the effect of the changing economic conditions on clients and demand for services;
- Conduct three (3) face to face meetings with executives and senior staff from health and human service agencies to discuss needs and opportunities;
- Sponsor a community forum on poverty with the Arizona Community Action Association, and Coconino County to assess needs and assets of our community's ability to respond to the increasing numbers of low-income residents; and
- Routinely discuss findings from data collection and dialogue with business and civic leaders to understand health and human services needs in relation to their knowledge of community conditions.

These communication methods or similar ones shall be maintained on an on-going basis.

Additionally, Provider staff shall participate in a variety of organizations to facilitate the transfer of knowledge and build understanding of trends, best practices and opportunities in health and human services.

Provider shall coordinate with Launch Flagstaff under the collective impact for services, planning, and collaboration in the respective areas cradle to career.

2) Ensure funds are used effectively and specifically for the intended low and moderate income populations.

Each spring, the Provider's board and staff shall recruit volunteers from among donors, campaign volunteers, corporate and community leaders to determine how the City of Flagstaff funds should be disbursed. Teams of volunteers headed by a member of the Provider's board review applications and conduct site visits. Each applicant is expected to document how its services impact the lives of the people who participate in its programs.

These volunteers have an interest in community social services, have an ability to read and interpret program/services information and are willing to commit the time necessary to do the best job possible. Volunteers are required to become knowledgeable regarding Provider's community investment process by attending a training session, become knowledgeable regarding agencies assigned to them, and specifics of programs for which funds are requested (each volunteer is asked to review five proposals' narratives and fiscal reports as well as complete a rating sheet), attend all meetings of their assigned team, recommend funding levels to Provider's board and ensure that community investment decisions are based on information provided within submitted proposals and site visits.

Volunteers shall evaluate the written proposal on key areas: Alignment with funding priorities (funding priorities are set by the Board based on community assessments), ability to display quantitative and qualitative outcomes that address how community conditions or individual clients conditions have changed in the current year due to program(s)/service(s) delivered,

goals and outcome objectives, budget narrative, logic model and inclusion of all required materials. Provider's staff shall audit applications to ensure compliance and volunteers shall be asked to bring their own experiences to the review process. A CPA or a person with expertise in fiscal management shall review fiscal components of the application. Review teams shall then recommend allocation amounts for each applicant to the Provider's Board of Directors

Final allocation decisions shall be made by the Provider's Board of Directors. The Board shall take into consideration the committee recommendations. A senior member of the City of Flagstaff staff shall hold a position on the Board of Directors and assume a leadership role with the community review team.

Provider shall work in collaboration with service providers, local government, health and education leaders that have successfully established or supported new programs or addressed system-wide responses to specific population needs. Provider shall lead an effort to better understand the needs and impact of this population, as well as potential models utilized in other communities, to address chronic alcoholism.

Provider shall work from an asset or strength-based model, meaning the Provider believes in working from strengths and that rarely can a single entity solve problems. To this end, as gaps in service become evident, Provider shall work with its partners, Community Initiative Councils, businesses and civic leaders to identify existing resources to meet needs. Provider, in collaboration with The Financial Stability Partnership (FSP), shall identify services for newly un-employed, people who have never had to access help before as an emerging need. Provider shall create resource lists and develop distribution methods. Provider shall provide the resource list to human resource personnel for the City of Flagstaff and other alliance members to ensure that employees targeted for lay-offs or furloughs received information about available social services.

3) Use City funds to leverage additional resources to provide enhanced and substantially similar benefit.

Three levels of review shall occur for each entity that is funded as follows:

1) compliance with non-profit organizational and fiscal requirements (990 tax filing, annual audit, non-profit status)
2) site visits by community review teams to see the program operations and meet the executive level staff and key board members
3) programmatic reports documenting services provided

Each organization shall provide the following:

A single Application Cover Sheet, Amount(s) Requested Form, Budget Narrative, Patriot Act Compliance Form, Certification of Non-Discrimination Form, Audit, and 990 Tax Return are required for funding source:

- **Application Cover Sheet** – Please utilize provided Application Cover Sheet. Signatures and printed names of Board President and Executive Director/CEO are required.
- **Amount(s) Requested Form -** Indicate amount for City of Flagstaff Funds being requested.
    - ♦ Computation of Administrative/Fund Raising Expenses.
- **Budget Narrative** - The purpose of a budget narrative is to provide more clarity and detail on various budget line items for which funds are being requested. The budget narrative

should explain criteria used to compute budget figures. Tie budget narrative with projected outcomes within Logic Models. Complete Budget Narrative For Amount(s) Requested Form.

- **USA Patriot Act Annual Compliance Form**
- **Certification of Non-Discrimination in Services and Employment Form**
- **Audit** - Most recent independent certified public accountant's ***Audit Report*** for agency **with Auditor's management letter.** Auditor's Recommendations to Board of Directors. *(If Management Letter was not issued, a letter from the Auditor stating no Management Letter was issued **MUST BE** SUBMITTED).*
  - **GAAP and GAAS -** The Agency listed in this application accounts for its funds in accordance with generally accepted accounting principles (GAAP) and was audited in accordance with generally accepted auditing standards (GAAS) by an independent certified public accountant in the immediately preceding year.
  - **OMB 133 Audit**: (Single Audit Act) $500,000 or more expenditures of Federal funds. Fiscal and program compliance tested. More testing required. Opinion letter addresses Internal Controls. Management Letter provides suggestions.
  - **Regular Audit**: Review of fiscal documentation and records. No Opinion Letter on Internal Controls. Management Letter with suggestions is written. Required based on partner's budget/revenues of $100,000 and above.
  - **Reviewed Financial Statement**: Tests numbers and ratios. Required based on partner's budget/revenues of $25,000 - $100,000.
  - **Compilation**: Pulls fiscal records and converts into Generally Accepted Accounting Procedures (GAAP) with disclosures/notes. Required based on partner's budget/revenues below $25,000.
  - **IRS 990 Tax Return** – Must be from the same calendar year/fiscal year as audit (organizations which are not required to submit a Form 990 must complete the first two pages of a 990 for UWNA), accounting method **must be accrual**; including signatures in the box marked "Signature of Officer." The preparer's signature alone is **not** sufficient. Dates of the Form 990 **must match** dates of annual audit and both cannot be older than 18 months.
  - **New applicants to Successful Provider** - If this is the first year an agency is applying for any funds through , the following are required:
    - ❑ Copy of most recent **IRS determination letter** (501c3).
    - ❑ **Current Year's Budget** (the year agency is currently in) for entire agency as approved by agency's Board of Directors.
    - ❑ A list of agency's **Board of Directors** and **Advisory Board** (if agency is an affiliate of a statewide organization) with the following required information:
      - o Mailing addresses and telephone numbers for each member. Just the agency's address and phone number are unacceptable.
      - o Indicate offices currently held by each member.
      - o Terms of office – beginning and ending dates (month, day, and year). If your agency does not have term limits, attach a copy of Bylaws stating this fact.
      - o A list of dates of Board of Directors meetings held within the past 12 months. Indicate meetings at which a quorum was present.

- Provide times and locations with an exact address of each Board meeting.

Each spring the Provider shall release a request for proposal for City of Flagstaff funding. All Community Health and Human Service agencies serving Flagstaff residents shall be invited to participate through public notification in the Arizona Daily Sun. Provider partners shall be invited to participate through their annual provider application for funds. Previous year's applicants shall be notified via email and Provider staff shall be available via phone/email for questions and concerns. Provider shall require that each applicant provide a logic model explaining how City of Flagstaff funding was utilized by the agency in the previous calendar year. Provider shall ask for quantitative and qualitative outcomes that address how the agency is changing community conditions including: locations/ neighborhoods served, demographics of those served (local residents or transient populations), and how has this service changed community conditions.

Provider shall also require that each applicant provide goals and objectives for the current calendar year. This component shall include broad statements of intent (goals) with measurable, time-specific outcomes (objectives) that directly link with identified problem/needs addressed through City of Flagstaff funds. Goals shall be general statements of long-range benefits that reflect what changes are desired within a targeted population or community area**.** Outcome objectives shall be specific, quantified statements of expected outcomes of the service. These performance measures shall describe events that can be realistically achieved with available resources.

And finally, Provider shall require that each applicant complete a logic model for the current year in which they are requesting funding. The logic model shall describe how the proposed service(s)/program is/are compatible with funding priorities. Program goals shall describe any changes in condition, knowledge, attitude or skill as a result of the proposed service. Project/service measurement tools and evaluative methods shall accurately track stated outcome objectives. Logic models shall display: Needs, Process, Outcome, Service Area (Education, Income and Health), Evaluation, and requested Budget to accomplish stated Outcome.

Provider shall provide training to applicants. Each year Provider shall assess the most important topics by evaluating where Provider weaknesses in previous year's applications or a significant change in non-profit management standards. All training provided shall include: Outcome measurement, logic models, Sarbanes Oxley for non-profits, and the new 990.

- **Award Program**

A. Provider shall send application materials to service providers who received funds from the last City allocation cycle, as well as, any other qualified interested service providers.

B. Provider shall appoint a review committee composed of Flagstaff area residents and one (1) member appointed by the City which will review funding requests programmatically, financially and administratively, taking into account Community Health and Human Service needs, availability of similar services from other sources.

C. Provider shall provide written notification to the City of recommended allocations approved by the Provider's Board of Directors.

D. Provider shall be responsible for notifying organizations of reporting requirements and payment schedules.

E. Provider shall disburse all approved allocations and otherwise administer all funds covered by this Agreement, while monitoring funded programs and finances, and shall submit an annual report to the City on the status of these programs.

F. The City shall appoint one (1) professional staff member to serve as a staff liaison to the Provider's Allocation Committee.

4) Ensure sufficient data collection and reporting is available to document the community benefits and both agency and client eligibility. Provide an annual report to the City including process, methodology, leverage and benefits provided.

City funds:

- Shall be directly matched by other funders (private, state and federal) to bring services to Flagstaff residents
- Shall be directly matched with in-kind contributions of volunteers, facilities and other goods and services
- Shall be combined with Provider funds to have a greater impact
- Shall be combined with Coconino County funds to have greater impact
- Shall support a strong Provider, thus bringing Flagstaff the added value of an organization dedicated to improving lives, mobilizing communities and improving community conditions

Provider shall continue to seek opportunities to maximize the impact of City funds by working with partners who can attract multiple funding sources and have the capability to expand the number and quality of services by using volunteers and in-kind resources to stretch funding.

Provider shall conduct an annual audit that documents the total dollars raised, sources of funds and amount used for administration. These audited figures shall be reported to the community by the Provider in its annual report. Additionally, Provider shall have fiduciary reporting oversight and responsibility, where the audited financials, tax returns, volunteer hours tracked by provider, leveraged dollars, and community initiative outcomes are reviewed to aid in maintaining high level of transparency and accountability.

Annually, Provider shall provide a report to the City Council on the use of the Social Services funds. Leveraged dollars and resources shall be reported to the Council at the same time.

<u>On an annual basis each organization that receives funding shall provide</u>:

Quantitative and qualitative outcomes that address how the agency is changing community conditions or individual lives including: locations/ neighborhoods served, type of services provided, number of people served, demographics of those served (local residents or transient populations), and how has this service changed community conditions.

Provider shall compile these individual agency reports into a summary report for the City Council. Annually, Provider shall provide a report to the City Council on the use of the Social Services funds. Leveraged dollars and resources shall be reported to the Council at the same time. Additionally, there are currently four City of Flagstaff employees and the Mayor of Flagstaff on the Provider's Board of Directors; these individuals shall be kept abreast of leveraging activities on an on-going basis.

Provider shall adhere to a document retention policy in accordance with Sarbanes Oxley recommendations for non-profit organizations. All documents associated with this contract shall be maintained in accordance with the document retention policy which assures that the City of Flagstaff would have access to any requested materials for a multi-year period.

FEE SCHEDULE:

The City hereby agrees to award funds in the amount of $293,750 to Provider as approved, subject to the conditions imposed by the City Council (hereinafter referred to as the "Council") and such funds shall be used exclusively for the purpose of assisting non-taxing entities located within the jurisdictional boundaries of the City, in providing Community Health and Human Services to Flagstaff area residents and travelers and payment of compensation for services. Community Health and Human Services may include, but not necessarily limited to: early childhood education, temporary assistance, transportation assistance, crisis shelters, victim assistance, substance abuse programs, and assistance to the elderly.

1. **COMPENSATION**

A. The total funds awarded to Provider in the amount of $363,750 shall be broken out as follows:

Direct Services:	$312,688
Administrative Fee:	$ 51,062
	$363,750

2. **DISBURSEMENT OF FUNDS**

A. The City shall disburse to Provider its annual allocation award in two equal installments no later than July 15, and December 15 of each year, and Provider shall bill the City as needed for the administrative fee.

B. Provider shall charge no more than fifteen percent (15%) of the total funds available for allocation as an administrative fee for the monitoring and administration of this program. Provider may earn interest on the total disbursement amount, which shall be credited against amounts owed by the City to Provider for is administrative fee. Provider shall include in its annual report to the City the actual administrative costs incurred by them and all interest earned on the total disbursement amount.

C. Provider shall assume total fiscal responsibility for all of the funds made available for allocation by the City under this program.

3. **CRITERIA AND PROCEDURES**

A. In order to be eligible for City funds under this program, each service provider shall be a non-taxing entity located within the jurisdictional boundaries of the City of Flagstaff, and shall provide direct Community Health and Human Services to primarily low and moderate income residents of Flagstaff and the contiguous Coconino County area, and to travelers to Flagstaff who are in need of emergency service assistance.

B. Each service provider shall be legally qualified as a non-profit corporation under the law. Each service provider shall obtain a ruling from the United States Treasury Department that it is not a private foundation and that it is exempt from payment of income tax, and that gifts to it are deductible for income tax purposes. A copy of such ruling shall be submitted to the Provider and/or the City.

C. Each service provider shall have clear purposes and functions which designate it as a voluntary health and human service organization.

D. Each service provider shall maintain a board of directors or governing body that consists of volunteers, who make policy decisions, represents diversity of our community; and meets at least quarterly. Members of the volunteer governance structure should not receive

financial compensation from the agency they oversee. This requirement precludes an agency's executive director and professional staff from serving on its board of directors.

E. If the service provider operates under religious auspices, it shall clearly separate its budget and financial reporting for support of City-funded programs from its religious programs.

F. Each service provider shall maintain full fiduciary responsibility for the Agency, including, but not limited to, managing the organization in full compliance with all Generally Accepted Accounting Principles, and conducting an annual audit. Organizations with an annual budget of less than $100,000 may request a waiver from Provider for the annual audit requirement. Appropriate documentation shall be required if such a waiver is granted.

G. Any service provider that employs staff shall demonstrate that overhead expenses are held to a minimum and that all possible use is made of volunteer personnel.

H. Funding provided by the City may be limited to expenses related directly to service provision, and may exclude funding of capital expenses, debt services, fund raising costs, or building of reserves.

I. Each service provider shall use City-provided funds only for the provision of services for which such funds are allocated by Provider.

J. Each service provider shall provide prompt written notification to Provider of any programmatic, fiscal, staff or board issues that may have an impact on the agency operations.

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.

PAYMENT

5. **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.

6. **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.

7. **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.

8. **FEDERAL EXCISE TAXES:** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.

SERVICES

9. **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.

INSPECTION, RECORDS, ADMINISTRATION

10. 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.

11. 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.

12. 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.

13. 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

14. 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.

15. INSURANCE: Contractor shall maintain all insurance coverage required by the City, including public liability and worker's compensation.

16. 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

17. PRICE INCREASES: Except as expressly provided for in the Contract, no price increases will be approved.

18. COMPLETE AGREEMENT: The Contract is intended to be the complete and final agreement of the parties.

19. AMENDMENTS: This Contract may be amended by written agreement of the parties.

20. 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.

21. 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.

22. 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.

23. BINDING EFFECT: This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

24. 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.

25. 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.

26. 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.

27. 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

28. 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.

29. 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.

30. CONTRACTOR REMEDIES: In the event of City's default, Contractor may pursue all remedies available at law, except as provided for herein.

31. SPECIAL DAMAGES: In the event of default, neither party shall be liable for incidental, special, or consequential damages.

32. 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.

33. 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.

34. 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.

35. 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.

36. 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.

37. 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

38. ADVERTISING: Contractor shall not advertise or publish information concerning its Contract with City, without the prior written consent of the City.

39. 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.

40. 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.

41. GOVERNING LAW: This Contract shall be construed in accordance with the laws of Arizona.

42. FORUM: In the event of litigation relating to this Contract, any action at law or in equity shall be filed in Coconino County, Arizona.

43. 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 $1,000,000

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: Rick Compau, Purchasing Director
   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.

CITY OF FLAGSTAFF
SOLE SOURCE, PROPRIETARY AND EMERGENCY PROCUREMENT REQUEST
(Divisions/Sections Requesting Sole Source, Proprietary or Emergency Procurement Must Complete This Form)

TO: Purchasing Section

PREPARER: Rick Compau **DEPARTMENT/SECTION:** Purchasing

REQUISITION NUMBER: N/A **DATE SUBMITTED:** 8/16/2019

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.*

_____ ***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.*

_____ ***Is this an emergency procurement?*** "Emergency" *is a threat to public health, welfare, or safety. Emergency procurements shall be made with such competition as is practicable under the circumstances. Please answer the 3 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/emergency) must be fully justified, documented, and pre-approved. The following is a list of questions which will substantiate a Sole Source, Proprietary or Emergency 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.

Sole Source/Proprietary Justification

1. **Briefly, what is the scope of the project in which this product or service will be used.**
   *The City desires to enter into this Agreement to provide **Three Hundred Sixty-Three Thousand Seven Hundred and Fifty Dollars ($363,750)** in funding to be administered and allocated by United Way of Northern Arizona (UWNA) utilizing a formal application process with various non-profit social service agencies and used exclusively for assisting these non-profit social service agencies located in Flagstaff in providing community health and human services.*

   1) Identify community health and human services critical needs and opportunities and provide the City funds for them through a fair process.

   2) Ensure funds are used effectively and specifically for the intended low- and moderate-income populations.

   3) Use City funds to leverage additional resources to provide enhanced and substantially similar benefit.

4) *Ensure sufficient data collection and reporting is available to document the community benefits and both agency and client eligibility. Provide an annual report to the City including process, methodology, leverage and benefits provided.*

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?

   UWNA is a local Flagstaff non-profit organization who are able to administer and allocate funding provided by the City to be used exclusively for assisting various social service agencies and programs that provide community health and human services in Flagstaff.

   UWNA has the uniqueness, compatibility, staffing and the expertise to provide the services outlined in the scope of work of the contract.

3. Why is this vendor the only available source from which to obtain this product or service? You must provide clear and convincing evidence.

   Historically, formal competitive Request for Proposals ("RFP") were conducted, with United Way of Northern Arizona always being the only Proposer to respond to the RFP. In June of 2009, Council approved a 3-year service contract, which expired June 30, 2012, with two (2) one (1) year options to extend. The City exercised both extension years, with the last extension expiring on June 30, 2014. Prior to the expiration of this multi-year contract, the Purchasing Section conducted a new formal competitive Request for Proposals with UWNA, once again, submitting the only proposal response. Council approved the 3-year service contract, and subsequent two (2) one (1) year options to extend, with the last extension expiring on June 30, 2019.

   In an effort to identify other potential local non-profit agencies in Flagstaff, the Purchasing Section advertised the City's intensions to "sole source" these services on our Planetbids bidding website, with instructions on how to notify the City as a prospective non-profit organization. At the conclusion of this effort, there were no other local Flagstaff non-profit organizations who contacted the City.

4. What efforts have been made to obtain the best price possible? Why do you feel this price is fair and reasonable?

   A total of $249,688 is the contribution from the City and $51,062 is the administrative fee paid to UWNA. The administrative fee is based on a percentage of the direct services provided and was determined to be fair and reasonable and in-line with other administrative fees for similar services.

8/16/19

Authorized Departmental Signature / Date

Purchasing Section Buyer's Signature Date

8/16/19

Director of Purchasing Signature / Date

8. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Matt Kakert, IT Administrator - Systems
Co-Submitter:	CJ Perry
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Approval: Cooperative Purchase of Server Hardware from Dell Marketing, L.P. in the amount of $59,742.48 plus applicable sales tax.

STAFF RECOMMENDED ACTION:

1. Approve the purchase of server hardware in the amount of $59,742.48, plus applicable sales tax, from Dell Marketing, L.P. ("Dell") using Dell's cooperative purchasing agreement with the State of Arizona - State Procurement Office; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The servers servicing our main virtual infrastructure are aging and due for replacement based off of best practices and our policies to promote replacing the servers every three years for reasons of reliability. This cooperative purchase includes three servers to power our Failover Cluster which will provide high availability for our applications, ERP, S Drive, etc. If this purchase is approved, in order to utilize these City resources to their fullest, we plan to continue to use the deprecated servers in the Disaster Recovery site, as well as for testing purposes where critical uptime requirements are not as necessary.

Financial Impact:

One-time cost of $59,742.48, plus applicable sales tax. This cost has been budgeted in Information Technology Section 001-02-014-0042-1-4301 for FY 2020.

Policy Impact:

None

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

Strategic Plan: Provide Exceptional Service: Provide employees tools, training and support.

Previous Council Decision on This:

None.

Options and Alternatives:

1. Approve the hardware purchase as submitted; or
2. Do not approve this hardware purchase and direct staff how to proceed. Because our primary server infrastructure will be out of warranty, we will lose vendor support.

Background/History:

It is industry accepted best practices and the City's policies to replace critical server infrastructure every three years. Our warranty period on the hardware was set for three years and because the warranty has expired, it is necessary to replace the hardware.

Key Considerations:

The hardware and warranty is being purchased through designated vendors under Arizona State - State Procurement Office cooperative purchasing contract (ADSPO16-098163).

Expanded Financial Considerations:

Ongoing maintenance and server hardware assure the City most stable infrastructure and performance, which is critical in support of the City's computer and application infrastructure.

Community Benefits and Considerations:

None

Community Involvement:

None

Expanded Options and Alternatives:

None

Attachments:

Cooperative Purchase Contract
Dell-VCoreQuote
Dell State Contract Fully Executed
Dell State Contract Extension Amendment

COOPERATIVE PURCHASE CONTRACT
Contract No. 2020-17

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 Dell Marketing, L.P. ("Contractor").

WHEREAS, Contractor has been awarded Contract No. ADSPO15-093839 and Amendment ADSPO16-098163 with the State of Arizona – State Procurement Office to supply materials and/or services ("Agency Contract"), which was awarded through a competitive and open procurement process; and

WHEREAS, the City has authority to enter into a cooperative purchase contract with Contractor utilizing the Agency Contract.

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:

   Dell Server Hardware

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 as defined in the scope of work attached hereto as *Exhibit A*.

3. Compensation. In consideration for the materials and/or satisfactory performance of services, the City shall pay Contractor $59,742.48 and/or 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 Cooperative Purchase 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. Term. This Cooperative Purchase Contract shall commence upon execution by both parties and shall continue until expiration or termination of the underlying Agency Contract, unless sooner terminated by the City in writing.

6. 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.

7. Notice. Any notice concerning this Cooperative Purchase Contract shall be in writing and sent by certified mail and email as follows:

To the City:

Matt Kakert, IT Administrator - Systems
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
mklakert@flagstaffaz.gov
Phone: (928) 213-2822

With a copy to:

Matt Luhman
Senior Procurement Specialist
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
mluhman@flagstaffaz.gov
Phone: (928) 213-2278

To the Contractor:

With a copy to:

8. 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.

CONTRACTOR

By:_____

Title:_____

Date:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

Date:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____

City Attorney's Office

EXHIBIT A
SCOPE OF WORK

Specifications: Per Quote

Schedule of performance: Per Quote

Delivery location: Per Quote

Notices: All notices to City shall be sent to:

Matt Luhman, MBA, CPP
Senior Procurement Specialist
Purchasing Department
211 West Aspen Ave.
Flagstaff, AZ 86001
(928) 213-2278
mluhman@flagstaffaz.gov

EXHIBIT B
AGENCY CONTRACT

1. State of Arizona – State Procurement Office Contract No. ADSPO15-093839
2. State of Arizona – State Procurement Office Amendment No. ADSPO16-098163

vCORE

Dell Servers - Option 1

Quote #004474 v2

Prepared For:

City of Flagstaff
Matt Kakert
211 W Aspen Avenue
Flagstaff, AZ 86001

P: 928.213.2822
E: mkakert@flagstaffaz.gov

Prepared By:

vCORE Technology Partners
Jeffrey Alighieri
1355 N SCOTTSDALE ROAD STE 140
SCOTTSDALE, AZ 85257

P: 781.504.4248
E: jeffrey.alighieri@vcoretec.com

Date Issued:
08.16.2019

Expires:
09.11.2019

System 1

Item	Qty	Description	Price	Ext. Price
State of Arizona State Contract ADSP016-098163; Dell NASPO ValuePoint Participating Addendum for Arizona MNWNC-108; WN01AGW; 90AHJ				
	1	PowerEdge R640 - [amer_r640_12232]	**$59,742.48**	**$59,742.48**
210-AKWU	3	PowerEdge R640 Server		
329-BDKC	3	PowerEdge R640 Motherboard		
461-AADZ	3	No Trusted Platform Module		
321-BCQJ	3	2.5 Chassis with up to 8 Hard Drives and 3PCIe slots		
340-BKNE	3	PowerEdge R640 Shipping		
343-BBEV	3	PowerEdge R640 x8 Drive Shipping Material		
338-BLMJ	3	Intel Xeon Gold 6140 2.3G, 18C/36T, 10.4GT/s , 24.75M Cache, Turbo, HT (140W) DDR4-2666		
374-BBOE	3	Intel Xeon Gold 6140 2.3G, 18C/36T, 10.4GT/s , 24.75M Cache, Turbo, HT (140W) DDR4-2666		
370-ABWE	3	DIMM Blanks for System with 2 Processors		
412-AAIQ	3	Standard 1U Heatsink		
412-AAIQ	3	Standard 1U Heatsink		
370-ADNT	3	2666MT/s LRDIMMs		
370-AAIP	3	Performance Optimized		
780-BCDN	3	RAID 1		
405-AAMS	3	PERC H740P RAID Controller, 8GB NV Cache, Mini card		
619-ABVR	3	No Operating System		
421-5736	3	No Media Required		
385-BBKT	3	iDRAC9,Enterprise		
528-BBWT	3	OME Server Configuration Management		
379-BCQV	3	iDRAC Group Manager, Enabled		
379-BCSG	3	iDRAC,Legacy Password		

vCORE

System 1

Item	Qty	Description	Price	Ext. Price
330-BBGN	3	Riser Config 2, 3x16 LP		
540-BBUY	3	Intel X550 Quad Port 10GbE BASE-T, rNDC		
429-ABBF	3	No Internal Optical Drive for x4 and x8 HDD Chassis		
384-BBQJ	3	8 Standard Fans for R640		
450-ADWS	3	Dual, Hot-plug, Redundant Power Supply (1+1), 750W		
325-BCHH	3	Standard Bezel		
350-BBJS	3	Dell EMC Luggage Tag		
350-BBKB	3	No Quick Sync		
384-BBBL	3	Performance BIOS Settings		
387-BBMK	3	Energy Star		
770-BBBL	3	ReadyRails Sliding Rails With Cable Management Arm		
631-AACK	3	No Systems Documentation, No OpenManage DVD Kit		
332-1286	3	US Order		
813-9255	3	Dell Hardware Limited Warranty Plus On-Site Service		
813-9295	3	ProSupport Plus: Next Business Day On-Site Service After Problem Diagnosis, 3 Years		
813-9296	3	ProSupport Plus: 7x24 HW/SW Technical Support and Assistance, 3 Years		
951-2015	3	Thank you for choosing Dell ProSupport Plus. For tech support, visit //www.dell.com/contactdell		
804-6748	3	ProDeploy Dell Server R Series 1U/2U - Deployment		
804-6749	3	ProDeploy Dell Server R Series 1U/2U - Deployment Verification		
370-ADNH	36	64GB LRDIMM, 2666MT/s, Quad Rank		
400-AZUT	6	480GB SSD SATA Mix Use 6Gbps 512 2.5in Hot-plug AG Drive, 3 DWPD, 2628 TBW		
450-AALV	6	NEMA 5-15P to C13 Wall Plug, 125 Volt, 15 AMP, 10 Feet (3m), Power Cord, North America		
			Subtotal	**$59,742.48**

Quote Summary	Amount
System 1	$59,742.48
Total:	**$59,742.48**

This Proposal shall be replaced by a formal Purchase Order issued by the Customer within 10 business days.

Purchase Orders must be delivered via email to: orders@vcoretec.com.

If a fully executed Master Sales Agreement exists between the Parties, this Proposal shall be deemed to be a Schedule to such Agreement and subject to terms and conditions contained therein. Otherwise, the following terms and conditions shall apply:

Payment Terms: Net 30 days from Invoice date subject to finance charges of 1.5% per month for late payments. Sales Tax: Customer is responsible for all sales

and/or use taxes that may be associated with this transaction regardless of when assessed by taxing authorities. Invoices may include applicable sales taxes unless Customer provides valid and acceptable exemption certificates. Freight: Invoicing will reflect freight charges which may not be reflected in this proposal. Partial Invoicing - vCORE shall be allowed to invoice Customer for any services rendered or equipment shipped by the end of each month regardless of overall completion status of this Proposal. Legal Disputes - This agreement shall be governed by the laws of the State of Arizona and all disputes resolved via arbitration. This agreement can only be modified in writing signed by both Parties.

Acceptance

vCORE Technology Partners	**City of Flagstaff**
Jeffrey Alighieri	
Signature / Name	Signature / Name Initials
08.16.2019	
Date	Date

NASPO Value Point Computer Hardware Including Peripherals and Associated Services

Arizona Participating Addendum

State of Arizona
State Procurement Office
100 North 15th Avenue, Suite 201
Phoenix, AZ 85007

Contract No. ADSPO15-093839
Contractor: Dell Marketing L.P.

In accordance with A.R.S. §41-2632, AAC R2-7-1002, Cooperative Purchasing, the following document shall relay all additional requirements for the State of Arizona in its use and participation in the NASPO Value Point contract for Computer Hardware, Peripherals and Associated Services, as awarded by the State of Minnesota, Lead State, for this competitively procured contract.

Contractors are strongly encouraged to read this document in its entirety. All requirements stated within this document are allowable under any respective Master contract, and shall be viewed as such. Any attempt to modify or change this document without consent from the State of Arizona shall result in the nullification of this contract.

Table of Contents

State of Arizona
State Procurement Office
100 North 15th Avenue, Suite 201
Phoenix, AZ 85007

OFFER AND ACCEPTANCE FORM 3

SCOPE OF WORK 4

SPECIAL TERMS AND CONDITIONS 9

UNIFORM TERMS AND CONDITIONS 18

Offer and Acceptance

State of Arizona
State Procurement Office
100 North 15th Avenue, Suite 201
Phoenix, AZ 85007

OFFER

TO THE STATE OF ARIZONA:
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer.

Arizona Transaction (Sales) Privilege Tax License No.:
07 428149-A

Federal Employer Identification No.:

E-mail: Amy_Ivy@Dell.com

Phone: 512-723-6201

Fax:

Digitally signed by Amy Ivy
DN: cn=Amy Ivy, o=Dell, ou, email=Amy_Ivy@Dell.com, c=US
Date: 2015.07.07 10:52:59 -05'00'

Dell Marketing, L.P.
Company Name

Signature of Person Authorized to Sign Offer

One Dell Way
Address

Amy Ivy
Printed Name

Round Rock | TX | 78682
City | State | Zip

Contracts Manager
Title

By signature in the Offer section above, the Offeror certifies:

1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-09 or A.R.S. §§ 41-1461 through 1465.
3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization ___ **IS/** X **IS NOT** a small business with less than 100 employees or has gross revenues of $4 million or less.

ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

This Contract shall henceforth be referred to as Contract No.

ADSPO15-093839

The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

State of Arizona Awarded this 7th **day of** July 2015

Procurement Officer

1. Introduction

The State of Arizona, its Agencies, Boards and Commissions (State), as well as authorized Cooperative Members, have an ongoing requirement for the products and services as described herein. This NASPO Value Point Participating Addendum (PA) is developed by and for the State of Arizona. This PA is based on the award of a competitively solicited procurement, performed in concert with NASPO Value Point and the State of Minnesota.

2. Background

In 2014, the State of Minnesota competitively solicited offers from national and regional Contractors for the provision of computer hardware and associated services. Specifically, the categories of equipment are; Desktops, Laptops, Tablets, Servers and Storage. The result of this procurement was the award of thirty-two (32) Master contracts that became effective on April 1, 2015. Per the procedure outlined on the NASPO Value Point website and other materials, an interested participating state, must develop a Participating Addendum (PA) with the Contractors of their choosing.

The Participating Addendum (PA) must adhere to the requirements of the Master Contract as awarded and negotiated by the State of Minnesota. However, each individual PA may stipulate specific requirements, such as terms and conditions and other contract features are mandated or desired by each participating State.

3. State of Arizona Requirements

The State of Arizona shall engage various Contractors through the PA process and award. For this particular PA, the Contractor shall be: **Dell Marketing L.P.** As per award, the Contractor shall provide the following equipment as specified in the Master Contract **MNWNC-108**: Desktops, Laptops, Tablets, and Servers including accessories/peripherals and associated services.

For clarity, the definitions as used in the Master Contract shall be used, but have been modified for this PA. The definitions are as follows:

Desktop – A personal computer intended for regular use at a single location. Typically comes in several units connected together during installation: (1) processor, (2) display monitor, (3) input devices, ie., keyboard and mouse. **Desktop virtualization endpoints such as zero and thin clients shall also be included if available from this Contractor.**

Laptop – Is a personal computer for mobile use. A laptop includes a display, keyboard, point device such as a touchpad and speakers into a single unit. A laptop can be used away from an outlet using a rechargeable battery. This Band may include notebooks, ultrabooks, and netbooks. Computers with mobile operating systems will also be included under this Band.

Peripherals – A peripheral means any hardware product that can be attached to or added within or networked with computers, servers and storage. Peripherals extend the functionality of a computer without modifying the core components of the system. **Peripherals are defined as including accessories.** Peripherals may be manufactured by a third party, however, Contractor shall not offer any peripherals manufactured by another Contracted Supplier holding a Master Agreement. The Contractor shall provide the warranty service and maintenance for all peripherals.

Accessory – Accessories do not extend the functionality of the computer, but enhances the user experience i.e. mouse pad, monitor stand. **For the purposes of this proposal accessories are considered peripherals.**

Tablet – A tablet is a mobile computer that provides a touchscreen which acts as the primary means of control. **Tablet band shall include notebooks, ultrabooks, and netbooks that are touchscreen capable**.

Services – Broadly classed as installation/de-installation, maintenance support, *minimal operation training*, migration, and optimization of products offered or supplied. These types of services shall include the following:

A. Warranty Services;

B. Equipment Maintenance;

C. Installation, and De-installation;

D. Factory Integration (software or equipment components);

E. Asset Management;

F Pre-Implementation Design;

G. Disaster Recovery Planning and Support; and

H. Equipment Operation Training

4. Participating Addendum Allowances and Restrictions

This PA shall allow and restrict the following:

A. Any network equipment that may include, routers, switches, security components, telephony, cabling other networking devices is not allowed as a separate purchase. The network component must be a part of the total equipment solution.

B. The only allowable software is operating system software and is subject to equipment configuration limits. Commercial off-the shelf (COTS) application software is not allowed;

C. Software must be pre-loaded or provided as an electronic link with the initial purchase, exception is noted immediately below;

C1. Software such as middleware which is not installed on the equipment but is related to storage and server equipment purchased, is allowed and may be procured after the initial purchase of the equipment,

D. Services must be related to the equipment. No additional professional services, such as consulting, regardless of length of engagement, is allowed;

E. Wireless phone and internet service is not allowed;

F. Cellular equipment and accessories are not allowed;

G. Cloud services including acquisitions structured as managed on-site services are not allowed;

H. Managed Print Services is not allowed

I. Hosting Services are not allowed;

J. Software training, or any other training other than equipment operation training, is not allowed;

K. Employee Purchase Programs are not allowed in this PA; and

L. Trade-In and Recycle Programs or offerings are not allowed in this PA.

5. Leasing and Rental Options

Leasing and rental options are allowable for the acquisition of the awarded equipment, if the Contractor provides this option. A Master Lease or Master Rental Agreement will not be negotiated by the State. Each Eligible Agency or Ordering Entity who chooses to pursue either method, shall be responsible for the review, possible negotiations, and signature on any leasing or rental documents. Additionally, it shall be clear that the Eligible Agency or Ordering Entity has the final financial responsibility. The following shall apply to all State agencies, boards and commissions. All cooperative members shall seek guidance from their internal Finance Department for applicability:

A. Capital and operating lease agreements, as well as straight rental agreements, between the Contractor and any Eligible Agency or Ordering Entity are allowable under this Contract.

   1. Capital leases are those agreements which transfer title or ownership of the leased property at the end of the lease or contain a provision for a bargain purchase option; and

   2. Operating leases are those agreements where agencies do not obtain title to or ownership of, only the temporary possession and use of, the leased property.

B. In the event of a conflict between the provisions of a lease agreement and Contract terms and conditions, the Contract terms and conditions shall prevail.

C. Any State entity entering into a lease agreement as allowed herein shall follow the policies outlined in the State of Arizona Accounting Manual. Any questions as to the State's policy should be directed to the ADOA General Accounting Office. Inquiries can be sent via email to gaopolicy@azdoa.gov.

D. To ensure compliance with Article 9, Section 5 of the State of Arizona Constitution, installment purchase agreements, or those agreements where title to the property is transferred to the lessee at the inception of the agreement, shall be prohibited under this contract.

6. Configuration Limits

The dollar limits below are based on a single computer configuration. This is not a restriction on the purchase of multiple configurations. Example – an entity may purchase 10 laptops at $10K each for a total purchase price of $100K. Configuration is defined as the combination of hardware and software components that make up the total functioning system. Software purchases are considered a part of the configuration limit on the equipment.

Servers	**$750,000**
Storage	**$1,000,000**
Desktops	**$10,000**
Laptops	**$10,000**
Tablets	**$5,000**
Peripherals	**$25,000**

7. Reporting

At a minimum the Contractor shall provide sales reports as outlined in the Master contract and sample Participating Addendum, as provided by NASPO Value Point. Sales reports will only be requested as needed by either the State or any Ordering Entity. More importantly for this PA, is Contractor's compliance to Item 8, Administrative Fee and Usage Reports as stated in the Special Terms and Conditions of this document.

8. ePEAT

The State of Arizona has not waived this requirement. At a minimum the Contractor shall be ePEAT Bronze compliant.

9. Utilization of Partners

The Contractor may offer partners to provide additional services in support of this contract. The partners may provide the following:

A. Marketing and Sales;

B. Product Fulfillment;

C. Customer Service;

D. Expediting Services; and

E. Administrative Services;

E1. Purchase Order Acceptance, and

E2. Accounts Receivable

If the Contractor chooses to allow partners to provide administrative services as noted above, Contractor has the responsibility to vet or ensure the partners capabilities including their financial systems and business processes to accept and process contract obligation and financial documents timely and accurately. The ultimate responsibility for the performance of these partners, rests with the Contractor. The State or any Ordering Entity shall not be obligated or forced to utilize a partner or partners.

Contractor may provide up to ten (10) partners. Contractor may remove and add partners within the contract term, as long as the State receives timely notification of these changes. All notifications shall be in writing. At a minimum, the notification shall include:

A. The name of the Partner;

B. Address;

C. Contact Name(s);

D. Phone and Email Contact Information; and

E. Description of the Services they will provide.

10. Current Product and Pricing Schedules

The Contractor is responsible to ensure that any changes made to the Product and Pricing Schedules are current and are accurate. It is required that the Contractor provide a Product and Pricing Schedule update to the State for each update provided to the NASPO Value Point Lead State. Notification regarding any changes shall be made in writing within thirty (30) days of when notification was provided to the NASPO Value Point Lead State.

11. Website Ordering or Punch-Out Capabilities

The State reserves the right to work with the Contractor at a later date, to initiate and implement a web enabled ordering mechanism, including a punch-out feature into the State's e-procurement system, ProcureAZ.

12. Ordering Instruments

Any order for equipment, or services, shall be placed with the Contractor or their approved Partner by either a valid purchase order or a government/commercially sponsored procurement card (P Card). Private and or individual credit may not be accepted.

Any credit card processing fees that may be imposed by the Contractor shall be listed as a separate line item on any invoice. The imposition of processing fees should be carefully considered by the Contractor and should not exceed the following:

A. For transactions of $25,000.00 or less, the Contractor may not charge a credit card fee; and

B. For transactions greater than $25,000.00, the Contractor may charge a credit card fee that shall not exceed 2.5%.

1. Purpose

Pursuant to provisions of the Arizona Procurement Code, A.R.S. 41-2501 Et Seq., the State of Arizona intends to establish a Contract for the materials or services as listed herein.

2. Term of Contract

The term of the resultant Contract shall be effective the date specified on the Offer and Award or Signature page and shall remain in effect unless terminated, cancelled, or extended as otherwise provided herein. The initial first year term shall be July 1, 2015 to March 31, 2017 in order to coincide with the NASPO ValuePoint Master Contract.

3. Contract Extensions

The Contract term is for the stated period subject to additional successive periods of twelve (12) months per extension with a maximum aggregate including all extensions not to exceed five (5) years.

4. Master Contract and Participating Addendum Order of Precedence

As stated in the Participating Addendum of record, as posted on the NASPO Value Point website, the contract order of precedence for this PA is as follows:

4.1 State of Arizona Participating Addendum;

4.2 Minnesota NASPO ValuePoint Master Agreement;

4.3 The Solicitation including all Addendums; and

4.4 Contract Vendors response to the Solicitation

5. Non-Exclusive Contract

This contract has been awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary. Off-contract purchase authorization(s) may be approved by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.

6. Eligible Agencies

This Contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible State Purchasing Cooperative members may participate at their discretion. In order to participate in this contract, a cooperative member shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office as required by Arizona Revised Statues § 41-2632.

Membership in the State Purchasing Cooperative is available to all Arizona political subdivisions including cities, counties, school districts, and special districts. Membership is also available to all non-profit organizations, as well as State governments, the US Federal Government and Tribal Nations. Non-profit organizations are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the internal revenue service under section 501(c)(3) through 501(c)(6).

7. Estimated Quantities

The State anticipates considerable activity resulting from contract(s) that will be awarded as a result of this solicitation; however, no commitment of any kind is made concerning quantities actually acquired and that fact should be taken into consideration by each potential Contractor.

8. Administrative Fee and Usage Reports

Method of Assessment. At the completion of each quarter, the Contractor reviews all sales under their contract in preparation for submission of their Usage Report. The Contractor identifies all sales receipts transacted by members of the State Purchasing Cooperative and assesses one percent (1.0%) of this amount in their Usage Report. An updated list of State Purchasing Cooperative members may be found at: https://spo.az.gov/state-purchasing-cooperative. At its option, the State may expand or narrow the applicability of this fee. The State shall provide thirty (30) written notice prior to exercising or changing this option. The Contractor shall summarize all sales, along with all assessed Administrative Fee amounts within their Usage Report, including total amounts for the following:

8.1 Total sales receipts from State agencies, boards and commissions;

8.2 Total sales receipts from members of the State Purchasing Cooperative; and

8.3 Total Administrative Fee amount based on one percent (1.0%) of the sales receipts from members of the State Purchasing Cooperative.

Submission of Reports and Fees. Within thirty (30) days following the end of the quarter, the Contractor submits their Usage Report and if applicable, a check in the amount of one percent (1%) of their sales receipts from members of the State Purchasing Cooperative, to the Department of Administration, State Procurement Office. Contractors are required to use the State's current report templates unless you have authorization from your contract officer to use a different format. You need to complete Form 799, which is a cover letter that gives the totals of your transactions; and Form 801, which is an Excel spreadsheet that details your transactions. Sales to state agencies and the cooperative members are to be totaled separately. The most current forms can be downloaded at https://spo.az.gov/statewide-contracts-administrative-fee.

The submission schedule for Administrative Fees and Usage reports shall be as follows:

FY Q1, July through September	Due October 31
FY Q2, October through December	Due January 31
FY Q3, January through March	Due by April 30
FY Q4, April through June	Due by July 31

Usage Reports and any questions are to be submitted by email to the state's designated usage report email address: usage@azdoa.gov

Administrative Fees shall be made out to the "State Procurement Office" and mailed to:

Department of Administration
General Services Division
ATTN: "Statewide Contracts Administrative Fee"
100 N. 15th Avenue, Suite 202
Phoenix, AZ 85007

The Administrative Fee shall be a part of the Contractor's unit prices and is not to be charged directly to the customer in the form of a separate line item. Statewide contracts shall not have separate prices for State Agency customers and State Purchasing Cooperative customers.

Contractor's failure to remit administrative fees in a timely manner consistent with the contract's requirements may result in the State exercising any recourse available under the contract or as provided for by law.

9. Licenses

The Contractor shall maintain in current status, all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor.

10. Authorization to Purchase

Authorization for the purchase of equipment or services shall be made only upon the issuance of a Purchase Order or a government/commercial procurement card/credit card. The Purchase Order will indicate the contract number and the dollar amount of funds authorized. The Contractor shall only be authorized to perform up to the amount on the Purchase Order or the accepted quotation document. The State shall not have any legal obligation to pay for goods or services in excess of the amount indicated on the Purchase Order or accepted quotation document. No further obligation for payment shall exist unless:

10.1 The Purchase Order is changed or modified with an official Change Order, and/or

10.2 An additional Purchase Order is issued for the purchase of good and services under this Contract.

11. Invoicing

All billing notices or invoices shall be sent to the agency whose address appears on the contract release order/purchase order as the 'bill to address' and should contain, at a minimum, the information listed below.

10.1 The contract number, as applicable, the Task Order number, and the contract release/purchase order number;

10.2 Name and address of the contractor;

10.3 The Contractor's remittance address;

10.4 Contractor's representative to contact concerning billing questions;

10.5 Contractual payment terms;

10.6 Applicable taxes; and

10.7 Description of work products delivered.

12. Compliance with Applicable Laws - Negotiated

The Materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements. Contractor represents and warrants to the State that Contractor has the skill and knowledge possessed by members of its trade or profession and Contractor will apply that skill and knowledge with care and diligence so Contractor and Contractor's employees and any authorized subcontractors shall perform the Services described in this Contract.

Contractor represents that any Dell-branded products provided through this Contract shall be free of viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the Materials, collect unlawful personally identifiable information on users or prevent the Materials from performing as required under the terms and conditions of this Contract.

13. Price Adjustment - Negotiated

Contractor discounts accepted and subsequently awarded by a Contract shall remain in effect for a minimum of one (1) term. The Contractor may request a price adjustment, but the State will not review or approve an increase until the Contract has been in effect for the initial term. Contractor shall provide written justification for any price adjustment requested. Any price increase adjustment, if approved, will be effective upon execution of a written Contract amendment. In the advent of a price increase authorization allowed by the Lead State of Minnesota, this PA will be modified accordingly

14. Payment Procedures

The State will not make payments to any Entity, Group or individual other than the Contractor with the Federal Employer Identification (FEI) Number identified in the Contract. Contractor invoices requesting payment to any Entity, Group or individual other than the contractually specified Contractor shall be returned to the Contractor for correction.

The Contractor shall review and insure that the invoices for services provided show the correct Contractor name prior to sending them for payment.

If the Contractor Name and FEI Number change, the Contractor shall complete an "Assignment and Agreement" form transferring contract rights and responsibilities to the new Contractor. The State shall indicate consent on the form. A written Contract Amendment shall be signed by both parties and a new W-9 form shall be submitted by the new Contractor and entered into the system prior to any payments being made to the new Contractor.

15. Order Process

The award of a Contract shall be in accordance with the Arizona Procurement Code. Any attempt to represent any material and/or service not specifically awarded as being under contract with the State is a violation of the Contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the Contractor.

16. Offshore Performance of Work Prohibited

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

17. First Party Limitation of Liability – Refer to Master MNWNC-108, Section 33

18. Access Constraints and Requirements

Contractor access to State facilities and resources shall be properly authorized by State personnel, based on business need and **will be restricted to least possible privilege**. Upon approval of access privileges, the Contractor shall maintain strict adherence to all policies, standards, and procedures. Policies / Standards, ADOA / ASET Policies / Procedures, and Arizona Revised Statues (ARS) 28-447, 28-449, 28-450, 38-421, 13-2408, 13-2316, 41-770).

Failure of the Contractor, its agents or subcontractors to comply with policies, standards, and procedures including any person who commits an unlawful breach or harmful access (physical or virtual) will be subject to prosecution under all applicable state and / or federal laws.

Any and all recovery or reconstruction costs or other liabilities associated with an unlawful breach or harmful access shall be paid by the Contractor.

19. Section 508 Compliance

Unless specifically authorized in the Contract, any electronic or information technology offered to the State of Arizona under this Contract shall comply with A.R.S. § 41-2531 and § 41-2532 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

20. Health Insurance Portability and Accountability Act of 1996

The Contractor warrants that it is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the State in the course of performance of the Contract so that both the State and the Contractor will be in compliance with HIPAA, including cooperation and coordination with the ADOA-ASET Office, the Statewide Information Security and Privacy Office (SISPO) Chief Privacy Officer and HIPAA Coordinator, and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep the State and Contractor in compliance with HIPAA, including but not limited to, business associate agreements.

If requested, the Contractor agrees to sign a "Pledge to Protect Confidential Information" and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the ADOA-ASET/SISPO Chief Privacy Officer and HIPAA Coordinator.

21. Indemnification - Negotiated

To the extent allowed by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against third party claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the gross negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or

arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the gross negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against third party claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State of Arizona.

This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

22. Intellectual Property Indemnification

Indemnification - Patent and Copyright. With respect solely to Materials provided or proposed by Contractor or Contractor's agents, employees, or subcontractors (each a "Contractor Party") for performance of this Contract, Contractor shall indemnify, defend and hold harmless the State, its departments, agencies, boards, commissions, universities, officers, agents and employees (collectively, the "Indemnitee"), against any third-party claims for liability, including, but not limited to, reasonable costs and expenses, including attorneys' fees, for infringement or violation of any patent, trademark, copyright or trade secret, by such Materials or the State's use thereof.

In addition, with respect to claims arising from computer hardware or software manufactured or developed solely by a third party, Contractor shall pass through to the State such indemnity rights as it receives from such third party (the "Third Party Obligation") and will cooperate in enforcing them; provided, however, that (i) if the third party manufacturer fails to honor the Third Party Obligation, or (ii) the Third Party Obligation is insufficient to fully indemnify the State, Contractor shall indemnify, defend and hold harmless the State against such claims in their entirety or for the balance of any liability not fully covered by the Third Party Obligation.

The State shall reasonably notify the Contractor of any claim for which Contractor may be liable under this section. If the Contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply. Contractor shall have control, subject to the reasonable approval of the State, of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when substantial principles of government or public law are involved or when involvement of the State is otherwise mandated by law, the State may elect, in its sole and absolute discretion, to participate in such action at its own expense with respect to attorneys' fees and costs, but not liability, and the State shall have the right to approve or disapprove any settlement, which approval shall not be unreasonably withheld or delayed. The State shall reasonably cooperate in the defense and any related settlement negotiations.

If Contractor believes at any time that any Materials provided or in use pursuant to this Contract infringe a third party's intellectual property rights, Contractor shall, at Contractor's sole cost and expense, and upon receipt of the State's prior written consent, which shall not be unreasonably withheld, (i) replace an infringing Material with a non-infringing Material; (ii) obtain for the State the right to continue to use the infringing Material; or (iii) modify the infringing Material to be non-infringing, provided that following any replacement or modification made pursuant to the foregoing, the Material continues to function in accordance with the Contract. Contractor's failure or inability to accomplish any of the foregoing shall be deemed a material breach of this Contract.

Notwithstanding the foregoing, Contractor shall not be liable for any claim for infringement based solely on any Indemnitee's:

(i) modification of Materials provided by Contractor other than as contemplated by the Contract or the specifications of such Materials or as otherwise authorized or proposed in any way by Contractor or a Contractor Party;

(ii) use of the Materials in a manner other than as contemplated by this Contract or the specifications of such Materials, or as otherwise authorized or proposed in any way by Contractor or a Contractor Party; or

(iii) use of the Materials in combination, operation, or use with other products in a manner not contemplated by the Contract, or, the specifications of such Materials, or as otherwise authorized or proposed in any way by Contractor or a Contractor Party.

Contractor certifies, represents and warrants to the State that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of the Contract for the acquisition, operation or maintenance of Materials in violation of intellectual property laws.

23. Insurance

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, 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 Contractor, its agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE**: Contractor shall provide coverage at least as broad and with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**
Policy shall include bodily injury, property damage, personal and advertising injury and broad form contractual liability.

• General Aggregate	$2,000,000
• Products – Completed Operations Aggregate	$1,000,000
• Personal and Advertising Injury	$1,000,000
• Damage to Rented Premises	$ 50,000
• Each Occurrence	$1,000,000

a. The policy shall be include the following additional insured language: ***"The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor."*** Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

b. Policy shall contain a waiver of subrogation endorsement **(Blanket Endorsements are not acceptable)** in favor of the "**State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees"** for losses arising from work performed by or on behalf of the Contractor.

2. **Business Automobile Liability**
Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

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

a. The policy shall include the following additional insured language: ***"The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor."*** Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

b. Policy shall contain a waiver of subrogation endorsement **(Blanket Endorsements are not acceptable)** in favor of the **"State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees"** for losses arising from work performed by or on behalf of the Contractor.

c. Policy shall contain a severability of interest provision.

3. **Worker's Compensation and Employers' Liability**

• Workers' Compensation	Statutory
• Employers' Liability	
Each Accident	$1,000,000
Disease – Each Employee	$1,000,000
Disease – Policy Limit	$1,000,000

a. Policy shall contain a waiver of subrogation endorsement **(Blanket Endorsements are not acceptable)** in favor of the "**State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees"** for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. § 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. **ADDITIONAL INSURANCE REQUIREMENTS**: The policies are to contain, or be endorsed to contain, the following provisions:

1. The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

2. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. **NOTICE OF CANCELLATION**: With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to **the Department** and shall be sent by certified mail, return receipt requested.

D. **ACCEPTABILITY OF INSURERS**: Contractors insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE**: Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by an authorized representative.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to **the Department**. The State of Arizona project/contract number and project description are to be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

F. **APPROVAL**: Any modification or variation from the *insurance requirements* in this Contract shall be made by the contracting agency in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal Contract amendment, but may be made by administrative action.

G. **EXCEPTIONS**: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university then none of the above shall apply.

24. Compliance Requirements for A.R.S. § 41-4401, Government Procurement: e-Verify Requirement

The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)

A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

Failure to comply with a State audit process to randomly verify the employment records of Contractors and subcontractors shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

The State Agency retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph One (1).

25. Negotiated Uniform Terms and Conditions

The following terms and conditions have been negotiated, and based on contract order of precedence shall be placed in the Special Terms and Conditions for greater clarity and position.

25.1. Audit. Pursuant to ARS § 35-214, at any reasonable time during the term of this Contract and five (5) years thereafter, the Contractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, only to the extent that the books and records relate to the performance of the Contract or Subcontract.

25.2 Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor shall not use or release these materials without the prior written consent of the State.

25.3 Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

Notwithstanding the above, the Purchasing Entity will not own any of the Contract Vendor's pre-existing intellectual property that was created prior to the Master Agreement and which the Purchasing Entity did not pay the Contract Vendor to create. Subject to payment in full for the products, equipment or services, the Contract Vendor grants the Purchasing Entity a perpetual, irrevocable, non-exclusive, royalty free license for Contract Vendor's pre-existing intellectual property that is contained in the products, materials, equipment or services that are purchased through this Master Agreement. Contract Vendor will retain all right, title and interest in and to all Intellectual Property Rights in or related to the services, or tangible components thereof, including but not limited to (a) all know-how, intellectual property, methodologies, processes, technologies, algorithms, software or development tools used in performing the services, and (b) such ideas, concepts, know-how, processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates or output which are developed, created or otherwise used by or on behalf of Contract Vendor in the course of performing the services or creating the deliverables, other than portions that specifically incorporate proprietary or Confidential Information or data of Ordering Entity (collectively, the "Residual IP"), even if embedded in the deliverable.

25.4 Indemnification – Contractor/Vendor Indemnification – Please refer to Master MNWNC-108, Section 2C17

25.5 Public Agency Language – Please refer to Master MNWNC-108, Section 2C17

25.6 Indemnification Patent and Copyright – See Master MNWNC-108, Section 2C17

25.7 Third Party Antitrust Violations - Contract Vendor irrevocably assigns to a Participating Entity any claim for relief or cause of action which the Contract Vendor now has or which may accrue to the Contract Vendor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided to the Contract Vendor for the purpose of carrying out the Contract Vendor's obligations under this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

25.8 Warranties - The warranty provided must be the manufacturers written warranty tied to the product at the time of purchase and must include the following:: (a) the Product performs according to the specifications (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is designed and manufactured in a commercially reasonable manner, and (d) the Product is free of defects.

For third party products sold by the Contract Vendor, the Contract Vendor will assign the manufacturer or publisher's warranty and maintenance. The Contract Vendor will provide warranty and maintenance call numbers and assist the customer in engaging the manufacturer on warranty and maintenance issues.

Upon breach of the warranty, the Contract Vendor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contract Vendor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contract Vendor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or so ordered by the court.

25.9. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it, specifically to include the provision of a notice to cure any deficiency within thirty (30) days.

25.9 Termination for Convenience. Both parties reserves the right to terminate the Contract, in whole or in part at any time In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1.1. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.

1.2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

1.3. "*Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4. *"Contractor"* means any person who has a Contract with the State.

1.5. *"Days"* means calendar days unless otherwise specified.

1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.8. "*Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10. *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.11. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.

1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

2.3.1. Special Terms and Conditions;

2.3.2. Uniform Terms and Conditions;

2.3.3. Statement or Scope of Work;

2.3.4. Specifications;

2.3.5. Attachments;

2.3.6. Exhibits;

2.3.7. Documents referenced or included in the Solicitation.

2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.

3.10 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.

3.11 Offshore Performance of Work Prohibited.
Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3. Applicable Taxes.

4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1. Accept a decrease in price offered by the contractor;

4.5.2. Cancel the Contract; or

4.5.3. Cancel the contract and re-solicit the requirements.

5. Contract Changes

5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2. Indemnification

6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies,

boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

6.3. Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4. Force Majeure.

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term *"force majeure"* means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1. Of a quality to pass without objection in the trade under the Contract description;

7.2.2. Fit for the intended purposes for which the materials are used;

7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4. Adequately contained, packaged and marked as the Contract may require; and

7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5. Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.6. Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2. Stop Work Order.

8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under

this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. Contract Termination

9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

9.5. Termination for Default.

9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

12. Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

Contract Amendment

AZ DEPT. OF ADMINISTRATION

STATE PROCUREMENT OFFICE

100 N. 15TH AVE., STE. 201

Phoenix, AZ 85007

CONTRACT NO.: ADSPO16-098163
Computer Hardware and Support

PAGE 1 OF 1

AMENDMENT NO.: Three (3)

CONTRACTOR:
Dell Marketing
1 Dell Way, Mailstop 8707
Round Rock, TX 78682

CONTACT: Amy Ivy
PHONE: (512)723-6201
EMAIL: amy.ivy@dell.com

STATE AGENCY:
Arizona Department of Administration
State Procurement Office
100 N. 15th Ave. Suite 201
Phoenix, AZ 85007
CONTACT: Reem Prendiville
PHONE: 602- 542-9155
EMAIL: reem.prendiville@azdoa.gov

1. Pursuant to the Uniform Terms and Conditions, Paragraph Five (5) Contract Changes, Subparagraph 5.1 Amendments, the above referenced Contract shall be amended as follows:

   This contract shall be extended from its current expiry date through to Mar 31, 2020.

2. All other terms, conditions and provisions remain unchanged.

This Contract Amendment is not binding against the State of Arizona unless signed by an authorized representative of the Contractor and then accepted in writing by an authorized representative of the State.

CONTRACTOR HEREBY ACKNOWLEDGES RECEIPT AND UNDERSTANDING OF THE ABOVE AMENDMENT.	THE ABOVE REFERENCED CONTRACT AMENDMENT IS HEREBY EXECUTED THIS DATE BY THE STATE.
Digitally signed by Amy Ivy DN: cn=Amy Ivy, o=Dell Marketing, L.P., ou=Legal Department - Contracts Manager, email=amy_ivy@dell.com, c=US Date: 2017.03.06 13:21:53 -06'00' / 3/6/17	3/6/17.
SIGNATURE DATE	SIGNATURE DATE
PRINTED/TYPED NAME AND TITLE	Reem Prendiville State Procurement Manager

8. D.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Rob Speer, IT Manager - GIS
Co-Submitter:	CJ Perry
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Approval of Contract: Purchase of Annual Software Maintenance for GIS Software from Environmental Systems Research Institute, Inc.

STAFF RECOMMENDED ACTION:

1. Approve the Master Agreement and 3-year Small Enterprise Agreement - County and Municipality Government Agreement ("Software Maintenance Agreement") with Environmental Systems Research Institute, Inc. ("Esri") in an amount not to exceed $50,000 annually (plus applicable taxes); and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Staff is requesting approval of a Master Agreement and 3-year Software Maintenance Agreement with Esri, the vendor for GIS Software through a proprietary procurement. GIS Software is utilized by all departments within the City and provides essential data functions to other systems including the Innoprise ERP and water distribution networks, and is accessed by external customers and citizens via internet mapping and data distribution portals. This Software Maintenance Agreement covers software extending to all internal users' desktops and as well as databases, servers, and public internet portals.

Financial Impact:

Purchase of $50,000 annually (plus applicable sales tax) is budgeted and split between IT (54%), Water Services (20%), and Public Works (24%). The cost and allocation have remained the same from the last 3-year Small Enterprise Agreement - County and Municipality Government.

Policy Impact:

None

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

The purchase of the software reflects the Team Flagstaff Strategic Plan goal to:
Deliver outstanding services through a healthy environment, resources and infrastructure by providing an enterprise wide data and communication tool

and

This Software Maintenance Agreement reflects the Council goal of
COMMUNITY OUTREACH Enhance public transparency and accessibility where GIS creates effective communication tools as maps and informatics.

Previous Council Decision on This:

The previous 3- year Software Maintenance Agreement with Esri was approved on 6/21/2016.

Options and Alternatives:

1. Approve the Master Agreement and the 3 year annual software maintenance for GIS Software from Environmental Systems Research Institute, Inc.; or
2. Do not approve and direct staff to conduct a formal procurement which may delay the City's standard business operations.

Background/History:

The City of Flagstaff first started using Esri software in 1988, becoming Esri Customer #348. Esri has now grown to over 350,000 customers in over 200 countries.

All departments use GIS services provided through this software package in one way or another for mapping, communications, and data obtained via GIS for analysis in other City functions. More importantly, many other City systems are integrated and depend on data and information originating or passing through the GIS system: the Innoprise ERP (Community Development, Financials, Sales Tax, Customer Service), the Cartegraph Suite (Public Works), the City Works suite (Water Services), and the Computer Aided Dispatch system (Police/Fire).

Key Considerations:

Esri provides their software exclusively thru this 3- year Software Maintenance Agreement. While licensing may be available packaged with other products such as GPS or surveying equipment, this software package is available only thru direct purchase. Please see the attached letter regarding Proprietary Licensing.

Expanded Financial Considerations:

Esri software and existing staff have the possibility of replacing other software packages by developing solutions in-house with this software package, creating savings by discontinuing other products or subscriptions.

Community Benefits and Considerations:

This Software Maintenance Agreement allows our ArcGIS Online Portal to provide public web maps, data downloads, and web pages to the public, enhancing outreach and engagement of the community.

Attachments: Quotation and Small Enterprise Agreement
Master Agreement
Proprietary Information

Quotation # 20551626

Date: May 24, 2019

Customer # 348 **Contract #**

Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: 909-793-2853 **Fax: 909-307-3049**
DUNS Number: 06-313-4175 **CAGE Code: 0AMS3**

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 05/24/2019 To: 08/22/2019

City of Flagstaff
GIS
211 W Aspen Ave
Flagstaff, AZ 86001-5359

ATTENTION: Wayne Anderson
PHONE: (928) 779-7610
FAX: (928) 779-7696

Material	Qty	Description	Unit Price	Total
168179	1	Populations of 50,001 to 100,000 Small Government Term Enterprise License Agreement	50,000.00	50,000.00
168179	1	Populations of 50,001 to 100,000 Small Government Term Enterprise License Agreement	50,000.00	50,000.00
168179	1	Populations of 50,001 to 100,000 Small Government Term Enterprise License Agreement	50,000.00	50,000.00

Item Total:	150,000.00
Subtotal:	150,000.00
Sales Tax:	13,426.50
Estimated Shipping & Handling(2 Day Delivery) :	0.00
Contract Pricing Adjust:	0.00
Total:	$163,426.50

Each line item = 1 year term.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact: Vince Collins **Email:** vcollins@esri.com **Phone:** 303-449-7779 x5869

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://assets.esri.com/content/dam/esrisites/media/legal/ma-full/ma-full.pdf apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

If sending remittance, please address to: Esri, P.O. Box 741076, Los Angeles, CA 90074-1076

COLLINSV **This offer is limited to the terms and conditions incorporated and attached herein.**

Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: 909-793-2853 Fax: 909-307-3049
DUNS Number: 06-313-4175 CAGE Code: 0AMS3

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 05/24/2019 To: 08/22/2019

Quotation # 20551626

Date: May 24, 2019

Customer # 348 Contract #

City of Flagstaff
GIS
211 W Aspen Ave
Flagstaff, AZ 86001-5359

ATTENTION: Wayne Anderson
PHONE: (928) 779-7610
FAX: (928) 779-7696

If you have made ANY alterations to the line items included in this quote and have chosen to sign the quote to indicate your acceptance, you must fax Esri the signed quote in its entirety in order for the quote to be accepted. You will be contacted by your Customer Service Representative if additional information is required to complete your request.

If your organization is a US Federal, state, or local government agency; an educational facility; or a company that will not pay an invoice without having issued a formal purchase order, a signed quotation will not be accepted unless it is accompanied by your purchase order.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy, GSA, BPA) on your ordering document.

BY SIGNING BELOW, YOU CONFIRM THAT YOU ARE AUTHORIZED TO OBLIGATE FUNDS FOR YOUR ORGANIZATION, AND YOU ARE AUTHORIZING ESRI TO ISSUE AN INVOICE FOR THE ITEMS INCLUDED IN THE ABOVE QUOTE IN THE AMOUNT OF $_____, PLUS SALES TAXES IF APPLICABLE. DO NOT USE THIS FORM IF YOUR ORGANIZATION WILL NOT HONOR AND PAY ESRI'S INVOICE WITHOUT ADDITIONAL AUTHORIZING PAPERWORK.

Please check one of the following:

___ **I agree to pay any applicable sales tax.**

___ **I am tax exempt, please contact me if exempt information is not currently on file with Esri.**

Signature of Authorized Representative **Date**

Name (Please Print)

Title

The quotation information is proprietary and may not be copied or released other than for the express purpose of system selection and purchase/license. This information may not be given to outside parties or used for any other purpose without consent from Environmental Systems Research Institute, Inc. (Esri).

Any estimated sales and/or use tax reflected on this quote has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state tax directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact: Vince Collins **Email:** vcollins@esri.com **Phone:** 303-449-7779 x5869

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://assets.esri.com/content/dam/esrisites/media/legal/ma-full/ma-full.pdf apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin.

If sending remittance, please address to: Esri, P.O. Box 741076, Los Angeles, CA 90074-1076

COLLINSV **This offer is limited to the terms and conditions incorporated and attached herein.**

Esri Use Only:
Cust. Name _____
Cust. # _____
PO # _____
Esri Agreement # _____

SMALL ENTERPRISE AGREEMENT
COUNTY AND MUNICIPALITY GOVERNMENT
(E214-3)

This Agreement is by and between the organization identified in the Quotation (**"Customer"**) and **Environmental Systems Research Institute, Inc.** (**"Esri"**).

This Agreement sets forth the terms for Customer's use of Products and incorporates by reference (i) the Quotation and (ii) the Master Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this Agreement, the order of precedence for the documents shall be as follows: (i) the Quotation, (ii) this Agreement, and (iii) the Master Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state in which Customer is located without reference to conflict of laws principles, and the United States of America federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this Agreement apply only to the Products listed in Table A.

Table A
List of Products

Uncapped Quantities

Desktop Software and Extensions (Single Use)
ArcGIS Desktop Advanced
ArcGIS Desktop Standard
ArcGIS Desktop Basic
ArcGIS Desktop Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Publisher, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager, ArcGIS Data Reviewer

Enterprise Software and Extensions
ArcGIS Enterprise and Workgroup (Advanced and Standard)
ArcGIS Enterprise Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager

Enterprise Additional Capability Servers
ArcGIS Image Server

Developer Tools
ArcGIS Engine
ArcGIS Engine Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Engine Geodatabase Update, ArcGIS Network Analyst, ArcGIS Schematics
ArcGIS Runtime (Standard)
ArcGIS Runtime Analysis Extension

Limited Quantities
One (1) Professional subscription to ArcGIS Developer*
Two (2) Esri CityEngine Advanced Single Use Licenses
250 ArcGIS Online Viewers
250 ArcGIS Online Creators
37,500 ArcGIS Online Service Credits
250 ArcGIS Enterprise Creators
5 Insights for ArcGIS for use with ArcGIS Enterprise
5 Insights for ArcGIS for use with ArcGIS Online

OTHER BENEFITS

Number of Esri User Conference registrations provided annually	**4**
Number of Tier 1 Help Desk individuals authorized to call Esri	**4**
Maximum number of sets of backup media, if requested**	**2**
Self-Paced e-Learning	**Uncapped**
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement (Discount does not apply to Small Enterprise Training Package)	

* Maintenance is not provided for these items
**Additional sets of backup media may be purchased for a fee

Customer may accept this Agreement by signing and returning the whole Agreement with (i) the Quotation attached, (ii) a purchase order, or (iii) another document that matches the Quotation and references this Agreement ("**Ordering Document**"). **ADDITIONAL OR CONFLICTING TERMS IN CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN.** This Agreement is effective as of the date of Esri's receipt of an Ordering Document, unless otherwise agreed to by the parties ("**Effective Date**").

Term of Agreement: Three (3) years

This Agreement supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Products. Except as provided in Article 4—Product Updates, no modifications can be made to this Agreement.

Accepted and Agreed:

_____
(Customer)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

CUSTOMER CONTACT INFORMATION

Contact: _____

Address: _____

City, State, Postal Code: _____

Country: _____

Quotation Number (if applicable): _____

Telephone: _____

Fax: _____

E-mail: _____

1.0—Additional Definitions

In addition to the definitions provided in the Master Agreement, the following definitions apply to this Agreement:

"Case" means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

"Deploy", "Deployed" and "Deployment" mean to redistribute and install the Products and related Authorization Codes within Customer's organization(s).

"Fee" means the fee set forth in the Quotation.

"Maintenance" means Tier 2 Support, Product updates, and Product patches provided to Customer during the Term of Agreement.

"Master Agreement" means the applicable master agreement for Esri Products incorporated by this reference that is (i) found at http://www.esri.com/legal/software-license and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed Esri master agreement or license agreement that supersedes such electronically acknowledged master agreement.

"Product(s)" means the products identified in Table A—List of Products and any updates to the list Esri provides in writing.

"Quotation" means the offer letter and quotation provided separately to Customer.

"Technical Support" means the technical assistance for attempting resolution of a reported Case through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Product corrections or modifications.

"Tier 1 Help Desk" means Customer's point of contact(s) to provide all Tier 1 Support within Customer's organization(s).

"Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk.

"Tier 2 Support" means the Esri Technical Support provided to the Tier 1 Help Desk when a Case cannot be resolved through Tier 1 Support.

2.0—Additional Grant of License

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Esri grants to Customer a personal, nonexclusive, nontransferable license solely to use, copy, and Deploy quantities of the Products listed in Table A—List of Products for the Term of Agreement (i) for the applicable Fee and (ii) in accordance with the Master Agreement.

2.2 Consultant Access. Esri grants Customer the right to permit Customer's consultants or contractors to use the Products exclusively for Customer's benefit. Customer will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Customer. Access to or use of Products by consultants or contractors not exclusively for Customer's benefit is prohibited. Customer may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations, except for the purpose of hosting the Software or Data on Contractor servers for the benefit of Customer.

3.0—Term, Termination, and Expiration

3.1 Term. This Agreement and all licenses hereunder will commence on the Effective Date and continue for the duration identified in the Term of Agreement, unless this Agreement is terminated earlier as provided herein. Customer is only authorized to use Products during the Term of Agreement. For an Agreement with a limited term, Esri does not grant Customer an indefinite or a perpetual license to Products.

3.2 No Use upon Agreement Expiration or Termination. All Product licenses, all Maintenance, and Esri User Conference registrations terminate upon expiration or termination of this Agreement.

3.3 Termination for a Material Breach. Either party may terminate this Agreement for a material breach by the other party. The breaching party will have thirty (30) days from the date of written notice to cure any material breach.

3.4 Termination for Lack of Funds. For an Agreement with government or government-owned entities, either party may terminate this Agreement before any subsequent year if

Customer is unable to secure funding through the legislative or governing body's approval process.

3.5 Follow-on Term. If the parties enter into another agreement substantially similar to this Agreement for an additional term, the effective date of the follow-on agreement will be the day after the expiration date of this Agreement.

4.0—Product Updates

4.1 Future Updates. Esri reserves the right to update the list of Products in Table A—List of Products by providing written notice to Customer. Customer may continue to use all Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Products are incorporated into the standard program, they will be offered to Customer via written notice for incorporation into the Products schedule at no additional charge. Customer's use of new or updated Products requires Customer to adhere to applicable additional or revised terms and conditions in the Master Agreement.

4.2 Product Life Cycle. During the Term of Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at http://support.esri.com/en/content/productlifecycles. Updates for Products in the mature and retired phases may not be available. Customer may continue to use Products already Deployed, but Customer will not be able to Deploy retired Products.

5.0—Maintenance

The Fee includes standard maintenance benefits during the Term of Agreement as specified in the most current applicable Esri Maintenance and Support Program document (found at http://www.esri.com/legal). At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other than the defined Products will receive Maintenance. Customer may acquire maintenance for other Software outside this Agreement.

a. Tier 1 Support

1. Customer will provide Tier 1 Support through the Tier 1 Help Desk to all Customer's authorized users.

2. The Tier 1 Help Desk will be fully trained in the Products.

3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.

4. The Tier 1 Help Desk will be the initial point of contact for all questions and reporting of a Case. The Tier 1 Help Desk will obtain a full description of each reported Case and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Case.

5. If the Tier 1 Help Desk cannot resolve the Case, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Customer’s organization.

6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Customer may change the Tier 1 Help Desk individuals by written notice to Esri.

b. Tier 2 Support

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.

2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.

3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.

4. Tier 2 Support will attempt to resolve the Case submitted by Tier 1 Help Desk.

5. When the Case is resolved, Tier 2 Support will communicate the information to Tier 1 Help Desk, and Tier 1 Help Desk will disseminate the resolution to the user(s).

6.0—Endorsement and Publicity

This Agreement will not be construed or interpreted as an exclusive dealings agreement or Customer's endorsement of Products. Either party may publicize the existence of this Agreement.

7.0—Administrative Requirements

7.1 **OEM Licenses.** Under Esri's OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri products and services with their application or service. OEM partners' business model, licensing terms and conditions, and pricing are independent of this Agreement. Customer will not seek any discount from the OEM partner or Esri based on the availability of Products under this Agreement. Customer will not decouple Esri products or services from the OEM partners' application or service.

7.2 **Annual Report of Deployments.** At each anniversary date and ninety (90) calendar days prior to the expiration of this Agreement, Customer will provide Esri with a written report detailing all Deployments. Upon request, Customer will provide records sufficient to verify the accuracy of the annual report.

8.0—Ordering, Administrative Procedures, Delivery, and Deployment

8.1 **Orders, Delivery, and Deployment**

a. Upon the Effective Date, Esri will invoice Customer and provide Authorization Codes to activate the nondestructive copy protection program that enables Customer to download, operate, or allow access to the Products. If this is a multi-year Agreement, Esri may invoice the Fee before the annual anniversary date for each year.

b. Undisputed invoices will be due and payable within thirty (30) calendar days from the date of invoice. Esri's federal ID number is 95-2775-732.

c. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. Customer acknowledges that should sales or use taxes become due as a result of any shipments of tangible media, Esri has a right to invoice and Customer will pay any such sales or use tax associated with the receipt of tangible media.

8.2 **Order Requirements.** Esri does not require Customer to issue a purchase order. Customer may submit a purchase order in accordance with its own process requirements, provided that if Customer issues a purchase order, Customer will submit its initial purchase order on the Effective Date. If this is a multi-year Agreement, Customer will submit subsequent purchase orders to Esri at least thirty (30) calendar days before the annual anniversary date for each year.

a. All orders pertaining to this Agreement will be processed through Customer's centralized point of contact.

b. The following information will be included in each Ordering Document:

(1) Customer name; Esri customer number, if known; and bill-to and ship-to addresses
(2) Order number
(3) Applicable annual payment due

9.0—Mergers, Acquisitions, or Divestitures

If Customer is a commercial entity, Customer will notify Esri in writing in the event of (i) a consolidation, merger, or reorganization of Customer with or into another corporation or entity;
(ii) Customer's acquisition of another entity; or (iii) a transfer or sale of all or part of Customer's organization (subsections i, ii, and iii, collectively referred to as "**Ownership Change**"). There will be no decrease in Fee as a result of any Ownership Change.

9.1 If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.

9.2 If an Ownership Change results in transfer or sale of a portion of Customer's organization, that portion of Customer's organization will transfer

the Products to Customer or uninstall, remove, and destroy all copies of the Products.

9.3 This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Customer will require any successor entity to uninstall, remove, and destroy the Products. This Agreement will terminate upon such Ownership Change.

Master Agreement

Revised 10/12/2018
IMPORTANT—READ CAREFULLY

Unless superseded by a signed license agreement between you and Esri, Esri is willing to provide Esri Offerings and Services to you only if you accept all terms and conditions contained in this Agreement as the sole and final agreement of the parties regarding your acquisition of these Esri Offerings and Services. Please read the terms and conditions carefully. You may not use the Esri Offerings until you have agreed to the terms and conditions of the Agreement. If you do not agree to the terms and conditions as stated, click "I do not accept the Master Agreement" below; you may then request a refund of applicable fees paid.

This Master Agreement (**"Agreement"**) is between you (**"Customer"**) and **Environmental Systems Research Institute, Inc.** (**"Esri"**), a California corporation with a place of business at 380 New York Street, Redlands, California 92373-8100 USA.

Attachment A contains definitions of capitalized terms used throughout this Agreement. Each section of this Agreement may include additional definitions that are used exclusively within that section.

1.0 GENERAL GRANT OF RIGHTS AND RESTRICTIONS

1.1 Grant of Rights. In consideration of Customer's payment of all applicable fees and in accordance with this Agreement, Esri

a. Provides Services as set forth in this Agreement;
b. Grants to Customer a nonexclusive, nontransferable right and license or subscription to access and use Esri Offerings as set forth in the Specifications and applicable Ordering Documents; and
c. Authorizes Customer to copy and make derivative works of the Documentation for Customer's own internal use in conjunction with Customer's authorized use of Esri Offerings. Customer will include the following copyright attribution notice acknowledging the proprietary rights of Esri and its licensors in any derivative work:

> "Portions of this document include intellectual property of Esri and its licensors and are used under license. Copyright © [*Customer will insert the actual copyright date(s) from the source materials*.] Esri and its licensors. All rights reserved."

The grants of rights in this section (i) continue for the duration of the subscription or applicable Term or perpetually if no Term is applicable or identified in the Ordering Documents and (ii) are subject to additional rights and restrictions in this Agreement including Attachment B.

1.2 Consultant or Contractor Access. Customer may authorize its consultants or contractors to (i) host Esri Offerings for Customer's benefit and (ii) use Esri Offerings exclusively for Customer's benefit. Customer will be solely responsible for its consultants' and contractors' compliance with this Agreement and will ensure that each consultant or contractor discontinues use of Esri Offerings upon completion of work for Customer. Access to or use of Esri Offerings by consultants or contractors that is not exclusively for Customer's benefit is prohibited.

1.3 Reservation of Rights. All Esri Offerings are the copyrighted works of Esri or its licensors; all rights not specifically granted in this Agreement are reserved.

2.0 SOFTWARE AND ONLINE SERVICES

2.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

a. **"Anonymous Users"** means all who have public access (i.e., without having to provide a Named User Credential) to any part of Customer Content or Customer's Value-Added Applications.

b. **"App Login Credential(s)"** means a system-generated application login and associated password, provided when registering a Value-Added Application with ArcGIS Online, which when embedded in a Value-Added Application allows the Value-Added Application to access and use Online Services.
c. **"Concurrent Use License"** means a license to install and use Software on computer(s) on a network, provided that the number of simultaneous users may not exceed the number of licenses acquired. A Concurrent Use License includes the right to run passive failover instances of Concurrent Use License management software in a separate operating system environment for temporary failover support.
d. **"Deployment License"** means a license to incorporate ArcGIS Runtime components in Value-Added Applications and distribute Value-Added Applications to Customer's end users.
e. **"Deployment Server License"** means a license to use Software under a Server License for all uses permitted in this Agreement and as described in the Documentation.
f. **"Development Server License"** means a license to use Software under a Server License only to build and test Value-Added Applications as described in the Documentation.
g. **"Development Use"** means the right to install and use Products to build and test Value-Added Applications as described in the Documentation.
h. **"Dual Use License"** means the right to install Software on a desktop computer and use it simultaneously with either a personal digital assistant (PDA) or handheld mobile computer as long as the Software is only used by a single individual at any time.
i. **"Failover License"** means a license to install Software on redundant systems for failover operations, but the redundantly installed Software may be operational only during the period the primary site is nonoperational. Except for system maintenance and updating of databases, the redundant Software installation(s) will remain dormant while the primary site (or any other redundant site) is operational.
j. **"Named User(s)"** is Customer's employee, agent, consultant, or contractor to whom Customer has assigned a unique, secure login credential (identity) enabling access to a Product that requires such identity in order to access identity-managed capabilities within a Product for Customer's exclusive benefit. For educational use, Named Users may include registered students.
k. **"Named User Credential(s)"** means an individual person's login and associated password enabling that person to access and use Products.
l. **"Named User License"** means the right for a single Named User to use a specific Esri Offering.
m. **"Online Services Subscription"** means a limited-term subscription conveying the right for one or more Named Users to access and use Online Services.
n. **"Redistribution License"** means a license to reproduce and distribute Software provided that
    1. Customer reproduces and distributes the Software in its entirety;
    2. A license agreement that protects the Software to the same extent as this Agreement accompanies each copy of the Software, and the recipient agrees to the terms and conditions of the license agreement;
    3. Customer reproduces all copyright and trademark attributions and notices; and
    4. Customer does not charge a fee to others for the use of the Software.

o. **"Server License"** means a license to install and use Software on a server computer. Server Licenses may be subject to a limited number of server cores or distributed deployment on multiple servers as described in the Ordering Documents or Documentation. If the Software description includes failover use rights, each Server License includes a Failover License.
p. **"Service Credit(s)"** means a unit of exchange for consumption of services that can be used with an Online Services Subscription.
q. **"Sharing Tools"** means publishing capabilities included with Online Services that allow Customer to make Customer Content and Value-Added Applications available to third parties or Anonymous Users.
r. **"Single Use License"** means a license for a single authorized end user to install and use Software on a single computer. The single authorized end user may also install a second copy for the end user's exclusive use on a second computer as long as only 1 copy of Software is in use at any time. No other end user may use Software under the same license at the same time for any other purpose.
s. **"Staging Server License"** means a license to use Software under a Server License to build and test Value-Added Applications and map caches; conduct user acceptance, performance, and load testing of other third-party software; stage new commercial data updates; and conduct training activities as described in the Documentation. Customer may use Value-Added Applications and map caches with Development and Deployment Server Licenses.

2.2 License and Subscription Types. Esri provides Software Products under one or more of the license or subscription types identified in the definitions above. The Documentation and Ordering Documents identify which license or subscription type(s) applies to the ordered Products.

2.3 Software Terms of Use

a. Customer may

1. Install, access, or store Software and Data on electronic storage device(s);
2. Make archival copies and routine computer backups;
3. Install and use a newer version of Software concurrently with the version to be replaced during a reasonable transition period not to exceed 6 months, provided that the deployment of either version does not exceed Customer's licensed quantity; thereafter, Customer will not use more Software in the aggregate than Customer's total licensed quantity. This concurrent use right does not apply to Software licensed for Development Use.
4. Move Software in the licensed configuration to a replacement computer;
5. Distribute Software and any associated Authorization Codes required for use of a Deployment License to third parties; and
6. Use server Software for Commercial ASP Use only if Customer has procured a Commercial ASP Use license or is a governmental or not-for-profit organization that operates a website or offers an Internet service on a cost-recovery basis and not for profit.

b. Customer may customize Software using any macro or scripting language, APIs, or source or object code libraries but only to the extent that such customization is described in the Documentation.
c. Customer may use all fonts provided with Software for any authorized use of the Software. Customer may also use Esri fonts separately to print any output created by the Software. Any use restrictions for third-party fonts included with the Software are set forth in the font file itself.
d. Esri publishes Product-specific Software terms of use at http://www.esri.com/legal/scope-of-use.

2.4 Online Services Terms of Use

a. **Online Services Descriptions.** Esri publishes Online Services Subscription-specific terms of use at http://www.esri.com/legal/scope-of-use. Use of Online Services is also subject to the Cloud Services terms found in Attachment B.
b. **Modifications of Online Services.** Esri may change Online Services and associated APIs at any time, subject to 30 days' notice of material changes and 90 days' notice for deprecations. If any modification, discontinuation, or deprecation of Online Services causes a material, adverse impact to Customer's operations, Esri may, at its discretion, attempt to repair, correct, or provide a workaround for Online Services. If a viable solution is not commercially reasonable, Customer may cancel its subscription to Online Services, and Esri will issue a prorated refund.
c. **Sharing Customer Content.** Sharing Customer Content using Sharing Tools enables third parties to use, store, cache, copy, reproduce, (re)distribute, and (re)transmit Customer Content through Online Services. Esri is not responsible for any loss, deletion, modification, or disclosure of Customer Content resulting from use or misuse of Sharing Tools or Online Services, Customer Content, ArcGIS Website, Documentation, or related materials. Customer's use of Sharing Tools is at Customer's sole risk.
d. **Limits on Use of Online Services, Service Credits.** Each Online Services Subscription includes Service Credits as described in the applicable Ordering Document. Each Service Credit entitles Customer to consume a set amount of Online Services, the amount varying depending on the Online Services that Customer is using. As Customer consumes Online Services, Service Credits are automatically debited from Customer's subscription, up to the maximum number of Service Credits available. Customer may purchase additional Service Credits as needed. Esri will notify Customer's subscription account administrator when Customer's Service Credit consumption reaches approximately 75 percent of the Service Credits allocated to Customer through Customer's subscription. Esri reserves the right to suspend Customer's access to Online Services that consume Service Credits when Customer has consumed all its Service Credits. Esri will promptly restore Customer's access to its Online Services once Customer has purchased additional Service Credits.

2.5 Named User Licenses. The following terms apply to Software and Online Services for which Customer acquires Named User Licenses.

a. **Named Users**

1. Named User login credentials are for designated users only and may not be shared with other individuals.
2. Customer may reassign a Named User License to another user if the former user no longer requires access to the Software or Online Services.
3. Customer may not add third parties as Named Users, other than third parties included within the definition of Named Users.

b. **Value-Added Applications**

1. Customer is responsible for the development, operation, and technical support of Customer Content and Value-Added Applications.
2. Customer may not embed a Named User Credential into Value-Added Applications. Value-Added Applications that enable access to Customer's private data or content must require individual users to log in to the application(s) with their unique Named User login credentials.
3. Customer may embed an App Login Credential into Value-Added Applications that provide access by Anonymous Users to services, content, or data that has been published for shared access by Anonymous Users through the use of Sharing Tools included with Customer's authorized use of Software or Online Services.
4. Customer may not embed an App Login Credential into Value-Added Applications that enables access to Customer's private data or content. Value-Added Applications that enable access to Customer's private data or content must require individual users to log in to the application(s) with their unique Named User login credentials.
5. Customer may not provide a third party, other than third parties included within the definition of Named Users, with access to Software or Online Services, other than through Customer's Value-Added Application(s).
6. Customer may transfer Value-Added Applications to any third party for use in conjunction with the third party's own Software license or Online Services Subscription.

c. **Anonymous Users.** Anonymous Users may only access Software or Online Services through Value-Added Applications that provide access to services, content, or data that has been published for shared access through the use of Sharing Tools included with Customer's authorized use of Software or Online Services.

2.6 Limited-Use Programs

a. **Trial, Evaluation, and Beta Programs.** Products acquired under a trial, evaluation, or Beta program are licensed for evaluation and testing purposes only and not for commercial use. Any such use is at Customer's own risk, and the Products do not qualify for Maintenance. If Customer does not convert to a purchased license or subscription prior to the expiration of the trial, evaluation, or Beta license, Customer may lose any Customer Content and customizations made during the license term. If Customer does not wish to purchase a license or subscription, Customer should export such Customer Content before the license expires.
b. **Educational Programs.** Customer agrees to use Products provided under an educational program solely for educational purposes during the educational use Term. Customer shall not use Products for any Administrative Use unless Customer has acquired an Administrative Use license. "Administrative Use" means administrative activities that are not directly related to instruction or education, such as asset mapping, facilities management, demographic analysis, routing, campus safety, and accessibility analysis. Customer shall not use Products for revenue-generating or for-profit purposes.
c. **Grant Programs.** Customer may use Products provided under a grant program for noncommercial purposes only. Except for cost recovery of using and operating the Products, Customer shall not use Products for revenue-generating or for-profit purposes.
d. **Other Esri Limited-Use Programs.** If Customer acquires Products under any limited-use program not listed above, Customer's use of the Products may be subject to the terms set forth in the applicable launching page or enrollment form or as described on Esri's website in addition to the nonconflicting terms of this Agreement.

3.0 DATA

3.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

a. **"Business Listing Data"** means any dataset that includes a list of businesses and may include other associated business attributes.
b. **"Esri Content Package(s)"** means a digital file containing ArcGIS Online basemap content (e.g., raster map tiles, images, vector data) extracted from the ArcGIS Online basemap services.
c. **"Street Data"** means Data that includes or depicts information about roads, streets, and related features.

3.2 Permitted Uses

a. Unless otherwise authorized in writing, Customer may only use Data with the Products for which Esri has provided the Data.
b. Customer may include representations of Data in hard-copy or static, electronic format (e.g., PDF, GIF, JPEG, HTML); in ArcGIS Web Maps; or in Esri Story Maps apps for the purposes of visualizing Data (including basic interactions such as panning, zooming, and identifying map features with simple pop-ups) for use in presentation packages, marketing studies, or other reports or documents containing map images or data summaries derived from the use of Esri Products to third parties subject to restrictions set forth in this Agreement, provided that Customer affixes an attribution statement to the Data representations acknowledging Esri or its applicable licensor(s) as the source of the portion(s) of the Data used for the Data representation.
c. Customer may take ArcGIS Online basemaps offline through Esri Content Packages and subsequently deliver (transfer) them to any device for use with licensed ArcGIS Runtime applications and ArcGIS Desktop. Customer may not otherwise scrape, download, or store Data.
d. Esri does not acquire any rights in Customer Content under this Agreement.

3.3 Use Restrictions

a. Customer may not act directly or authorize its customers to cobrand Data, use Data in any unauthorized service or product, or offer Data through or on behalf of any third party.
b. Customer may not use or allow third parties to use Data, for the purpose of compiling, enhancing, verifying, supplementing, adding to, or deleting from compilation of information that is sold, rented, published, furnished, or in any manner provided to a third party.
c. *Business Listing Data.* Unless authorized in writing, Customer may not use Business Listing Data for any direct marketing purposes, resale publication, or distribution to any third party as part of any mailing list, directory, classified advertising, or other compilation of information.
d. *Street Data.* Customer may use Street Data for mapping, geocoding, routing, and transportation network analysis purposes. Unless otherwise authorized in writing, Customer may not use Street Data for

    1. Real-time navigational guidance, including alerting a user about upcoming maneuvers, such as warning of an upcoming turn or calculating an alternate route if a turn is missed;
    2. Synchronized multivehicle routing; or
    3. Synchronized route optimization.

e. *Business Analyst Data.* Customer may cache Data provided with ArcGIS Business Analyst Mobile App on a mobile device for use in conjunction with its use of ArcGIS Business Analyst Server. Customer may not otherwise cache or download such Data.
f. *Partial Dataset Licenses:* If Customer orders a subset of a dataset (e.g., a country, region, state, or local portion of a global database), Customer may use only the licensed subset, not any other portion of the full dataset.
g. *Esri MapStudio Data*. Customer may create, publicly display, and distribute maps in hard-copy or static electronic format for news-reporting purposes only.
h. *Michael Bauer Research International Boundaries Data ("MBR Data")*. Customer's right to use data downloaded to Customer's premises (e.g., MBR Data stored in ArcGIS Enterprise, ArcGIS Desktop) terminates 2 years after download.

3.4 Supplemental Terms and Conditions for Data. Certain Data licensors require Esri to flow down additional attribution requirements and terms of use to Customer. These terms supplement and amend the terms of this Agreement and are available at www.esri.com/legal/third-party-data.

4.0 MAINTENANCE

4.1 US Customers. Esri will provide Maintenance for Software and Online Services in accordance with the Esri Maintenance and Support Program and this Agreement if Customer is in the United States.

4.2 Customers outside the United States. Customer may obtain maintenance services from their local Esri distributor under the distributor's own standard support policy.

ATTACHMENT A
GLOSSARY OF TERMS

The following glossary of terms applies to all Esri Offerings and Services that Esri may provide to its customers. Certain Esri Offerings or Services may not be within the scope of this Agreement. Please disregard any terms that are not applicable to Esri Offerings or Services offered under this Agreement.

"Affiliate" means any entity that directly or indirectly (i) Controls; (ii) is Controlled by; or (iii) is under common Control with a party, where "Control" means having more than 50 percent of the voting stock or other voting interest in the Controlled entity.

"API" means application programming interface.

"ArcGIS Website" means www.arcgis.com and any related or successor websites.

"Authorization Code(s)" means any key, authorization number, enablement code, login credential, activation code, token, user name and password, or other mechanism required for use of Esri Offerings.

"Beta" means any alpha, beta, or other prerelease version of a Product.

"Cloud Services" means Online Services and EMCS.

"Commercial ASP Use" means use as a commercial application service provider, that is, to generate revenue by providing access to Software or Online Services through a Value-Added Application, for example, by charging a subscription fee, service fee, or any other form of transaction fee or by generating more than incidental advertising revenue.

"Content" means data, images, photographs, animations, video, audio, text, maps, databases, data models, spreadsheets, user interfaces, graphics components, icons, software, and other resources.

"Control" means having more than 50 percent of the voting stock or other voting interest in the Controlled entity.

"Customer Content" means any Content that Customer provides, uses, or develops in connection with Customer's use of Esri Offerings or Services, including Value-Added Applications. Customer Content excludes any feedback, suggestions, or requests for improvements that Customer provides to Esri.

"Data" means any commercially available digital dataset(s) including, but not limited to, geographic vector data, raster data reports, or associated tabular attributes that Esri bundles with other Esri Offerings or delivers independently.

"Deliverables" means anything that Esri delivers to Customer as a result of performance of Professional Services.

"Documentation" means all user reference documentation that Esri provides with a Deliverable or an Esri Offering.

"Esri Managed Cloud Services" or **"EMCS"** means a Customer-specific cloud infrastructure, Software, Data, and network platform that Esri hosts, manages, and makes available to Customer or Customer's end users via the Internet.

"Esri Offering(s)" means any Product or Documentation. If Esri provides Training or Professional Services directly to Customer, then Esri Offerings also include Deliverables and Training Materials. Esri Offerings exclude Services and Third-Party Content.

"GIS" means geographic information system.

"Maintenance" means a subscription program that Esri provides and that entitles Customer to Product updates and other benefits such as access to technical support and self-paced, web-based learning resources.

"Malicious Code" means software viruses; worms; time bombs; Trojan horses; or any other computer code, files, denial of service, or programs designed to interrupt, destroy, or limit the functionality of any computer software, hardware, or telecommunications equipment.

"Online Services" means any commercially available, Internet-based geospatial system that Esri provides, including applications and associated APIs for storing, managing, publishing, and using maps, data, and other information. Online Services exclude Data and Content.

"Ordering Document(s)" means a sales quotation, Maintenance renewal quote, purchase order, proposal, Task Order, or other document identifying Esri Offerings, updates, or Services that Customer orders.

"Perpetual License" means a license to use a version of the Esri Offering for which applicable license fees have been paid, indefinitely, unless terminated by Esri or Customer as authorized under this Agreement.

"Product(s)" means Software, Data, and Online Services.

"Professional Services" means any development or consulting services that Esri provides to Customer.

"Sample(s)" means sample code, sample applications, add-ons, or sample extensions of Products.

"Service(s)" means Maintenance. If Esri provides EMCS, Training, or Professional Services directly to Customer, then Services also include EMCS, Training, and Professional Services.

"Software" means any proprietary commercial off-the-shelf software, excluding Data, accessed or downloaded from an Esri-authorized website or that Esri delivers on any media in any format including backups, updates, service packs, patches, hot fixes, or permitted merged copies.

"Specification(s)" means (i) the Documentation for Software and Online Services, (ii) the scope of work set forth in any Task Order, or (iii) Esri's published course descriptions for Training.

"Task Order(s)" means an Ordering Document for Services.

"Term License" means a license for use of an Esri Offering for a limited time period ("**Term**").

"Third-Party Content" means any Content that Customer may obtain from a third-party website or that persons other than Esri employees, suppliers, or contractors may directly contribute to Esri's website.

"Training" means (i) Product training or (ii) related training that Esri provides under this Agreement.

"Training Materials" means digital or printed content required to complete Training, which may include, but is not limited to, workbooks, data, concepts, exercises, assessments, and exams.

"Value-Added Application(s)" means an application developed by Customer for use in conjunction with the authorized use of any Software, Data, or Online Services.

ATTACHMENT B
GENERAL TERMS AND CONDITIONS

The following general terms and conditions apply to all Esri Offerings and Services that Esri may offer to its customers. Certain Esri Offerings or Services may not be available under this Agreement. Please disregard any terms that are not applicable to Esri Offerings or Services offered under this Agreement.

ARTICLE 1—GENERAL USE RESTRICTIONS

Except as expressly permitted in this Agreement, Customer will not

a. Sell, rent, lease, sublicense, distribute, lend, time-share, or assign Services or Esri Offerings;
b. Distribute or provide direct access to Services or Esri Offerings to third parties, in whole or in part, including, but not limited to, extensions, components, or DLLs;
c. Distribute Authorization Codes to third parties;
d. Reverse engineer, decompile, or disassemble any Product or Deliverable delivered in compiled form;
e. Make any attempt to circumvent the technological measure(s) that controls access to or use of Esri Offerings;
f. Store, cache, use, upload, distribute, or sublicense Content or otherwise use Esri Offerings in violation of Esri's or a third-party's rights, including intellectual property rights, privacy rights, nondiscrimination laws, export laws, or any other applicable law or regulation;
g. Remove or obscure any Esri or its licensors' patent, copyright, trademark, proprietary rights notices, or legends contained in or affixed to any Esri Offerings, output, metadata file, or online or hard-copy attribution page of any Data or Documentation;
h. Unbundle or independently use individual or component parts of Esri Offerings;
i. Incorporate any portion of Esri Offerings into a product or service for third-party use that competes with the Esri Offerings;
j. Publish or in any other way communicate the results of benchmark tests run on Beta Products without the prior written permission of Esri and its licensors; or
k. Use, incorporate, modify, distribute, provide access to, or combine any Esri Offerings in a manner that would subject any Esri Offering to open-source or open-database license terms that require any part of the Esri Offering to be

    1. Disclosed in source code form to third parties;
    2. Licensed to third parties for the purpose of making derivative works; or
    3. Redistributable to third parties at no charge.

These restrictions will not apply to the extent that they conflict with applicable law or regulation.

ARTICLE 2—TERM AND TERMINATION

2.1 Customer may terminate this Agreement or any Esri Offerings license or subscription at any time upon written notice to Esri. Termination without cause does not entitle Customer to receive any refund of fees paid. Any right to terminate pending Services engagements for convenience is set forth in the applicable section in the body of this Agreement. Either party may terminate this Agreement or any license or subscription for a material breach that is not cured within 30 days of written notice to the breaching party. Upon any termination of this Agreement for breach, Esri will stop providing Services. Any licenses in Esri Offerings that survive termination of this Agreement continue under the terms of this Agreement.

2.2 If Esri terminates this Agreement following Customer's breach, then Esri may also, at its election, terminate Customer's licenses or subscriptions to Esri Offerings. If Customer terminates this Agreement for cause or convenience, then Customer may, at its election, also terminate Customer's licenses or subscriptions to Esri Offerings.

2.3 Upon any termination or expiration of a license or subscription, Customer will

a. Stop accessing and using the terminated or expired Esri Offerings;
b. Clear any client-side data cache derived from the terminated or expired Cloud Services; and

c. Stop using and uninstall, remove, and destroy all copies of the terminated or expired Esri Offerings in Customer's possession or control, including any modified or merged portions thereof, in any form, and execute and deliver evidence of such actions to Esri or its authorized distributor.

Esri may stop performing Services immediately upon written notice to Customer if a bankruptcy or insolvency proceeding is commenced by or against Customer until the trustee cures any existing defaults and provides adequate assurance of future performance under this Agreement. This Agreement terminates upon the insolvency, liquidation, or dissolution of either party.

ARTICLE 3—LIMITED WARRANTIES AND DISCLAIMERS

3.1 Limited Warranties. Except as disclaimed below, Esri warrants to Customer that (i) Products and Training will substantially comply with the applicable Specifications and (ii) Services will substantially conform to the professional and technical standards of the industry. The warranty period for Esri Offerings offered under a Perpetual License and for Services runs for 90 days from the date of delivery or from the date of acceptance if this Agreement provides an acceptance period. The warranty period for Esri Offerings offered under a subscription or Term License basis runs for the lesser of (i) the duration of the subscription or term or (ii) 90 days from delivery or acceptance if this Agreement provides an acceptance period.

3.2 Special Disclaimer. Third-Party Content; Data; Samples; hot fixes; patches; updates; Online Services provided at no charge; and trial, evaluation, and Beta Products are delivered "as is" and without warranty of any kind.

3.3 General Disclaimer. Except for the express limited warranties set forth in this Agreement, Esri disclaims all other warranties or conditions of any kind, whether express or implied, including, but not limited to, warranties or conditions of merchantability, fitness for a particular purpose, and noninfringement of intellectual property rights. Esri is not responsible for any nonconformities caused by Customer's modification of any Esri Offering other than as specified in the Documentation. Esri does not warrant that Esri Offerings, or Customer's operation of the same, will be uninterrupted, error free, fault tolerant, or fail-safe or that all nonconformities can or will be corrected. Esri Offerings are not designed, manufactured, or intended for use in environments or applications that may lead to death, personal injury, or physical property or environmental damage. Customer should not follow any navigational route suggestions that appear to be hazardous, unsafe, or illegal. Any such uses will be at Customer's own risk and cost.

3.4 Disclaimers

a. Internet Disclaimer. Neither party will be liable for damages under any theory of law related to the performance or discontinuance of operation of the Internet or to regulation of the Internet that might restrict or prohibit the operation of Cloud Services.
b. Third-Party Websites; Third-Party Content. Esri is not responsible for any third-party website or Third-Party Content that appears in or is referenced by Esri Offerings or Esri websites, including www.esri.com and www.arcgis.com. Providing links to third-party websites and resources does not imply an endorsement, affiliation, or sponsorship of any kind.

3.5 Exclusive Remedy. Customer's exclusive remedy and Esri's entire liability for breach of the limited warranties in this section will be to replace any defective media and to (i) repair, correct, or provide a workaround for the applicable Esri Offering or Services or (ii) at Esri's election, terminate Customer's right to use and refund the fees paid for Esri Offerings or Services that do not meet Esri's limited warranties.

ARTICLE 4—LIMITATION OF LIABILITY

4.1 Disclaimer of Liability. Neither Customer, Esri, nor any Esri distributor or licensor will be liable for any indirect, special, incidental, or consequential damages; lost profits; lost sales; loss of goodwill; costs of procurement of substitute goods or services; or damages exceeding the applicable license fees, current

subscription fees, or Services fees paid or owed to Esri for the Esri Offerings or Services giving rise to the cause of action.

4.2 The limitations and exclusions of liability in the preceding paragraph do not apply to Customer's infringement, misuse, or misappropriation of Esri's or Esri's licensors' intellectual property rights, either party's indemnification obligations, gross negligence, willful misconduct, or violations of the Export Compliance clause of this Agreement or any applicable law or regulation.

4.3 Applicability of Disclaimers and Limitations. Esri or its authorized distributor has set its fees and entered into this Agreement in reliance on the disclaimers and limitations in this Agreement; the fees reflect an allocation of risk that is an essential basis of the bargain between the parties. **These limitations will apply whether or not a party is aware of the possibility of any damage and notwithstanding any failure of essential purpose of any exclusive, limited remedy.**

4.4 The foregoing disclaimers, limitations, and exclusions may be invalid in some jurisdictions and apply only to the extent permitted by applicable law or regulation in Customer's jurisdiction. Customer may have additional rights that may not be waived or disclaimed. Esri does not seek to limit Customer's warranty or remedies to any extent not permitted by law.

ARTICLE 5—INDEMNIFICATIONS

5.1 Definitions. The following definitions supplement the definitions provided in Attachment A:

a. **"Claim"** means any claim, action, or demand by a third party.
b. **"Indemnitees"** means Customer and its directors, officers, and employees.
c. **"Infringement Claim(s)"** means any Claim alleging that Customer's use of or access to any Esri Offering or Service infringes a patent, copyright, trademark, or trade secret.
d. **"Loss(es)"** means expenditure, damage award, settlement amount, cost, or expense, including awarded attorneys' fees.

5.2 Infringement Indemnity

a. Esri will defend, hold all Indemnitees harmless from, and indemnify any Loss arising out of an Infringement Claim.
b. If Esri determines that an Infringement Claim is valid, Esri may, at its expense, either (i) obtain rights for Customer to continue using the Esri Offerings or Services or (ii) modify the Esri Offerings or Services while maintaining substantially similar functionality. If neither alternative is commercially reasonable, Esri may terminate Customer's right to use the Esri Offerings or Services and will refund any (a) license fees that Customer paid for the infringing Esri Offerings or Services acquired under a Perpetual License, prorated on a 5-year, straight-line depreciation basis beginning from the initial date of delivery or (b) unused portion of fees paid for Term Licenses, Subscriptions, and Maintenance.
c. Esri has no obligation to defend an Infringement Claim or to indemnify Customer to the extent the Infringement Claim arises out of (i) the combination or integration of Esri Offerings or Services with a product, process, system, or element that Esri has not supplied or specified in the Specification; (ii) alteration of Esri Offerings or Services by anyone other than Esri or its subcontractors; (iii) compliance with Customer's specifications; or (iv) use of Esri Offerings or Services after Esri either provides a modified version to avoid infringement or terminates Customer's right to use the Esri Offerings or Services.

5.3 General Indemnity. Esri will defend and hold all Indemnitees harmless from, and indemnify any Loss arising out of, any Claim for bodily injury, death, or tangible or real property damage brought against any of the Indemnitees to the extent arising from any negligent act or omission or willful misconduct by Esri or its directors, officers, employees, or agents performing Services while on Customer's site.

5.4 Conditions for Indemnification. As conditions for indemnification, Indemnitee will (i) promptly notify Esri in writing of the Claim, (ii) provide all available documents describing the Claim, (iii) give Esri sole control of the defense of any action and negotiation related to the defense or settlement of any Infringement Claim, and (iv) reasonably cooperate in the defense of the Infringement Claim at Esri's request and expense.

5.5 This section sets forth the entire obligation of Esri, its authorized distributor, and its licensors regarding any Claim for which Esri must indemnify Customer.

ARTICLE 6—INSURANCE

If Esri is providing Services, Esri will carry, at a minimum, the following coverage:

a. Comprehensive general liability or commercial general liability with a minimum coverage of $1,000,000.00 combined single limit per occurrence for bodily injury, including death, and property damage liability to include the following:

    1. Premises and operations;
    2. Blanket contractual liability;
    3. Broad form property damage;
    4. Independent contractors;
    5. Personal injury, with employee exclusion deleted; and
    6. Completed operations.

b. Workers' compensation insurance, with waiver of subrogation, in an amount that complies with statutory limits.

ARTICLE 7—SECURITY AND COMPLIANCE

7.1 Security. Esri publishes its security capabilities at http://trust.arcgis.com. Customer may give Esri personnel access to Customer systems or to Customer or third-party personal information, controlled information, or sensitive data if access is essential for Esri's performance of Services and if Esri expressly agrees to such access. Esri will use reasonable administrative, technical, and physical safeguards to protect such data and guard against unauthorized access. Customer bears responsibility to (i) confirm that Esri's published security and privacy controls meet all applicable legal requirements for protection of Customer Content and (ii) upload or share Customer Content through Cloud Services only when it is legal to do so. Esri is not responsible to review Customer Content to ensure compliance with applicable laws and regulations. Customer must contact Esri at securesupport@esri.com for further instruction before providing any Customer Content that requires security measures other than Esri's published security capabilities.

7.2 Malicious Code. Esri will use commercially reasonable efforts to ensure that Esri Offerings will not transmit any Malicious Code to Customer. Esri is not responsible for Malicious Code that Customer introduces to Esri Offerings or that is introduced through Third-Party Content.

7.3 Export Compliance. Each party will comply with all applicable export laws and regulations, including the US Department of Commerce's Export Administration Regulations (EAR), the US Department of State's International Traffic in Arms Regulations (ITAR), and other applicable export laws. Customer will not export, reexport, transfer, release, or otherwise dispose of, in whole or in part, or permit access to or transfer or use of Services or Esri Offerings to any United States embargoed countries or denied entities or persons except in accordance with all then-current applicable US government export laws and regulations. Customer will not export, reexport, transfer, or use Services or Esri Offerings for certain missile, nuclear, chemical, or biological activities or end uses without proper authorization from the US government. Customer shall immediately notify Esri in writing if any US government entity or agency denies, suspends, or revokes Customer's export privileges. Customer will not upload, store, or process in Cloud Services any Customer Content that (i) has an Export Control Classification Number (ECCN) other than EAR99 or (ii) is controlled for export from the United States under ITAR. Customer will notify Esri in advance if Esri's performance of any Services or provision of any Esri Offerings is related to any defense article, defense service, or technical data, as defined under the ITAR Sections 120.6, 120.9, and 120.10, respectively; Esri will not perform any such Services or provide any such Esri Offerings until Esri obtains any necessary export license from the US government. Customer will reasonably assist Esri in applying for and obtaining an export license if needed.

7.4 Privacy. Esri will process personal data according to the terms of the Data Processing Addendum available at https://www.esri.com/en-us/privacy/privacy-gdpr

ARTICLE 8—CLOUD SERVICES

8.1 Prohibited Uses. Customer shall not provide Customer Content or otherwise access or use Cloud Services in a manner that

a. Spams, spoofs, or phishes email; transmits junk email or offensive or defamatory material; or stalks or makes threats of physical harm;
b. Stores or transmits any Malicious Code;
c. Violates any law or regulation;
d. Infringes or misappropriates the rights of any third party;
e. Probes, scans, or tests the vulnerability of Cloud Services or breach any security or authentication measures used by Cloud Services without written approval from Esri's product security officer; or
f. Benchmarks the availability, performance, or functionality of Cloud Services for competitive purposes.

8.2 Service Interruption. System failures or other events beyond Esri's reasonable control may interrupt Customer's access to Cloud Services. Esri may not be able to provide advance notice of such interruptions.

8.3 Customer Content

a. Customer grants Esri and its subcontractors a nonexclusive, nontransferable, worldwide right to host, run, modify, and reproduce Customer Content as needed to provide Cloud Services to Customer. Esri will not access, use, or disclose Customer Content without Customer's written permission except as reasonably necessary to support Customer's use of Cloud Services. Except for the limited rights granted to Esri under this Agreement, Customer retains all its rights, title, and interest in the Customer Content.
b. If Customer accesses Cloud Services with an application provided by a third party, Esri may disclose Customer Content to such third party as necessary to enable interoperation between the application, Cloud Services, and Customer Content.
c. Esri may disclose Customer Content if required to do so by law or regulation or by order of a court or other government body, in which case Esri will reasonably attempt to limit the scope of disclosure.
d. When Customer's use of Cloud Services ends, Esri will either

    (i) Make Customer Content available to Customer for download for a period of 30 days unless Customer requests a shorter window of availability or Esri is legally prohibited from doing so; or
    (ii) Download all Customer Content in Esri's possession to a medium of Customer's choosing and deliver such Customer Content to Customer.

    Esri will have no further obligations to store or return Customer Content at the conclusion of the Cloud Services.

8.4 Removal of Customer Content. Esri may remove or delete Customer Content if there is reason to believe that uploading Customer Content to or using it with Cloud Services materially violates this Agreement. If reasonable under these circumstances, Esri will notify Customer before removing Customer Content. Esri will respond to any Digital Millennium Copyright Act takedown notices in accordance with Esri's copyright policy, available at www.esri.com/legal/dmca_policy.

8.5 Service Suspension. Esri may suspend access to Cloud Services (i) if Customer materially breaches this Agreement and fails to timely cure the breach; (ii) if Esri reasonably believes that Customer's use of Cloud Services will subject Esri to immediate liability or adversely affect the integrity, functionality, or usability of the Cloud Services; (iii) for scheduled maintenance; (iv) to enjoin a threat or attack on Cloud Services; or (v) if Cloud Services become prohibited by law or regulated to a degree that continuing to provide them would impose a commercial hardship. When feasible, Esri will notify Customer of any Cloud Services suspension beforehand and give Customer reasonable opportunity to take remedial action.

Esri is not responsible for any damages, liabilities, or losses that may result from any interruption or suspension of Cloud Services or removal of Customer's content as described above.

8.6 Notice to Esri. Customer will promptly notify Esri if Customer becomes aware of any unauthorized use of Customer's subscription or any other breach of security regarding Cloud Services.

ARTICLE 9—GENERAL PROVISIONS

9.1 Payment. Customer will pay each correct invoice no later than 30 days after receipt and will remit payment to the address stated on the invoice. Customers outside the United States will pay the distributor's invoices in accordance with the distributor's payment terms.

9.2 Feedback. Esri may freely use any feedback, suggestions, or requests for Product improvement that Customer provides to Esri.

9.3 Patents. Customer may not seek, and may not permit any other user to seek, a patent or similar right worldwide that is based on or incorporates any Products. This express prohibition on patenting will not apply to Customer's software and technology except to the extent that Products, or any portion thereof, are part of any claim or preferred embodiment in a patent application or a similar application.

9.4 Restrictions on Solicitation. Neither party will solicit for hire any employee of the other party who is associated with the performance of Services during the performance of the Services and for a period of 1 year thereafter. This does not restrict either party from publicly advertising positions for hire in newspapers, professional magazines, or Internet postings.

9.5 Taxes and Fees; Shipping Charges. Pricing of Esri Offerings and Services that Esri quotes to Customer is exclusive of any and all applicable taxes or fees including, but not limited to, sales tax, use tax, or value-added tax (VAT); customs, duties, or tariffs; shipping and handling charges; and vendor enrollment fees. Esri will add any fees that it is required to pay to the total amount of its invoice to Customer. Esri may include estimated taxes and shipping and handling charges in its quotations but may adjust these fees on invoicing. For Customers outside the United States, the distributor may quote taxes or fees in accordance with its own policies.

9.6 Compliance Review. Customer will keep accurate and complete records and accounts pertaining to its compliance with its obligations under this Agreement. Esri or its authorized distributor may conduct a compliance review of these records and accounts with no less than 14 business days' written notice or may appoint an independent third party to conduct such a compliance review on its behalf. Customer will promptly correct any noncompliance identified during the compliance review. Neither Esri nor Esri's distributor may conduct a compliance review of Customer within 12 months after the conclusion of any prior compliance review that does not reveal any material Customer noncompliance.

9.7 No Implied Waivers. The failure of either party to enforce any provision of this Agreement is not a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

9.8 Severability. If any provision of this Agreement is held to be unenforceable for any reason, (i) such provision will be reformed only to the extent necessary to make the intent of the language enforceable, and (ii) all other provisions of this Agreement will remain in effect.

9.9 Successor and Assigns. Customer will not assign, sublicense, or transfer Customer's rights or delegate Customer's obligations under this Agreement without Esri's and its authorized distributor's prior written consent, and any attempt to do so without consent will be void. This Agreement will be binding on the respective successors and assigns of the parties to this Agreement. Notwithstanding, a contractor under contract to the government to deliver Products may assign this Agreement and Products acquired for delivery to its government customer upon written notice to Esri, provided the government customer assents to the terms of this Agreement. Upon mutual agreement, Esri's Affiliates may provide Services under the terms of this Agreement; in such cases, the Ordering Documents will identify the Affiliate as the party that provides the Services. Esri's distributors are not Affiliates of Esri.

9.10 Survival of Terms. The Glossary of Terms and provisions of the following Articles of these General Terms and Conditions will survive the expiration or termination of this Agreement: "Limited Warranties and Disclaimers," "Limitation of Liability," "Indemnifications," and "General Provisions."

9.11 US Government Customer. The Products are commercial items, developed at private expense, provided to Customer under this Agreement. If Customer is a US government entity or US government contractor, Esri licenses or provides subscriptions to Customer in accordance with this Agreement under FAR

Subparts 12.211/12.212 or DFARS Subpart 227.7202. Esri Data and Online Services are licensed or subscribed under the same DFARS Subpart 227.7202 policy as commercial computer software for acquisitions made under DFARS. Products are subject to restrictions, and this Agreement strictly governs Customer's use, modification, performance, reproduction, release, display, or disclosure of Products. Agreement provisions that are inconsistent with federal law regulation will not apply. A US government Customer may transfer Software to any of its facilities to which it transfers the computer(s) on which it has installed such Software. If any court, arbitrator, or board holds that a US government Customer has greater rights to any portion of Products under applicable public procurement law, such rights will extend only to the portions affected. ArcGIS Online has been granted FedRAMP tailored low authorization but does not meet higher security requirements including those found in DFARS 252.239-7010.

9.12 Governing Law. This Agreement is not subject to the United Nations Convention on Contracts for the International Sale of Goods.

a. **Government Entities.** If Customer is a government entity, the applicable laws of Customer's jurisdiction govern this Agreement.
b. **Nongovernment Entities.** US federal law and the law of the State of California exclusively govern this Agreement, excluding their respective choice of law principles.

9.13 Dispute Resolution. The parties will use the following dispute resolution processes:

a. **Equitable Relief.** Either party will have the right to seek an injunction, specific performance, or other equitable relief in any court of competent jurisdiction without the requirement of posting a bond or proving injury as a condition for relief.
b. **US Government Agencies.** This Agreement is subject to the Contract Disputes Act of 1978, as amended (41 USC 601–613).
c. **Other Government Entities.** Esri will comply with mandatory dispute resolutions under applicable law.
d. **Arbitration.** Except as noted above, the parties will submit to binding arbitration to resolve any dispute arising out of or relating to this Agreement that cannot be settled through negotiation. If Customer is in the United States or one of its territories or outlying areas, the Commercial Arbitration Rules of the American Arbitration Association will govern the arbitration proceedings. If Customer is outside the United States, the Rules of Arbitration of the International Chamber of Commerce will govern the proceedings. The parties will select a single arbitrator in accordance with the applicable arbitration rules. The language of the arbitration will be English. Arbitration will be at an agreed-upon location. Either party will, at the request of the other, make available documents or witnesses relevant to the major aspects of the dispute.

9.14 Force Majeure. A party will not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond the party's reasonable control. Such causes may include, but are not limited to, acts of God, war, strikes, labor disputes, cyber attacks, laws, regulations, government orders, or any other force majeure event.

9.15 Independent Contractor. Esri is and at all times will be an independent contractor. Nothing in this Agreement creates an employer/employee, principal/agent, or joint venture relationship between Esri or its authorized distributor and Customer. No party has any authority to enter into contracts on behalf of another party or otherwise act on behalf of another party.

9.16 Notice. Customer may send notices required under this Agreement to Esri at the following address:

Environmental Systems Research Institute, Inc.
Attn.: Contracts and Legal Department
380 New York Street
Redlands, CA 92373-8100
USA
Tel.: 909-793-2853
Email: LegalNotices@esri.com

CITY OF FLAGSTAFF
SOLE SOURCE, PROPRIETARY AND EMERGENCY PROCUREMENT REQUEST
(Divisions/Sections Requesting Sole Source, Proprietary or Emergency Procurement Must Complete This Form)

TO: Purchasing Section Buyer

PREPARER: Rob Speer **DEPARTMENT:** Mgt Services / IT

REQUISITION NUMBER: _____ **DATE SUBMITTED:** _____

Check one:

_____ ***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.*

_____ ***Is this an emergency procurement?*** "Emergency" *is a threat to public health, welfare, or safety. Emergency procurements shall be made with such competition as is practicable under the circumstances. Please answer the 3 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/emergency) must be fully justified, documented, and pre-approved. The following is a list of questions which will substantiate a Sole Source, Proprietary or Emergency 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.

Sole Source/Proprietary Justification

1. Briefly, what is the scope of the project in which this product or service will be used.

Esri software is used to run the entire Geographic Information System (GIS) at an enterprise level within the City of Flagstaff. This license agreement provides software that is currently used by all departments within the City, provides essential data functions to other systems including the ERP and water distribution networks, and is accessed by external customers and citizens via internet mapping and data distribution portals. This procurement covers software extending to all internal users' desktops as well as database and public internet servers.

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?

Esri, founded in 1969, is the standard in Enterprise GIS software and has established the standard file formats and file conventions within the industry. The City of Flagstaff first started using Esri software in 1988, and at the time became Customer #348. Esri has now grown to over 350,000 customers in over 200 countries.

All departments use GIS services provided through this software package in one way or another for mapping, communications, and data obtained via GIS for analysis in other City functions. More importantly, many other City systems are integrated and depend on data and information originating or passing through the GIS system: the Innoprise ERP (Community Development, Financials, Sales Tax, Customer Service), the Cartegraph Suite (Public Works), the City Works suite (Water Services), and the Computer Aided Dispatch system (Police/Fire).

After over three decades of building the City GIS on the Esri platform, switching to another system would be impractical, taking several years, and would not only disrupt GIS services but also make many other systems throughout the City unavailable or even incompatible.

3. Why is this vendor the only available source from which to obtain this product or service? You must provide clear and convincing evidence.

Esri provides their software directly thru this Enterprise License Agreement. While licensing may be available packaged with other products such as GPS or surveying equipment, this software package is available only thru direct purchase. Please see the attached letter from Esri regarding Sole Source Licensing.

4. What efforts have been made to obtain the best price possible? Why do you feel this price is fair and reasonable?

The City began its Enterprise License Agreement in 2016 with a three-year term in 2016, and this is a renewal of that term. The value of the package we receive from the Enterprise Agreement is a significant savings over if we were to purchase all the necessary components individually in an ala carte format, which was the licensing model prior to 2016. In addition, the annual cost for the next three years has dropped slightly from the previous 2016 agreement.

8/13/2019
Authorized Departmental Signature Date

8·12·19
Purchasing Section Buyer's Signature Date

8/12/19
Director of Purchasing Signature Date
FOR Rick Compas

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Chad Smith, Special Services Supervisor, Police Department

Co-Submitter: Patrick Brown- Purchasing

Date: 08/28/2019

Meeting Date: 09/03/2019

TITLE:

Consideration and Approval of Purchase: The purchase of five (5) 2020 Ford Police Interceptor Utility Hybrid vehicles, in the amount of $199,552.40 from Babbitt Ford Lincoln Mercury. It should be noted the total includes all applicable fees and taxes, as well as the local Transaction Privilege Tax; the actual cost to the City will be slightly less, once the TPT is paid back to the city. (TPT- 2.051%)

STAFF RECOMMENDED ACTION:

1. Approve the purchase to Babbitt Ford for the purchase of five (5) 2020 Ford Police Interceptor Utility Hybrid vehicles, a total cost of $199,552.40 (includes all applicable taxes and fees).
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

The City of Flagstaff Police Department seeks to purchase five (5) police vehicles. This purchase is needed to help maintain a healthy and functional police fleet, as well as help the City meet its Climate Adaptation Plan. The acquisition of these five (5) vehicles has been approved by the Fleet Management Committee as well as the Budget Committee.

In April of 2019, after a formal solicitation of Bid #2019-83, City Council approved, and the City entered into, a contract for the purchase of fleet committee approved hybrid utility interceptors. The contract includes a term that allows the City to make additional purchases of the same vehicle at that contracted price during the one-year term of the contract.

Financial Impact:

The Police Department received $185,000.00 from the Fleet Management Committee for FY2020, to purchase the five (5) vehicles; these monies are currently in the Rolling Stock account (001-04-061-0221-2-4401). Our department will utilize $14,552.40 from the Fuel and Oil account (001-04-061-0221-2-4311) to cover the remaining costs associated with these purchases. With the purchase of these five (5) vehicles, five (5) older, non-hybrid vehicles will be rotated out of the police fleet and be listed for auction.

Policy Impact:

There is no known or projected impact to policy regarding this matter.

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

Council Goals-
Personnel: Attract and Retain Quality Staff

Transportation and Other Public Infrastructure: Replace Aging Infrastructure

City of Flagstaff Climate Adaptation Plan: Reduce emissions, increase the number of alternative fuel vehicles in the City fleet and reduce the City of Flagstaff's carbon footprint.

Regional Plan-
Goal PF.3. Provide high-quality emergency response and public safety services including law enforcement, fire, medical, and ambulance transport service.

Strategic Plan-
Provide Exceptional Service: Provide employees with tools, training, and support.
Invest In Our People: Ensure effective resources for employees.

Previous Council Decision on This:

None

Options and Alternatives:

1) Approve the contract award to Babbitt Ford for the purchase of five (5) 2020 Ford Police Interceptor Hybrid Utility vehicles in the amount of $199,552.40; or

2) Approve the contract award to Babbitt Ford for the purchase of a fewer number of 2020 Ford Police Interceptor Hybrid Utility vehicles; or

2) Not approve the purchase of the Police Interceptor Hybrid Utility vehicles.

Background/History:

Police vehicles are subject to rigorous use conditions ranging from 10 to 24 hours per day. Failure to purchase new vehicles and replace aging vehicles, will result in fewer available patrol cars and extended patrol car downtime due to mechanical failure.

On February 12, 2019, the Purchasing Section posted an Invitation for Bids solicitation on the PlanetBids website and advertised in the February 17th and 24th, 2019 editions of the Arizona Daily Sun newspaper. Three (3) bids were received for this contract, they were opened and reviewed on March 5, 2019. Babbitt Ford was determined to be the lowest, responsible bidder. The contract term was set for one (1) year to allow for additional purchases, if needed, within the term.

Key Considerations:

Ford started production on the first Hybrid Police Interceptor vehicles in March 2019; our initial order of (2) Ford Interceptor Hybrid Units is scheduled for a production date of September 6, 2019. If approved, we anticipate this order will not be put into production until January 2020, with an expected arrival date of February or March 2020. In addition to lead time from the factory, vehicles take another four (4) weeks per unit to be built into a functional patrol vehicle.

The purchases being recommended have been reviewed and approved by both the Fleet Management Committee and Budget Committee. Approval of these purchases will help ensure a functional patrol fleet and continue to move the City towards meeting its Climate Adaptation Plan goals.

Expanded Financial Considerations:

None

Community Benefits and Considerations:

Sustaining a reliable police fleet helps minimize vehicle downtime, effectively maximizing the number of police vehicles available for use, which may result in faster response times and an elevated level of service to our citizens. Moving to the hybrid platform will also help reduce fuel consumption and reduce our community's carbon footprint.

Community Involvement:

Inform

Expanded Options and Alternatives:

The Flagstaff Police Department had been using the Ford Interceptor Taurus Sedans (no longer in production), but made an informed decision to move to the utility vehicle platform in 2015 for a multitude of reasons (see below). Nationwide, you will see the same trend from other police agencies. Flagstaff strives to be on the leading edge of technology by moving to the Interceptor Hybrid Utility platform; we recognize the value of the hybrid vehicles and are committed to providing our employees with top-performing technology and meeting the goals of our City Council, including the recently adopted Climate Adaptation Plan.

Since our transition to the utility platform in 2015, we have been very pleased with its safety, performance and comfort afforded to the officers, who spend the majority of their 10 plus hour day in a vehicle. We anticipate a smooth transition to the Interceptor Hybrid Utility and feel this will strike an ideal balance of safety, performance, comfort and an eco-conscious approach to fleet management.

DESIGN:
*The Interceptor Utility offers increased clearance for more safely traversing high water and rough roads.

*All-wheel drive assures timely response in inclement weather and low-traction driving conditions.

*The Interceptor Hybrid Utility is equipped with stability control, which assists in weight distribution when turning.

*The Interceptor Hybrid Utility has more cargo space than a sedan (evacuation of children, people and animals) and is capable of hauling up to 880 pounds of cargo.

*The Interceptor Hybrid Utility comes with a backup camera, backup alarms, and blind spot monitoring.

*The elevated viewing position of the Interceptor Hybrid utility assists the officer in seeing over cars at stop signs and when approaching intersections; officers don't need to enter as far into an intersection to ensure all vehicles are stopped before proceeding, which is particularly important when responding to an emergency call.

ERGONOMICS:

*Approximately 50% of patrol officers are 6'0" or taller, the Interceptor Hybrid Utility affords an easier ingress and egress to the driver's seat.

VISIBILITY:
*The Interceptor Hybrid Utility can have red/ blue lights placed under the lift gate, so when the rear cargo area is accessed, those lights help keep the rear of the utility illuminated (as the light bar atop the vehicle is often obstructed when the rear hatch is up).

TACTICS:
*The Interceptor Utility has a higher profile and larger body, which provides additional cover/ concealment for officers during armed confrontations or in rescue situations.

CRASHES:
*The Interceptor Hybrid Utility is the only vehicle, worldwide, engineered to meet the 75 mph rear end crash test; beyond that, the side protection and cabin enhancement architecture, in conjunction with structural reinforcement, work to protect all occupants.

Attachments: Contract #2019-83

CITY OF FLAGSTAFF

CONTRACT FOR PURCHASE OF TWO (2) FORD POLICE INTERCEPTOR UTILITY HYBRID VEHICLES

Contract No. 2019-83

This Contract is entered into this 26 day of APRIL, 2019 by and between the City of Flagstaff, a political subdivision of the State or Arizona ("City"), and Babbitt Ford L/M, LLC, a State of Arizona company ("Contractor").

WHEREAS, the City desires to receive, and Contractor is able to provide materials and/or services;

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Scope of Work: Contractor shall provide **TWO (2) FORD POLICE INTERCEPTOR UTILITY HYBRID VEHICLES**, subject to all terms, conditions, and specifications provided in the response to this Solicitation and in the Scope of Work attached hereto as *Exhibit A.*

2. Compensation: In consideration for the Contractor's satisfactory performance, City shall pay Contractor **$79,819.96,** plus applicable warranty costs. Any price adjustment must be approved in writing and approved by the parties. The City Manager or his designee (the Purchasing Director) may approve an adjustment if the Contract price is less than $50,000; otherwise City Council approval is required.

3. Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached hereto as *Exhibit B* are hereby incorporated in this Contract by reference and shall apply to performance of this Contract, except to the extent modified in *Exhibit A*.

4. Special Terms and Conditions: The City of Flagstaff Special Terms and Conditions, attached hereto as *Exhibit C* are hereby incorporated in this Contract by reference and shall apply to performance of this Contract, except to the extent modified in *Exhibit A*.

5. Insurance: Contractor shall meet Insurance Requirements of the City as set forth in *Exhibit D.*

6. Contract Term: The Contract term will be for one (1) year from the date the Contract is signed. This one-year term will allow for additional purchases by the Fleet Committee if needed within the term.

7. Notice. Any formal notice required under this Contract shall be in writing and sent by certified mail and email as follows:

To the City:	To Contractor:
Jessica Bryson	Nick Cashatt
Senior Procurement Specialist	Fleet Manager
City of Flagstaff	Babbitt Ford L/M, LLC
211 W. Aspen Ave.	11 N. Verde St.
Flagstaff, Arizona 86001	Flagstaff, Arizona 86001
Email: jbryson@flagstaffaz.gov	Email: nickcashatt@babbitt-ford.com

With a copy to:

Chad Smith
Special Services Supervisor
Flagstaff Police Department
911 E Sawmill Rd.
Flagstaff, Arizona 86001
chadsmith@coconino.az.gov

With a copy to:

8. 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.

CONTRACTOR

Nick Cashatt

Print name: NICK CASHATT

Title: FLEET MANAGER

CITY OF FLAGSTAFF

Barbara Goodrich

Print name: BARBARA GOODRICH

Title: CITY MANAGER

Attest:

Stacy M Saltzburg for

City Clerk

Approved as to form:

Christina Parsons for

City Attorney's Office

Notice to Proceed issued: _____, 2018

EXHIBIT A

SCOPE OF WORK

Two (2) Ford Police Interceptor Utility Hybrid Vehicles

BACKGROUND: The Police Department is seeking to purchase two (2) Ford Police Interceptor Utility Hybrid Vehicles.

MATERIALS AND/OR SERVICES: The City seeks to purchase, and Contractor will supply: Two (2) Ford Police Interceptor Utility Hybrid Vehicles. The vehicles must include the following components:

K8A - Standard Hybrid Engine
43D - Dark Car Feature
51P - Spot Lamp Prep Kit (Driver Only)
55B - Blind Spot Monitoring
55F - Remote Keyless Entry (4 keys)
76R - Reverse Sensing System

Interior Color: Agate Black
Exterior Color: Agate Black

SCHEDULE: No schedule at this time.

SPECIAL TERMS AND CONDITIONS: Reserved.

SPECIFICATIONS: Reserved.

COMPENSATION: As approved by the parties in the resulting Contract.

BID (FORM)

TO THE CITY OF FLAGSTAFF: The undersigned Bidder hereby offers and agrees to furnish materials and/or services in compliance with the Solicitation, including any Addenda, and as described in this Bid made to the City, including the attached manufacturer's specifications and dimension sheet.

SOLICITATION NUMBER: 2019-83

DESCRIPTION OF UNITS: TWO (2) FORD POLICE INTERCEPTOR UTILITY HYBRID VEHICLES

PRICE PER UNIT $36,627.00 TOTAL PRICE FOR TWO (2) UNITS $73,254.00

FREIGHT $ —

TAX (8.951) % $6,555.96

TOTAL PRICE $79,809.96

OPTIONS (Please state additional cost from "Total Unit Price" or "base price")

(1) TPT Tax for the City of Flagstaff $?

(2) Extended warranty (attach or submit copy) $ 0

(3) Total Amount Due including all taxes $79,809.96

Any other specifications not standard, but being requested by City, must be included here, with price.

Miscellaneous charges: ARIZONA TIRE DISPOSAL FEE 10 EA

(All charges must be included; no extra charges will be considered at a later date. Miscellaneous charges will be considered in determining the low bid)

DELIVERY:

Maximum number of calendar days to deliver after receipt of a purchase order and start of production

Yr.? ~~180~~ Days.

Nick Faisbatt
Signature of Person Authorized to Sign Bid

FLEET MANAGER
Title

NICK FAISBATT
Printed Name

2-20-2019
Date

POLICE INTERCEPTOR CONTENT

Unique Police Interceptor Utility Features Include:

MODEL/SERIES/AVAILABILITY

- 3 Available Models
  - — 3.3L V6 Direct-Injection Hybrid Engine System (AWD)★
  - — 3.3L V6 Direct-Injection FFV AWD★
  - — 3.0L V6 EcoBoost® AWD★
- 1 Available Series
  - — 500A

MECHANICAL

- ★ 3.3L Police-Calibrated V6 Direct-Injection Hybrid Engine System – Standard (Hybrid technology is optimal for performance and long days spent idling on the job)
- AWD Drivetrain – Standard for enhanced handling precision and unsurpassed traction on wet or dry surfaces
- ★ Transmission – 10-speed automatic, police calibrated for maximum acceleration and faster closing speeds
- ★ Lithium-Ion Battery Pack
- ★ Brakes – Police calibrated high-performance regenerative braking system
- 4-Wheel heavy-duty disc w/heavy-duty front and rear calipers
- Brake Rotors – large mass for high thermal capacity and calipers with large swept area.
- Electric Power-Assist Steering (EPAS) – Heavy-Duty
- ★ DC/DC converter – 220-Amp (in lieu of alternator)
- ★ H7 AGM Battery (Standard; 800 CCA/80-amp)
- ★ H8 AGM Battery (Available; 850 CCA/92-amp)
- Cooling System – Heavy-duty, large high volume radiator, Engine oil cooler and transmission oil cooler
- Engine Idle Hour Meter
- Engine Hour Meter
- Powertrain mounts – Heavy-Duty
- ★ Class III Trailer Hitch Receiver with 5,000 lbs. towing capacity
- Wheels
  - — Heavy-duty steel, vented with center cap
  - — Full size spare tire w/TPMS
- ★ 50-State Emissions System

INTERIOR FEATURES

- ★ Cargo Area – Spacious area for police equipment; Lithium-Ion Battery Pack does not intrude into the cargo area
- Column Shifter
- Seats
  - — Front – Police grade cloth – 6-way power-adjustable Manual lumbar, seatback foam designed to comfortably accommodate a utility belt
  - — Built-in steel intrusion plates in both front-seatbacks
  - — 2nd Row – Police grade vinyl, offers easy care for cleaning
- Flooring – Heavy-Duty vinyl; offers ease of cleaning and long-term durability
- Liftgate access with manual lock cylinder
- Simple Fleet Key (w/o microchip, easy to replace, 4-keys)
- Speedometer – Certified, digital readout in message center and analog guage
- Universal equipment tray atop instrument panel (ideal for radar and other police equipment)

POLICE UPFIT FRIENDLY

- Consistent 11-inch space between driver and passenger seats for aftermarket consoles (9-inch center console mounting plate)
- Console mounting plate
- Dash pass-thru opening for aftermarket wiring
- Headliner – Easy to service
- Integrated LED police flashers (available)
- ★ Rear-center seat delete (available)
- Taillamps – Integrated police flashers (available)
- Two (2) 50 amp battery ground circuits – power distribution junction block (repositioned behind 2nd row seat floorboard).

TECHNOLOGY

- ★ Ford Telematics™ – Includes Ford Modem and complimentary 2-year subscription
- ★ Police Perimeter Alert (available; detects and analyzes motion in an approximately 270-degree radius on sides and back of vehicle)
- ★ Rear Camera On-Demand (available)
- Front Interior Visor Light Bar (LED) Super low-profile warning LED light bar fully integrated into the top of the windshield near the headliner – fully programmable (available; Red/Blue/White LED lights)
- ★ Rear Auxiliary Liftgate Lights (available; Red/Blue LED Lights; located beneath liftgate glass in applique panel)
- Rear Spoiler Traffic Warning Lights (LED) – Fully integrated in rear spoiler for enhanced visibility; Provides red/blue/amber directional lighting – fully programmable (available)
- ★ Pre-Collision Assist with Pedestrian Detection (available; includes Forward Collision Warning and Automatic Emergency Braking and unique disable switch for Law Enforcement use)
- BLIS® – Blind Spot Monitoring with Cross-traffic Alert (available)
- ★ Bluetooth ® Interface – Includes hands-free voice command support (compatible with most Bluetooth connected mobile devices)
- Unique Steering Wheel (with 4-remappable latching switches)

SAFETY/SECURITY HIGHLIGHTS

- 75-mph Rear-impact Crash Tested
  Note: The full-size spare tire secured in the factory location is necessary to achieve police-rated 75-mph rear impact crash-test performance attributes
- AdvanceTrac® w/RSC® (Roll Stability Control®) police tuned gyroscopic sensors work seamlessly with the ABS
- Ballistic Door-Panels (National Institute of Justice (NIJ) certified to stop Type III, IV, all lesser NIJ rounds, as well as additional special threat rounds) (available)
- Exterior Key Locks – Driver, passenger and liftgate
- Police Engine Idle feature (available)
- Rear Video Camera with Washer (standard)
- Reverse Sensing (available)

GENERAL

- Underbody deflection plate no longer standard on EcoBoost® models (order 76D)
- Front Headlamp Lighting Solution now includes Red/Blue/White LED Strobes

WARRANTY

- 3 Year / 36,000 Miles Bumper / Bumper
- 8 Year / 100,000 Miles Hybrid Unique Components

POWERTRAIN CARE EXTENDED SERVICE PLAN

- 5-year/100,000-mile Powertrain CARE Extended Service Plan (zero deductible) – Standard

Product Changes and Features Availability

Features, options and package content subject to change. Please check www.fmcdealer.com for the most current information.

★ = New for this model year

2020 POLICE INTERCEPTOR UTILITY
STANDARD EQUIPMENT

The following items are std. 2020MY POLICE INTERCEPTOR UTILITY vehicle:

MECHANICAL

- Axle Ratio – 3.73 (AWD)
- Brakes – 4-Wheel Heavy-Duty Disc w/H.D. Front and Rear Calipers
- ★ Class III Trailer Hitch Receiver
- Column Shifter
- ★ DC/DC converter – 220-Amp (in lieu of alternator)
- Drivetrain – All-Wheel-Drive
- Electric Power-Assist Steering (EPAS) – Heavy-Duty
- Engine – 3.3L V6 Direct-Injection Hybrid Engine System
- Engine Hour Idle Meter
- Engine Hour Meter
- Engine Oil Cooler
- Fuel Tank – 19-gallons
- ★ H7 AGM Battery (800 CCA/80-amp)
- ★ Lithium-Ion Battery Pack
- Suspension – independent front & rear
- ★ Transmission – 10-speed automatic

EXTERIOR

- Antenna, Roof-mounted
- Cladding – Lower bodyside cladding (MIC)
- Door Handles – Black (MIC)
- Exhaust, True Dual (down-turned)
- Door-Lock Cylinders (Front Driver / Passenger / Liftgate)
- Glass – 2nd Row, Rear Quarter and Liftgate Privacy Glass
- Grille – Black (MIC)
- ★ Headlamps – Automatic, LED Low-and-High-Beam
  Note: Includes Front Headlamp / Police Interceptor Housing (with LED wig-wag feature)
  - — Pre-drilled hole for side marker police use, does not include LED strobe, but includes LED wig-wag functionality (eliminates need to drill housing assemblies and provides LED wig-wag feature)
  - — Pre-molded side warning LED holes with standard sealed capability (does not include LED installed lights)
  - — Wig-wag default is traditional ping-pong pattern; can be programmed to triple-burst pattern or ping-pong / triple-burst
    Note: Must be wired to vehicle's light controller to enable wig-wag functionality; recommend Ready for the Road Package (67H) or Ultimate Wiring Package (67U)
- Liftgate – Manual 1-Piece – Fixed Glass w/Door-Lock Cylinder
- Mirrors – Black Caps (MIC), Power Electric Remote, Manual Folding with Integrated Spotter (integrated blind spot mirrors not included when equipped with BLIS®)
- Spare – Full size 18" Tire w/TPMS
- Spoiler – Painted Black
- Tailgate Handle – (MIC)
- Tail lamps – LED
- Tires – 255/60R18 A/S BSW
- Wheel-Lip Molding – Black (MIC)
- Wheels – 18" x 8.0 painted black steel with wheel polished stainless steel hub cover
- Windshield – Acoustic Laminated

INTERIOR/COMFORT

- Cargo Hooks in cargo area
- Climate Control – Dual-Zone Electronic Automatic Temperature Control (DEATC)
- Door-Locks
  - — Power
  - — Rear-Door Handles and Locks Operable
- Fixed Pedals (Driver Dead Pedal)
- Floor – Flooring – Heavy-Duty Thermoplastic Elastomer
- Glove Box – Locking/non-illuminated
- Grab Handles – (1 – Front-passenger side, 2-Rear)
- Liftgate Release Switch located in overhead console (45 second timeout feature)
- Lighting
  - — Overhead Console
  - — Red/White Task Lighting in Overhead Console
  - — 3rd row overhead map light
- Mirror – Day/night Rear View
- Particulate Air Filter
- Powerpoints – (1) First Row
- Rear-door closeout panels
- Rear-window Defrost

INTERIOR/COMFORT (continued)

- Scuff Plates – Front & Rear
- Seats
  - — 1st Row Police Grade Cloth Trim, Dual Front Buckets with reduced bolsters
  - — 1st Row – Driver 6-way Power track (fore/aft. Up/down, tilt with manual recline, 2-way manual lumbar)
  - — 1st Row – Passenger 2-way manual track (fore/aft. with manual recline)
  - — Built-in steel intrusion plates in both driver/passenger seatbacks
  - — 2nd Row Vinyl, 35/30/35 Split Bench Seat (manual fold-flat, no tumble) – fixed seat track
- Speed (Cruise) Control
- Speedometer – Calibrated (includes digital readout)
- Steering Wheel – Manual / Tilt / Telescoping, Urethane wheel finish w/Silver Painted Bezels with Speed Controls and 4 user-configurable latching switches
- Sun visors, color-keyed, non-illuminated
- Universal Top Tray – Center of I/P for mounting aftermarket equipment
- Windows, Power, 1-touch Up/Down Front Driver/Passenger-Side with disable feature

SAFETY/SECURITY

- AdvanceTrac® w/RSC® (Roll Stability Control®)
- Airbags, dual-stage driver & front-passenger, side seat, passenger-side knee, Roll Curtain Airbags and Safety Canopy®
- Anti-Lock Brakes (ABS) with Traction Control
- ★ Brakes – Police calibrated high-performance regenerative braking system
- Belt-Minder® (Front Driver / Passenger)
- Child-Safety Locks (capped; set to "on")
- Individual Tire Pressure Monitoring System (TPMS)
- LATCH (Lower Anchors and Tethers for Children) system on rear outboard seat locations
- Rearview Camera with Washer viewable in 4.2" center stack.
  Note: Rearview Camera viewable in rearview mirror (available) – order 87R (no-charge option)
- Seat Belts, Pretensioner/Energy-Management System w/adjustable height in 1st Row
- SOS Post-Crash Alert System™

FUNCTIONAL

- Audio
  - — AM/FM / MP3 Capable / Clock / 4-speakers
  - — Bluetooth® interface★— Includes hands-free voice command support (compatible with most Bluetooth connected mobile devices)
  - — ★ USB Port — (1)
  - — 4.2" Color LCD Screen Center-Stack "Smart Display"
- Easy Fuel® Capless Fuel-Filler
- ★ Ford Telematics™ – Includes Ford Modem and complimentary 2-year subscription
- Front door tether straps (driver/passenger)
- Power pigtail harness
- ★ Recovery Hooks; two in front and trailer bar in rear
- Simple Fleet Key (w/o microchip, easy to replace; 4-keys)
- Two-way radio pre-wire
- Two (2) 50 amp battery ground circuits – power distribution junction block (behind 2nd row passenger seat floorboard)
- Wipers – Front Speed-Sensitive Intermittent; Rear Dual Speed Wiper

★ = New for this model year

EXHIBIT B

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 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 Manufacturers' 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 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 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 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 be 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.

INSPECTION, RECORDS, ADMINISTRATION

31. **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.

32. **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.

33. **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.

34. **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

35. **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.

36. **INSURANCE:** Contractor shall maintain all insurance coverage required by the City, including public liability and worker's compensation.

37. **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, attorney's fees and costs resulting from such proceedings or settlement thereof. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

38. **PRICE INCREASES:** Except as expressly provided for in the Contract, no price increases will be approved.

39. **COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the parties.

40. **AMENDMENTS:** This Contract may be amended by written agreement of the parties.

41. **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.

42. **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.

43. **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.

44. **BINDING EFFECT:** This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

45. **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, Contractor shall comply with the City Code, Chapter 14-02 Civil Rights which 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 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 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 this Contract by written notice, which shall be effective upon receipt. In the event of default, the parties may execute all remedies available at law, in addition to the remedies provided in this Contract.

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, 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 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. A 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 Contract, not to engage in a boycott of Israel.

EXHIBIT C

SPECIAL TERMS AND CONDITIONS

1. **WARRANTY:** Contractor expressly warrants that all goods and services covered by this Contract shall conform to the specifications, drawings, samples or other description in this Invitation for Bids, shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship and free from defect and that goods and services of Contractor's design be free from defect in design. Inspection, test, acceptance or use of the goods furnished hereunder shall not affect Contractor's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Contractor agrees to replace or to correct defects of any goods or services not conforming to the foregoing warranty promptly, without any expense to the City including shipping and transportation costs, when notified of such nonconformity by the City. In the event of failure by Contractor to correct defects in or replace nonconforming goods or services promptly, City, after reasonable notice to Contractor, may make such corrections or replace such goods and services and charge Contractor for the cost incurred by the City thereby.

   Contractor's product, service, and facilities shall be in full compliance with all applicable federal, state and local laws, statutes, ordinances, regulations, and standards, regardless of whether or not they are expressly referred to by the City.

   Unless otherwise specified, the minimum warranty period shall be one (1) year from Contractor's installation or delivery of the warranted item. Contractor shall provide the City with a copy of the complete manufacturer's warranty information.

   Contractor guarantees that the equipment offered shall be warranted as follows:

   A. Contractor must send a copy of the warranty explaining clearly what parts and labor are warranted and the time period involved. Contractor is to state the name of the firm where warranty work is to be performed and the maximum number of hours to respond to a service request by a qualified technician arriving at the City of Flagstaff shop.

2. **COMPLIANCE WITH THE SCOPE OF WORK:** It is agreed that Contractor shall be fully responsible for making any corrections, replacements, or modifications necessary for specification or legal compliance. Contractor agrees that if the product or service offered does not comply with the terms and conditions of this Contract, the Purchasing Director has the right to cancel at any time with full refund within sixty (60) calendar days after notice of non-compliance and Contractor further agrees to be fully responsible for any incidental and/or consequential damages suffered by the City.

3. **INTENT:** These specifications cover the furnishing of the latest production model that has been proven and in field service for a minimum time period of one (1) year. All components are to be manufacturer's standard and no prototype units will be considered.

   These specifications require the doing of all things necessary, or proper for, or incidental to the furnishings and delivery of said unit and associated equipment. All things not expressly mentioned in these specifications but involved in carrying out their intent are required by these specifications, and the Contractor shall perform the same as though they were specifically mentioned, described, and delineated.

The Contractor is to submit a user list with in-service date, phone number, and person to contact that are currently using the equipment offered in this bid for consideration, so that if necessary, the City can view the equipment in operation.

4. **CONTRACT TYPE:** Firm Fixed Price.

5. **CONTRACT RENEWAL:** The City reserves the right to unilaterally extend the period of the contract for ninety (90) days beyond the stated expiration date.

6. **SUBSEQUENT PURCHASES:** The City, with the consent of the successful Contractor(s), reserves the right to purchase additional items as listed in this bid, if Contractor is willing to offer the same terms and conditions as submitted in this bid, for a period of twelve (12) months from the date of City Council approval.

7. **MISCELLANEOUS CHARGES:** If any other charges are applied to the unit, such charges shall be as stated on the bid form under "Miscellaneous Charges". No other charges shall be considered later.

8. **LIQUIDATED DAMAGES:** Liquidated damages shall be charged when the Contractor fails to deliver the specified equipment, fully operational as per the stated delivery date as provided on the Bid Form and as per the City of Flagstaff's delivery terms. Liquidated damages will be assessed at the rate of $200 per calendar day to commence after the agreed upon delivery date has expired.

9. **CONTRACT ADMINISTRATOR:** The Contract Administrator for the City shall be the Flagstaff Police Department Support Services Supervisor or designee. The Contract Administrator shall audit billings, approve payments, establish schedules, and generally be responsible for overseeing execution and the delivery of this Contract.

10. **INSPECTION AND PERFORMANCE TESTS:** Inspection of workmanship, materials, design and performance of the unit may be made at the Contractor's factory at the sole discretion of the City. The City will pay all expenses of its inspectors. However, the entire unit specified shall be subject to final inspection and acceptance by the City upon delivery at the City facility designated on the purchase order. The complete unit will be required to undergo a performance test before final acceptance. Any defects or failure to comply with any requirements of these specifications shall be immediately remedied by the Contractor at the Contractor's own expense before final acceptance.

11. **ACCESSIBILITY OF COMPONENTS:** All parts of the unit and auxiliary equipment shall be easily accessible for inspection, operation, and maintenance. All components shall be readily removable and replaceable. These features are considered mandatory and the unit will be closely inspected to assure conformance with this requirement.

    If, in the opinion of the City, any part or component is not readily accessible, or removable, the City may require the Contractor to correct the deficiencies at the Contractor's own expense, before acceptance.

12. **MARKING OF CONTROLS:** All operating controls, light switches, and controls for auxiliary equipment that may be installed on the vehicle, or at any other location on the unit shall be clearly and permanently marked and identified by means of identification plates.

13. **RECOMMENDED SPARE PARTS:** The Contractor shall furnish with each service manual a list of recommended spare parts. The list shall include all necessary data for ordering the parts. Parts furnished by other manufacturers shall be identified by the ordering data of the actual manufacturer.

14. **ACCEPTANCE:** Each item delivered shall be subject to a complete inspection prior to acceptance. Inspection criteria shall include, but not be limited to, conformity to the specifications, mechanical integrity, quality, workmanship and materials. Thirty (30)-calendar days shall be allowed for this process. If delivered equipment is returned to the Contractor prior to acceptance for any reason, additional periods of thirty (30)-calendar working days shall be allowed for inspection when subsequent deliveries occur. Any defects or failures to comply with any requirements of these specifications shall be immediately remedied; otherwise liquidated damages would be applicable as referenced herein.

15. **WEATHER CONDITIONS:** This product will be used at elevations from near sea level to 10,000 feet and ambient temperatures as high as 120 degrees and as low as – 40 degrees F. The product shall remain operational under these conditions. Each component of the complete unit shall be adequate for and compatible with all structural and performance demands placed upon it as a part of the complete unit.

16. **BRAND NAMES:** If Solicitation refers to a specific manufacturer, brand, make or catalog designation, this means the City is seeking materials with the same or equal character, quality, performance, or features. If a vendor is submitting an offer to furnish materials with a different manufacturer, brand, make or catalog designation, then the vendor shall submit complete data and information with respect to the materials being offered and how it differs from the specific manufacturer, brand, make or catalog designation referenced in the Solicitation. If a vendor does not provide data and information, then the vendor shall be deemed to be making an offer to provide the exact material referenced in the Solicitation. The City reserves the right to determine what is an equal.

17. **OPERATION MAINTENANCE AND REPAIR DATA:** Prior to the delivery of the unit and associated equipment, the Proposer shall forward directly to the City, operating, maintenance repair manuals. All manuals shall be in the form of neatly bound books, with durable covers and shall be properly identified with manufacturer's name, model and serial number of the equipment.

    The operating and maintenance or shop manual shall be the latest manufacturer's handbook covering in detail the recommended operating maintenance and service procedures.

    The repair or shop manual shall include detailed drawings, schematics, electrical and hydraulic or other piping diagrams and complete parts lists for all components of the unit and associated equipment.

    Where components or equipment of several manufacturers' have been used in assembling the unit, the manuals shall include operating, maintenance repair and parts lists of all manufacturers' covering all of the components.

    The manuals shall be furnished in sets. Each set (four sets total) shall include an operator's manual, parts catalog and shop repair manual. The books and manuals shall be delivered to the City of Flagstaff Fleet Superintendent at the time the equipment is delivered. Delivery shall not be considered complete and payment shall not be made until all required manuals and books are received. Two sets of all manuals maybe submitted in CD format.

18. **SITE VISIT:** At any time during the term of the Contract, the City, at their sole option, may request a visit and inspection of the Contractor's facility to ensure that the Contractor has the necessary equipment and qualifications to perform the requirements of this Invitation for Bid.

EXHIBIT D

INSURANCE REQUIREMENTS

INDEMNIFICATION: Contractor (as "indemnitor") agrees to indemnify, defend and hold harmless the City (as "indemnitee") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of the acts or omissions of indemnitor, its officers, officials, agents, employees or volunteers relating to this Contract.

INSURANCE: Contractor shall procure and maintain until all of its obligations under this Contract have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property that may arise from or in connection with the purchase and or use of the commodity.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City in no way warrants that the minimum limits contained herein are sufficient to protect contractor from liabilities that might arise out of the performance of the work under this Contract by contractor, its agents, representatives, employees or sub-contractors and contractor is free to purchase such additional insurance as may be determined necessary.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage at least as broad and with limits of liability not less than those stated below.

1. Commercial General Liability - Occurrence Form	
(Form CG 0001, ed. 10/93 or any replacements thereof)	
General Aggregate	$2,000,000
Products-Completed Operations Aggregate	$1,000,000
Personal & Advertising Injury	$1,000,000
Each Occurrence	$1,000,000
Fire Damage (Any one fire)	$ 50,000
Medical Expense (Any one person)	Optional

2. Automobile Liability - Any Auto or Owned, Hired and Non-Owned Vehicles	
(Form CA 0001, ed. 12/93 or any replacement thereof.)	
Combined Single Limit Per Accident for Bodily Injury and Property Damage	$1,000,000

3. 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

B. SELF-INSURED RETENTIONS/DEDUCTIBLES: Any self-insured retentions and deductibles shall be declared to and approved by the City.

C. OTHER INSURANCE REQUIREMENTS: The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverage's:

a. Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, or employees shall be in excess to the coverage of contractor's insurance and shall not contribute to it.

b. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

c. Coverage provided by contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

d. Contractor's insurance shall contain broad form contractual liability coverage.

2. Workers' Compensation and Employer's Liability Coverage: The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, agents, employees and volunteers for losses arising from contractor's operations, work or products that are the subject of this Contract.

D. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Contract shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City. Such notice shall be sent directly to: Jessica Bryson, Senior Procurement Specialist, Purchasing Division, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, AZ 86001 and shall be sent by certified mail, return receipt requested.

E. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less that A-: VII. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect contractor from potential insurer insolvency.

F. VERIFICATION OF COVERAGE: Contractor shall furnish the City with Certificates of Insurance (ACORD form) as required by this Contract. The certificates for each insurance policy are to 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.

All Certificates of Insurance shall be received and approved by the City before work commences. Failure to maintain the insurance policies as required by this Contract or to provide timely evidence of renewal shall be a material breach of this Contract.

All Certificates of Insurance required by this Contract shall be sent directly to: Jessica Bryson, Senior Procurement Specialist, Purchasing Division, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, AZ 86001. A description of the commodity is to be noted on the Certificate of Insurance. The City reserves the right to require complete, certified copies of all insurance policies and endorsements required by this Contract at any time.

G. APPROVAL: Any modification or variation from the insurance requirements in this Contract shall have prior approval from the City's Risk Manager, whose decision shall be final. Such action shall not require a formal contract amendment but may be made by administrative action.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Elaine Averitt, Planning Development Manager
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Approval of Final Plat: Request by Capital Equity Investments, LLC, for Final Plat approval for Flagstaff Lofts Condominiums, consisting of six (6) residential condominium units and one (1) commercial unit on approximately 0.37 acres, located at 602 West Coconino Avenue in the High Density Residential (HR) Zone. **(Subdivision of 0.37 acres into 7 units located at 602 W. Coconino Avenue)**

STAFF RECOMMENDED ACTION:

Staff recommends the City Council approve the final plat and authorize the Mayor to sign the plat when notified by staff that the documents are ready for recording. Note that a city/subdivider agreement is not required for this condominium subdivision since no public improvements are required.

Executive Summary:

This is a request for Final Plat approval for the development known as Flagstaff Lofts Condominiums, consisting of six (6) residential units and one (1) commercial unit. Final plats require the approval of City Council. See attached Vicinity Map for location.

Financial Impact:

No financial liabilities are anticipated by the approval of this final plat.

Policy Impact:

There are no policy impacts affiliated with this final plat.

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.

Team Flagstaff Strategic Plan

Work in partnership to enhance a safe and livable community.

Flagstaff Regional Plan
- Policy CC.3.2. Maintain and enhance existing buildings and blend well-designed new buildings into existing neighborhoods.
- Policy LU.2.2. Design new development to coordinate with existing and future development, in an effort to preserve viewsheds, strengthen connectivity, and establish compatible and mutually supportive land uses.
- Policy LU.5.2. Promote infill development over peripheral expansion to conserve environmental resources, spur economic investments, and reduce the cost of providing infrastructure and services.
- Policy LU.5.3. Promote compact development appropriate to and within the context of each area type: urban, suburban, and rural.

Has There Been Previous Council Decision on This:

On May 7, 2019, the City Council approved the Preliminary Plat.

Options and Alternatives:

1. Approve the final plat with no conditions.
2. Approve the final plat with added conditions.
3. Deny the final plat based on non-compliance with the Zoning Code, the Subdivision Code, and/or the Engineering Design Standards and Specifications for New Infrastructure.

Background/History:

In 2013, a 4-plex apartment building was constructed on the property after city approvals. The property also includes a storage warehouse building which was built in 1954 and is considered a legal non-conforming use in the HR zone. The warehouse building will remain as a commercial unit. On September 7, 2017, the Inter-Division Staff approved a Site Plan for the development of two additional residential units in the form of a 2,800 square foot duplex. Construction of the two new residential units has commenced. The property owner has elected to create a condominium subdivision consisting of the residential units and warehouse building (commercial unit). The units are defined as the air space within the walls of each structure.

Staff would like to clarify that the six (6) parking spaces off of Coconino Avenue will be constructed as follows, according to the approved civil plans: One ADA space (closest to the street) will have concrete paving; the five remaining spaces will be constructed with True-Grid RPGP (recycled porous gravel pavement) which is a high-density polyethylene grid system filled with gravel and is considered a "permeable paver" since it allows water to filter into the ground.

Community Benefits and Considerations:

As noted above in the Flagstaff Regional Plan policies, the proposal promotes compact, infill development in an existing neighborhood that is within the context of the designated urban area type. It also maintains existing buildings on the property including a commercial building which provides a mix of uses.

Community Involvement:

Inform. No public hearings or public outreach are required by either the Zoning Code or the Subdivision Code as part of the final plat review process.

Attachments: Final Plat Application
Vicinity Map
Final Plat Sheets
Presentation Slides

City of Flagstaff

211 W. Aspen Ave
Flagstaff, AZ 86001
www.flagstaff.az.gov
P: (928) 213-2618
F: (928) 213-2609

Community Development Division

RECEIVED
AUG 08 2019
Resubmittal

SUBD

RECEIVED
JUL 1 2019

Date Received

Application for Subdivision Review

File Number PZ-19-00055-05

Property Owner(s): CAPITAL EQUITY INVESTMENTS LLC		Phone 928-556-0989
Mailing Address PO BOX 23572	City, State, Zip Flag 86002	Email Brian@Craig129.com
Applicant(s) Brian Craig		Phone Same
Mailing Address PO Box 23572	City, State, Zip Flagstaff 86002	Email Same
Project Representative Same		Phone Same
Mailing Address Same	City, State, Zip Same	Email Same

Requested Review:
- ☐ Development Master Plan
- ☐ Conceptual Plat
- ☐ Preliminary Plat P&Z and Council
- ☐ Modified Subdivision
- ☐ Preliminary Plat
- ☒ Final Plat- Council

Project Name: FLAGSTOFF LOFTS	Site Address 602 W. Cocomino Ave.		Parcel Number 100-30-003C
Proposed Use Condominiums	Existing Use Apts / Comm'l	Subdivision, Tract & Lot Number Pt. Lots 11-15 Block 5-1 Townsite	
Zoning District HR	Regional Plan Category	Flood Zone X	Size of Site (Sq. ft. or Acres) 0.3777 AC.

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?

Surrounding Uses (Res, Com, Ind)	North	South	East	West
	Res.	Ind.	Res.	Comm'l

Proposed Use:	Number of Lots	Number of Units	Number of acres per use	Building Square Feet
Condominiums	7	1	0.3777	N/A

Please complete a "*Subdivision Review Application*" and provide an initialed "*Application and Information Checklist*" form along with the required number of plans and information as appropriate for a Development Master Plan, Conceptual, Preliminary or Final Plat. **Incomplete submittals will not be scheduled.**

Property Owner Signature: (required)	Date:	Applicant Signature:	Date:
[signature]	5/30/19	[signature]	5/30/19

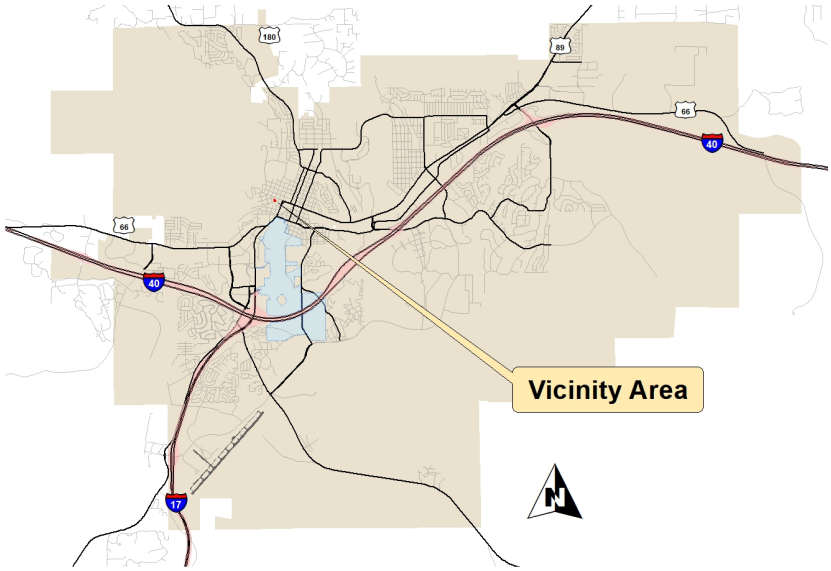
For City Use

Date Filed: √	Case Number (s)		
P & Z Hearing Date: N/A		Publication and Posting Date: N/A	
Council Hearing Date:		Publication and Posting Date: N/A	
Fee Receipt Number: 1934259	Amount: $1,840.00	Date: 6/4/2019	

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
	[signature]	[signature]	Kent	[signature]	[signature]

7-1-19 Complete
7-9-19 RFC

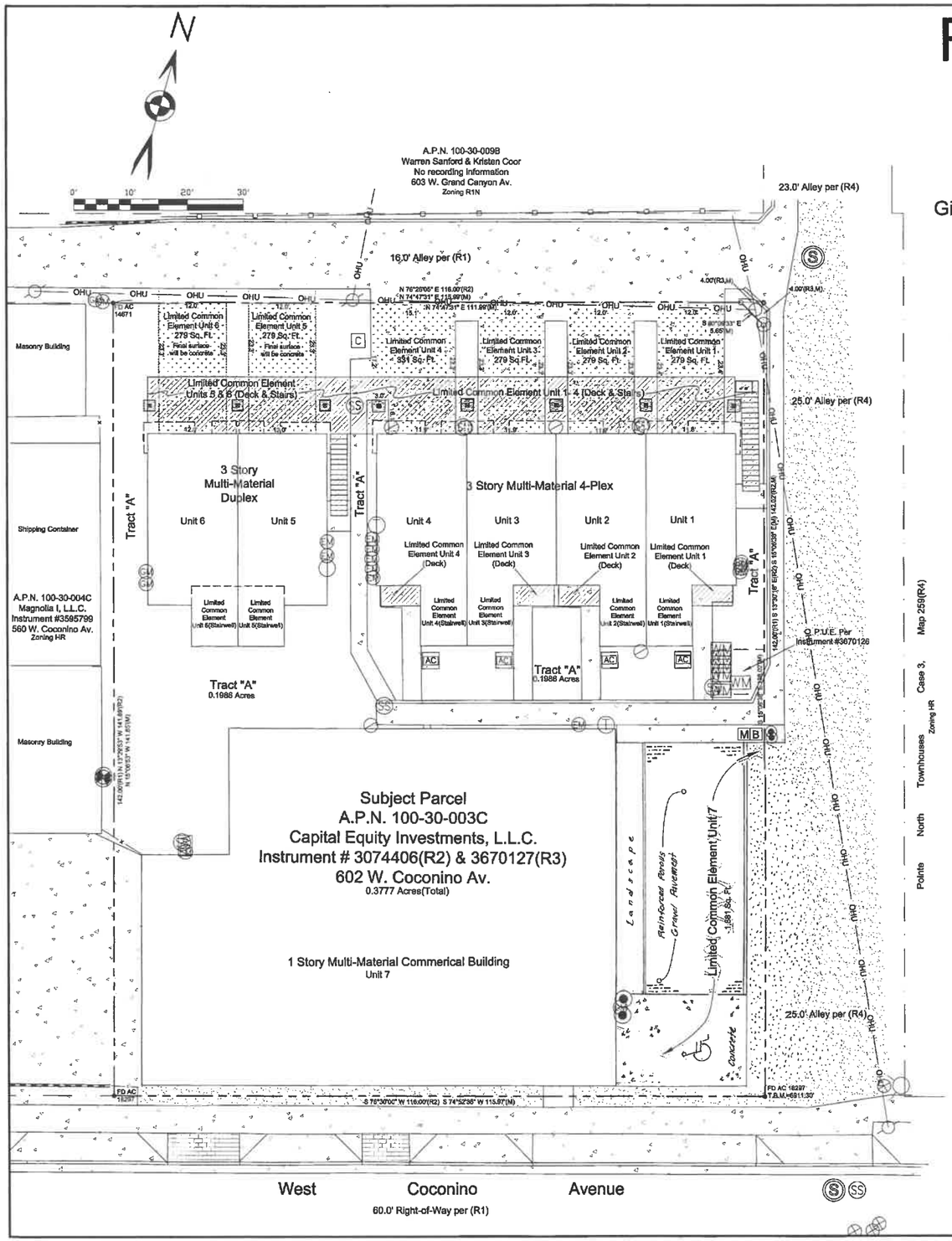


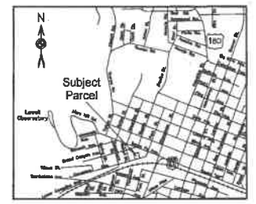
602 W COCONINO AVE



Final Condominium Plat
of
Flagstaff Lofts

Situated in Section 16, Township 21 North, Range 7 East,
Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.





CERTIFICATION:

This is to certify that the survey on which this plat is based was performed directly under my supervision during August and September of 2018, and is true and correct to the best of my knowledge.

REGISTERED LAND SURVEYOR CERTIFICATE NO. 20364 MICHAEL J. STARK Date 7-23-19 Signed ARIZONA, U.S.A.

Legal Description(Parent Parcel):

Lots 11 through 14 inclusive and the Easterly 16 feet of Lot 15, Block I-1, Townsite of Flagstaff, according to File 1 of Maps, Map 33, records of Coconino County, Arizona (C.C.R.) (R1), said parcel being situated in the Southeast Quarter of Section 16, Township 21 North, Range 7 East, Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows;

BEGINNING at the Southeast corner of said Lot 11;

thence S 76°30'00" W, along the North Right-of-Way line of Coconino Avenue as shown on said (R1) [Basis of Bearings (Case 3, Map 259)(R2)], for a distance of 116.02 feet;

thence N 13°29'53" W, for a distance of 141.89 feet to a point on the Southerly alley line of the East-West alley of said Block I-1;

thence N 76°29'05" E, along said Southerly alley line, for a distance of 116.00 feet to the Northeast corner of said Lot 11;

thence S 13°30'16" E, along the Easterly lot line of said Lot 11, for a distance of 142.02 feet [Record 142.00 feet(R1)] to the POINT OF BEGINNING.

EXCEPT cascription of corner cut-off, located in the Southwest one-quarter of Section 16, Township 21 North, Range 7 East of the Gila and Salt River Meridian (SE/4 Sec. 16, T21N, R7E, G&SRM) Coconino County, Arizona.

Being a portion of Lot 11, Block I-1, Flagstaff Townsite per File 1 of Maps, Map 33, Coconino County records and being more particularly described as follows;

COMMENCING at the Northeast corner of Lot 11, Block I-1 as marked by a rebar with Aluminum cap stamped "LS 15287" (THE TRUE POINT OF BEGINNING) thence 4.00 feet Southeasterly along the East line of Lot 11 to a point;

thence Northwesterly to a point on the North line of Lot 11 which is 4.00 feet distant from the Northeast corner of Lot 11;

thence Northeasterly along the North line of Lot 11 a distance of 4.00 feet to the TRUE POINT OF BEGINNING of this description.

Basis of Bearings and Elevations:

A note on Basis of Bearing and Coordinate System:

Linear Unit: International Foot
Geodetic Datum: North American Datum 1983
System: Arizona LDP (Low Distortion Projection)

Projection: Transverse Mercator
Latitude of grid origin: 35° 00' 00" N
Longitude of Central Meridian: 111° 37' 00" W
Northing at grid origin: 0.000 ft
Easting at Central Meridian: 70,000.000 ft.
Central Meridian Scale Factor: 1.000333 (exact)

All distances and bearings shown hereon are grid values based on the preceding projection definition. The projection was defined such that grid distances are equivalent to "ground" distances within the project area.

The Basis of Bearings is Geodetic North based on GPS measurements. These bearings have been rotated to grid for the City of Flagstaff Low Distortion Projection. All bearings and distances shown on this map are grid per the preceding definition.

Elevations: The Benchmark elevation as shown was derived through GPS RTK observation and the datum is NAVD88.

Water Supply Note:

The City of Flagstaff provides water (utility) service pursuant to State law and is currently operating under a Designation of Adequate Water Supply granted by the Arizona Department of Water Resources, Application No. 41-900002.0002.

FEMA Flood Note:

Per FIRM Map No. 04005C6809G, Panel 6809 dated September 3, 2010, the Subject Parcel (this subdivision) is entirely within Zone X which is outside the 0.1% (100-year) annual chance floodplain but within the 0.2% (500-year) annual chance floodplain.

Legend/Record Information:

- (E) - Communication Riser.
- (E) - Electric Meter.
- (U) - Utility Pole.
- (T) - Telephone Service.
- (G) - Gas Valve.
- (G) - Gas Meter.
- (AC) - Air Conditioner.
- (S) - Sewer Cleanout.
- (S) - Sewer Manhole.
- (B) - CMU Column.
- (B) - 4"x4" Column.
- ——— - Gate.
- (S) - Found Corner as noted.
- ○ - Set 1/2" rebar w/Cap 14671.
- ● - Calculated Point.
- (MB) - Mail Box.
- (W) - Water Meter.
- ⊗ - Water Valve.
- ⊗ - Fire Hydrant.
- ⊗ - Irrigation Control Valve.
- ◉ - Guardpost (Bollard).
- —x— - Wood Fence.
- —x— - Chainlink Fence.
- —x— - Wrought Iron Fence.
- ——— - Overhead Utility Lines.

(R1)- File 1 of Maps, Map 33, C.C.R.(Townsite of Flagstaff)
(R2)- Instrument #3074406, C.C.R.
(R3)- Instrument #3670127, C.C.R.
(R4)- Case 3, Map 259, C.C.R.(Points North Townhouses)

Declaration and Dedication:

State of Arizona }
} SS
County of Coconino }

KNOW ALL MEN BY THESE PRESENTS:

That Brian A. Craig on behalf of Capital Equity Investments, L.L.c., an Arizona Limited Liability Company have subdivided that parcel as described in Instrument # 3074406 and #3670127, records of Coconino county, under the name „FLAGSTAFF LOFTS, a "Condominium" pursuant to ARS #33-1201 et seq., situated in the Southwest Quarter of Section 21, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona, as shown and platted hereon and hereby publishes this plat as, and for, the plat of said FLAGSTAFF LOFTS and further declares that said plat sets forth the location and gives the dimensions and measurements of the individual units and easements, and that each individual unit and easement shall be known by its number or other designation, given to each on this plat. Declarant does hereby dedicate the areas shown as "Limited Common Element" as those areas designated to those certain units as shown on sheet 1. Declarant does hereby dedicate the building and all interior bearing structures, whether shown or not, and all surrounding land including that land designated as Tract "A", as a "Common Elements". Declarants do hereby dedicate Tract "A" of FLAGSTAFF LOFTS as a Public Utility Easement. Declarants do hereby declare that emergency and garbage vehicles shall access and service FLAGSTAFF LOFTS via the existing streets and alleys previously dedicated to the City of Flagstaff by the existing subdivisions. Special Note - (i) Declarant, during the period of Declarant Control and thereafter the Association, shall be soley responsible for the operation and maintenance of and liability for all Low Impact Development (LID) stormwater facilities: and (ii) the City of Flagstaff may periodically inspect such LID facilities to verify regular maintenance activities are being performed adequately.

The Declaration of Condominium is filed concurrently with this plat in Instrument # _____, records of Coconino county, Arizona.

IN WITNESS WHEREOF:

Brian A. Craig has hereunto caused his name to be affixed and the same to be attested by his signature as Brian A. Craig hereunto duly authorized.

This 1 day of August 2019.

By: B A Craig
Brian A. Craig
On behalf of Capital Equity Investments, L.L.C., an Arizona Limited Liability Company

ACKNOWLEDGMENT:

ACKNOWLEDGMENT:

State of Arizona }
} SS
County of Coconino }

On this 1 day of Aug. 2019, before me, appeared Brian A. Craig, who acknowledged himself to be duly authorized to execute the forgoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal

Jennifer Kaele Oldham
Notary Public

JENNIFER KAELE OLDHAM
Notary Public - Arizona
Coconino County
My Comm. Expires May 29, 2022

Utility Acknowledgements:

Samuel Hernandez — 7-24-2019
Century Link — Date

Mark Lee — 7-29-2019
Unsource Energy — Date

Ken Cina — 7-31-2019
Arizona Public Service — Date

Judd Yost — 7-25-2019
Suddenlink — Date

Surveyor's Notes:

Title Report- Any easements shown on this plat are per Pioneer Title Agency, Inc. Report of Title No. 90300762 .

Condominium Limits- The limits of these condominiums are from finished floor to ceiling vertically and finished wall to finished wall horizontally as they exist.

Owner/Developer:

Capital Equity Investments, L.L.C.
Brian A. Craig
P.O. Box 23572
Flagstaff, AZ. 86002
Ph. No. 928-556-0989

City of Flagstaff Approvals:

It is hereby certified that this Plat has been officially approved for the record by the City of Flagstaff, Coconino County, Arizona, on this___ day of _____, 2019.

By:_____, Mayor.

Attest:_____ City Clerk.

It is hereby certified that this Plat has been officially approved for the record by the Community Development Planning Director and by the City Engineer, City of Flagstaff, Coconino County, Arizona on this ___ day of _____, 2019.

By:_____, Planning Director.

By:_____, City Engineer.

It is hereby certified that this Plat has been officially approved for the record by the Public Works Director and by the Water Services Director, City of Flagstaff, Coconino County, Arizona on this ___ day of _____, 2019.

By:_____, Public Works Director.

By:_____, Water Services Director.

Recording Instruments(Original):

Instrument #3074406 and #3670127, records of Coconino county.

Current Zoning(Subject Parcel):

High Density Residential (HR), City of Flagstaff

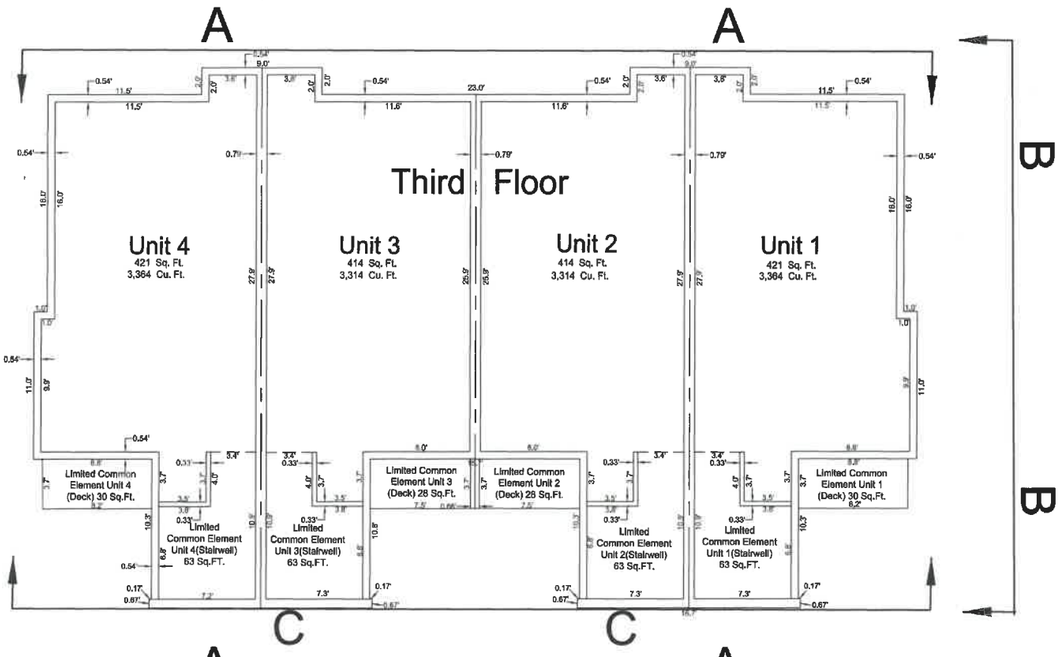
Revisions: City of Flagstaff Comments 12-7-18, M.J.S.
City of Flagstaff Comments 1-9-19, M.J.S.
City of Flagstaff Comments, 3-5-19, M.J.S.
City of Flagstaff Comments 3-4-19, M.J.S.
City of Flagstaff Comments 7-9-19, M.J.S.

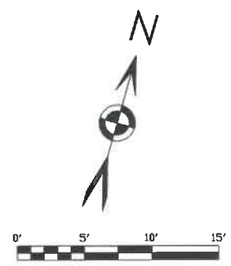
Northland Exploration Surveys, Inc.
522 West Aspen Avenue, Flagstaff, Arizona 86001 (928) 774-5058 FAX (928) 774-3089

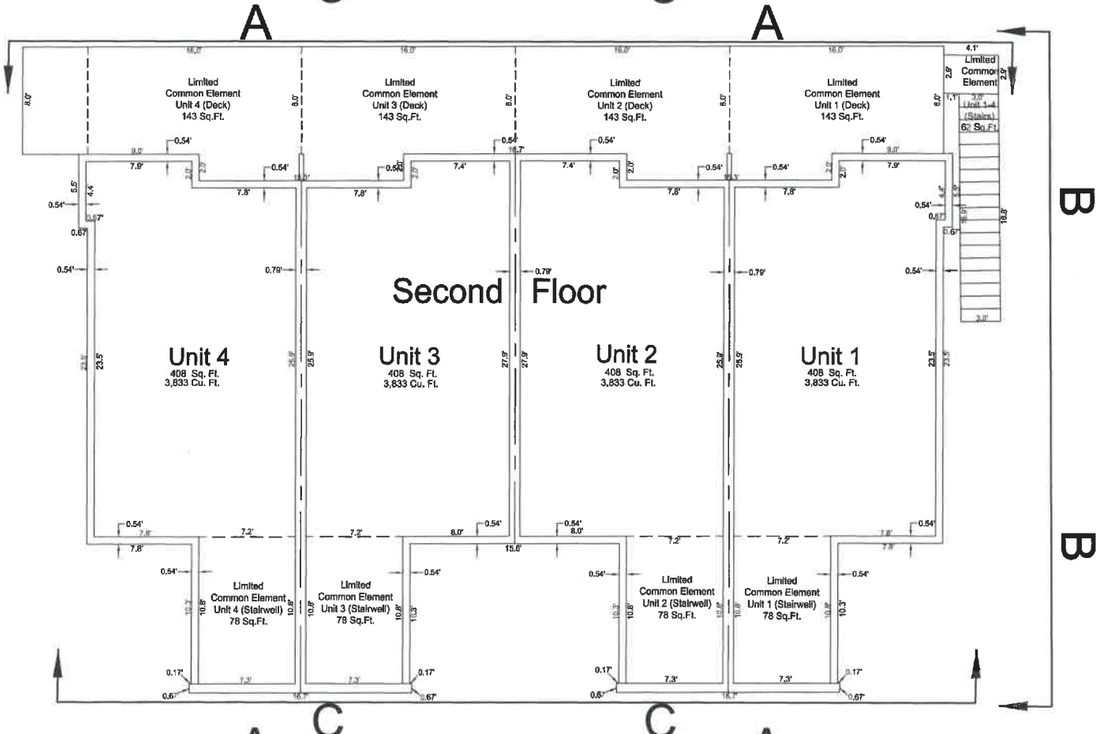
SCALE: 1" = 10.0'	Final Condominium Plat of **Flagstaff Lofts** Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.	SHEET 1 OF 8
SURVEYOR: MBH EAW JFW MJS		
DRAWN: M. J. Stark		JOB NO. 18-057
CHECKED: K. A. KRENKE		
DATE: July 23, 2019		

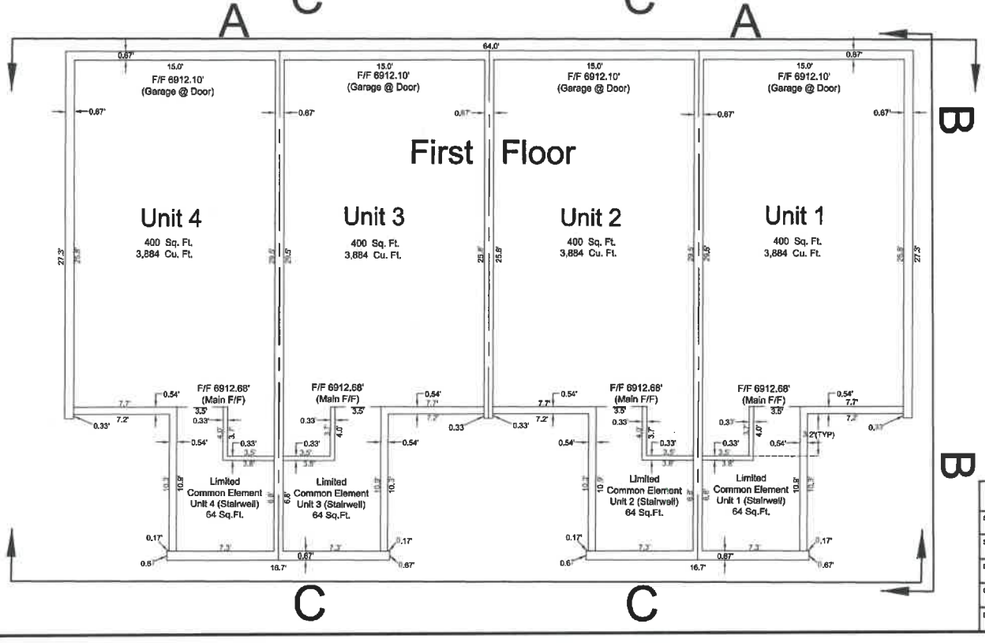
Final Condominium Plat
of
Flagstaff Lofts

Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.









CERTIFICATION:

This is to certify that the survey on which this plat is based was performed directly under my supervision during August and September of 2018, and is true and correct to the best of my knowledge.

REGISTERED LAND SURVEYOR CERTIFICATE NO. 30364 MICHAEL J. STARK Date Signed 7-23-19 ARIZONA U.S.A.

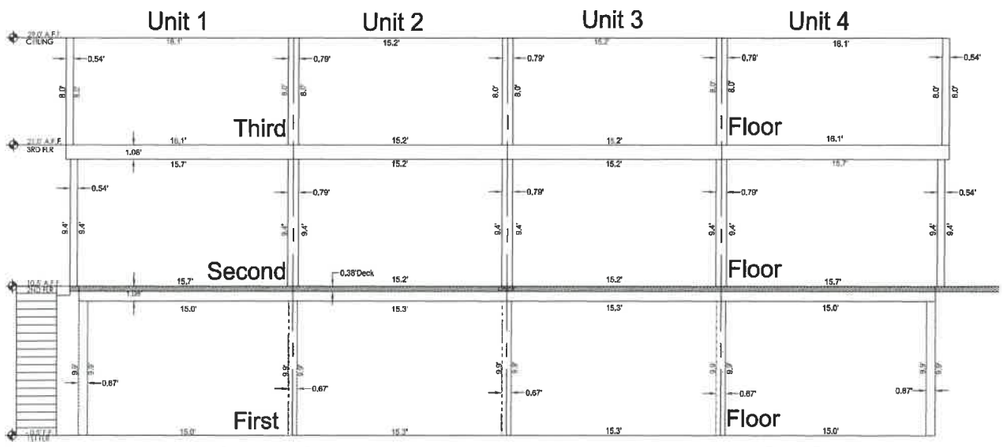
Revisions: City of Flagstaff Comments, 12-7-18, M.J.S.
City of Flagstaff Comments, 1-9-19, M.J.S.
City of Flagstaff Comments, 2-5-19, M.J.S.
City of Flagstaff Comments, 3-4-19, M.J.S.
City of Flagstaff Comments, 7-9-19, M.J.S.

Northland Exploration Surveys, Inc.
529 West Aspen Avenue, Flagstaff, Arizona 86001 (928) 774-5058 FAX (928) 774-3089

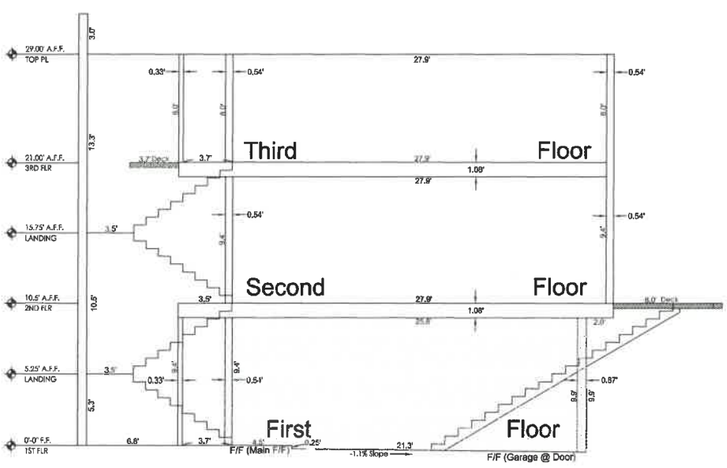
SCALE: 1" = 5.0'	Final Condominium Plat of **Flagstaff Lofts**	SHEET 2 OF 8
SURVEYOR: EAW MSH JFW MJS		
DRAWN: M. J. Stark		
CHECKED: K. A. Kronko	Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.	JOB NO. 18-067
DATE: July 23, 2019		

Final Condominium Plat
of
Flagstaff Lofts

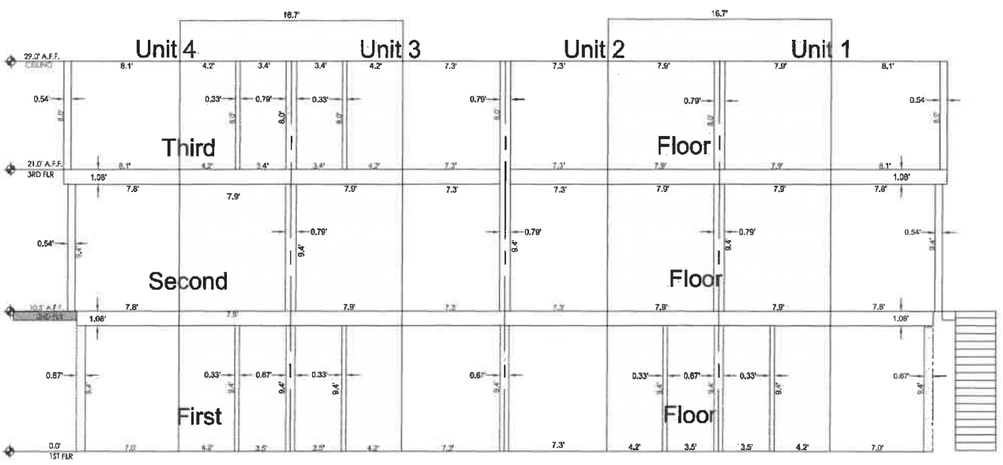
Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.



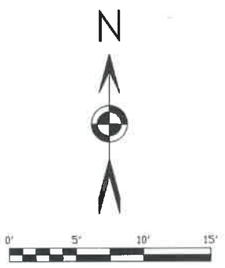
Section A-A



Section B-B



Section C-C



CERTIFICATION:

This is to certify that the survey on which this plat is based was performed directly under my supervision during August and September of 2018, and is true and correct to the best of my knowledge.

Michael J. Stark

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
36364
MICHAEL J.
STARK
7-23-19
Date Signed
ARIZONA, U.S.A.

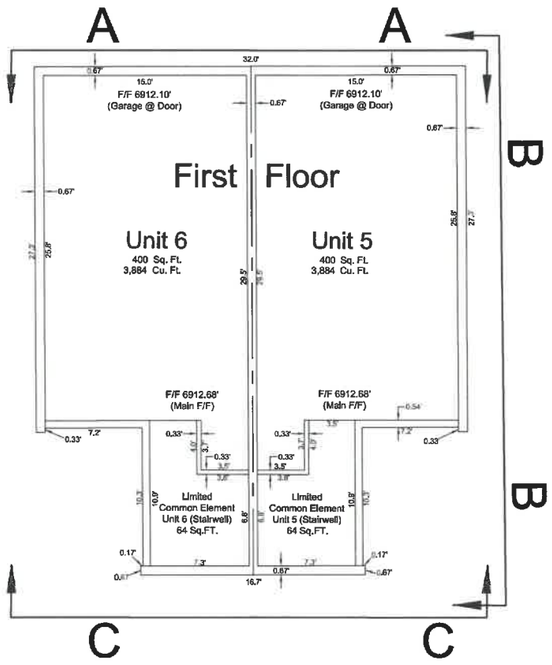
Revisions: City of Flagstaff Comments, 12-7-18, M.J.S.
City of Flagstaff Comments, 1-8-19, M.J.S.
City of Flagstaff Comments, 2-6-19, M.J.S.
City of Flagstaff Comments, 3-4-19, M.J.S.
City of Flagstaff Comments, 7-8-19, M.J.S.

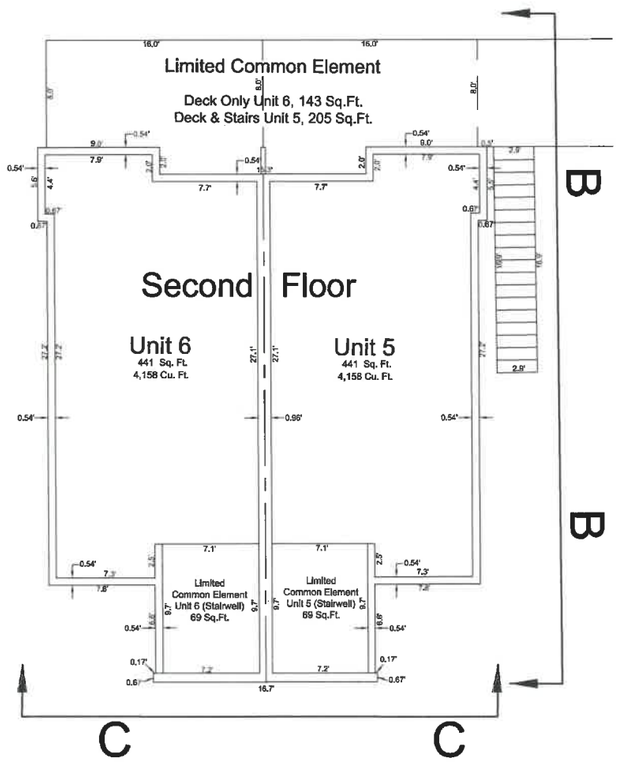
Northland Exploration Surveys, Inc.
328 West Aspen Avenue, Flagstaff, Arizona 86001 (928) 774-6058 FAX (928) 774-6059

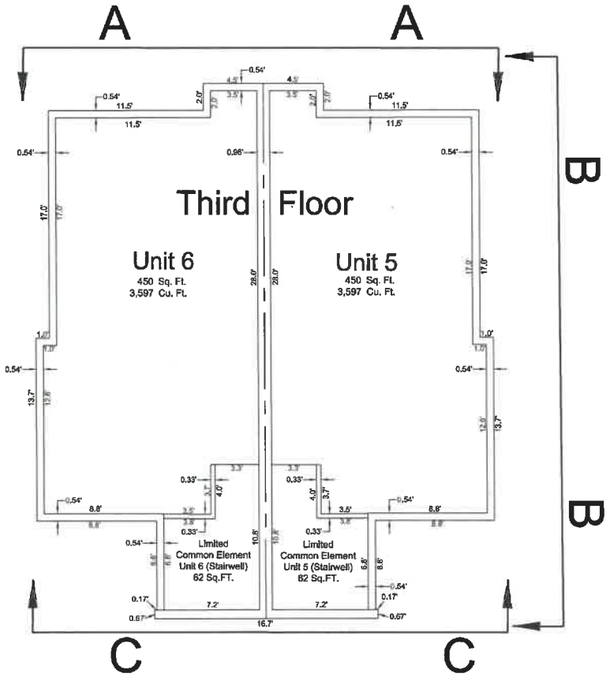
SCALE: 1" = 5.0'	Final Condominium Plat of **Flagstaff Lofts** Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.	SHEET 3 OF 8
SURVEYOR: EAW MSH JFW MJS		
DRAWN: M. J. Stark		JOB NO. 16-067
CHECKED: K. A. Krenice		
DATE: July 23, 2019		

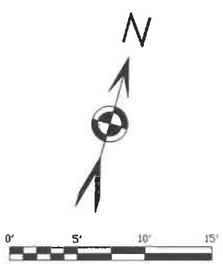
Final Condominium Plat
of
Flagstaff Lofts

Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.









CERTIFICATION:

This is to certify that the survey on which this plat is based was performed directly under my supervision during August and September of 2018, and is true and correct to the best of my knowledge.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
30354
MICHAEL J.
STARK
5-29-19
Date Signed
ARIZONA, U.S.A.

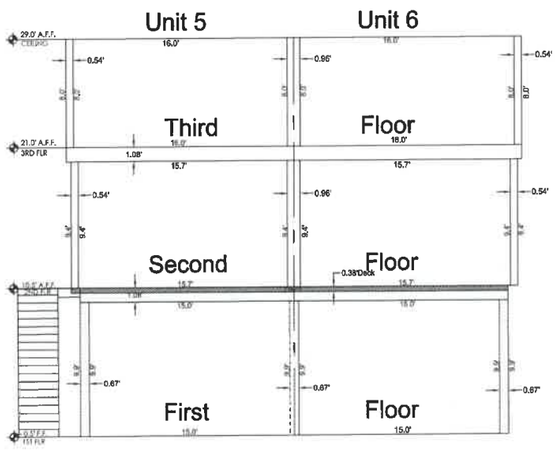
Revisions: City of Flagstaff Comments, 12-7-18, M.J.S.
City of Flagstaff Comments, 1-9-19, M.J.S.
City of Flagstaff Comments, 2-5-19, M.J.S.
City of Flagstaff Comments, 3-4-19, M.J.S.
City of Flagstaff Comments, 7-9-19, M.J.S.

Northland Exploration Surveys, Inc.
528 West Aspen Avenue, Flagstaff, Arizona 86001 (928) 774-5058 FAX (928) 774-3089

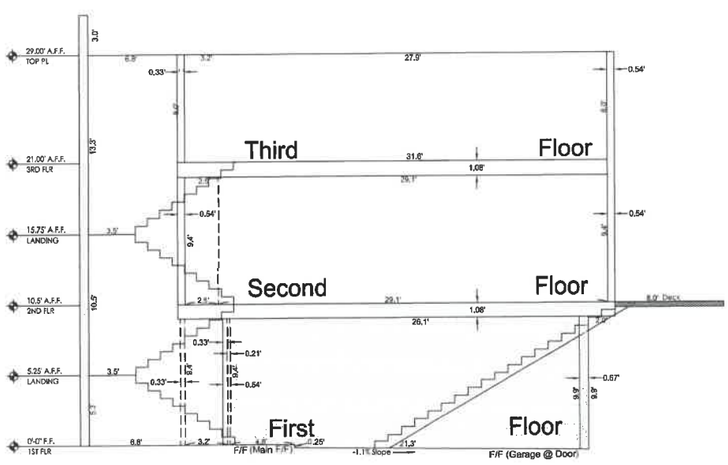
SCALE: 1" = 5.0'	Final Condominium Plat of **Flagstaff Lofts**	SHEET 4 OF 8
SURVEYOR: MBH EAW JFW MJS		
DRAWN: M. J. Stark		
CHECKED: K. A. KRENKE		
DATE: July 23, 2018	Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.	JOB NO. 18-067

Final Condominium Plat
of
Flagstaff Lofts

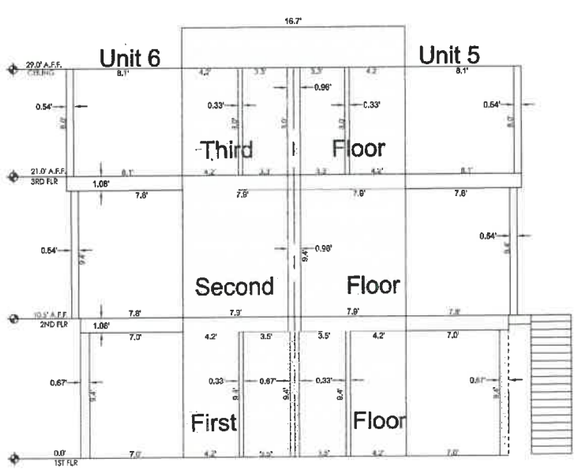
Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.



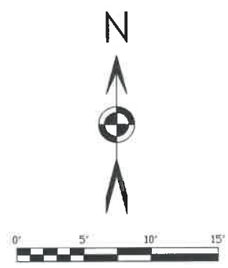
Section A-A



Section B-B



Section C-C



CERTIFICATION:

This is to certify that the survey on which this plat is based was performed directly under my supervision during August and September of 2018, and is true and correct to the best of my knowledge.

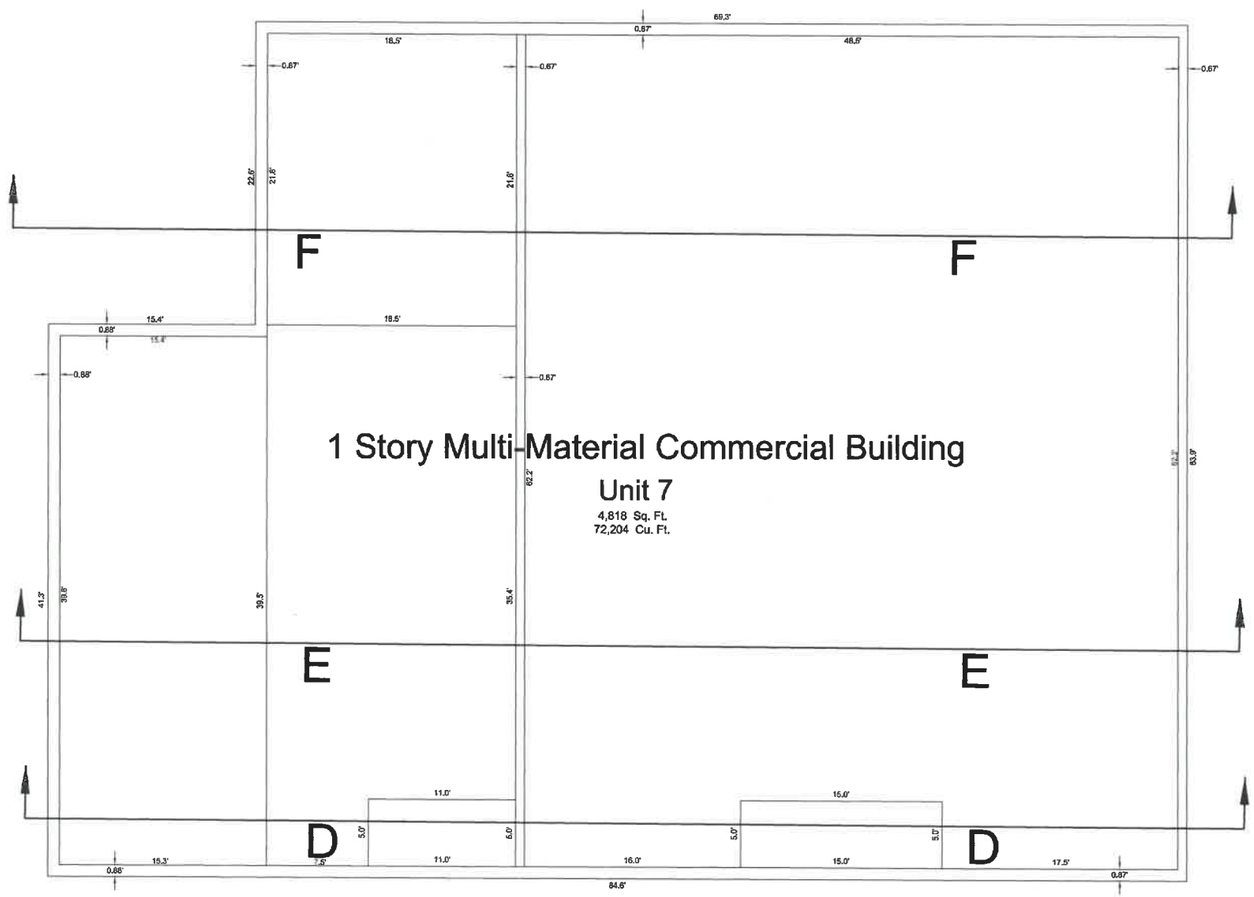


Revisions: City of Flagstaff Comments, 12-7-18, M.J.S.
City of Flagstaff Comments, 1-9-19, M.J.S.
City of Flagstaff Comments, 2-5-19, M.J.S.
City of Flagstaff Comments, 3-4-19, M.J.S.
City of Flagstaff Comments, 7-8-19, M.J.S.

Northland Exploration Surveys, Inc. 520 West Aspen Avenue, Flagstaff, Arizona 86001 (928) 774-5058 FAX (928) 774-0069		
SCALE: 1" = 5.0'	Final Condominium Plat of **Flagstaff Lofts** Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.	SHEET 5 OF 8
SURVEYOR: EAW MBH JFW MJS		
DRAWN: M. J. Stark		JOB NO. 18-067
CHECKED: K. A. Krenke		
DATE: July 23, 2019		

Final Condominium Plat
of
Flagstaff Lofts

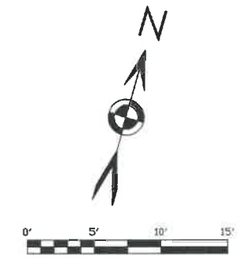
Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.



1 Story Multi-Material Commercial Building

Unit 7

4,818 Sq. Ft.
72,204 Cu. Ft.



CERTIFICATION:

This is to certify that the survey on which this plat is based was performed directly under my supervision during August and September of 2018, and is true and correct to the best of my knowledge.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
38364
MICHAEL J.
STARK
7-23-19
Date Signed
ARIZONA, U.S.A.

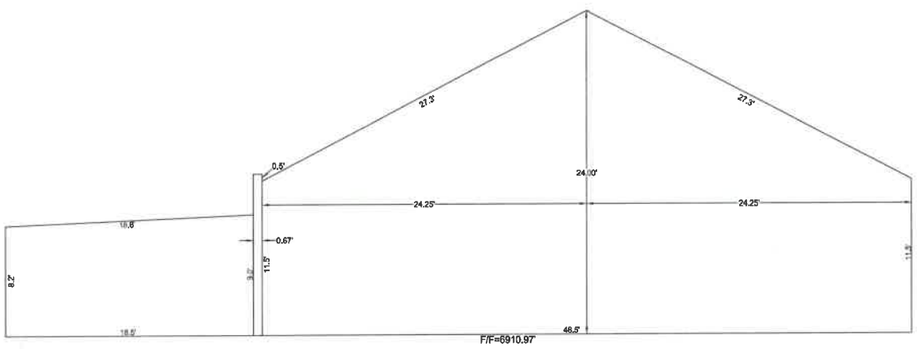
Revisions: City of Flagstaff Comments, 12-7-18, M.J.S.
City of Flagstaff Comments, 1-9-19, M.J.S.
City of Flagstaff Comments, 2-6-19, M.J.S.
City of Flagstaff Comments, 3-4-19, M.J.S.
City of Flagstaff Comments, 7-9-19, M.J.S.

Northland Exploration Surveys, Inc.
628 West Aspen Avenue, Flagstaff, Arizona 86001 (928) 774-5058 FAX (928) 774-3089

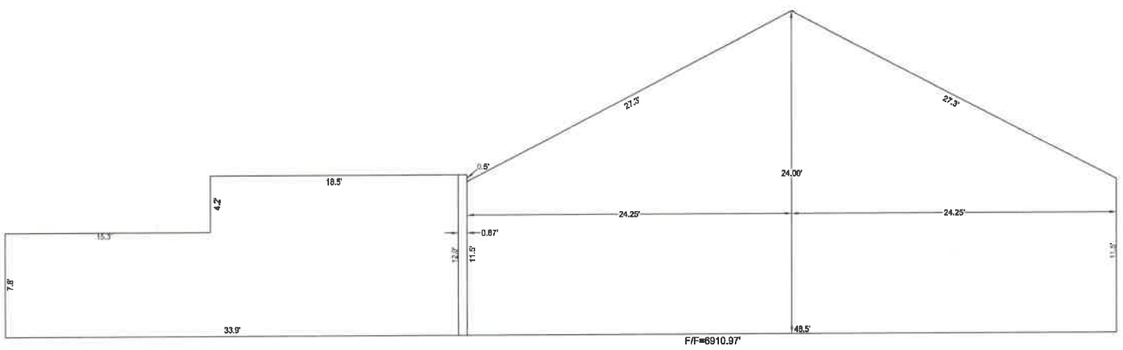
SCALE: 1" = 5.0'	Final Condominium Plat of **Flagstaff Lofts**	SHEET 6 OF 8
SURVEYOR: MBH EAW JFW MJS		
DRAWN: M. J. Stark		
CHECKED: K. A. KRENKE		JOB NO. 18-067
DATE: July 23, 2019	Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.	

Final Condominium Plat
of
Flagstaff Lofts

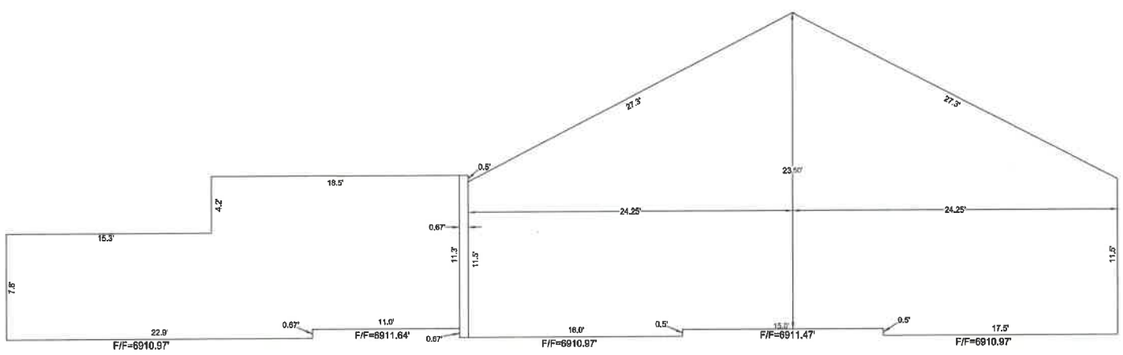
Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.



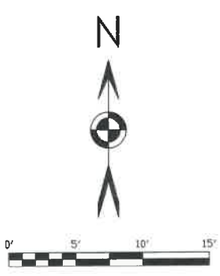
Section F-F



Section E-E



Section D-D



CERTIFICATION:

This is to certify that the survey on which this plat is based was performed directly under my supervision during August and September of 2018, and is true and correct to the best of my knowledge.



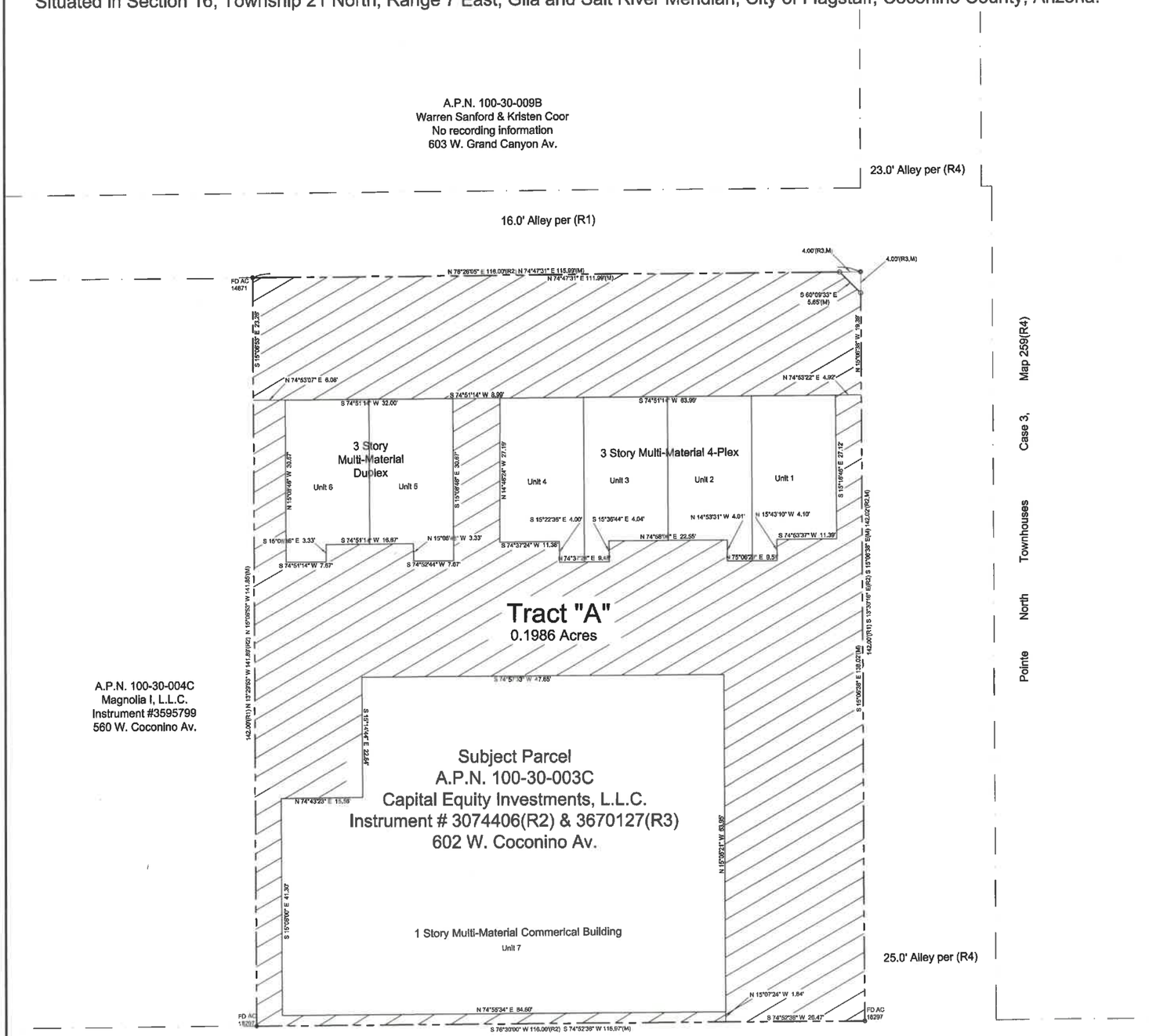
Revisions: City of Flagstaff Comments, 12-7-18, M.J.S.
City of Flagstaff Comments, 1-9-19, M.J.S.
City of Flagstaff Comments, 2-6-19, M.J.S.
City of Flagstaff Comments, 3-5-19, M.J.S.
City of Flagstaff Comments, 7-5-19, M.J.S.

Northland Exploration Surveys, Inc.
525 West Aspen Avenue, Flagstaff, Arizona 86001 (928) 774-5058 FAX (928) 774-3069

SCALE: 1" = 5.0'	Final Condominium Plat of **Flagstaff Lofts** Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.	SHEET 7 OF 8
SURVEYOR: EAW MSH JFW MJS		
DRAWN: M. J. Stark		
CHECKED: K. A. Krenke		JOB NO. 18-067
DATE: July 23, 2019		

Final Condominium Plat
of
Flagstaff Lofts

Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.



CERTIFICATION:

This is to certify that the survey on which this plat is based was performed directly under my supervision during August and September of 2018, and is true and correct to the best of my knowledge.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
38364
MICHAEL J. STARK
7-23-19
Date Signed
ARIZONA, U.S.A.

N

0' 10' 20' 30'

Legend/Record Information:

- Found Corner as noted.
- Set 1/2" rebar w/Cap 14871.
- Calculated Point.

(R1)- File 1 of Maps, Map 33, C.C.R.(Townsite of Flagstaff)
(R2)- Instrument #3074406, C.C.R.
(R3)- Instrument #3670127, C.C.R.
(R4)- Case 3, Map 259, C.C.R.(Pointe North Townhouses)

Revisions: City of Flagstaff Comments, 12-7-18, M.J.S.
City of Flagstaff Comments, 1-9-19, M.J.S.
City of Flagstaff Comments, 2-6-19, M.J.S.
City of Flagstaff Comments, 3-4-19, M.J.S.
City of Flagstaff Comments, 7-9-19, M.J.S.

Northland Exploration Surveys, Inc.
520 West Aspen Avenue, Flagstaff, Arizona 86001 (928) 774-6056 FAX (928) 774-3089

SCALE: 1" = 10.0'	Final Condominium Plat of **Flagstaff Lofts**	SHEET 8 OF 8
SURVEYOR: EAW MBH JFW MJS		
DRAWN: M. J. Stark		
CHECKED: K. A. Kreniko		JOB NO.
DATE: July 23, 2019	Situated in Section 16, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona.	18-067

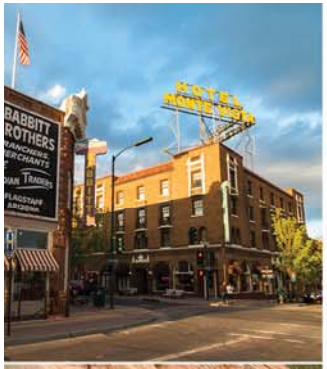






Final Plat for Flagstaff Lofts Condominiums

- A request for Final Plat approval which consists of 6 residential condominium units and 1 commercial unit on 0.37 acres, located at 602 W. Coconino Ave. in the High Density Residential (HR) Zone.
- The application is a condominium plat which creates the ability for individually owned units.
- The units are defined as the air space within the walls of each structure.

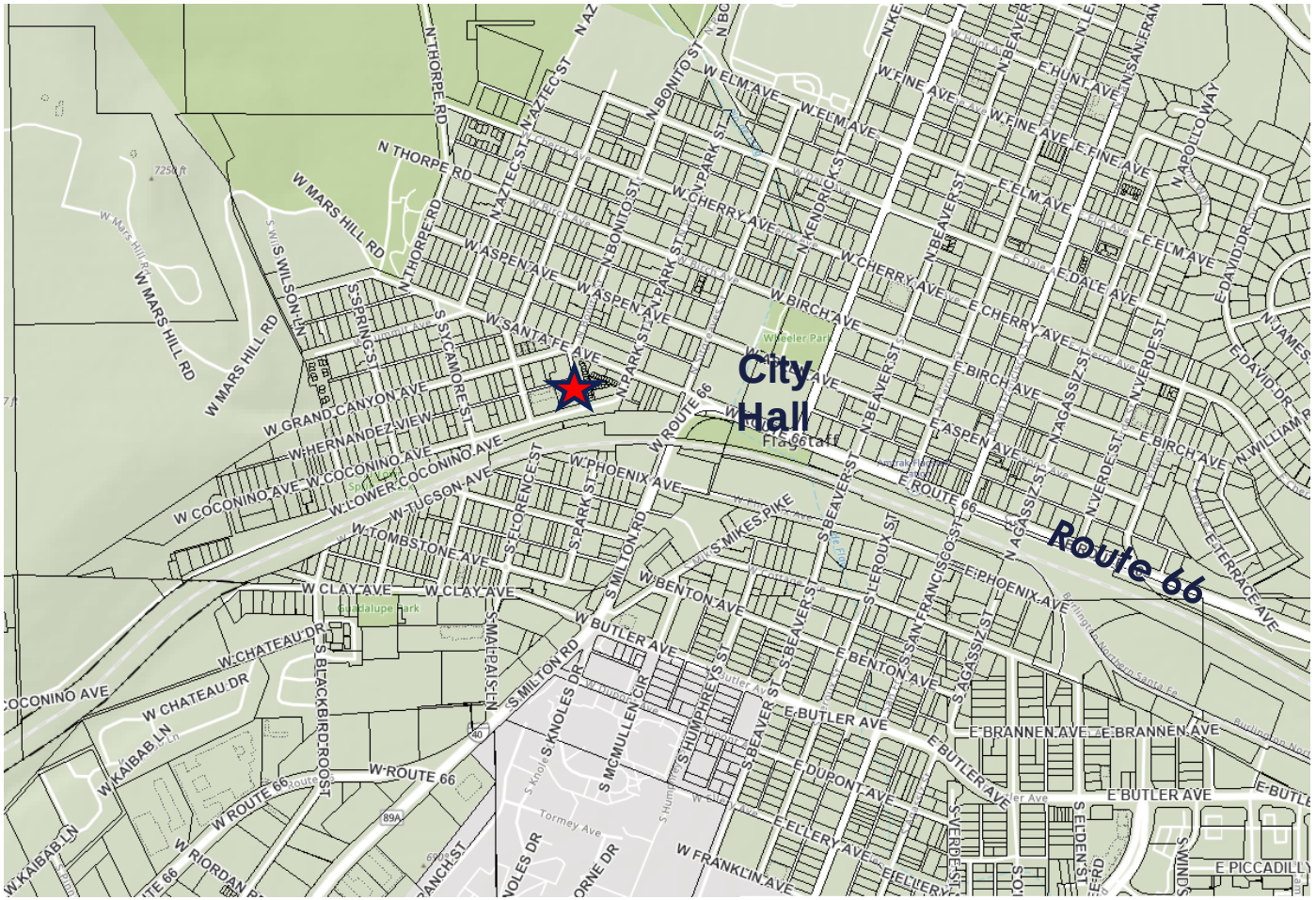








VICINITY MAP



CITY OF FLAGSTAFF ARIZONA ESTABLISHED 1882

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

SERVICE CITY OF FLAGSTAFF SERVING OUR COMMUNITY

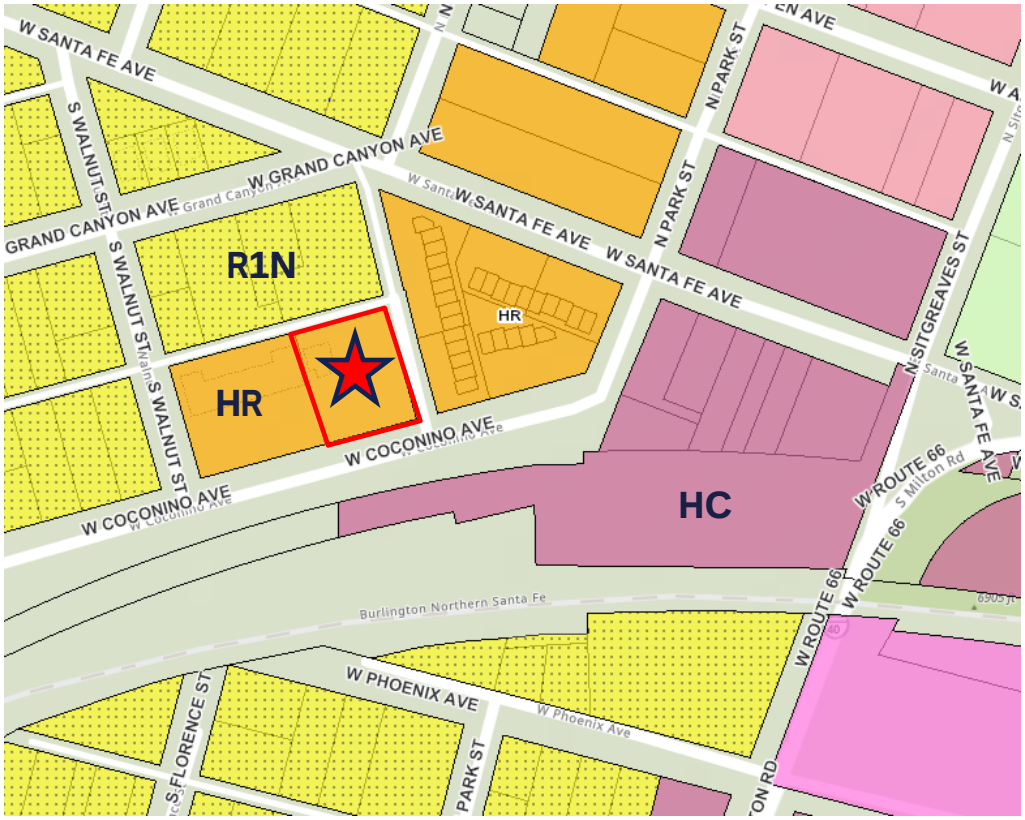








ZONING MAP



The property is zoned High Density Residential (orange)



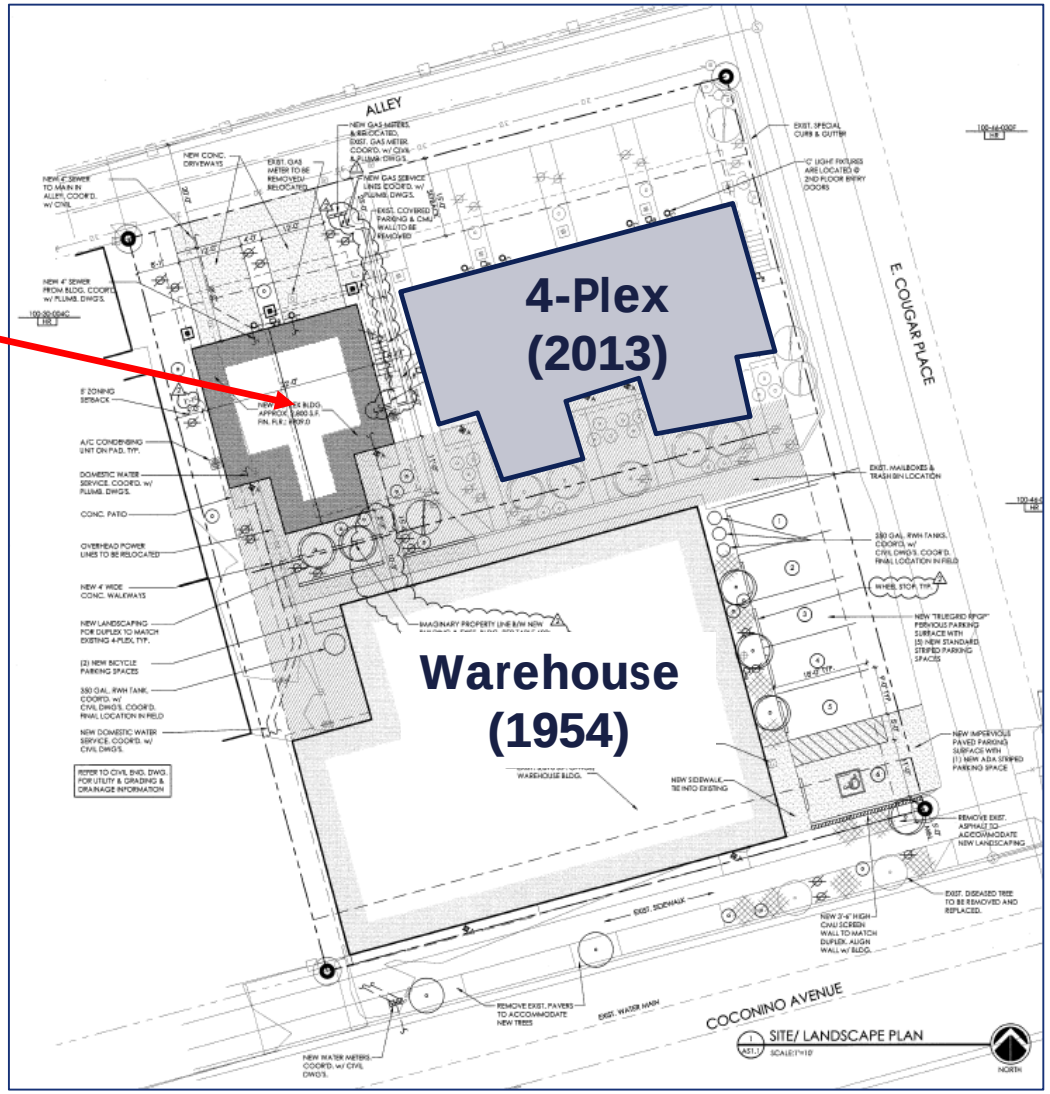






BACKGROUND

2-units (2019)



TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

SERVING OUR COMMUNITY









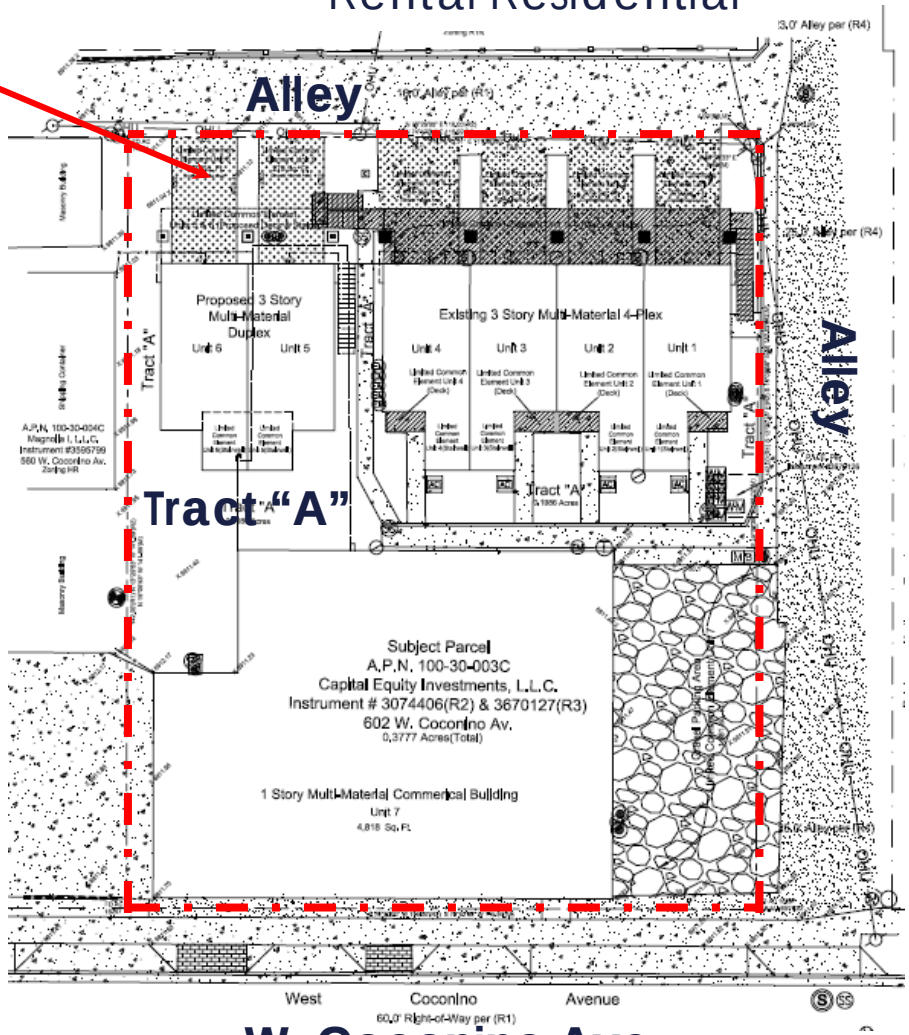
SITE PLAN

Typical limited common element (LCE), parking spot

Rental Residential

Office Buildings

Town Homes

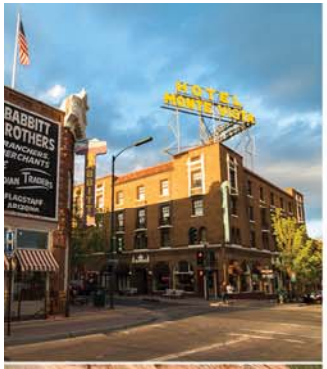


W. Coconino Ave.

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

SERVING OUR COMMUNITY







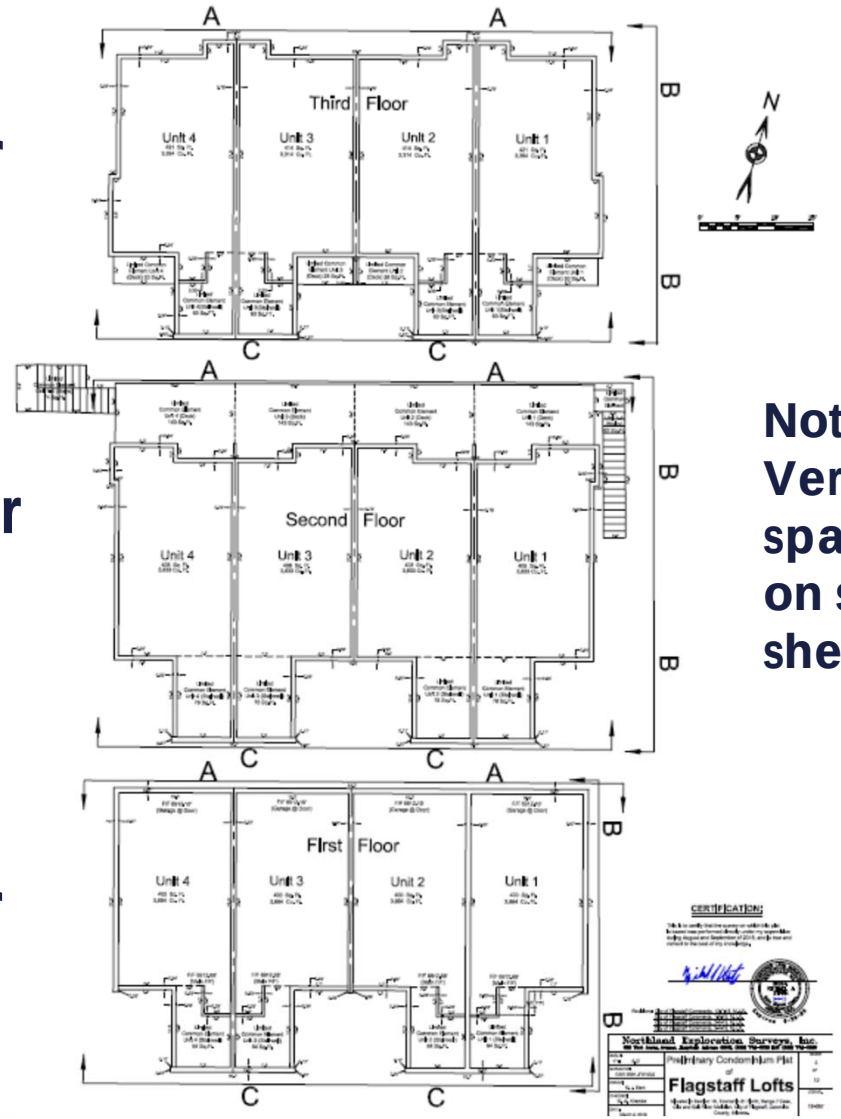


4-PLEX UNITS (PLAN VIEW)

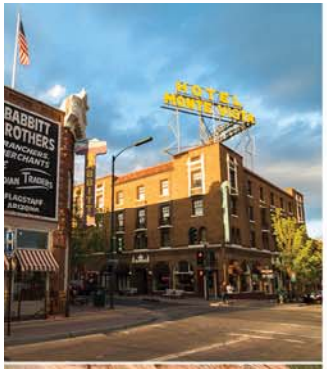
3rd Floor

2nd Floor

1st Floor



Note:
Vertical air space is shown on separate sheets

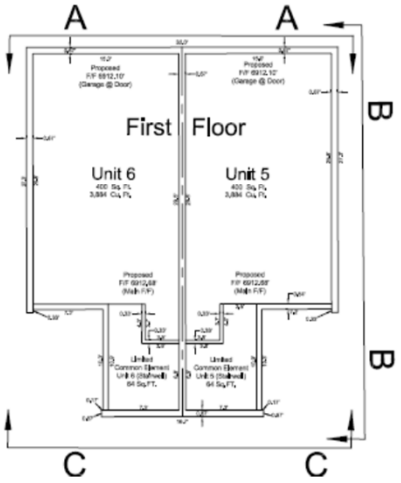


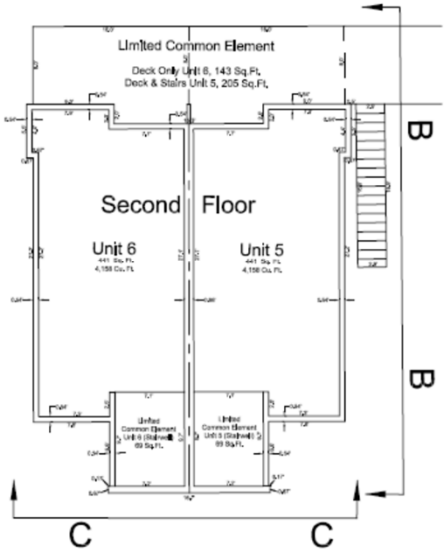


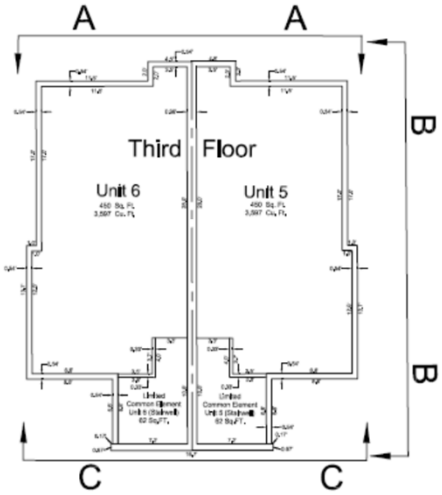


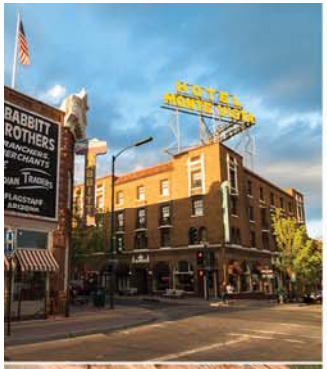


DUPLEX UNITS







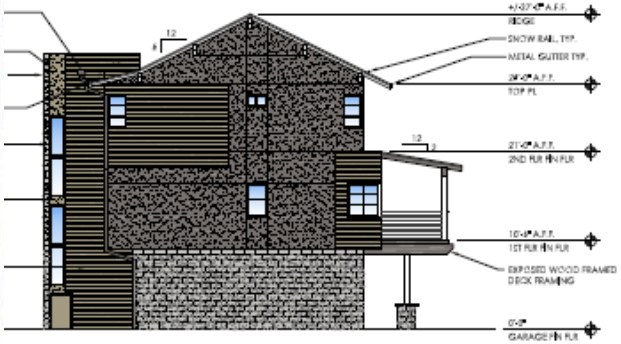




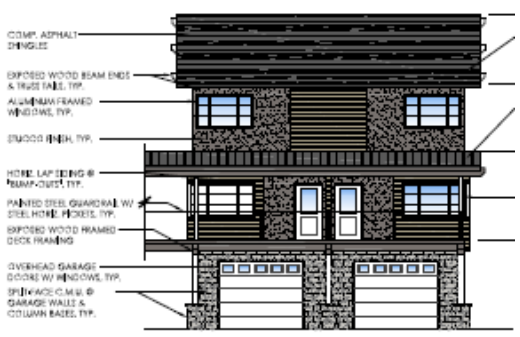




DUPLEX UNITS (ELEVATIONS)

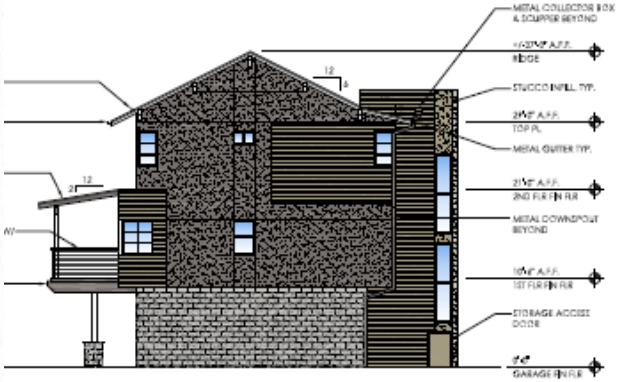


4 A1.1 EAST ELEVATION
SCALE: 1/8"=1'-0"

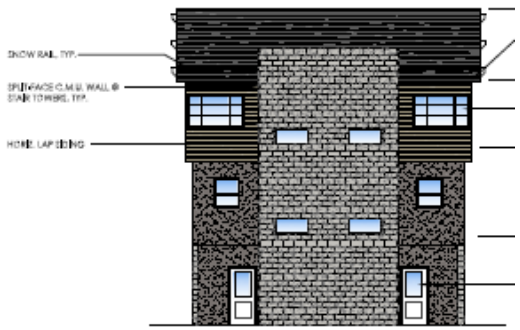


4 A1.1 NORTH ELEVATION
SCALE: 1/8"=1'-0"

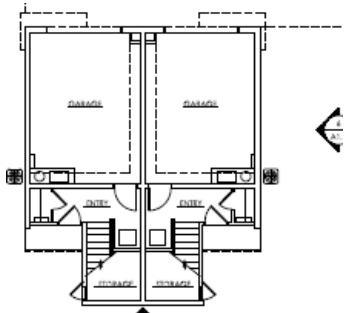
ALL EXTERIOR FINISHES ARE PROPOSED TO MATCH THE EXIST. 4-PLEX APT. BLDG.



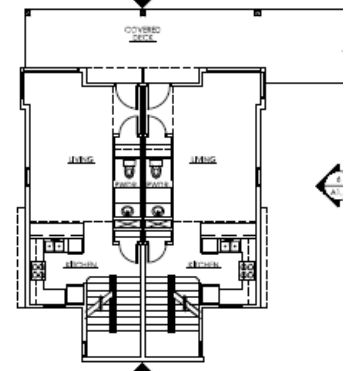
7 A1.1 WEST ELEVATION
SCALE: 1/8"=1'-0"



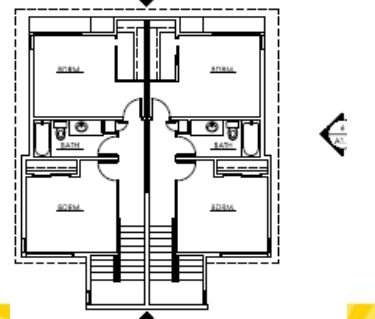
5 A1.1 SOUTH ELEVATION
SCALE: 1/8"=1'-0"



1 A1.1 FIRST FLOOR PLAN
SCALE: 1/8"=1'-0"



2 A1.1 SECOND FLOOR PLAN
SCALE: 1/8"=1'-0"



3 A1.1 THIRD FLOOR PLAN
SCALE: 1/8"=1'-0"

CITY OF FLAGSTAFF ARIZONA ESTABLISHED 1882

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

SERVING OUR COMMUNITY

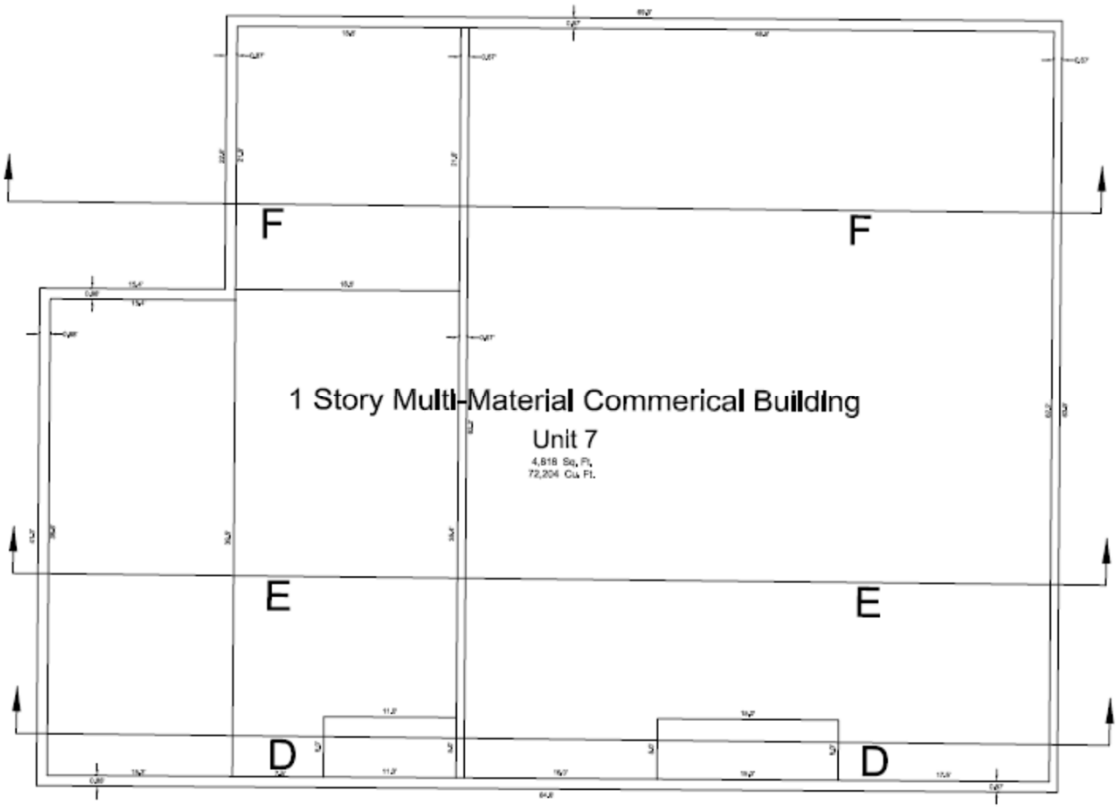


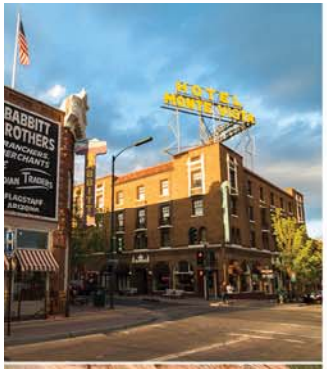






WAREHOUSE/COMMERCIAL BUILDING "UNIT 7"









FINAL PLAT FINDINGS

Flagstaff Zoning Code: The proposed development is in conformance with development standards for the High Density Residential (HR) zone.
General Plans and Subdivisions Code: The proposed subdivision has been reviewed and approved by city staff to meet all requirements of a final plat.
Engineering Design Standards and Specifications: All engineering-related standards have been reviewed and approved by city staff.

STAFF RECOMMENDATION

In accordance with the findings, staff recommends the City Council approve the final plat with no conditions, and authorize the Mayor to sign the plat when notified by staff that the document is ready for recording.

9. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE

Discussion and Direction: Joint Meetings with Community Partners

STAFF RECOMMENDED ACTION:

Direction concerning future joint City Council meetings with community partners.

EXECUTIVE SUMMARY:

The City Council holds regular joint meetings with the Coconino County Board of Supervisors. Over the last year, NAU and the Greater Flagstaff Chamber of Commerce have also been asked to join the Council for a joint meeting. Staff is seeking direction concerning the continuation of these community partner joint meetings on an ongoing basis.

INFORMATION:

Special meetings, such as a joint meeting, are generally held in months that there are five Tuesdays. The following dates have been tentatively scheduled for joint meetings in 2020 (pending schedule confirmation):

- Monday, March 23, 2020
- Monday, May 18, 2020
- Monday, June 22, 2020
- September 21, 2020

Attachments:

14. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Alaxandra Pucciarelli, Planning Development Manager - AP
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Adoption of Ordinance No. 2019-27: Direct to Ordinance Zoning Map Amendment, by Miramonte Arizona, LLC, for Ponderosa Parkway of approximately 11.97 acres located at 1650 East Ponderosa Parkway from the Rural Residential (RR) zone to the High Density Residential (HR) zone. The development site is located within the Resource Protection Overlay (RPO).

STAFF RECOMMENDED ACTION:

Staff recommends the City Council, in accordance with the findings presented by staff, approve the requested Direct to Ordinance Zoning Map Amendment for Ponderosa Parkway, LLC (PZ-17-00227-03) and take the following action:

1) Read Ordinance No. 2019-27 by title only for the final time
2) City Clerk reads Ordinance No. 2019-27 by title only (if approved above)
3) Adopt Ordinance No. 2019-27

Executive Summary:

A Direct to Ordinance Zoning Map Amendment application for Ponderosa Parkway LLC for approximately 11.97 acres at 1650 East Ponderosa Parkway from Rural Residential ("RR") zone to High Density Residential ("HR") zone for the purpose of developing a multi-family residential development. Please refer to the attached area context map.

The Flagstaff Planning and Zoning Commission voted (3-1) to forward the request with a recommendation of approval. The Planning & Zoning Commission is considering the item on August 14, 2019. A presentation will be attached prior to final agenda distribution.

Financial Impact:

The Direct to Ordinance Zoning Map Amendment has no financial impact.

Policy Impact:

The Direct to Ordinance Zoning Map Amendment has no policy impact.

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

Council Goals:
Support development and increase the inventory of public and private affordable housing for renters and home-owners throughout the community.

Regional Plan:
A complete analysis of the Regional Plan goals and policies is included in the attached Planning and Zoning Commission staff report.

Team Flagstaff Strategic Plan:
Strategic Priority #4: Work in partnership to enhance a safe and livable community.

Has There Been Previous Council Decision on This:

There has not been previous Council decision on this item.

Options and Alternatives:

The City Council may approve the application as proposed, approve the application with modified conditions, or deny the application.

Adoption of Ordinance 2019-27 will have the effect of approving the rezoning application, subject to conditions listed in the Ordinance.

Background/History:

The applicant is proposing to amend the City of Flagstaff's Rural Residential (RR) zone for an 11.97-acre parcel to High Density Residential (HR) zone. The parcel is located on East Ponderosa Parkway, just north of Route 66, behind the existing commercial development. The proposed development will consist of 169 multi-family residential for-sale units, constructed as 13 three-story buildings. Each building will consist of 13 units ranging from 500 to 1,300 square feet in size. The remainder of the parcel will be common area regulated by the homeowners' association and the property manager. These areas include tree and steep slope resources, common open space amenities, private access easements, drainage, stormwater detention facilities, and civic space.

Key Considerations:

To obtain up to a possible 25% density bonus, this project is meeting the standards listed in Section 10-30.70.040. There are four sections which must be met: 1) Water Resource Protection, 2) Transportation/Air Quality, 3) Waste Reduction During Construction, and 4) Energy Efficiency.

To meet the Water Resource Protection requirement, the landscape design for the development shall not include an oasis zone (hydrozone 1) as otherwise permitted in Section 10-50.60.050(C), Oasis Allowance, and Section 10-50.60.060, Hydrozones. The Transportation/Air Quality requirements are achieved because the development site is located within at least one-quarter mile of a bus stop. In addition, the development is located within at least one-quarter mile of a FUTS trail. The applicant is also considering providing for electric vehicle charging. To achieve the Waste Reduction During Construction requirements, the new development shall have a written solid waste program that includes a plan for the recycling or

reuse of all paper, cardboard, plastics, and metals; a plan for the recycling or reuse of all lumber scraps so that they are diverted from the landfill; and a plan for the diversion of all masonry and cementitious materials so that they are diverted from the landfill. The Energy Efficiency component is achieved by applying the HERS rating system. The applicant shall obtain independent third-party verification that the minimum HERS rating has been achieved.

The applicant has also committed to provide 16 “Attainable Housing Units.” These units do not meet all of the City's guidelines for qualifying as "Affordable Housing." These units will be disbursed throughout the development to the greatest extent feasible (with no exterior difference between the attainable and market rate units). The units will be sold at or below 100% of the Area Median Income (“AMI”) affordability level.

Community Benefits and Considerations:

The applicant identifies this project as a multi-family development which provides entry-level ownership opportunities and much needed “Attainable Housing” for moderate income residents.The project includes 16 for-sale housing units for up to 100% area median income (AMI).The proposed project facilitates efficient use of the current commercial and transportation corridors and contributes to the growth of a preexisting mixed-use neighborhood.The required civic space also provides an amenity to the community and protects a cluster of existing ponderosa pines adjacent to the existing commercial development to the south.

Community Involvement:

Public hearings before the Planning and Zoning Commission and City Council are conducted in conjunction with requests for Direct to Ordinance Zoning Map Amendments. In accordance with State Statute, notice of the public hearing was provided by placing an ad in the 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) of the site excluding rights-of-way.

The applicant held one neighborhood meeting regarding this case on May 1, 2019 at 5:30 pm. The meeting was held at the Flagstaff Aquaplex, located at 1702 North Fourth Street in Flagstaff. Per the sign-in sheets, ten (10) individuals attended the meeting. A Neighborhood Meeting Report, attached, was prepared in response to the questions, comments and concerns presented. The meeting began with an introduction of the proposed development by the Applicant, with an overview of the development’s components and design. In a charrette-style interaction, the Applicant encouraged attendees’ written contribution of any comments or concerns about the proposed development, which were then discussed with the group.

The applicant requested to waive the requirement for a second meeting. This request was approved by the Planning Director.

No letters or emails from the public has been received as of the writing of this report.

Expanded Options and Alternatives:

- (Recommended Action): The City Council may approve the Direct to Ordinance Zoning Map Amendment Application by reading and adopting Ordinance No. 2019-27.
- The City Council may approve the Direct to Ordinance Zoning Map Amendment Application with modified conditions.
- The City Council may deny the Direct to Ordinance Zoning Map Amendment Application.

Attachments:

Ord. 2019-27
Presentation
Staff Report
Application
Area Context Map
Legal Notice
Project Narrative
Regional Plan Analysis
Citizen Participation Plan and Meeting Report
Draft Development Agreement
NAIPTA Correspondence and Draft Agreement
Plan Set Page 1
Plan Set Page 2
Plan Set Page 3
Plan Set Page 4
Plan Set Page 5
Plan Set Page 6
Floorplans
Elevations Page 1
Elevations Page 2
Elevations Page 3
Elevations Page 4
Electrical Site Plan
Landscape Plan Page 1
Landscape Plan Page 2
Landscape Plan Page 3
Landscape Plan Page 4

ORDINANCE NO. 2019-27

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF ZONING MAP TO REZONE APPROXIMATELY 11.97 ACRES OF REAL PROPERTY LOCATED AT 1650 EAST PONDEROSA PARKWAY, FROM RURAL RESIDENTIAL ("RR") TO HIGH DENSITY RESIDENTIAL ("HR"); PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, Ponderosa Parkway, LLC (the "Applicant"), applied for a Zoning Map Amendment for approximately 11.97 acres of land located at 1650 East Ponderosa Parkway, Coconino County, Arizona, a legal description of which is provided in Exhibit "A" attached hereto ("the Property"), for the purpose of multi-family residential development.

WHEREAS, in furtherance of the Applicant's reasons for the rezone, the Applicant has applied to the City of Flagstaff to amend the zoning of the Property from Rural Residential (RR) zone to High Density Residential (HR) zone for 11.97 acres; and

WHEREAS, the Applicant conducted a neighborhood meeting on May 1, 2019 to discuss the proposed Zoning Map Amendment with the surrounding community, as required by Section 10-20.50.040 of the Flagstaff Zoning Code; 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, 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 the Council finds that the proposed 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 Rural Residential (RR) zone to High Density Residential (HR) zone for 11.97 acres, as depicted in Exhibit "A", through the approval of the application and all other documents attached to the staff summary submitted in support of this ordinance.

SECTION 6. The City is specifically relying on all assertions made by the Applicant, or the applicant's representatives, whether authorized or not, made at the public hearing on the zone change application unless the assertions were withdrawn on the record. Those assertions are hereby incorporated into this ordinance.

SECTION 7. That the 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. The subject property must be developed in accordance with the approved site plan and the conditions of approval dated May 28, 2019. Modifications (other than minor modifications) to the approved site plan will require an amendment to this Direct to Ordinance Zoning Map Amendment request.
2. All other requirements of the Zoning Code and other City codes, ordinances and regulations, shall be met by the proposed development.
3. All terms, conditions, and restrictions detailed within the "Development Agreement Miramonte at Ponderosa Parkway Condominiums" must be fully satisfied.
4. In the event the property is rezoned and the Developer fails to obtain final Civil Plan approval within two (2) years of the effective date of the rezoning ordinance, then the City may schedule a public hearing before the City Council for the purpose of causing the zoning on the Property to revert to the former classifications of Rural Residential (RR) in accordance with A.R.S. § 9-462.01.

SECTION 8. 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 9. 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 10. This ordinance shall become effective sixty (60) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of September, 2019.

_____

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
Exhibit A – Legal Description

Exhibit “A”

Legal Description of Property

Official Records of Coconino County 3814115
Patty Hansen - Recorder 05/02/2018 11:46:28 AM Pgs: 19
PIONEER TITLE AGENCY SWF $20.00

WHEN RECORDED, RETURN TO:

Ponderosa Parkway, LLC
4578 North 1st Avenue, Suite 160
Tucson, Arizona 85718
Attn: Christopher Kemmerly

7050 4643-JRK

SPECIAL WARRANTY DEED

For the consideration of Ten Dollars ($10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, **Franz R. Lupton Jr., as trustee of the Frantz R Lupton Jr Separate Property Trust Dated 12/03/1996**, as to an undivided 13.3334% co tenancy interest; **Senex Arizona, Inc.,** an Arizona corporation, as to an undivided 13.3333% co tenancy interest; **The Kramer Family Limited Liability Company**, an Arizona limited liability company, as to an undivided a 13.3334% co tenancy interest; **Green Mesa Developments LLC**, a Colorado limited liability company, as to an undivided 13.3333% co-tenancy interest; **Kenneth Bates**, a married man as his sole and separate property, as to an undivided 13.3333% co-tenancy interest; **Edward Rudnitsky**, a married man as his sole and separate property, as to an undivided 6.0000% co-tenancy interest; and **Barry Werner**, a married man as his sole and separate property, as to an undivided 27.3333% co-tenancy interest; collectively, (the, **"Grantor"**), does hereby convey to Ponderosa Parkway, LLC an Arizona limited liability company (the, **"Grantee"**), the real property situated in Coconino County, Arizona, and legally described on Exhibit A attached hereto and incorporated herein by this reference, together with all rights and privileges appurtenant thereto (the **"Property"**), together will all improvements and fixtures thereon and all rights, benefits, privileges, entitlements and appurtenances pertaining thereto, held or owned by Grantor, including, without limitation, to the extents such rights exist; any right, title and interest of Grantor in and to (i) any property lying in or under the bed of any street, alley, road or right-of-way, open or proposed, abutting or adjacent to the Property; (ii) the strips, gaps or gores, if any, between the Property and abutting property; (iii) all water, water rights, oil, gas or other mineral interests in, on, under or above the Property; (iv) all rights and interests to receive any condemnation awards from any condemnation proceeding pertaining to the Property; (v) all sewer rights, water courses, wells, ditches and flumes located on or appurtenant the Property.

SUBJECT TO all matters of record and all matters an accurate survey or proper inspection of the Property would reveal (the **"Exceptions"**);

TO HAVE AND TO HOLD such interest in the Property, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any way appertaining unto the Grantee and unto Grantee's successors and assigns forever, and that Grantor will defend the title to said interest in the Property unto Grantee against the claims and demands of all persons claiming by, through or under Grantor and no other, except for the Exceptions as set forth above.

UNOFFICIAL COPY

Except for the limited title warranty expressly set forth herein: (a) the Property is hereby conveyed in an "AS IS," "WHERE IS" and "WITH ALL FAULTS" basis and condition; and (b) Grantor makes no additional representations or warranties of any kind whatsoever, either express or implied, with respect to the Property; including but not limited to representations or warranties with respect to the use, condition (including the environmental condition), occupation or management of the Property, or compliance with applicable statutes, laws, codes, ordinances, regulations, requirements, covenants, conditions and restrictions (whether or not of record).

In accordance with A.R.S. § 33-404, the names and addresses of the beneficiaries under the FRANTZ R LUPTON JR SEPARATE PROPERTY TRUST DATED 12/03/1996 are set forth on Schedule A to this instrument.

[Signatures appear on the following pages]

Unofficial Copy

Exhibit "A"

PARCEL NO. 1:

A portion of the parcels of land described in Document No. 3376344 and re-recorded in Document No. 3385837 and Document No. 3228142, records of Coconino County, Arizona, located in the Southwest quarter of Section 14, Township 21 North, Range 7 East, Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

COMMENCING AT THE Southwest corner of Section 14, monumented with a USDI/BLM Brass Cap dated 1981 from which point the West quarter corner of Section 14, monumented with a 3" aluminum cap marked "LS 26406" bears North 01 degrees 35 minutes 29 seconds West, 2720.59 feet;

THENCE North 88 degrees 39 minutes 25 seconds East along the South line of the Southwest quarter of Section 14 and along the North lines of the parcels of land described in Document No. 3101540 and Document No. 3086724, a distance of 498.81 feet to the Northwest corner of the parcel of land described in Docket 2035, page 815 and to the Northeast corner of the parcel of land described in Document No. 3086724, monumented with a ½" iron pipe;

THENCE North 88 degrees 47 minutes 13 seconds East along the South line of the Southwest quarter of Section 14 and along the North line of the parcel of land described in Docket 2035, page 815, a distance of 134.25 feet to the West right-of-way line of Ponderosa Parkway, as conveyed to the City of Flagstaff in Instrument No. 3555011, records of Coconino County, Arizona;

THENCE North 88 degrees 41 minutes 10 seconds East along the South line of the Southwest quarter of Section 14, and along the North line of the parcel of land described in Docket 1108, page 138, a distance of 107.25 feet to the West line of Parcel 1 as described in Docket 1827, page 471;

THENCE North 88 degrees 41 minutes 10 seconds East along the South line of the Southwest quarter of Section 14, a distance of 9.80 feet to the East right-of-way line of said Ponderosa Parkway;

THENCE North 88 degrees 41 minutes 10 seconds East along the South line of the Southwest quarter of Section 14, a distance of 99.88 feet to the East line of Parcel 1 as described in Docket 1827, page 471, and to the West line of the parcel of land described in Document No. 3227936;

THENCE North 18 degrees 26 minutes 19 seconds West along the East line of Parcel 1 described in Docket 1827, page 471 and along the West line of the parcel of land described in Document No. 3227936, a distance of 153.89 feet to the Southwest corner of the parcel of land described in Document No. 3385837, monumented with a 4" concrete post, and the TRUE POINT OF BEGINNING, hereinafter referred to as Point "A";

Unofficial Copy

THENCE North 18 degrees 13 minutes 20 seconds West along the East line of Parcel 1 and along the West line of the parcel of land described in Document No. 3385837, a distance of 110.98 feet to the East right-of-way line of said Ponderosa Parkway, hereinafter referred to as Point "D";

THENCE Northerly along the East right-of-way line of said Ponderosa Parkway, along a curve to the right, having a radius of 765.00 feet and a central angle of 5 degrees 57 minutes 54 Seconds, an arc distance of 79.64 feet (chord bearing North 21 degrees 22 minutes 04 seconds East, chord distance 79.61 feet);

THENCE North 24 degrees 21 minutes 00 seconds East along the East right-of-way line of said Ponderosa Parkway, 137.50 feet;

THENCE Northerly along the East right-of-way line of said Ponderosa Parkway and its Northerly extension as conveyed to the City of Flagstaff by easement recorded in Instrument No. 3613223, records of Coconino County, Arizona, along a curve to the left, having a radius of 884.74 feet and a central angle of 20 degrees 00 minutes 01 seconds, an arc distance of 308.84 feet (chord bearing North 14 degrees 21 minutes 00 seconds East, chord distance 307.27 feet);

THENCE Northerly along said East right-of-way line of Ponderosa Parkway, along a curve to the left, having a radius of 1648.76 feet and a central angle of 18 degrees 07 minutes 31 seconds, an arc distance of 521.57 feet (chord bearing North 04 degrees 42 minutes 46 seconds West, chord distance 519.40 feet), to the North line of the parcel of land described in Document No. 3385837;

THENCE South 81 degrees 54 minutes 10 seconds East along the North line of the parcel of land described in Document No. 3385837, a distance of 429.72 feet to the Northeast corner of the parcel of land described in Document No. 3385837;

THENCE South 31 degrees 18 minutes 30 seconds East, 665.41 feet to the South line of the parcel of land described in Document No. 3228142 and to the North line of the parcel of land described in Docket 1947, page 830;

THENCE North 73 degrees 06 minutes 23 seconds West along the South line of the parcel of land described in Document No. 3228142 and along the North line of the parcel of land described in Docket 1947, page 830, a distance of 98.22 feet to the Southeast corner of the parcel of land described in Document No. 3385837, monumented with a 5/8" capped rebar marked "LS 26406";

Thence South 71 degrees 29 minutes 36 seconds West along the South line of the parcel of land described in Document No. 3385837 and along the North line of the parcel of land described in Docket 1947, page 830, a distance of 320.96 feet to the Northwest corner of the parcel of land described in Docket 1947, page 830, monumented with a 5/8" capped rebar marked "LS 13010";

Unofficial Document

THENCE South 18 degrees 30 minutes 41 seconds East along the South line of the parcel of land described in Document No. 3385837 and along the West line of the parcel of land described in Docket 1947, page 830, a distance of 251.55 feet to the Northeast corner of the parcel of land described in Document No. 3340460, monumented with a 5/8" capped rebar marked "LS 26406", hereinafter referred to as Point "B";

THENCE South 71 degrees 32 minutes 55 seconds West along the South line of the parcel of land described in Document No. 3385837 and along the North line of the parcels of land described in Document No. 3340460 and Document No. 3227936, a distance of 566.31 feet to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

An easement for motorized vehicle access, as reserved in deed recorded in Instrument No. 3555008, records of Coconino County, Arizona, over a portion of that parcel described as Parcel 1 in Deed recorded in Docket 1827, Page 471, records of Coconino County, Arizona, located in the Southwest quarter of Section 14, Township 21 North, Range 7 East, Gila & Salt River Base and Meridian, Coconino County, Arizona, more particularly described as follows:

COMMENCING at the Southwest corner of said Section 14, monumented with a USDI/BLM brass cap dated 1981, from which point the West quarter corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01° 35' 29" West, 2720.59 feet (Basis of Bearings for this description);

THENCE North 88° 39' 25" East along the South line of the Southwest quarter of Section 14 and along the North line of the parcels described in Instrument Nos. 3101540 and 3086724, records of Coconino County, Arizona, and along the South line of the parcel described in Instrument No. 3469519, records of Coconino County, Arizona, a distance of 375.60 feet to the Southeast corner of said parcel described in Instrument No. 3469519 and to the Southwest corner of the parcel described as Parcel 1 in Instrument No. 3478120, records of Coconino County, Arizona, monumented with a nail in concrete;

THENCE North 88° 40' 08" East along the South line of the Southwest quarter of Section 14, and along the North line of the parcel described in Instrument No. 3086724, records of Coconino County, Arizona, and along the South line of said Parcel 1 of Instrument No. 3478120, a distance of 123.29 feet to the Northeast corner of said parcel described in Instrument No. 3086724, and to the Northwest corner of the parcel described in Docket 2035, Page 813, records of Coconino County, Arizona, monumented with a ¾ inch iron pipe;

THENCE South 18° 35' 16" East along the East line of said parcel described in Instrument No. 3086724 and along the West line of said parcel described in Docket 2035, Page 813, a distance of 111.28 feet to the Southwest corner of said parcel described in Docket 2035, Page 813 and the Northwest corner of the parcel described in Docket 2072, Page 530, records of Coconino County, Arizona;

Unofficial Copy

THENCE South 18° 35' 16" East along the East line of said parcel described in Instrument No. 3086724 and along the West line of said parcel described in Docket 2072, Page 530, a distance of 140.00 feet to the North line of the 105 foot wide right-of-way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS 13010;

THENCE North 71° 20' 15" East along the South line of said parcel described in Docket 2072, Page 530, and along the North right-of-way of said Route 66, a distance of 100.50 feet to the Southeast corner of said parcel described in Docket 2072, Page 530 and to the Southwest corner of the parcel described in Docket 1108, Page 138, records of Coconino County, Arizona, monumented with a scribed X in concrete;

THENCE North 71° 20' 15" East, along the South line of said parcel described in Docket 1108, Page 138 and along the North right-of-way line of said Route 66, a distance of 108.53 feet to the Southeast corner of said parcel described in Docket 1108, page 138 and to the Southwest corner of the parcel described as Parcel 3 in said Docket 1827, Page 471, monumented with a scribed X in concrete;

THENCE North 71° 20' 15" East along the south line of said Parcel 3 in Docket 1827, Page 471 and along the South line of the parcel described as Parcel 1 in said Docket 1827, Page 471, and along the North right-of-way line of Route 66, a distance of 126.70 feet to the Southeast corner of said Parcel 1 in said Docket 1827, Page 471 and to the Southwest corner of the parcel described as Parcel 3 in Instrument No. 3227936, records of Coconino County, Arizona;

THENCE North 18° 35' 24" West, along the East line of Parcel 1 in said Docket 1827, Page 471 and along the West line of Parcel 3 in said Instrument No. 3227936, a distance of 300.51 feet to the Northwest corner of said Parcel 3 in Instrument No. 3227936 and to a point on the South line of the parcel described in Instrument No. 3385837, records of Coconino County, Arizona, monumented with a 4 inch by 4 inch concrete post, being the TRUE POINT OF BEGINNING;

THENCE North 80° 01' 56" West, a distance of 55.29 feet to a non-tangent curve whose radius bears South 87° 17' 01" East;

THENCE Northerly along a curve to the right having a radius of 300.43 feet and a central angle of 09° 33' 20", an arc distance of 50.10 feet (chord bearing North 07° 29' 39" East, chord distance 50.05 feet);

THENCE South 80° 01' 56" East, a distance of 30.60 feet to the East line of Parcel 1 in said Docket 1827, Page 471, and to the South line of said parcel described in Instrument No. 3385837;

THENCE South 18° 16' 17" East, along the East line of Parcel 1 in said Docket 1827, Page 471, and along the South line of the parcel described in said Instrument No. 3385837, a distance of 56.75 feet to the TRUE POINT OF BEGINNING.

Unofficial Document

Miramonte at Ponderosa Parkway

Direct to Ordinance

Zoning Map Amendment

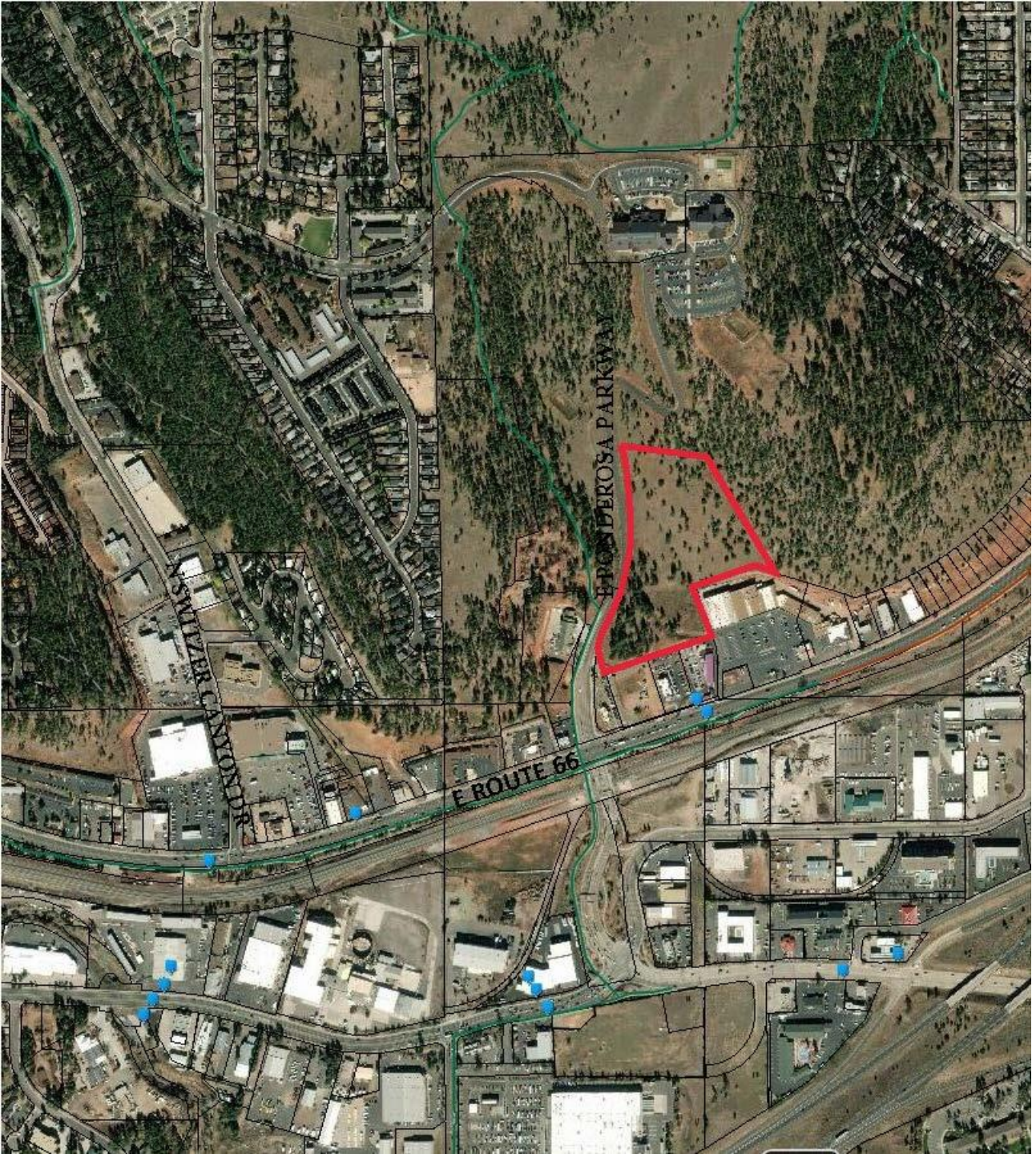
Alaxandra Pucciarelli

Planning Development Manager

CITY OF FLAGSTAFF · ARIZONA · ESTABLISHED 1882 ·

TEAM FLAGSTAFF

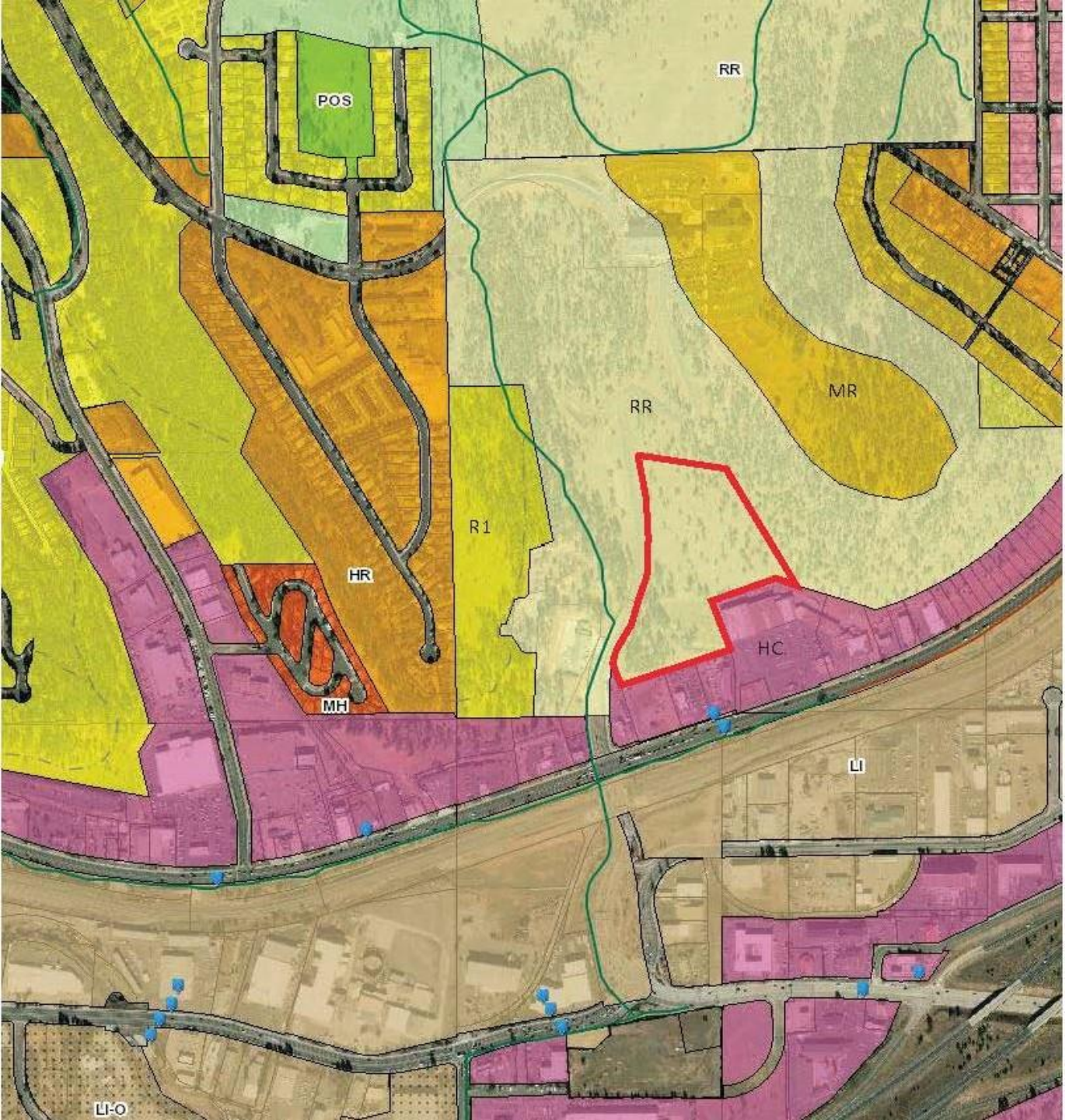
WE MAKE THE CITY BETTER



Vicinity Map

- 11.97 acres undeveloped land

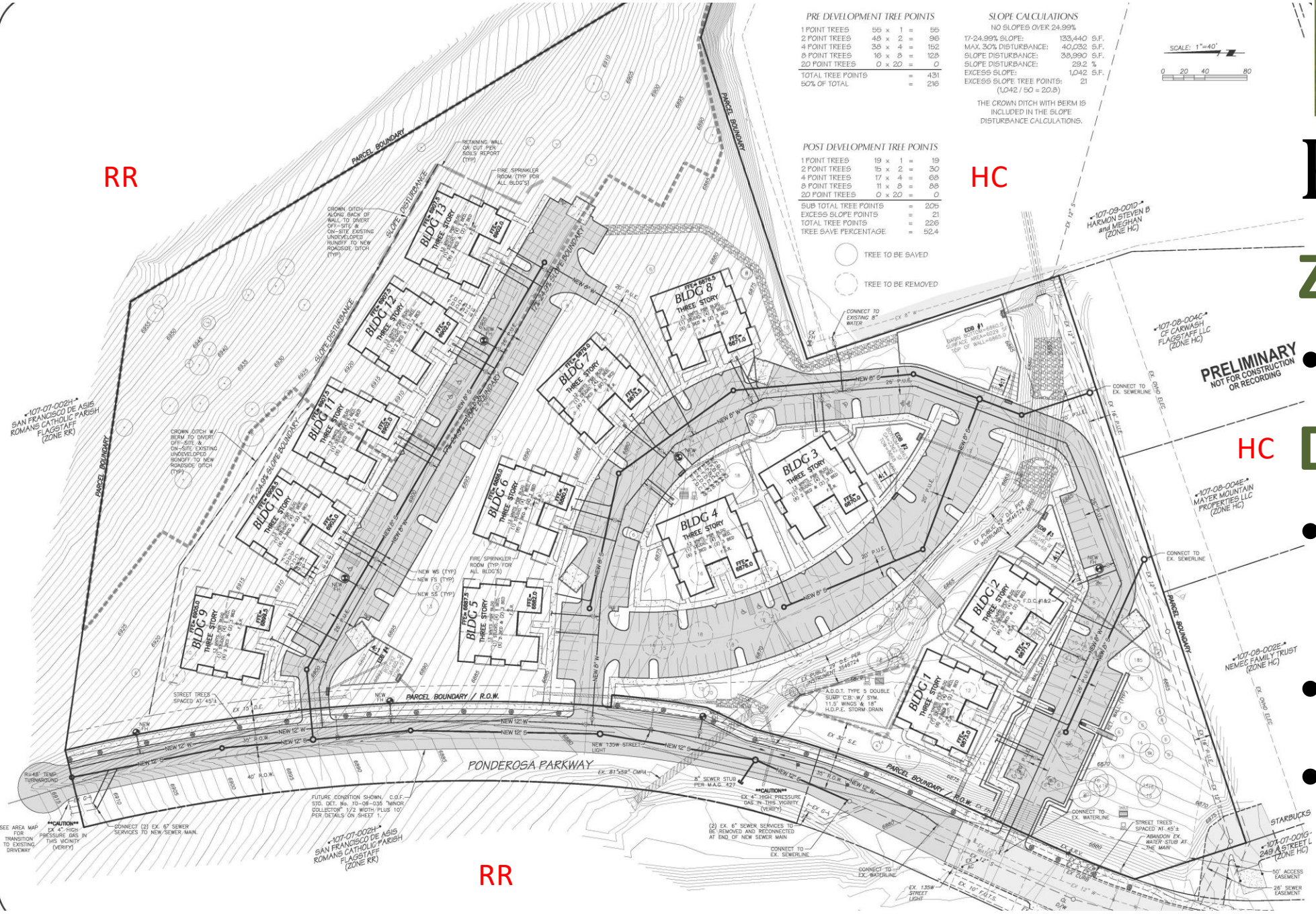
- Catholic Church and School
- Switzer Mesa and Sunnyside neighborhoods
- Starbucks, Culvers, Clean Freak Car Wash
- Fire Station



Area Context Map

- Rural Residential (RR)
- Highway Commercial (HC)

- FUTS trail system
- NAIPTA bus stops



TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Proposal:

Zoning:

- RR to HR zone

Development:

- 13 three-story buildings
- Parking
- Site Amenities

Proposed Density

Policy:

- HR zone allows 10-22 units per acre in RPO
- Regional Plan supports 13 units per acre in Suburban Activity Center

Proposed:

- 11.97 acres x 13 = 156 units
- Residential Sustainable Building Standards may provide a 25% density bonus = 39 additional units
- 169 total proposed units (195 permitted units)

Density Bonus

Sustainability Standards:

- Water Resource Protection
- Transportation/Air Quality
- Waste Reduction During Construction
- Energy Efficiency



Attainable Housing Units

Attainable Housing:

- 10% min. of units to be sold at or below 100% AMI affordability level
- Unit mix dictated by buyers' preference and construction timing
- Initial sales price at least 25% lower than market rate units
- Deed restriction may terminate



Proposed Unit Mix

Unit Type	Units per Bldg	Total Units	Total Bdrms
Studio	1	13	13
1 Bed/1 Bath	4	52	52
2 Bed/2 Bath	6	78	156
3 Bed/2 Bath	2	26	78
Total	13	169	299

Resource Protection

Tree Resources

- Requires 50% of tree canopy to be saved
- Proposal: 52.4%

Steep Slope Resources

- Requires 70% of slope to be saved
- Proposal: 70.8%



Common Open Space & Civic Space

Common Open Space

- Requires 15% (78,176 sq ft)
- Accessible to the tenants
- Provides 55% (287,130 sq ft)



Common Open Space & Civic Space

Civic Space

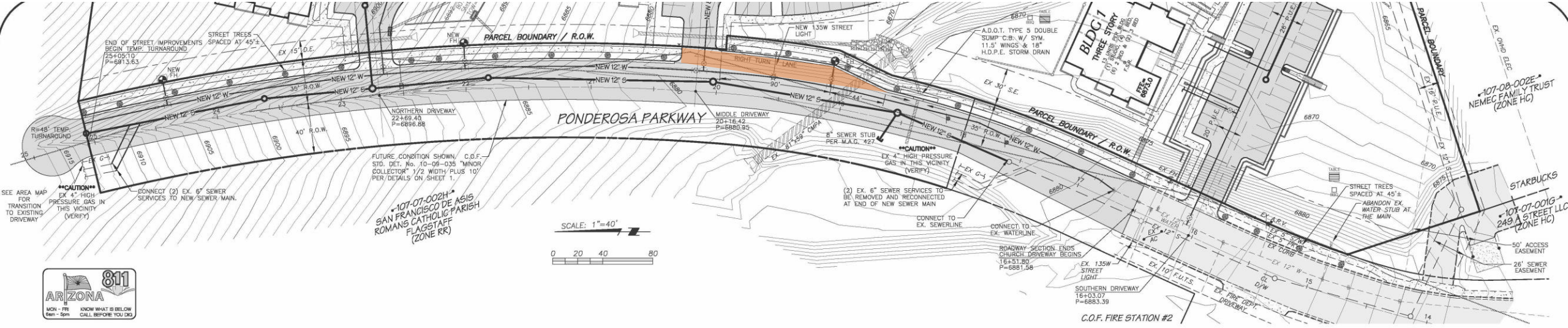
- Requires 5% (26,059 sq ft)
- Must be accessible to the public
- Provides 5.4% (27,990 sq ft)



Public Systems Impact Analysis

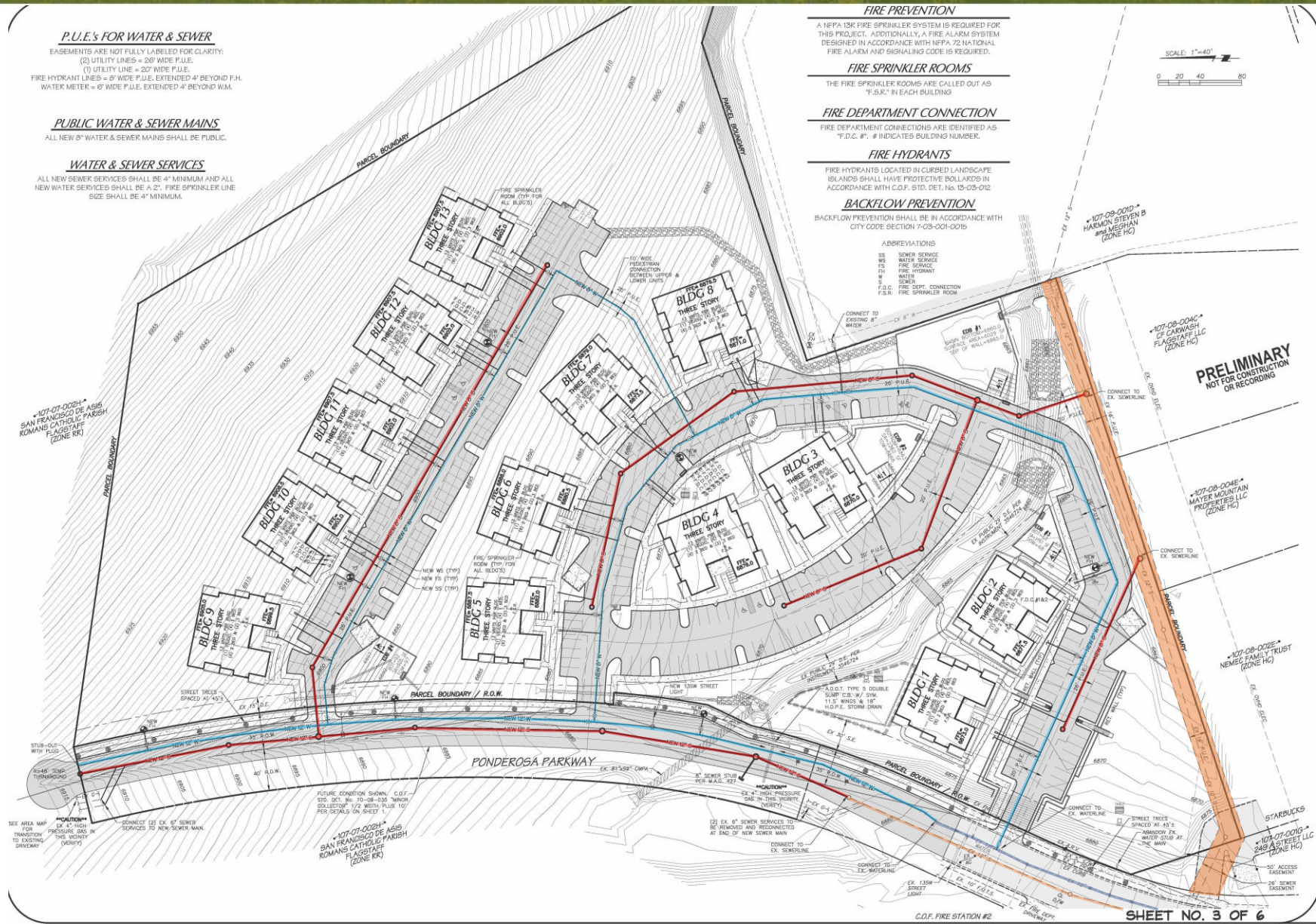
Right Turn Lane

- Required at Middle drive (serves 6 buildings)
- Not Required at South drive (2 buildings) or North drive (5 buildings)



Public Systems Impact Analysis

Public Utilities



Public Systems Impact Analysis

Stormwater

- Site includes 4 Extended Detention Basins (EDB)
- Will infiltrate and meter out Runoff Capture Volume (ROCV)



Findings

Finding #1: Conformance with the General Plan

- Existing Suburban Area and Future Suburban Activity Center
- Integration of open space qualities into built environment
- Area in need of residential units
- Mutual benefit of existing commercial activity
- Connections to alternate modes of transportation

Finding #1: Finding is met

Findings

Finding #2: Community Benefits and Public Good

- Entry level ownership opportunities
- 16 for-sale “Attainable Units”
- Efficient use of commercial and transportation corridors
- Contributes to mixed-use neighborhood
- Required Civic space is amenity to community and protects ponderosa pines

Finding #2: Finding is met

Findings

Finding #3: Site is Physically Suitable

- Meets applicable codes and requirements
- Mitigates any impacts determined by impact analyses

Finding #3: Finding is met

Development Agreement

Purpose of the agreement:

- Administration of the “Attainable Housing” units
- Sustainability Bonus requirements

Citizen Participation

Neighborhood Meeting

- May 1, 2019
  - 10 individuals attended
- The requirement for a second meeting was waived by the Planning Director

Recommendation

Staff recommends the Commission, in accordance with the findings presented, forward the Direct to Ordinance Zoning Map Amendment request to the City Council with a recommendation for approval of case PZ-17-00227-03, subject to the following four conditions, which will be included into the zoning map amendment ordinance:

1) The subject property must be developed in accordance with the approved site plan and the conditions of approval dated May 28, 2019. Modifications (other than minor modifications) to the approved site plan will require an amendment to this Direct to Ordinance Zoning Map Amendment request.

2) All other requirements of the Zoning Code and other City codes, ordinances and regulations, shall be met by the proposed development.

3) All terms, conditions, and restrictions detailed within the "Development Agreement Miramonte at Ponderosa Parkway Condominiums" must be fully satisfied.

4) In the event the property is rezoned and the Developer fails to obtain final Civil Plan approval within two (2) years of the effective date of the rezoning ordinance, then the City may schedule a public hearing before the City Council for the purpose of causing the zoning on the Property to revert to the former classifications of Rural Residential (RR) and Estate Residential (ER) in accordance with A.R.S. § 9-462.01.

PLANNING AND DEVELOPMENT SERVICES REPORT
DIRECT TO ORDINANCE ZONING MAP AMENDMENT

PUBLIC HEARING
PZ-17-00227-03

DATE: August 02, 2019
MEETING DATE: August 14, 2019
REPORT BY: Alaxandra Pucciarelli

REQUEST:
Direct to Ordinance Zoning Map Amendment, by Miramonte Arizona, LLC, of approximately 11.97 acres located at 1650 East Ponderosa Parkway from the Rural Residential (RR) zone to the High Density Residential (HR) zone. The development site is located within the Resource Protection Overlay (RPO).

STAFF RECOMMENDATION:
Staff recommends the Planning and Zoning Commission, in accordance with the findings presented in this report, forward the Direct to Ordinance Zoning Map Amendment request to the City Council with a recommendation for approval.

PRESENT LAND USE:
The subject property is approximately 11.97 acres of undeveloped land. The parcel is currently owned by Ponderosa Parkway, LLC.

PROPOSED LAND USE:
The developer proposes the construction of 169 multi-family residential condominium units built in 13 three-story buildings consisting of 13 units each. The development will include 10% "attainable" for-sale units. The site contains the required civic space, common open space, protected tree and slope resources, and on-site surface parking.

NEIGHBORHOOD DEVELOPMENT:
See the attached area context map.

North: San Francisco de Asis Church zoned Rural Residential (RR) and Medium Density Residential (MR)
East: Village Shopping Center zoned Highway Commercial (HC)
South: Commercial uses (including Starbucks, Culvers, and Clean Freak Car Wash) zoned Highway Commercial (HC)
West: City of Flagstaff Fire Station zoned Rural Residential (RR)

I. Project Introduction

A. Background

The applicant is proposing to amend the City of Flagstaff's Rural Residential (RR) zone for an 11.97-acre parcel to High Density Residential (HR) zone. The parcel is located on East Ponderosa Parkway, just north of Route 66, behind the existing commercial development. The proposed development will consist of 169 multi-family residential for-sale units, constructed as 13 three-story buildings. Each building will consist of 13 units ranging from 500 to 1,300 square feet in size. The remainder of the parcel will be common area regulated by the homeowners' association and the property manager. These areas include tree and steep slope resources, common open space amenities, private access easements, drainage, stormwater detention facilities, and civic space.

B. Proposed Rezoning and Development Plan

The applicant, Miramonte Arizona, LLC, is requesting rezoning approval to permit the development of for-sale condominiums consisting of 169 units. The 13 three-story buildings contain 13 units each, ranging from one to three-bedroom units. The unit mix includes the following:

UNIT DESCRIPTION	NO. OF UNITS PER BLDG.	NO. OF UNITS TOTAL
Studio	1	13
1 Bed/1 Bath	4	52

2 Bed/2 Bath	6	78
3 Bed/2 Bath	2	26
	13	169

The minimum density requirement in the HR zone is 10 units per acre and the maximum density allowed is 22 units per acre (within the RPO). However, the site is located within a Suburban Activity Center which supports a maximum density of 13 units per acre. Based on the entire project area (11.97 acres) the Regional Plan supports a total 156 units. The applicant has committed to meeting the City's Residential Sustainable Building Standards. In return for 100% of the units meeting HERS 50 Standard, the applicant may have up to a 25% bonus. This bonus results in an additional 39 units allowed for a total of 195 units, although the proposal is for only 169 units.

The HR zone permits a maximum building height of 60 feet, or 65 feet for buildings with roofs with a pitch greater than 6:12. However the Regional Plan limits building height in a suburban area to three-stories. The highest roofline of the proposed three-story buildings will be just under 48 feet from finished grade.

II. Staff Site Plan Review

On May 28, 2019, the Inter-Department Staff (IDS) approved an application for Site Plan Review of the proposed development subject to successfully obtaining a Direct to Ordinance Zoning Map Amendment (rezoning). A copy of the application is attached to this report.

A. Zoning – City of Flagstaff Zoning Code

If this Direct to Ordinance Zoning Map Amendment request is approved, approximately 11.97 acres will be rezoned to the High Density Residential (HR) zone. Development of the site will be conditioned to the approved site plan and a final development agreement. Any substantial change to the approved site plan would require a new rezoning request and further review and approvals by the Planning and Zoning Commission and City Council. The Site Plan provided includes a preliminary grading plan, preliminary utility plan, resource protection plan, building floor plans and elevations, exterior lighting plan, and preliminary landscaping plan.

i. Site Planning Standards

In accordance with Section 10-30.60.030 of the Zoning Code a site analysis was completed in conjunction with the concept plan for this project that examines the topography of the site, solar orientation, existing/native vegetation types, view corridors, climate, subsurface conditions, drainage swales and stream corridor, and the built environment and land use context.

ii. Resource Protection

There is a Resource Protection Overlay zone on the subject site. The Zoning Code requires 50% of the tree resources to be saved. The developer proposes to save 52.4% of the existing tree resources. In addition to saving trees throughout the site, the site plan shows clusters of trees to be saved at the southern end of the site and along the natural drainage channel. At the northern portion of the site, there is steep slopes that must be protected. The Zoning Code requires 70% of the slope area to be protected. The proposed development protects 70.8% of the slope resources.

iii. Open Space & Civic Space

The HR zone requires 15% of the gross lot area to be Common Open Space (Table 10-40-30.030.A). A minimum of 78,176 square feet of open space is required for the proposed residential project. The applicant is proposing 287,130 square feet of common open space, which is 55% of the site area. Most of the open space is positioned at the northern portion of the site, where the protected steep slope is located.

Section 10-30.60.060.B.1.b of the Zoning Code requires developments with 50 or more dwelling units to provide a minimum of 5% of the site as Civic Space. This space must be accessible to the general public. A

total of 26,059 square feet of civic space is required for this project. The site plan identifies a total of 27,990 square feet of civic space within the residential development, which is 5.4% of the site area. The civic space is divided into three locations on the site. All three include a picnic table and BBQ. The largest area is located at the south corner of the parcel, where the existing ponderosa pines trees will be preserved. This space also serves to buffer the commercial uses from the proposed residential use.

iv. Pedestrian and Bicycle Circulation Systems

The applicant will be installing a 5-foot-wide parkway and 5-foot wide sidewalk along the east side of Ponderosa Parkway. On site, the applicant has proposed sidewalks connecting the buildings, parking areas, the public sidewalks, and the recreational areas. Each building provides bike racks, and the existing FUTS on the west side of Ponderosa Parkway continues into an extensive trail system on McMillian Mesa and ties into Buffalo Park.

v. Compatibility and Architectural Design Standards

Compatibility does not mean "the same as" but rather it refers to how well a new development is sensitive to the character of existing development. The Zoning Code breaks down compatibility into three categories: Patterns of Development, Scale, and Continuity.

Patterns of Development include streetscapes, site relationships, signage, and landscape features. The buildings located along the street frontage have direct pedestrian ties into the public sidewalk. As the development continues up the hillside, the buildings step with the existing topography.

Scale refers to similar or harmonious proportions, overall height and width, the visual intensity of the development, and the building massing. The development breaks up its mass into separate structures that step up the hillside.

Continuity encompasses patterns of development and scale, but also site development, building forms, texture, materials, details, and colors. As further discussed in the Community Character review under the Regional Plan, the building exteriors are in a style compatible with the Flagstaff area. The exterior colors will complement the natural surroundings including utilizing native materials such as malpais stone veneer. The preservation of native pines in and around the buildings adds to the quintessential natural Flagstaff look.

vi. Landscaping

Landscaping plans are not required in conjunction with a Direct to Ordinance Zoning Map Amendment. The applicant provided a conceptual landscaping plan, showing all landscape areas and tree locations. The conceptual plan generally meets the requirements of parking lot landscaping, street buffer landscaping, building foundation, and peripheral buffer landscaping found within Section 10-50.60 of the Zoning Code.

vii. Outdoor Lighting

The subject property is located within Lighting Zone II and is allowed a total of 50,000 lumens per acre. Outdoor lighting plans are not required in conjunction with a Direct to Ordinance Zoning Map Amendment. The developer provided a conceptual outdoor lighting plan. A final lighting plan will be reviewed for compliance at the time of building permit submittal.

viii. Parking

Based on the requirements for market rate units, 302 spaces are required. Guest parking requires an additional 26 parking spaces. This results in 328 total required parking spaces. Since the development is located within a quarter mile of a bus stop, the applicant has taken a 10% reduction in the number of required spaces. By both providing bike racks and protecting resource trees in the parking area there is an additional reduction of 10% allowed. These reductions result in the requirement for 262 parking spaces. The proposed development includes

273 surface parking spaces, including 8 ADA accessible parking stalls. There are also 7 motorcycle parking spaces.

ix. Historic/Cultural Resources

A Cultural Resource Letter Report was completed for the subject property on February 12, 2019. The report states that no archaeological or historic resources of any kind were observed on the property.

B. Public Systems Impact Analysis

i. Traffic/Right-of-Way Impact

The size of this proposed development does not trigger a full Traffic Impact Analysis. In this case, an analysis was required to determine if the access driveways met warrants for a right turn deceleration lane. The analysis showed that the middle driveway, which serves the greatest number of units, required a right turn lane, as shown on the site plan.

ii. Water and Wastewater Impact

A Water and Sewer Impact Analysis (WSIA) was completed by the City on November 30, 2018. The proposed development is located within the City of Flagstaff urban growth boundary and can be served by City water and sewer utilities. Currently there is no infrastructure in the ground on-site to support this development, so all on-site sewer and water systems will have to be designed and built. No off-site water or sewer improvements will be required. It is the developer's responsibility to design and construct all on-site and connecting water infrastructure per the City of Flagstaff Engineering Standards.

Water

The existing 12" water main stops just north of the project's first driveway. The applicant plans to extend the 12" water main across the entire frontage. Extending the waterline in the right-of-way shall be done according to City of Flagstaff Standards.

Wastewater

There is an existing 12" sewer line running within a public utility easement along the southern boundary that will serve this project. The developer also plans to extend the existing 12" sewer line along the Ponderosa Parkway frontage. Tapping the sewer line in the easement and constructing the sewer in the right-of-way shall be done according to City of Flagstaff Standards.

iii. Stormwater Analysis

The project's overarching drainage concept is to provide peak flow stormwater discharge mitigation (detention), partial stormwater runoff volume mitigation (LID ROCV) and improvement to the water quality of site discharges (LID) and onsite stormwater conveyance improvements. Development of the site will meet the peak flow mitigation, total volume mitigation and water quality requirements through the use of surface water storage systems classified as extended detention basins (EDB), which consist of a detention and a retention storage capacity as well as filtration components. As part of the rezoning request a Drainage Impact Analysis (DIA) is required. The intent is to determine any potential adverse downstream drainage impacts and to identify mitigation options. The project is providing on-site volume mitigation required by the DIA to remove any volumetric increases in stormwater runoff from the site. The total volume of stormwater runoff discharged from the site will be mitigated by the retention volume provided within aforementioned EDB's. Water quality improvements consisting of sediment capture components 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 these requirements the developer will mitigate the potential for downstream impacts. Based on the proposed site mitigation measures, the project will not have any additional impacts to the downstream drainage conditions.

C. Residential Sustainable Building Standards

To obtain up to a possible 25% density bonus, this project is meeting the standards listed in Section 10-30.70.040. There are four sections which must be met: 1) Water Resource Protection, 2) Transportation/Air Quality, 3) Waste Reduction During Construction, and 4) Energy Efficiency.

To meet the Water Resource Protection requirement, the landscape design for the development shall not include an oasis zone (hydrozone 1) as otherwise permitted in Section 10-50.60.050(C), Oasis Allowance, and Section 10-50.60.060, Hydrozones. The Transportation/Air Quality requirements are achieved because the development site is located within at least one-quarter mile of a bus stop. In addition, the development is located within at least one-quarter mile of a FUTS trail. The applicant is also considering providing for electric vehicle charging. To achieve the Waste Reduction During Construction requirements, the new development shall have a written solid waste program that includes a plan for the recycling or reuse of all paper, cardboard, plastics, and metals; a plan for the recycling or reuse of all lumber scraps so that they are diverted from the landfill; and a plan for the diversion of all masonry and cementitious materials so that they are diverted from the landfill. The Energy Efficiency component is achieved by applying the HERS rating system. The applicant shall obtain independent third-party verification that the minimum HERS rating has been achieved.

III. Direct to Ordinance Zoning Map Amendment

An application for a Direct to Ordinance 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 and Zoning 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 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; and, whether the amendment should be granted, granted with conditions to mitigate anticipated impacts caused by the proposed development, or denied.

Direct to Ordinance Zoning Map Amendments shall be evaluated based on the following findings:

A. Finding #1:

The proposed amendment must be found to be consistent with and in conformance with the goals and policies of the General Plan and any applicable specific plans. 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.

i. General Plan/Flagstaff Regional Plan (FRP 2030) Process and Analysis Summary

When staff performs a Regional Plan (the "Plan") analysis, staff reviews all maps, text, and goals and policies to determine which are the most relevant in relation to the proposed application. The Plan's Future Growth Illustration on Maps 21 and 22 (same map; one is regional scale and one city scale) and the text of the Plan provide supplemental information for the interpretation of goals and policies. In the case of any conflict between the Future Growth Illustration and the Plan's goals and policies, the goals and policies will prevail. The Future Growth Illustration has two types of land use designations: "Area Types" describe the place-making context of Urban, Suburban, Rural, or Employment, and "Place Types" such as activity centers, corridors, and neighborhoods which provide the framework for the density, intensities, and mix of uses within the area types.

Staff has identified that the subject property is designated as Existing Suburban and is located within a Future Suburban Activity Center on the Plan's Future Growth Illustration. A Suburban Activity Center is an area typically located at the intersection of two collectors or neighborhood streets, with vertical or horizontal mixed use, serving the surrounding neighborhoods. The City's desired Suburban Activity Centers Characteristics include a density of 6-13 units per acre for residential only developments.

ii. <u>Applicable General Plan Goals and Policies</u>

As part of its review, staff identified relevant Regional Plan Goals and Policies that could be applied to support or not support the proposed Zoning Map Amendment. These goals and policies are located within the applicant's narrative. The following is a discussion of how the project generally meets or conflicts with goals and policies in each chapter.

a. Environmental Planning & Conservation (Air Quality, Climate Change and Adaptation, Dark Skies, Ecosystem Health, Environmentally Sensitive Lands, Natural Quiet, Soils, and Wildlife)

The parcel consists of native ponderosa pine trees, slope resources, and a waterway which will be preserved. A stand of ponderosa pine trees is located off Ponderosa Parkway near the retail businesses. This stand of trees will be preserved which serves to buffer the commercial uses from the residential, provide patrons of the commercial business with a visually appealing natural environment, and provide native habitat for wildlife. Policy OS.1.5 encourages the integration of open space qualities into the built environment. The project breaks up the mass of the development, steeps the design to work with the topography, and protects trees throughout the site.

b. Water Resources (Water Sources, Water Demand, Stormwater and Watershed Management, and Water Quality)

As shown on Map 21, and referenced in Policy WR.4.3. "Development requiring public utility services will be located within the Urban Growth Boundary," the Property is located within the Urban Growth Boundary. There is existing water infrastructure in Ponderosa Parkway and existing sewer adjacent to the site that can support the proposed project. There are no off-site improvements required for sewer or water service. The proposed development complies with the findings of the Drainage Impact Analysis discussed in the Public Systems Impact Analysis section of this report.

In addition, the existing waterway across the southeastern portion of the property will be maintained, as well as the majority of existing trees growing along side it. Policy WR.5.1 encourages development to preserve and restore existing natural watercourse corridors.

c. Efficient Use of Energy Goals and Policies

The Regional Plan Policy E.1.4 promotes cost-effective, energy-efficient technologies and design in all new buildings for residential construction. The project proposes to include several design features that help increase energy efficiency as listed in the developer's narrative. In addition, the applicant has committed to meeting, and in some cases exceeding, the Residential Sustainable Building Standards required by the code to receive a density bonus.

d. Community Character (Scenic Resources and Natural Setting, Heritage Preservation, Community Design, and Arts, Sciences and Education)

Although the Project will be located on a hillside, it is set back behind a row of commercial uses. The buildings will be three-stories tall but will not be built on the top of the slope. This should keep the buildings from protruding above the top of hill and interfering with view corridors of surrounding residential properties as encouraged in Policy CC.1.1. The building exteriors are in a style compatible with the Flagstaff area. Exterior colors will complement the natural surroundings including utilizing native materials such as malpais stone

veneer. The homeowners' association will be tasked with ensuring the Project remains well maintained and visually appealing. As discussed above, the preservation of native pines in and around the buildings adds to the quintessential natural Flagstaff look. Policy CC.1.2. states that development should continue to define and further develop the community character by incorporating the natural setting into the built environment at all design scales.

e. Growth Areas & Land Use (Reinvestment, Greenfield, Urban Area, Suburban Area, Rural Area, Employment Area, Special Planning Area, and Activity Centers)

The Project is located within an area identified as an activity center which includes an older strip mall and four newer commercial properties along Route 66. An influx of residents to this area, in walking/biking/bus distance will continue to spur development of the current businesses and increase employment opportunities. Sidewalks, trails, bike paths, and permanent bus routes are already in place for connectivity from the Project to nearby retail and commercial businesses. The Project itself is designed to provide pedestrian flow and access to the adjacent commercial area. Because the Project meets many of the redevelopment goals, the FRP30 supports flexibility and a rezoning of the parcel to encourage a project with higher densities such as the one proposed. The rezoning would bring more residents into the area for the mutual benefit of the preexisting commercial activity. A more concentrated residential use in this area lessens the need for development towards the peripheral of the urban growth boundary. To the extent the development consists of new construction on a vacant lot, the project meets multiple FRP30 greenfield policies. The multi-family units range from studio to 3-bedroom. The applicant has committed to provide 16 "Attainable Housing Units." These units will be disbursed throughout the development to the greatest extent feasible (with no exterior difference between the attainable and market rate units). The units will be sold at or below 100% of of the Area Median Income ("AMI") affordability level.

The Ponderosa Parkway/ Route 66 area has been clearly designated as a future activity center. FRP30 and Flagstaff's High Occupancy Housing Specific Plan acknowledge that activity centers are the most appropriate locations for high density residential development. The visual appearance of the project was designed to be compatible with the natural setting and surrounding area. Given the hilly topography in the activity center, the location of the commercial development strung along the corridor, and real estate available for residential construction, a mixed-use project on this parcel would be geographically isolated. Instead of mixing uses on a single parcel, the project provides a residential component to compliment the more disbursed commercial and recreational uses nearby. The immediate connectivity to alternative transportation and major roadways, ties these uses together to create an activity center that blends the pre-existing with the new in a way that suites the location. In this location, this mix of uses across parcels is fitting. The increase in vehicular traffic resulting from an increased density to the project location will not infringe on nearby residential areas. The only vehicular access to the project is from Route 66 onto Ponderosa Parkway. Beyond that, Ponderosa Parkway terminates on private church property without a public outlet to the McMillan Mesa area. Both roadways and public portion of Ponderosa Parkway are built out to accommodate high volumes of traffic and the City fire station. In addition, the project will have three entrances off Ponderosa Parkway, the second entrance from Route 66 includes a right turn lane. The entrances provide good flow within the development and accommodates Ponderosa Parkway peak flow times.

This project can foster the planned growth in the activity center in a manner compatible with many goals and policies of the FRP30, including Goal LU.18. Develop well designed activity centers and corridors with a variety of employment, business, shopping, civic engagement, cultural opportunities, and residential choices and Policy LU.18.4. Encourage developers to provide activity centers and corridors with housing of various types and price points, especially attached and multifamily housing.

f. Transportation (Mobility and Access, Safe and Efficient Multimodal Transportation, Environmental

Considerations, Quality Design, Pedestrian Infrastructure, Bicycle Infrastructure, Transit, Automobile, Passenger Rail and Rail Freight, Air Travel, and Public Support for Transportation)
The location of project meets FRP30 goals by tying into current existing energy efficient alternative transportation systems, namely the Flagstaff Urban Trail System (FUTS), bus routes for NAIPTA (Northern Arizona Intergovernmental Public Transportation Authority), and roadways with bike lanes or shoulders within the pedestrian shed. One NAIPTA bus stop is located near the project while additional stops on two other bus routes are located within a reasonable walking distance giving bus riders access to multiple routes with minimal transfers. The developer and NAIPTA are exploring participation in NAIPTA's EcoPass program so the homeowners' association can provide bus passes to residents thereby encouraging bus ridership and supporting NAIPTA. The Ponderosa Parkway and Route 66 intersection has traffic lights and crosswalks for a safe pedestrian crossing. Residents can take advantage of these modes of transportation to access employment and recreation. The FUTS trail overlaps the Arizona Trail near the project which also leads to McMillian Mesa and the trail system at Buffalo Park. The Project proposes 5 bike racks for each building to accommodate over 60 bikes throughout the development. Because the Project is centrally located near a railroad crossing, residents will have easy access to other parts of town by way of the Butler Road corridor and I-40 in addition to Route 66.

g. Neighborhoods, Housing, and Urban Conservation
Rezoning to a higher density is appropriate given the zoning and uses surrounding the parcel. Approximately one-third of the parcel is framed by Highway Commercial (HC) zoning, primarily built out as retail with separate access points. The commercial and residential uses will not share a driveway. A higher density development would be mutually beneficial to these commercial neighbors. Another third of the parcel abuts Ponderosa Parkway. The land on the west side of Ponderosa Parkway is zoned Rural Residential (RR), but includes a City fire station. The remainder of the parcel is lined with RR zoning that is currently vacant. However, the natural features of the area limit feasible construction. The slope on a portion of the parcel serves as a buffer between the lower density property adjacent to parcel and the proposed higher density. Although later residential construction may fill in around the parcel, the proposed higher density is effectively insulated.

h. Economic Development
The Project's contribution to the Suburban Activity Center and redevelopment of a mixed-use neighborhood are discussed above. The project helps achieve Goal ED.8: to promote the continued physical and economic viability of the region's commercial districts by focusing investment on existing and new activity centers.

B. <u>Finding #2</u>
To meet the finding the proposed amendment must be determined not to 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.

The applicant identifies this project as a multi-family development which provides entry-level ownership opportunities and much needed "Attainable Housing" for moderate income residents. The project includes 16 for-sale housing units for up to 100% area median income (AMI). The proposed project facilitates efficient use of the current commercial and transportation corridors and contributes to the growth of a preexisting mixed-use neighborhood. The required civic space also provides an amenity to the community and protects a cluster of existing ponderosa pines adjacent to the existing commercial development to the south.

C. <u>Finding #3</u>
To meet the finding the affected site must be determined to be 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 believes that the proposed application meets this finding. The Inter-Division Staff reviewed the application and concluded that the site was suitable for the proposed development. The IDS team based its conclusion on the review of all applicable codes and requirements as well as impact analysis for the site. Any potential impacts were mitigated by the applicant and no off-site improvements are required to serve this development.

IV. DEVELOPMENT AGREEMENT

A draft development agreement, attached to this report, has been prepared and continues to be negotiated throughout the review of this project. The primary purpose of this agreement is to set out roles and responsibilities in regard to the administration of the Attainable Housing units and the Residential Sustainable Building Standards.

V. CITIZEN PARTICIPATION

Public hearings before the Planning and Zoning Commission and City Council are conducted in conjunction with requests for Direct to Ordinance Zoning Map Amendments. In accordance with State Statute, notice of the public hearing was provided by placing an ad in the 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) of the site excluding rights-of-way.

The applicant held one neighborhood meeting regarding this case on May 1, 2019 at 5:30 pm. The meeting was held at the Flagstaff Aquaplex, located at 1702 North Fourth Street in Flagstaff. Per the sign-in sheets, ten (10) individuals attended the meeting. A Neighborhood Meeting Report, attached, was prepared in response to the questions, comments and concerns presented. The meeting began with an introduction of the proposed development by the Applicant, with an overview of the development's components and design. In a charrette-style interaction, the Applicant encouraged attendees' written contribution of any comments or concerns about the proposed development, which were then discussed with the group.

The applicant requested to waive the requirement for a second meeting. This request was approved by the Planning Director.

No letters or emails from the public has been received as of the writing of this report.

RECOMMENDATION:

Staff recommends the Planning and Zoning Commission, in accordance with the findings presented in this report, forward the Direct to Ordinance Zoning Map Amendment request to the City Council with a recommendation for approval of case PZ-17-00227-03, subject to the following four conditions which will be included into the zoning map amendment ordinance:

1. The subject property must be developed in accordance with the approved site plan and the conditions of approval dated May 28, 2019. Modifications (other than minor modifications) to the approved site plan will require an amendment to this Direct to Ordinance Zoning Map Amendment request.
2. All other requirements of the Zoning Code and other City codes, ordinances and regulations, shall be met by the proposed development.
3. All terms, conditions, and restrictions detailed within the "Development Agreement Miramonte at Ponderosa Parkway Condominiums" must be fully satisfied.
4. In the event the property is rezoned and the Developer fails to obtain final Civil Plan approval within two (2) years of the effective date of the rezoning ordinance, then the City may schedule a public hearing before the City Council for the purpose of causing the zoning on the Property to revert to the former classifications of Rural Residential (RR) in accordance with A.R.S. § 9-462.01.

Attachments:

- Application
- Area Context Map
- Legal Notice
- Project Narrative
- Regional Plan 2030 Analysis
- Citizen Participation Plan and Meeting Report
- Draft Development Agreement
- NAIPTA correspondence and draft agreement
- Approved Site Plans

RECEIVED
MAY 16 2019

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

RECEIVED
FEB 21 2019

PREZ/PGM

Application for Zoning Map Amendment and/or Minor Regional Plan Amendment

Date Received	File Number
JAN 22 2019	PZ-17-00227-03

Property Owner(s)	Title	Phone	Email
Ponderosa Parkway, LLC	Owner		jkemmerly@miramontehomes.com
Mailing Address			**City, State, Zip**
4578 N. 1st Ave, Ste 160			Tucson, Az 85750
Applicant(s)	**Title**	**Phone**	**Email**
Miramonte Arizona, LLC	Developer	520-237-6116	jkemmerly@miramontehomes.com
Mailing Address			**City, State, Zip**
102 S. Mikes Pike St			Flagstaff, Arizona 86001
Project Representative)	**Title**	**Phone**	**Email**
Jack Kemmerly	VP of Land Development	520-237-6116	jkemmerly@miramontehomes.com
Mailing Address			**City, State, Zip**
102 S. Mikes Pike St			Flagstaff, Arizona 86001

Requested Review ☒ Zoning Map Amendment ☐ Minor Regional Plan Amendment ☐ Continued

Site Address	Parcel Number(s)	Subdivision, Tract & Lot Number
1650 E. Ponderosa Parkway	107-07-002-E	
Existing Zoning District	**Proposed Zoning District:**	**Existing Regional Plan Land Use Category**
Rural Residential	High Density Residential (HR)	Suburban Activity Center
Existing Use	**Proposed Use**	
Vacant	Multi-Family Residential	

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)	Proposed Regional Plan Land Use Category
	(same) Suburban Activity Center

Property Owner Signature(required)	Date:	Applicant Signature	Date:
	1/22/19		1/22/19

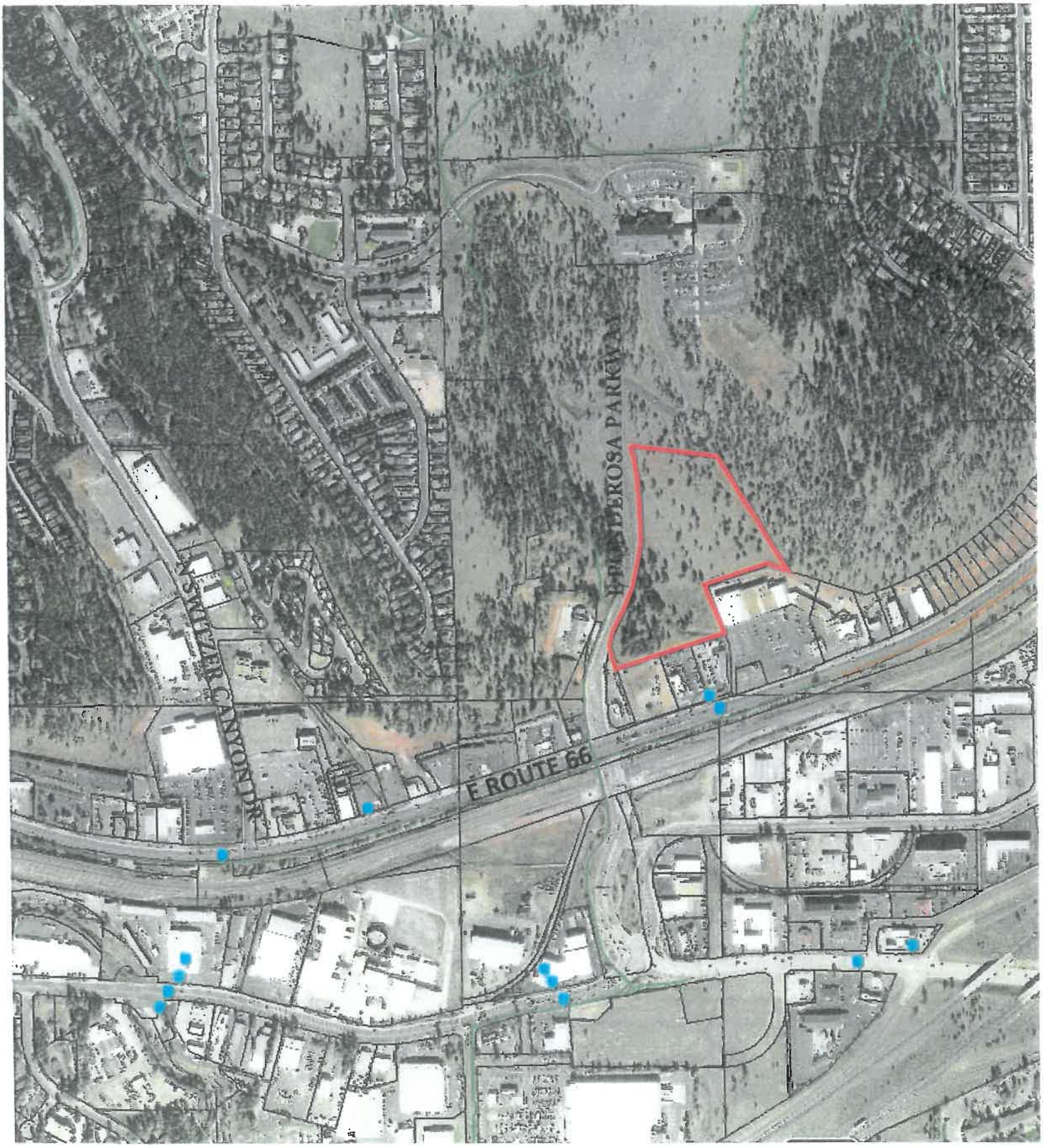
For City Use

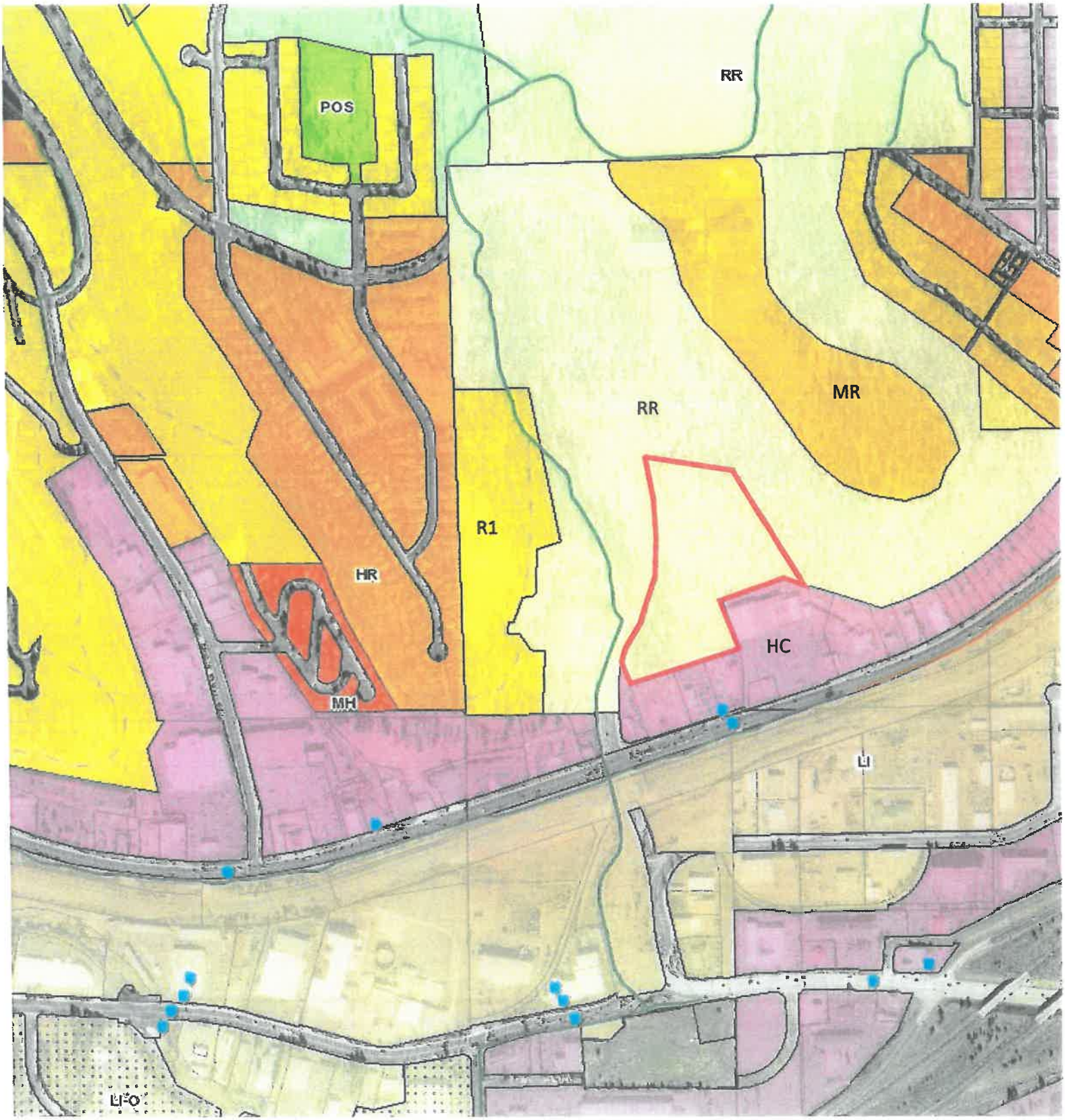
Date Filed:	File Number(s):		Type of Zoning Map Amendment:
P & Z Hearing Date:	Publication and Posting Date:		☐ Small scale
Council Hearing Date:	Publication and Posting Date:		☐ Medium scale
Fee Receipt Number: 1903838	Amount:	Date:	☐ Large scale
			☐ Multi-phase scale

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
	Max	Dana	Kent	Scott Kim	Doug

Rev. 2/10/14


E ROUTE 66
N SWITZER CANYON DR


POS
RR
RR
MR
R1
HR
MH
HC
LI
LI-O

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Flagstaff Planning and Zoning Commission will hold a Public Hearing on Wednesday, August 14, 2019, at 4:00 p.m. and the Flagstaff City Council will hold a Public Hearing on Tuesday, August 27, 2019, at 6:00 p.m. to consider the following:

A. Explanation of Matters to be considered:

1. A proposed amendment to the official City of Flagstaff zoning map to rezone 11.97 acres from Rural Residential (RR) to High Density Residential (HR) for the purpose of multi-family residential development.

The site currently consists of land owned by Ponderosa Parkway LLC at 1650 East Ponderosa Parkway.

B. General Description of the Affected Area:
Approximately 11.97 acres, Coconino County Assessor's Parcel Number 107-07-002E, situated in the SW Quarter of Section 14, Township 21 North, Range 7 East, located at 1650 East Ponderosa Parkway, City of Flagstaff, Coconino County, Arizona.

The Council hearing for these items may be continued if the Planning and Zoning Commission has not given a recommendation.

Interested parties may file comments in writing regarding the proposed amendment or may appear and be heard at the hearing dates set forth above. Maps and information regarding the proposed amendment are available at the City of Flagstaff, Planning and Development Services Section, 211 West Aspen Avenue.

Unless otherwise posted, all Planning and Zoning Commission and City Council meetings are held in the Council Chambers of City Hall, 211 West Aspen Avenue, Flagstaff, Arizona.

PROPOSED ZONING MAP AMENDMENT
From Rural Residential (RR) to High Density Residential (HR) for the purpose of multi-family residential development



ADDRESS:	1650 East Ponderosa Parkway,
APN:	107-07-002E
ACRES:	Approximately 11.97 Acres
	City of Flagstaff
	Coconino County

FOR FURTHER INFORMATION CONTACT

Alaxandra Pucciarelli
Planning Development Manager
Planning & Development Services
211 West Aspen Avenue
Flagstaff, Arizona 86001
(928) 213-2640
apucciarelli@flagstaffaz.gov

Jack Kemmerly
Ponderosa Parkway, LLC
Miramonte Homes, LLC
102 S. Mikes Pike Street
Flagstaff, Arizona 86001
(928) 774-0028
jkemmerly@miramontehomes.com

Publish: July 27, 2019

Miramonte at Ponderosa Parkway

Zoning Map Amendment - Narrative

Introduction

Ponderosa Parkway, LLC (Applicant) is proposing to amend the City of Flagstaff's Rural Residential (RR) designation for parcel 107-07-002-E to a High Density Residential (HR) use. The proposed multifamily development will consist of 169 for-sale residential condominium units in 13 buildings on the now-vacant parcel. The buildings will modestly rise three-stories and be thoughtfully arranged to preserve a stand of native ponderosa trees and retain open space on the most publicly visible portions of the parcel. In addition to entry-level ownership pricing of the development, ten percent of the total units will be part of a private affordable housing program facilitated by the condominium homeowners' association. In addition, the project will utilize sustainable building practices including water resource protection, energy efficiency, transportation/air quality, and waste reduction during construction.



Figure 1: Proposed building type rendering

August 5, 2019

Application Procedure

The Zoning Map Amendment will be performed through the Direct Ordinance with a Site Plan Submittal process. The proposed project conforms with the Flagstaff Regional Plan 2030 and does not require a Regional Plan Amendment. Ponderosa Parkway, LLC made their first Site Plan submittal to the City of Flagstaff on 10/30/18. This Site Plan entitlement was approved on 5/28/19 by Community Development Staff. This will be a Large-Scale Zoning Map Amendment (100+ residential units) as designated by the City of Flagstaff Zoning Code. A Water Sewer Impact Analysis (WSIA) completed on 12/6/18 concluded that the existing water and sewer infrastructure in Ponderosa Parkway is adequate to serve the proposed project. The proposed HR use meets the intent of the Suburban Activity Center.

Improvements

The 11.96-acre parcel will contain 13 condominium buildings with 13 units each ranging from 500 to 1,300 sf in size. The remainder of the parcel will be common area regulated by a new established Homeowners Association & Property Manager. Common areas will include tree & slope resources, amenities, private access easements, drainage, and detention basins.

Regional Plan Analysis

The proposed project meets the intent of the Regional Plan's Suburban Activity Zone completing the mix of uses in the designated Ponderosa Parkway/Route 66 future activity center. The multi-family use compliments the newer commercial developments fronting Route 66 and will help add value to the older Village Shopping Center to the east of the parcel. The 13 condominium buildings will be built into the hillside stepping with the sloping topography and preserving the top of the hillside visible from Route 66. The project delivers a much-needed housing supply of for-sale units to Flagstaff's missing middle-income working class. The project's goal is to offer a variety of units for sale at less than $300,000 in the heart of the city just minutes from downtown. As a mixed-income development, 10% of the units will be deed restricted as part of the private attainable housing program.

Being centrally located and along major corridors, residents will have multiple transportation options available to them including NAIPTA's Mountain Line, bicycle, and pedestrian accessibility. Each unit will be provided a NAIPTA Mountain Line EcoPass by the Homeowner's Association to further entice residents to utilize alternate means of transportation other than personal vehicles that congest Flagstaff's infrastructure. Ponderosa Parkway Condominiums are also located directly along the Arizona Trail, a National Scenic Trail that begins at the US-Mexico border and runs all the way north to Utah. This connects both pedestrians and bicyclists to endless trail systems throughout the FUTS Trail network and beyond for leisure or daily commutes. As identified in the Regional Plan and reinforced by Flagstaff's High Occupancy Housing Plan

(which this project is not subject to), activity centers including this area are the most appropriate locations for higher occupancy housing development as proposed by the Ponderosa Parkway Condominiums.

Attainable Housing

Sixteen condominium units in the Development (10% of the total) will be designated "attainable" units as part of the Ponderosa Parkway Private Mixed-Income Housing Program to be governed by the condominium unit's deed restrictions and be facilitated by the condominium HOA and a contracted third-party nonprofit organization. These Attainable Units are similar "affordable" housing in the City's community land trust program, yet in a condominium, all owners have an undivided interest in the land as part of the legally defined "common elements." This legal ownership structure precludes participation in a community land trust where affordable homes include a ground lease to individual buyers. Through deed restrictions and the HOA, Ponderosa Parkway's private attainable housing program incorporates elements of a community land trust into a private program to bring a new affordable option to Flagstaff home buyers – condominiums.

As with other "affordable" housing, the initial sale of Attainable Units is limited to income eligible buyers for a maximum sales price. Here, eligible buyers would be households of one to 4 persons with an income of 100 percent or less of the City of Flagstaff's Area Median Income Limits (AMI) for the current year. The initial sales price will be no greater than 100 percent AMI maximum home prices for the eligible buyer's income limit.

The Attainable Units will have the same floorplans and exterior appearance as market rate units and be available beginning in the first phase of development. The Attainable Units include studios through three-bedroom units with the unit-mix dictated by the buyer's preference and timing. This flexibility allows the development and delivery of these units to be determined by the qualified buyer's demand. Buyers of Attainable Units will have the same rights and obligations as members of the condominium HOA as owners of market rate units. Energy efficiency features standard on all units will help lower the utility costs for owners across the Development.

As a private program, the Ponderosa Parkway Private Mixed-Income Housing Program should not require City resources to implement. Instead, the HOA will be tasked with operating the program and will have authority to implement and enforce rules and restrictions applicable to all condominium owners, such as limits on short term rentals. To ensure the program starts off well, the Applicant/HOA will contract with a third party nonprofit organization to qualify buyers. The intention is to utilize the same organization that the City of Flagstaff contracts with to qualify buyers for its affordable housing programs. Currently, Housing Solutions of Northern Arizona is

contracted with the City and has graciously provided resources and information for Applicant in creation of the Ponderosa Parkway attainable housing program.

Attainable Units must be owner occupied and the entire Development, both attainable and market rate units, will be subject to rules and restrictions limiting short terms rentals. Ponderosa Parkway Condominium is intended to be a housing community for Flagstaff's work force.

Sustainable Building Standards

The proposed development will meet the standards of Section 10-30.70.040 of the City of Flagstaff Zoning Code for residential sustainable building practices which would entitle Applicant to a housing density bonus of 25%. Applicant will only utilize 8% of the bonus. Each residential building (which includes both market rate and attainable units) in the Project will meet or exceed an energy efficiency score of 50 or lower on the HERS rating system (Home Energy Rating System) and be certified by an independent third party. The appliances included with each unit are ENERGY STAR rated. Other standard features in all units include LED lighting (interior and exterior), use of open cell foam insulation in attics & walls, and low-VOC and formaldehyde free materials (i.e., carpet, cabinets, paint). The project will be pre-wired for six electric vehicle charging stations and is ideally located for use of alternative transportation methods.

In the landscaping plan, Applicant will not include an "oasis zone" of high or moderate water use plants that it would otherwise be entitled to. Low water use, native, and drought tolerant plants will be emphasized with seasonal automatic drip watering systems. Reuse of native materials from the site for landscaping and other construction purposes is planned. The dry creek traversing the parcel will not be relocated and to the extent feasible, native plants will be preserved along the banks. Instead of concrete, the interior sidewalks will be constructed of brick pavers.

Land Development

The parcel consists of slope resources which will be preserved per City of Flagstaff requirements noted on the attached Site Plan. The existing dry creek routed through the southeastern portion of the property will be maintained, with a driveway traversing the eastern edge of the channel. The site will drain within the proposed roadways and their drainage infrastructure which include onsite detention on the east edge of the parcel as noted. New water, solid & liquid waste, gas, electric, and low-volt lines will be installed in the proposed private driveways for the multi-family buildings.

Property & Materials Management

The Property's drive aisles, parking, and surface improvements will be maintained by the Homeowners Association & Property Manager. This includes all snow removal and regular

maintenance activities. This also includes snow removal on the Ponderosa Parkway sidewalk and maintenance of the Ponderosa Parkway landscaping in the right of way. Five double dumpster enclosures are shown throughout the project on the attached Site Plan and meet the minimum 3 cubic yards of trash and recycling each per 20 units. All turning radii meet City of Flagstaff Engineering Standards and trash collection vehicular movement requirements.

Community Benefit

With the applied-for rezoning, the Flagstaff community gains a multi-family development which provides entry-level ownership opportunities plus much needed attainable housing for moderate to low-income (up to 100 percent AMI) residents. The proposed HR use meets the intent of the Suburban Activity Center. The proposed project is located within the Suburban Activity Center at Ponderosa Parkway and Route 66. A higher density residential use is consistent with the Flagstaff Regional Plan 2030 that encourages compact development in current activity centers. The requested rezoning will not change the Regional Plan area or place type. It will simply allow for higher density at an appropriate location which facilitates efficient use of the current commercial & transportation corridors, and contributes to the growth of a preexisting mixed-use neighborhood. Additional information about the suitability of the site for the proposed amendment is included in the Regional Plan analysis.

An Arizona Developer in Our Community

Finally, the Applicant-developer Miramonte Homes is an Arizona based company founded in Tucson, Arizona in 1992. Miramonte now has a Flagstaff office with its principals residing in the Flagstaff community and invested in its future through numerous notable civic organizations, City and County boards, commissions including participation in crafting the Flagstaff Regional Plan 2030, the County Comprehensive Plan, the County Engineering Plan, etc. Miramonte's completed projects throughout Flagstaff and Arizona reflect a track record of quality construction, responsible planning, and meaningful community involvement.

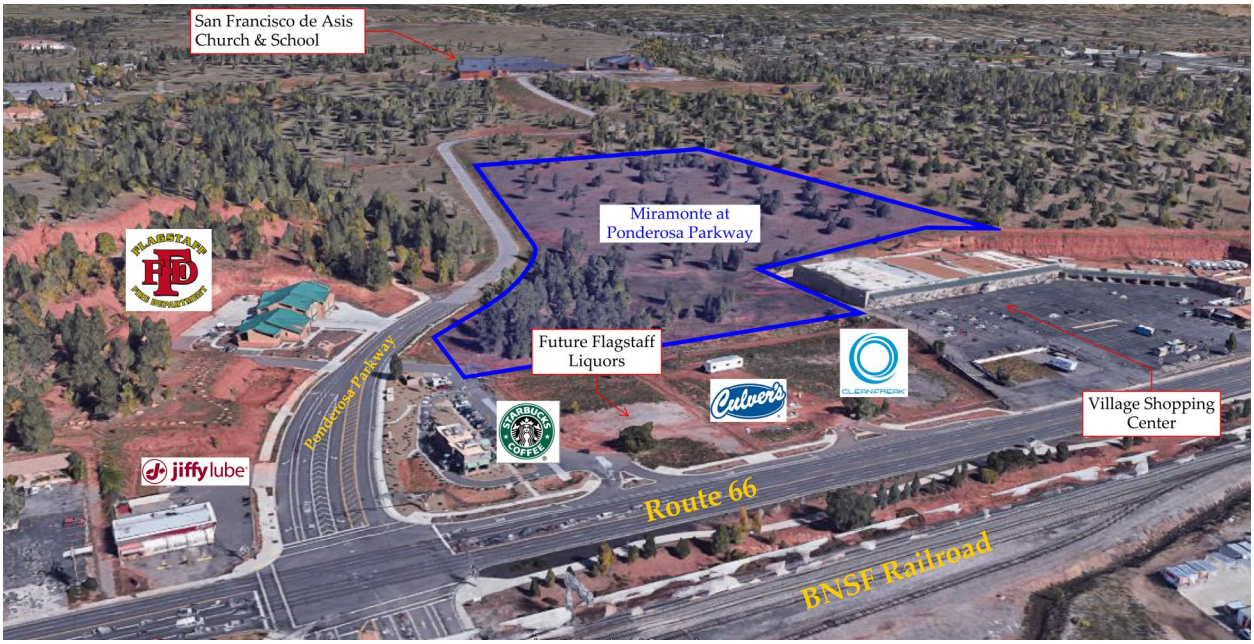
Legal

Sixteenth: SW Quarter: SW Section: 14 Township: 21N Range: 07E PCL LAND SW4 SEC 14; COM SW COR SEC 14; TH N 88-40-05 E 498.63'; TH N 88-46-22 E 94.31'; TH N 88-33-15 E 97.00'; TH N 88-33-15 E 17.13'; TH N 88-49-16 E 33.06' TO PT ON CURVE,RADIUS N 83-36-13 E; TH NLY 266.06' ALNG SAID CURVE, HAVING CENTRAL ANGLE OF 22-52-57 & RADIUS OF 666.20' TPOB; TH CONTINUING NLY 91.43' ALNG SAID CURVE, CENTRAL ANGLE OF 07-51-49 RADIUS 666.20'; TH N 24-20-59 E 100.00' TO BEG OF CURVE CONCAVE TO W, RADIUS PT N 65-39-01 W; TH NLY 161.97' ALNG SAID CURVE, CENTRAL ANGLE OF 16-52-24, RADIUS 550.00'; TH CONTINUING ALNG SAID CURVE 30.02', CENTRAL ANGLE 03-07-38; TH N 04-20-59 E 128.87' TO BEG OF CURVE CONCAVE TO W, RADIUS PT N 85-39-01 W; TH NLY 516.81' ALNG SAID CURVE, CENTRAL ANGLE OF 11-36-44, RADIUS 2550.00';TH S 81-54-10 E 435.11'; TH S 25-00-00 E 595.79'; TH S 71-30-21 W 320.98'; TH S 18-30-39 E 251.55'; TH S 71-29-50 W 566.31'; TH N 18-16-58 W 121.42' TPOB.

Miramonte at Ponderosa Parkway

Regional Plan 2030 Analysis

Ponderosa Parkway, LLC (Applicant) is proposing to amend the City of Flagstaff's Rural Residential (RR) designation for parcel 107-07-002-E to a High Density Residential (HR) use in connection with the Miramonte at Ponderosa Parkway project. As part of the rezoning, the project must be assessed for compatibility with the Flagstaff Regional Plan 2030 (FRP30). The Project is not only consistent with, but also assists the community to meet many of the City's important development goals and policies set forth in the FRP30 including providing the residential component of the future Suburban Activity Center at Ponderosa Parkway / Route 66.



Introduction

The Miramonte at Ponderosa Parkway condominium project (Project) will consist of 169 multi-family residential units built in 13 buildings on an approximately 11.97-acre vacant parcel. The buildings will be 3-stories tall and consist of 13 units each. The remainder of the parcel will be common area to include tree & slope resources, amenities, private access easements, drainage, and detention basins. The Project will be regulated and maintained by a new established homeowners' association.

August 5, 2019

The development will include 16 attainable housing units dispersed throughout the project for qualified buyers (up to 100 percent area-median income (AMI)). Both the market rate and attainable housing units are currently proposed as for-sale condominiums. By allowing the rezoning, the Flagstaff community gains a compact multi-family development in a current activity center which provides entry-level ownership opportunities and much needed attainable housing for moderate income residents.

Overview

FRP30 notes that the national trend is moving towards smaller houses, smaller lots, multi-family, and multi-generational housing; yet the primary construction over the last 10 years in Flagstaff has been single family home subdivisions (FRP30 IX-3). This Project offers alternatives to these subdivisions that is in line with national trends by placing a multi-family development in a current activity center. Instead of building out towards the edges of the development boundaries, this Project ties into preexisting infrastructure, commercial opportunities, and transportation options to access employment in a central location. According to FRP30, the parcel is in a Suburban Activity Center centered at Ponderosa Parkway and Route 66. The requested rezoning will not change the FRP30 area or place type, it will simply allow for higher density at an appropriate and economically viable location. In FRP30, activity centers are considered the most appropriate location for higher occupancy housing developments.

Narrative

The right project at the right site. To casual observers, hearing about a project on Ponderosa Parkway may conjure ideas of more construction on the beloved open space atop McMillan Mesa, that is not accurate with the proposed development. The Project location is tucked behind a row of commercial buildings (including Starbucks, Culvers, and Clean Freak car wash) and is bounded by a large strip mall along Route 66.



Figure 1: View looking north from Route 66 at Starbucks (left), Culvers (middle), & Clean Freak Car Wash (right)

Efforts to incorporate and preserve the natural environment and resources reflect the thoughtful layout of the development. The proposed 169 units will not be housed in a single monolithic building that dominates the neighborhood. Instead, the units are dispersed through 13 attractive

buildings that modestly rise three stories. The buildings are strategically placed on the parcel and incorporated into native stands of trees to create an appealing, natural layout for residents.

The buildings will not rise above the hill or interfere with the viewshed of the surrounding residential areas or neighboring church. They will be appropriately built "into" the hillside instead of "on top" the hillside. This is a more costly building approach, but results in the preservation of an unbroken expanse of hillside at the top of the slope and parcel, the portion most visible to the public from nearby roadways. Lower portions of the development will be shielded from public view with stands of native ponderosa pines to be preserved per the proposed Site Plan.

Homebuying choices for the working class. The Project may be of higher density, but it is not structured to be a student housing development. Attainable units must be primarily owner occupied and all units will be subject to restriction requiring rentals be to a minimum thirty days to encourage owner-occupancy, not vacation rentals. The Project will be marketed as an option for Flagstaff's working residents facing ever rising housing costs. In addition to the for-sale permanent attainable housing component, the units are priced so that home ownership is available to this working middle class. The Project will feature a range of units including studios, one-bedroom, two-bedroom, and three-bedroom condominium units to accommodate families of all sizes at varying price points, all of which will be ENERGY STAR certified by a third party. The Applicant aims to offer a variety of units at less than $300,000. The energy efficiency of the residences and common areas will keep utility expenses in check.

The Project increases an overlooked option – condominiums – to the homebuying residents of Flagstaff. These units will be newly constructed in a community designed from the outset as permanent residences, a benefit that may be lacking in condominiums converted from rental apartments.

FRP30 notes that the growth areas in the last 10 years have primarily been single family subdivisions. This condominium development offers the Flagstaff community a choice of something other than a single-family home on a lot. With the homeowner's association responsible for maintenance and repairs of the common areas and building exteriors, condominiums provide an option for residents to age in place. The Project's close proximity to public transportation further extends independent living feasibility.

A residential addition paired with pre-existing commercial uses. The parcel is currently zoned Rural Residential, and the proposed rezoning seeks to continue the residential nature, albeit with a higher density. Although some new projects may provide mixed use within the project itself,

mixed uses on this parcel would undermine the future Activity Center contemplated by FRP30. Instead, the Project provides the residential component required to create mixed-use across the broader activity center. This is an appropriate scale given the location on Route 66 and pre-existing commercial uses. The very convenient alternative transportation ties these uses together and creates a new sense of place lacking in the current area.

Moreover, the adjacent commercial uses will benefit from the increased foot traffic within walking and biking distance. At the time of this submittal, there is no business operating at the former Albertson's grocery store a very short walking distance of the Project. Currently, the minimal residential uses in the area suggest that consumers are either passing by or "commuting" in to patronize the businesses. This Project infills a critical residential gap in the space between the east and west sides of town instead of creeping towards the edges of the development boundary further drawing consumers away from the pre-existing commercial activities.

To satisfy the City's goal of Ponderosa Parkway / Route 66 growing into a Suburban Activity Center, there must be residential options available. The High Occupancy Housing Specific Plan recognizes that activity centers are an appropriate location for this increased density.

The community benefits from the injection of density at a site where the infrastructure and commercial uses support it. The development is proposed in an area along Route 66 currently seeing little residential growth or options for such growth. This unique parcel in the heart of Flagstaff along major corridors and in close proximity to public transportation, bicycle, and pedestrian sidewalk and trail options that should be high-density residential to maximize these benefits listed for future homeowners. This project provides much needed connections and infill infrastructure from the downtown through the 4th Street corridor as championed in the Regional Plan.

The most relevant FRP30 goals and policies are discussed and identified below and organized roughly into topics covered by the corresponding FRP30 chapters.

Growth Areas & Land Use – FRP30 Chapter IX

The Project is located within an area specifically identified as an Activity Center in the FRP30 which includes an older strip mall and four newer commercial properties along Route 66. Just beyond the Project's pedestrian shed is a shopping center where the anchor store front sits vacant. An influx of residents to this area, in walking/biking/bus distance may spur development of the current under endorsed businesses and increase employment opportunities. Sidewalks, trails, bike paths, and permanent bus routes are already in place for connectivity from the Project to three schools, a Community Center, and the area retail and businesses. The Project itself is designed to provide stress-free pedestrian flow and access to the adjacent commercial area.

Because the Project meets many of the redevelopment goals and the Activity Center goals, the FRP30 specifically supports flexibility and a rezoning of the parcel to encourage a project with higher densities such as the one proposed. The rezoning would bring more residents into the area for the mutual benefit of the preexisting commercial activity. A more concentrated residential use in this area lessens the need for development towards the peripheral of the urban growth boundary.

This project also contributes to the community by meeting or exceeding the following Goals and Policies of the Flagstaff Regional Plan;

> Goal LU.1: Invest in existing neighborhoods and activity centers for the purpose of developing complete, and connected places.
>
> Policy LU.1.1. Plan for and support reinvestment within the existing city centers and neighborhoods for increased employment and quality of life.
>
> Policy LU.1.6. Establish greater flexibility in development standards and processes to assist developers in overcoming challenges posed by redevelopment and infill sites.
>
> Policy LU.1.7. Consider creative policy and planning tools (such as transfer of develop rights or transfer of development obligations) as a means to incentivize redevelopment and infill.
>
> Goal LU.5. Encourage compact development principles to achieve efficiencies and open space preservation.
>
> Policy LU.5.1. Encourage development patterns within the designated growth boundaries to sustain efficient infrastructure projects and maintenance.
>
> Policy LU.5.2. Promote infill development over peripheral expansion to conserve environmental resources, spur economic investments, and reduce the cost of providing infrastructure and services.
>
> Policy LU.5.3. Promote compact development appropriate to and within the context of each area type: urban, suburban, and rural.
>
> Policy LU.5.4. Encourage development to be clustered in appropriate locations as a means of preserving natural resources and open space, and to minimize service and utility costs, with such tools as Transfer of Development Rights (TDR).

To the extent the Project consists of new construction on a vacant lot, the Project also meets multiple FRP30 greenfield policies. Multi-family units ranging from studio to 3-bedroom with attainable housing disbursed throughout (with no exterior difference between the attainable and market rate units). As discussed in the transportation section below, the Project's access to alternative transportation facilitates connectivity to other areas.

> Policy LU.2.1. Design new neighborhoods that embody the characteristics of Flagstaff's favorite neighborhoods – that is, with a mix of uses, a variety of housing types and densities, public spaces, and greater connectivity with multimodal transportation options.
>
> Policy LU.2.2. Design new development to coordinate with existing and future development, in an effort to preserve viewsheds, strengthen connectivity, and establish compatible and mutually supportive land uses.

Suburban Areas – FRP30 Chapter IX

The Project's ideal central location provides convenient access to alternative transportation methods. A public-private partnership with NAIPTA is being actively negotiated for the Project's homeowners' association to purchase EcoPasses for each of the Project's 169 units. The Project is near NAIPTA bus stops going both directions on Route 66 with direct links to both the Downtown and Mall Connection Centers for transfers to all other NAIPA route lines. A short walk from the Project are bus stops for purple Route 7 (Butler, Huntington, Fourth Street) and green Route 3 (Butler, Soliere) shown on Figure 3. These lines also stop at the Greyhound station on Butler Avenue and near the Amtrak passenger rail station on Route 66 for out of town travel without parking hassles.

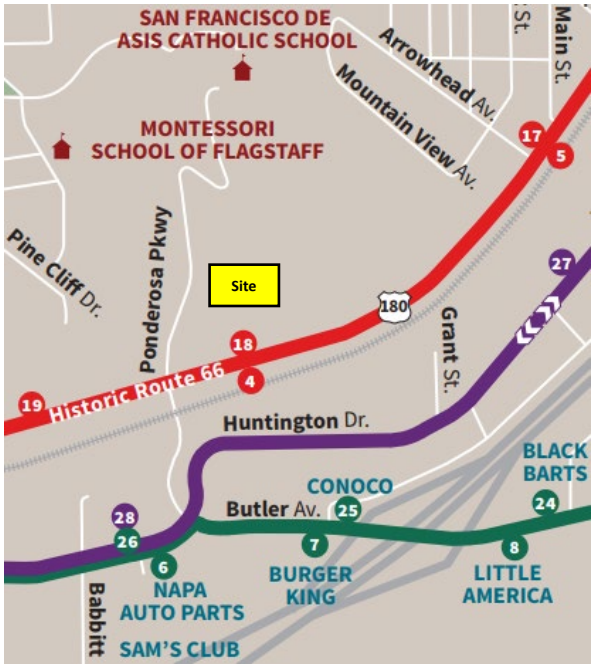


Figure 2: NAIPTA Route Map

The Project is also ideally located for making use of the Flagstaff Urban Trail System (FUTS) that runs along Ponderosa Parkway. From the Project, the FUTS can be taken to three schools, West to a community Center, North for recreational purposes to the McMillan Mesa trails and adjacent Buffalo Park trails with access to the Mt. Elden trail system. This portion of the FUTS also doubles as a section of the magnificent Arizona Trail, a legendary, and historic 800-mile trail crossing Arizona from Mexico to Utah. The FUTS trails, bike routes, and bike lanes near the Project (Figure 3) are well developed and mostly paved. The Route 66 trail provides paved FUTS trails along Route 66 in addition to the bike lanes on the road itself.

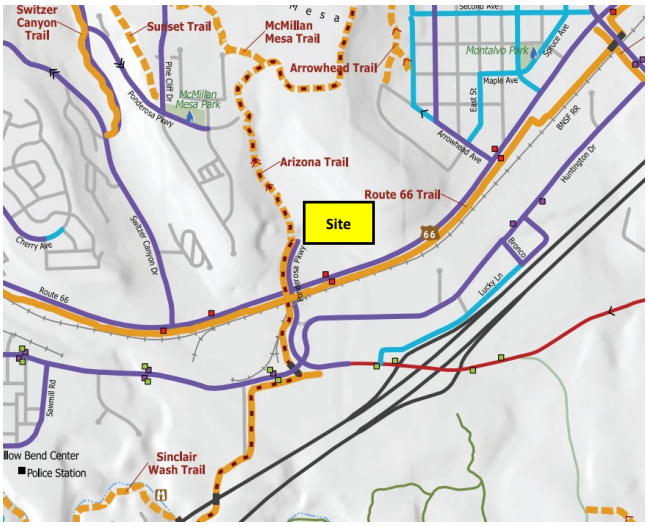


Figure 3: FUTS Trail Map


Figure 4: Butler Ave-Enterprise Underpass

All of this new infrastructure to the networks provides critical infill in the system from the Downtown area to Fourth Street and both North and South FUTS trails. The trails and paths on Ponderosa Parkway south of the railroad crossing have been improved to incorporate a trail underpass for trail users to safely navigate the Butler intersection. The residents of the Project will now benefit from the capital improvements made in the area to encourage alternative transportation.

Goal LU.13. Increase the variety of housing options and expand opportunities for employment and neighborhood shopping within all suburban neighborhoods.

Policy LU.13.1. Prioritize connectivity for walking, biking, and driving within and between surrounding neighborhoods.

Policy LU.13.2. Consider public transit connections in suburban development.

Policy LU.13.3. Consider retro-fitting suburbs for walkability and mixed-use.

Policy LU.13.4. Plan suburban development to include a variety of housing options.

Policy LU.13.9. Use open space and FUTS trails to provide walking and biking links from residential uses to employment, shopping, schools, parks, community centers, and neighborhoods.

Policy LU.13.10. Protect wildlife corridors where appropriate.

Policy LU.13.11. Promote cluster development as an alternative development pattern in appropriate locations as a means of preserving resources and to minimize service and utility costs.

Activity Centers – FRP 30 Chapter IX

The Ponderosa Parkway/ Route 66 area has been clearly designated as a future activity center. FRP30 acknowledges that activity centers are the most appropriate locations for higher occupancy housing development. Although not technically subject to the Flagstaff's High Occupancy Housing Specific Plan, this plan reiterates the community's desire to cluster denser uses in activity centers. As discussed elsewhere, the visual appearance of the Project was designed to be compatible with the natural setting and surrounding area. The Project will not have the outward appearance of a large student housing project that overshadows the surrounding area. Instead, it will generate a sense of place and a compatibility that is specifically designed to comply with the Activity Center goals and policies.

Given the hilly topography in the activity center, the location of the commercial development strung along the corridor, and real estate available for residential construction, a mixed-use project on this parcel would be geographically isolated and unobtrusive. Instead of mixing uses on a single parcel, the Project provides a residential component to compliment the more disbursed commercial and recreational uses nearby. The immediate connectivity to alternative transportation, major roadways, and the FUTS trail system ties these uses together to create an activity center that blends the pre-existing with the new in a way that suites the location. In this location, this mix of uses across parcels is fitting and absolutely contributes and conforms to the Activity Center concepts.

The increase in vehicular traffic resulting from an increased density to the Project location will not infringe on nearby residential areas. The only vehicular access to the Project is from Route 66 onto Ponderosa Parkway. Beyond that, Ponderosa Parkway terminates on private church property without a public outlet to the McMillan Mesa area. Both roadways and public portion of Ponderosa Parkway are built out to accommodate high volumes of traffic and the City fire station. In addition, the Project will have three entrances into the Project off Ponderosa Parkway, the second entrance from Route 66 includes a right turn lane. The entrances provide good flow within and from the development and accommodates Ponderosa Parkway peak flow times.

As noted, the area is designated as a "future" activity center. This is a thoughtful project that can foster the planned growth in the activity center in a manner compatible with many goals and policies of the FRP30 such as the ones cited below.

> Goal LU.18. Develop well designed activity centers and corridors with a variety of employment, business, shopping, civic engagement, cultural opportunities, and residential choices.
>
> Policy LU.18.1. Design activity centers and corridors appropriate to and within the context of each area type: urban, suburban, or rural.
>
> Policy LU.18.3. Redevelop underutilized properties, upgrade aging infrastructure, and enhance rights-of-way and public spaces so that existing activity centers and corridors can realize their full potential.
>
> 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.
>
> Policy LU.18.5. Plan for and support multi-modal activity centers and corridors with an emphasis on pedestrian and transit friendly design.
>
> Policy LU.18.6. Support increased densities within activity centers and corridors.
>
> Policy LU.18.8. Increase residential densities, live-work units, and home occupations within the activity center's pedestrian shed.
>
> Policy LU.18.9. Plan activity centers and corridors appropriate to their respective context and scale.
>
> Policy LU.18.13. Promote higher density development in targeted areas where economically viable and desired by the public.
>
> Policy LU.18.14. Endorse efficiency of infrastructure with compact development within targeted activity centers.
>
> Policy LU.18.18. New development within existing activity centers should enhance the existing street pattern to meet the goals and policies of the Regional Plan related to connectivity and complete streets.

Environmental Planning & Conservation; Open Space
FRP30 Chapters IV, V



Figure 5: Trees to be preserved north of Starbucks

The parcel consists of native ponderosa pine trees, slope resources, and a waterway which will be preserved. A large stand of naturally occurring ponderosa pine trees is located off Ponderosa Parkway near the retail businesses. This stand of trees will be preserved which serves to buffer the commercial uses from the residential, provide patrons of the commercial business with a visually appealing natural environment, and provide native habitat for wildlife.

During construction, methods to minimize disruption to slopes and natural resources such as native trees and plants will be employed. The Project will use native and/or drought tolerant plants in its new landscaping areas and utilize passive rainwater harvesting.

> Policy E&C.6.3. Promote protection, conservation, and ecological restoration of the region's diverse ecosystem types and associated animals.
>
> Policy E&C.6.8. Disturbed areas for improvements and landscaping for new developments shall emphasize the use of native, drought-tolerant or edible species appropriate to the area.
>
> Policy E&C.9.2. Construction projects employ strategies to minimize disturbed area, soil compaction, soil erosion, and destruction of vegetation.
>
> Policy OS.1.5. Integrate open space qualities into the built environment.

Water Resources – FRP30 Chapter VI

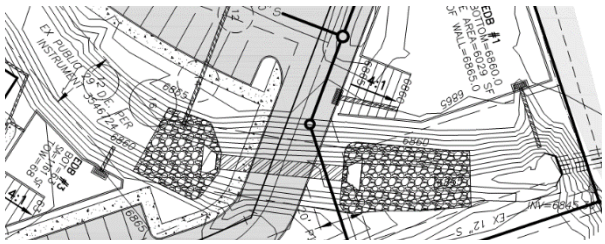


Figure 6: Proposed headwall on Site Plan

The existing waterway routed through the southeastern portion of the parcel will be maintained. The Project includes construction of a headwall east of building 2 to address and prevent additional erosion. Multiple onsite water detention areas will be located on the parcel, remaining flows will drain within the proposed roadways and their drainage

infrastructure. By limiting disruption to the slopes during construction, the native plant material will naturally address precipitation in those areas thereby limiting erosion.

A Water Sewer Impact Analysis (WSIA) was completed on 12/6/18 and concluded that the existing water and sewer infrastructure in Ponderosa Parkway is adequate to serve the proposed project.

> Policy WR.4.3. Development requiring public utility services will be located within the Urban Growth Boundary.
>
> Policy WR.5.1. Preserve and restore existing natural watercourse corridors, including the 100-year floodplain, escarpments, wildlife corridors, natural vegetation, and other natural features using methods that result in a clear legal obligation to preserve corridors in perpetuity, where feasible.
>
> Policy WR.5.3. Identify downstream impacts as the result of development, and provide for mitigation measures to address impacts. When possible, mitigations should be non-structural in nature.
>
> Policy WR.5.6. Implement stormwater harvesting techniques to support water conservation strategies by collecting and using local precipitation in the vicinity where it falls to support both human and overall watershed health needs.
>
> Policy LU.2.4. Utilize Low Impact Development (LID) strategies and stormwater best practices as part of the overall design for new development.

Energy – FRP30 Chapter VII

Energy efficient features and appliances will be standard for both market rate and attainable housing units. These features include LED lighting (interior and exterior), use of open cell foam insulation in attics & walls, and low-VOC and formaldehyde free materials (i.e., carpet, cabinets, paint). All buildings will be ENERGY STAR certified as verified by a certified third-party inspection company. Green Building construction practices will maximize efficiency, minimize waste and avoid pollution of the building site. Utilizing all onsite appropriate soils for backfills, etc. will also minimize our construction carbon footprint.

See the transportation for discussion of how the project contributes to energy efficient modes of transportation.

> Policy E.1.4. Promote cost-effective, energy-efficient technologies and design in all new and retrofit buildings for residential, commercial, and industrial projects.

Policy E.1.5. Promote and encourage the expansion and use of energy-efficient modes of transportation: a. Public transportation b. Bicycles c. Pedestrians

Community Character – FRP30 Chapter VIII

Although the Project will be located on a hillside, this residential area is set back behind a row of commercial and retail uses. The buildings will be three-stories tall, but will not be built on the highest slope portions of the parcel, therefore will not protrude above the top of hill and interfere with view corridors of surrounding residential properties. As with Applicant's other Miramonte developments in the City, the exterior of the buildings will be quality construction in an attractive style compatible with the Flagstaff area. Exterior colors will complement the natural surroundings including utilizing native materials such as malpais stone veneer. The homeowners' association will be tasked with ensuring the Project remains well maintained and visually appealing. As discussed above, the preservation of native pines in and around the buildings adds to the quintessential natural Flagstaff look.



Figure 7: Proposed building front entry

Policy CC.1.1. Preserve the natural character of the region through planning and design to maintain views of significant landmarks, sloping landforms, rock outcroppings, water courses, floodplains, and meadows, and conserve stands of ponderosa pine.

Policy CC.1.2. Continue to define and further develop the community character by incorporating the natural setting into the built environment at all design scales.

Policy CC.1.5. Design development patterns to maintain the open character of rural areas, protect open lands, and protect and maintain sensitive environmental areas.

Policy CC.1.6. Encourage cluster development to preserve open space, viewsheds, and scenic vistas.

Policy CC.3.1. Encourage neighborhood design to be respectful of traditional development patterns and enhance the overall community image.

Policy CC.3.2. Maintain and enhance existing buildings and blend well-designed new buildings into existing neighborhoods.

Policy CC.4.3. Employ design solutions that balance the interface of the natural and built environments, with the most urbanized core activity areas being the most built, and the most rural areas being the most natural.

Policy CC.4.4. Design streets and parking lots to balance automobile facilities, recognize human-scale and pedestrian needs, and accentuate the surrounding environment.

Policy CC.4.5. Encourage local landscaping using Xeriscape, low-impact principles, and native vegetation wherever possible.

Policy CC.4.6. Use landscaping to benefit the environment and improve aesthetics, in order to maximize the economic benefit that a well landscaped community provides.

Transportation; Recreation – FRP30 Chapters X, XV

The location of project meets FRP30 goals by tying in to current existing energy efficient alternative transportation systems, namely the Flagstaff Urban Trail System (FUTS), bus routes for NAIPTA (Northern Arizona Intergovernmental Public Transportation Authority), and roadways with bike lanes or shoulders within the pedestrian shed. One NAIPTA bus stop is located near the Project while additional stops on two other bus routes are located within a reasonable walking distance giving bus riders access to multiple routes with minimal transfers. The developer and NAIPTA are exploring participation in NAIPTA's EcoPass program so the homeowners' association can provide bus passes to Project residents thereby encouraging bus ridership and supporting NAIPTA.

The Ponderosa Parkway and Route 66 intersection has traffic lights and crosswalks for a safe pedestrian crossing. Residents can take advantage of these modes of transportation to access employment and recreation. The FUTS trail overlaps the famous 800 mile long Arizona Trail near

the Project which also leads to three schools, West to a community Center, North for recreational purposes to the McMillan Mesa trails and adjacent Buffalo Park. The Project proposes five bike racks for each building to accommodate a total of over 60 bikes throughout the development. The Project is also ideally located for making exceptional easy use of the Flagstaff Urban Trail System (FUTS) that runs along Ponderosa Parkway for transportation and recreational purposes.

Because the Project is centrally located near a railroad crossing, residents will have easy access to other parts of town by way of the Butler Road corridor and I-40 in addition to Route 66.

> Goal T.1. Improve mobility and access throughout the region.
>
> Policy T.1.1. Integrate a balanced, multimodal, regional transportation system.
>
> Policy T.1.3. Transportation systems are consistent with the place type and needs of people.
>
> Policy T.1.5. Manage the operation and interaction of all modal systems for efficiency, effectiveness, safety, and to best mitigate traffic congestion.
>
> Policy T.3.3. Couple transportation investments with desired land use patterns to enhance and protect the quality and livability of neighborhoods, activity centers, and community places.
>
> Policy Rec.1.1. Integrate active and passive recreational sites within walking distance throughout the region to promote a healthy community for all City and County residents and visitors.

Neighborhoods, Housing, & Urban Conservation – FRP30 Chapter XIII

Rezoning to a higher density is appropriate given the zoning and uses surrounding the parcel. Approximately one-third of the parcel is framed by Highway Commercial (HC) zoning, primarily built out as retail with separate access points. The commercial and residential uses will not share a driveway. A higher density development would be mutually beneficial to these Project neighbors.

Another third of the parcel abuts Ponderosa Parkway. The land on the west side of Ponderosa Parkway is zoned Rural Residential (RR), but includes a large local City fire station. The remainder of the parcel is lined with RR zoning that is currently vacant. However, the natural features of the area limit feasible construction. The slope on a portion of the parcel serves as a buffer between the lower density property adjacent to parcel and the proposed higher density. Although later residential construction may fill in around the parcel, the proposed higher density is effectively insulated.

Policy NH.1.1. Preserve and enhance existing neighborhoods.

Policy NH.1.2. Respect traditions, identifiable styles, proportions, streetscapes, relationships between buildings, yards, and roadways; and use historically appropriate and compatible building and structural materials when making changes to existing neighborhoods, especially in historic neighborhoods.

Policy NH.1.3. Interconnect existing and new neighborhoods through patterns of development, with complete streets, sidewalks, and trails.

Policy NH.1.4. Foster points of activities, services, increased densities, and transit connections in urban and suburban neighborhoods.

Goal NH.3. Make available a variety of housing types at different price points, to provide housing opportunity for all economic sectors.

Policy NH.3.1. Provide a variety of housing types throughout the City and region, including purchase and rental options, to expand the choices available to meet the financial and lifestyle needs of our diverse population.

Policy NH.3.5. Encourage and incentivize affordable housing.

Goal NH.6. Neighborhood conservation efforts of revitalization, redevelopment, and infill are compatible with and enhance our overall community character.

Policy NH.6.1. Promote quality redevelopment and infill projects that are contextual with surrounding neighborhoods. When planning for redevelopment, the needs of existing residents should be addressed as early as possible in the development process.

Policy NH 6.2. Use urban conservation tools to revitalize existing underutilized activity centers to their potential.

Economic Development – FRP30 Chapter XIV

The Project's superb contribution to the Suburban Activity Center and redevelopment of a mixed-use neighborhood are discussed above.

Goal ED.8. Promote the continued physical and economic viability of the region's commercial districts by focusing investment on existing and new activity centers.

Goal ED.9. Promote redevelopment and infill as a well-established means to accomplish a variety of community economic, planning, and environmental goals.

Conclusion

The Miramonte at Ponderosa Parkway condominium project contributes to the Flagstaff community by meeting and exceeding numerous Goals and Policies of the Flagstaff Regional Plan and providing a necessary residential component to develop the Ponderosa Parkway / Route 66 Activity Center and creating a sense of place in an otherwise underutilized area in the center of the City. The large, but visibly subtle build provides infill and higher density at an ideal location along a transportation corridor connected to infrastructure with the capacity to absorb the increase in use. These energy efficient residences geared toward working class residents offer convenient access to alternative transportation and provide economic support to pre-existing commercial uses within walking or biking distance. Preserving an expansive of hillside for open space, conservation of native Ponderosa pine stands, and preventing erosion from a waterway on the parcel benefits residents and the community. Assessing the Project against the Flagstaff Regional Plan demonstrates this is the right project at the right place.

Miramonte at Ponderosa Parkway

Zoning Map Amendment - Citizen Participation Plan

Introduction

Ponderosa Parkway, LLC (Applicant) is proposing to amend the City of Flagstaff's Rural Residential (RR) designation for parcel 107-07-002-E to a High Density Residential (HR) use. The proposed development will consist of 169 multi-family residential units built in 13 buildings on the vacant parcel. The buildings will be 3-stories tall and consist of 13 units each. The development will include 10 percent permanent affordable housing units up to 100 percent area-median income (AMI). The residential units are currently proposed as for-sale condominiums.

Citizen Participation Plan

Neighborhood Meetings

The Applicant will conduct two neighborhood meetings for interested citizens and adjacent property owners that wish to learn about the development and provide input to the development team. The development team will include the Applicant's development team, general contractor, architect, and land owners.

Meeting Structure

Introduction: Circulation of a sign-in sheet, and introduction of the proposed development by the Applicant, with an overview of the development's components and design.

Community Participation: In charrette-style interaction, the Applicant will encourage attendees' written contribution of any comments or concerns about the proposed development, and in particular will solicit attendees' desired community features, amenities, and specific points of concern.

Discussion: Upon collection of the attendees' written responses, the Applicant will discuss some of the comments received and facilitate an open forum discussion with attendees.

Post-Meeting One-on-One: Following the discussion stage, attendees will have the opportunity to discuss the project with various members of the Applicant's team including Project Management, Architects, and City Staff.

February 21, 2019

Record of Proceedings

The Applicant will create a written summary of the meetings, including the dates and locations of the meetings, copies of all letters and other notices of the meetings, the mailing list used by the Applicant, a map showing the location of property owners and potentially affected citizens, the number and names of attendees (including the sign-in sheet), a dated photograph of the sign required under Section 10-20.30.060(D)(6), a summary of concerns, issues and problems expressed during the meeting any materials or information shared by the Applicant with the attendees, and copies of all attendee written comments. This record of proceedings, together with the Director's Certification, will be submitted to the Director with the next formal submission of the Applicant. It also will be copied to all persons listing their names and addresses on the sign-in sheet. To the extent not expressly stated here, the record of proceedings will comply with Section 10-20.30.060(F).

Notice of Public Hearings & Community Meetings

Each property owner within 1,000 feet of the proposed development will be notified prior to each Community Meeting & Public Hearing per Section 10-20.30.080 of the Flagstaff Zoning Code. A form of notice is attached. The exact dates and locations of the meetings are yet to be determined. A map showing the 1000-foot notice area, as well as the mailing list, is attached. Citizens listed on the Registry of Interested Persons will be notified and included in the community meetings. The proposed notification methods will include mailed notifications, newspaper publication, and posting at the proposed development. The on-site sign will comply with the timing and technical requirements of Section 10-20.30.060(D)(6).

To: Alaxandra Pucciarelli & Tiffany Antol, Current Planning - City of Flagstaff
From: Jack Kemmerly, Miramonte Homes
Date: 5/1/19
RE: Ponderosa Parkway Neighborhood Meeting

Dear Alaxandra & Tiffany,

Thank you both for attending our Neighborhood Meeting this evening 5:30pm at the Aquaplex, ending at 6:15pm. We are pleased to report there were no negative comments received from attendees following the presentation of the project. We followed the same framework as our Public Participation Plan and have provided a summary of open-discussion questions below, attached the Attendee Comment Cards, and the Meeting Sign-In Sheet.

Please let us know if you need anything else from Miramonte Homes in the processing of our Neighborhood Meeting requirement for the Rezoning of 1650 E. Ponderosa Parkway.

Sincerely,

Jack Kemmerly
Ponderosa Parkway, LLC
Miramonte Homes

Meeting Attendee Open Discussion Q&A (5:50pm)

Q: Is Ponderosa the only thoroughfare and how many entrances will there be going into the site?
A: Ponderosa Parkway is the only thoroughfare accessing the site. There will be an internal network of two-lane access roads with parking built onsite. There are 3 entrances total on Ponderosa Parkway, the lower entrance and middle entrance connect for vehicular circulation.

Q: Is this project the first and final phase in this area? Are there any additional projects going towards the church?
A: The Ponderosa Parkway Condominiums (169 units in 13 buildings) is the first & final phase of development by Miramonte Homes in the Ponderosa Parkway area. There will be no additional phases outside of what is proposed on the 1650 E. Ponderosa Parkway parcel in this Zoning Map Amendment.

Q: Is there any green/open space?
A: There are Civic/Open spaces in various pockets throughout the community. They include new landscaping, existing Ponderosa Pine trees, BBQs, and tables. The grouping of trees to the north of the Starbucks driveway will remain.

Q: Who owns the adjacent land to the project?
A: The church owns the parcel that surrounds the north portion of the 1650 E. Ponderosa Parkway parcel, which is north of the Fire Station, north of the Village Shopping Centre, etc.

Q: What is the project time frame?
A: Land development would begin later in 2019 starting with the Ponderosa Parkway roadway improvements. Then proceeding with the on-lot mass grading activities. The project will likely take 3-4 years in its entirety depending on sales and subsequent building starts.

Q: How many total units?
A: 13 buildings with 13 units each for a total of 169 units.

Q: What is the price point?
A: Under $300,000 with 10% of the units being affordable housing up to 100% AMI.

Q: Are the 5 buildings on the hill going to be 3 story?
A: They will, but they will be cut into the hill and their foundations will step with the topography.

Q: Is there fencing surrounding the property?
A: No, the property will remain open. There will be safety railing where required by code for fall protection.

Q: How will these be set up so people working in our town who need affordable housing buy these as opposed to parents buying for students
A: We will be marketing towards the "Missing Middle," Flagstaff's working residents. Including police officers, fire fighters, city staff, nurses, etc who serve the community and hardly make enough to cover Flagstaff's rising living expenses. We will do everything we can to sell to locals.

Q: Can anyone buy the unit and rent it out to someone else?
A: We have a 30-day minimum rental period in the Condominium Declarations governed by the HOA. 1-2 day short term rentals will not be permitted as these Declarations run with the deed of everyone condominium unit.

Q: Why does it need to be 3 stories?
A: In order to make the project financially viable, the 4 units on the 3rd floors of each building are critical to the project's feasibility. This also drives down costs to be able to obtain lower construction pricing to pass onto buyers at lower purchase prices for these units. Also, to justify the high costs of excavating the large amount of rock necessary to develop this site, it is

essential to build more efficient vertically instead of covering more ground area and excavating more rock.

Q: How many parking spaces do you have per building?
A: We are required to have 273 parking spaces for the entire project by code, and we are providing 273 parking spaces.

[RECORDING HEADER AND MARGINS]

Return to:
City Clerk
City of Flagstaff
211 West Aspen Ave.
Flagstaff, AZ 86001

DEVELOPMENT AGREEMENT

Miramonte at Ponderosa Parkway Condominiums

THIS DEVELOPMENT AGREEMENT ("Agreement") by and between the City of Flagstaff, an Arizona municipal corporation ("City") and Ponderosa Parkway, LLC, an Arizona limited liability company ("Developer") (individually "Party" or collectively "Parties") is made this _____ day of _____, 2019.

RECITALS

A. A.R.S. § 9-500.05 authorizes City to enter into development agreements with landowners and persons having an interest in real property located in the City. City and Developer acknowledge this Agreement is a development agreement pursuant to this section.

B. Developer is the owner of real property located at 1650 E. Ponderosa Parkway, Flagstaff, Arizona (APN 107-07-002E), which is more specifically described in Exhibit "A" (the "Property").

C. Developer proposes to amend the City of Flagstaff's Rural Residential ("RR") zoning designation for the Property to High Density Residential ("HR"). Developer seeks a Zoning Map amendment by way of Direct Ordinance with a Site Plan process.

D. Developer proposes to develop the Property into a multi-family residential community consisting of up to 169 residential condominium units disbursed through thirteen (13) three-story buildings, civic spaces, and open areas. "Project" herein means the development of the Property for the uses, intensities, and densities currently shown in the submitted Site Plans.

E. Flagstaff City Code Division 10-30.70 provides for a density bonus incentive for new residential developments meeting certain residential sustainable building practices. The Project, as shown in the Site Plans, meets said requirements and is eligible for a density bonus, specifically.

    1. The landscape design for the Project will not include an "oasis zone" as otherwise permitted in Section 10-50.60.050(C) and Section 10-50.60.060 of the Flagstaff Zoning Code;

DRAFT

2. The Project is located within at least one-quarter mile of a Flagstaff Urban Trail System (FUTS) trail or connected to it;

3. The Project site is located within at least one-quarter mile of a bus stop;

4. The Project will have a written solid waste program that includes a plan for recycling or reuse of paper, cardboard, plastics and metals; recycling or reuse of lumber scraps; and diversion of masonry, cementitious and possibly gypsum material from the landfill; and

5. Each residential building in the Project will meet or exceed an energy efficiency score of 50 or lower on the HERS rating system (Home Energy Rating System) and be certified by an independent third party.

F. Developer proposes to voluntarily deed restrict a minimum of ten percent (10%) of the proposed residential units in the Project for attainable housing as detailed below.

G. This Agreement is consistent with the Flagstaff Regional Plan 2030 in effect on the date this Agreement is executed.

H. The City has an interest in ensuring that the development of the Property complies with City standards for development and engineering improvements, 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.

I. The Developer acknowledges that development of the Property pursuant to this Agreement will be beneficial and advantageous to the Developer by providing assurances to the Developer that it will have the ability to develop the Property within the City pursuant to this Agreement, under the zoning described in Recital C above, and in accordance with the Site Plan.

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:

INCORPORATION OF RECITALS

1. Each of the recitals set forth above is incorporated into this Agreement as though fully set forth herein.

DEVELOPMENT AND ENTITLEMENTS

2. Scope of Development. The City and Developer hereby acknowledge that the City of Flagstaff Development Review Staff approved, subject to conditions, the site plan and building

elevations for the Project attached hereto as Exhibit "B" and incorporated by this reference (collectively the "Site Plan"). The Site Plan sets forth the basic land uses, intensity and density of such uses, relative height, bulk and size of buildings and structures proposed by Developer for development within the Property. The Site Plan sets forth required improvements and dedications for the Project. As depicted on the Site Plan, the overall maximum number of multi-family condominium units on the Property is 169 with a total of 299 bedrooms. Notwithstanding the foregoing, the City acknowledges that, while the Developer intends to develop the Project in general conformance with the Site Plan, in order to make the Project economically viable and otherwise feasible, Developer may request amendments to the Site Plan. The City shall process all submittals made by Developer in conformance with its minor site plan modification process, and 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.

3. Zoning Map Amendment. Developer hereby agrees to be subject to the terms, conditions, and stipulations of the rezoning ordinance for PZ-@@ (City Ordinance No. 2019-@@) and Site Plan (PZ-@@). Should the Flagstaff City Council decline to approve the zoning map amendment, this Agreement will automatically become null and void.

4. Housing Density Entitlement; Sustainable Building. Developer will meet the minimum standards under Flagstaff City Code Section 10-30.70.040 for residential sustainable building practices for all units (both attainable and market rate) making Developer eligible for a housing density bonus of 25%. Developer agrees to utilize only eight percent (8%) of the bonus to allow an additional 13 units above the maximum 156 units otherwise allowed for the parcel per the City of Flagstaff Code and Flagstaff Regional Plan 2030. Developer affirms Recital E above and agrees to incorporate the requirements of Recital E(1), (4) and (5), above, into the Project.

5. Development Standards. The development of the Property, as well as the requirements for off-site and on-site public improvements, will be governed by the Flagstaff Zoning Code, ordinances, regulations, rules, guidelines, and policies controlling permitted uses of the site, design review standards, the density and intensity of uses, and the maximum and minimum height and size of the buildings in existence as of the Effective Date of this Agreement will apply. For any development modifications made after five (5) years from the Effective Date of this Agreement, the current codes, ordinances, regulations, rules, guidelines, and standards in effect at the time of submittal shall apply. Regardless of the time of development, current City Engineering Standards, Building Code, Fire Code, and other Code provisions, regulations, rules, and guidelines will apply to the Project.

DEVELOPER OBLIGATIONS

6. Infrastructure Improvements. All on-site roadway, water, sewer, and stormwater improvements and any required public easements are identified on the Site Plan and will be completed by Developer.

7. Homeowners' Association. Prior to the submittal of the first application for a building permit to City and pursuant to a condominium declaration ("Declaration") by Developer,

DRAFT

Developer will form one or more Arizona nonprofit corporations to serve as the homeowners' association(s) ("HOA") for the Project and exercise all rights and obligations as may be granted, undertaken, or assigned to the HOA(s). The Declaration will incorporate the requirements of this Agreement and further provide that either the HOA, a sub-association, or Developer (until such time as Developer, as "Developer," relinquishes control of the HOA(s) to the property owners, as provided in the Declaration) shall manage and maintain the common elements of the Project. The Declaration will identify the HOA that will be assigned all of the Developer's rights and obligations to operate the attainable housing components of the Project.

8. Adjacent Right-of-Way Landscaping Maintenance. All landscaping and irrigation in adjacent right-of-way areas along Ponderosa Parkway shall be maintained by the Developer or its assignee(s).

9. Drainage and Slope Easement. Developer and City will prepare and record a separate drainage and slope easement, including access to maintain the same, clarifying the previous conveyance to the City, as set forth in the Official Records of Coconino County in Instruments 3555010, 3555011, and 3546724.

10. Attainable Housing. The Project will designate a minimum of ten percent (10%) of the total residential condominium ownership units to be initially sold at or below 100% of the Area Median Income ("AMI") affordability level ("Attainable Units") as follows:

a. Attainable Units will range in size from studios to three (3) bedroom units and be dispersed through the Project as feasible. Attainable Units must be occupied by the owner(s) as a primary residence and cannot be rented. The Attainable Units will be available beginning in the first phase of construction with a unit-mix dictated by buyers' preference and construction timing.

b. Developer will assign responsibility for the attainable housing program to an HOA for the Project. Developer or its assignee intends to contract with a third party entity to manage and oversee the buyer income qualification of the attainable housing component of the Project.

c. *Deed Restrictions*. Attainable Units will be subject to permanent deed restrictions or other binding affordability restrictions that run with the land and require transfer of the Attainable Units to another income qualified household for a maximum sales price in a form agreed upon by the City of Flagstaff Housing Director or designee ("Deed Restrictions"). Prior to the conveyance of an Attainable Unit from Developer to a third party purchaser ("Initial Sale"), Deed Restrictions for the particular Attainable Unit incorporating the requirements of this Agreement and will be recorded by Developer in the official records of Coconino County.

d. *Initial Sale Price*. Developer agrees to restrict the Initial Sale of Attainable Units to purchasing households with a maximum household income at or below 100% of the AMI affordability level for Flagstaff based on then current figures as determined by the United States Department of Housing and Urban Development

("HUD") adjusted for household size ("Initial Sales Price"). In determining the Initial Sales Price, the eligible buyers housing expense ratio will not exceed thirty-five percent (35%) without approval by the Director of the City of Flagstaff Housing Section or designee. Developer will offer Attainable Units at a price point at least 25% lower than the market rates for comparable units.

e. *Resale Procedure*. Resale of Attainable Units will be regulated through the Deed Restrictions which will outline the maximum future resale price and define future buyer income eligibility and incorporate the relevant portions of this Agreement regarding attainable housing. The HOA assigned responsibility for the attainable housing program will establish the practical procedures consistent with the deed restriction document and this Agreement for when the owner of an Attainable Unit wishes to sell or transfer the unit. The procedures will address notification to the HOA, commission and payment for a market valuation of the unit (appraisal), and calculation of maximum resale price.

f. *Maximum Resale Price*. The maximum purchase price an Attainable Unit may be sold to a new eligible buyer will be equal to the lesser of: (1) the current appraised value of the Attainable Unit; or (2) the sum of then owner's purchase price of the Attainable Unit plus twenty five percent (25%) of the increase in the market value of the unit if not encumbered (determined by subtracting the purchase price from the current appraised value) ("Maximum Resale Price"). Resale of Attainable Units will be restricted to income eligible buyers with a maximum household income at or below 125% of the AMI affordability level for Flagstaff based on then current HUD figures as adjusted for household size. In determining the Maximum Sales Price, the eligible buyers' housing expense ratio will not exceed thirty-five percent (35%) without approval by the City of Flagstaff Housing Director or designee.

g. If an Affordable Unit is not under contract for sale within 120 days from the date the unit is first listed by the current owner with the Multiple Listing Service or similar real estate listing service, the Deed Restriction for that unit will terminate. If the Attainable Unit is sold without the Maximum Resale Price requirements, the difference between the Maximum Resale Price and the unrestricted market rate purchase price shall be paid to the City of Flagstaff for down payment assistance or comparable direct assistance for up to 125% AMI homebuyers.

h. *Conveyance to an Attainable Housing Program*. Developer may convey any Attainable Unit at the Initial Sale Price with deed restrictions agreed upon by the City of Flagstaff Housing Director or designee to a third party entity that operates an affordable housing program whether for affordable ownership or affordable rentals. An Owner of an Attainable Unit may convey the Unit at the Maximum Resale Price with deed restrictions agreed upon by the City of Flagstaff Housing Director or designee to a third party entity that operates an affordable housing program whether for affordable ownership or affordable rentals.

11. Materials Management. Developer agrees to incorporate infrastructure to support

residents' recycling activities on-site, including the provision of recycling collection locations near those dedicated for trash. During construction, Developer will have a written solid waste program that includes a plan for recycling or reuse of paper, cardboard, plastics and metals; recycling or reuse of lumber scraps; and diversion of masonry, cementitious and possibly gypsum material from the landfill. To the extent feasible, Developer will reuse native materials on-site.

12. Permits and Building Fees. Developer agrees and understands that upon the submittal date of any application or permit, the current fees in effect at the time of submittal shall apply to the Project.

DEFAULT; REMEDIES

13. Events Constituting Default. A Party shall be deemed to be in default under this Agreement if such Party breaches any obligation required to be performed by the respective Party 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.

14. 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 costs of any such mediation shall be divided equally between City and Developer or in a manner as the mediator may order. If the Parties do not agree to a binding resolution, a Party shall be free to initiate litigation upon the conclusion of mediation.

15. Developer's Remedies. In the event that City is in default under this Agreement and fails to cure any such default within the time period required therefore as set forth above, then, in that event, in addition to all other legal and equitable remedies which Developer may have, Developer may terminate this Agreement by written notice delivered to City.

16. City's Remedies. In the event that Developer is in default under this Agreement, and Developer thereafter fails to cure any such default within the time period described above, then, in that event, in addition to all other legal and equitable remedies which City may have, City may terminate this Agreement by written notice delivered to Developer.

17. Development Rights in the Event of Termination. Upon the termination of this Agreement as provided herein, Developer shall have no further rights to develop the Property pursuant to this Agreement.

18. No Personal Liability. No current or former member, official, or employee of City or Developer when acting within the scope of their official capacity shall be personally liable (a) in the event of any default or breach by City or Developer, as applicable; (b) for any amount that may become due to the nonbreaching Party or its successor or assign; or (c) pursuant to any obligation of City or Developer, as applicable, under the terms of this Agreement.

19. Liability and Indemnification. Developer shall indemnify, protect, defend and hold harmless the City, its Council members, officers, employees, and agents for, from and against any

and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, directly or indirectly, in whole or in part, out of the performance of this Agreement by City or Developer, or nonperformance of this Agreement by the Developer.

GENERAL PROVISIONS

20. Effective Date and Term. This Agreement will be effective on the date of recordation, in accordance with A.R.S. § 9-500.05, after execution by Parties ("Effective Date"). The Agreement will automatically terminate thirty (30) years from the Effective Date.

21. Further Assurances. Each Party, promptly upon the request of the other, will take such further actions and will execute, acknowledge and deliver to the other any and all further instruments as may be necessary or proper to carry out the purpose and intent of this Agreement.

22. Successors and Assigns. All of the provisions hereof will inure to the benefit of and be binding upon the successors and assigns of the Parties pursuant to A.R.S. § 9-500.05(D), except as provided below. Developer's rights and obligations hereunder may only be assigned to a person or entity that has acquired the Property or a portion thereof and only by a written instrument, recorded in the official records of Coconino County, Arizona, expressly assigning such rights and obligations. All rights and obligations of Developer under this Agreement will constitute covenants that run with the land and will be binding on all of Developer's respective successors and assigns.

a. Notwithstanding the foregoing, City agrees that Developer's common element ownership, operation, and maintenance obligations provided by this Agreement may be assigned to HOA(s) to be established by Developer.

b. Notwithstanding the foregoing, City agrees that Developer's operation, oversight, and management of the attainable housing components of the Project provided by this Agreement may be assigned to HOA(s) to be established by Developer.

c. Notwithstanding any other provisions of this Agreement, Developer may assign all or part of its rights and duties under this Agreement to any financial institution from which such Developer has borrowed funds for developing the Property or a portion thereof.

23. Entire Agreement. This Agreement contains the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes any prior written or oral understandings or agreements between the Parties. All exhibits attached hereto are incorporated herein by reference as though fully set forth herein.

24. Modification of Agreement. This Agreement may be amended or cancelled in whole or in part at any time by written amendment executed by the Parties or by their successor in interest or assigns. All amendments to this Agreement must be recorded in the official records of Coconino County, Arizona, within ten (10) days following execution, as required by A.R.S. § 9- 500.05(D).

DRAFT

25. 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 any other provision of this Agreement.

26. 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.

27. Terms. Common nouns and pronouns will be deemed to refer to the masculine, feminine, neuter, singular, and plural, as the identity of the person may in the context require; and the word "person" or "party" will include a corporation, limited liability company, firm, partnership, proprietorship, or other form of association.

28. Descriptive Headings. The descriptive headings throughout this Agreement are for convenience and reference only, and the words contained therein will in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

29. Construction of Agreement. This Agreement has been arrived at by negotiation and will not be construed against either Party or against the Party who prepared the last draft.

30. Governing Law and Venue. This Agreement and the rights of the Parties shall be governed by and construed in accordance with the laws of the State of Arizona. and 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 or in the United States District Court for the District of Arizona, if appropriate under 28 U.S.C. § 1331.

31. Cancellation for Conflict of Interest. This Agreement is subject to the cancellation provisions of A.R.S. § 38-511.

32. Attorneys' Fees. 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, as well as expenses incurred in connection with the prosecution or defense of such action. For purposes of this Agreement, the term "attorneys' fees" or "attorneys' fees and costs" will mean the reasonable fees and expenses of in-house and outside counsel to the Parties hereto, which may include reasonable printing, photocopying, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons performing services under the supervision of an attorney, and the reasonable costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The provisions of this Section will survive the entry of any judgment, and will not merge, or be deemed to have merged, into any judgment.

33. Negation of Partnership. The Parties specifically acknowledge that the Project will be developed as private property, that no Party is acting as the agent of any other Party in any respect, and that each Party is an independent contracting entity with respect to the terms,

covenants, and conditions contained in this Agreement. None of the terms or provisions of this Agreement are intended to create a partnership or other joint enterprise between the Parties.

34. No Obligation to Develop Property. Except as expressly set forth in this Agreement, neither City or Developer will be required to complete any part or all of the development of the Property.

35. No Third-Party Beneficiaries. City and Developer acknowledge and agree that the terms, provisions, and conditions of this Agreement are for the sole benefit of, and may be enforced solely by, City and Developer, and none of the terms, provisions, conditions, and obligations are for the benefit of or may be enforced by any third party.

36. Compliance with All Laws. Developer will comply with all applicable Federal, State, County and City laws, regulations and policies.

37. Time of the Essence. Time is of the essence in implementing the terms of this Agreement.

38. Authorization. The execution and performance of this Agreement has been duly authorized by all necessary laws, resolutions, or corporate actions of the respective Parties. The Parties to this Agreement represent and warrant that the persons executing this Agreement have full authority to bind the respective Parties.

39. 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 Developer:

Ponderosa Parkway, LLC
102 S. Mikes Pike Street
Flagstaff, Arizona 86001

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 seventy-two (72) hours following deposit in the United States Postal Service in the manner set forth above.

40. 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 the Developer execute the Agreement, amendment, or cancellation, as required by A.R.S. § 9-500.05.

WAIVER OF CLAIMS

DRAFT

41. Waiver of Claims for Diminution in Value. Developer hereby waives and fully releases any and all financial loss, injury, claims, and causes of action that the Developer may have, now or in the future, for any "diminution in value" and for any "just compensation" under the Private Property Rights Protection Act, codified in A.R.S §§ 12-1131 through 12-1138, in connection with the application of City's existing land use laws and including @Ordinance Number 2019- xx regarding the Property. This waiver constitutes a complete release of any and all claims and causes of action that may arise or may be asserted under the Act with regard to the subject Property. Developer agrees to indemnify, hold harmless, and defend City, its officers, employees, and agents, from any and all claims, causes of actions, demands, losses and expenses, including attorney's fees and litigation costs, that may be asserted by or may result from any of the present or future owners of any interest in the Property seeking potential compensation, damages, attorney's fees, or costs under the Act that they may have, as a result of the application of City's existing land use laws, including @Ordinance Number 2019-xx, upon the Property.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly authorized representatives, and Developer has signed the same on or as of the day and year first above written.

[Signature page follows]

DRAFT

City of Flagstaff, an Arizona municipal corporation

_____
Coral Evans, Mayor
Date_____

Attest:

_____
City Clerk
Date_____

Approved as to form:

_____
City Attorney
Date_____

Ponderosa Parkway, LLC, an Arizona limited liability company

By_____
Its_____
Date_____

STATE OF ARIZONA)
) ss.
County of Coconino)

On this _____ day of _____, 2019, before me, the undersigned Notary Public, personally appeared _____, personally known to me or shown by satisfactory evidence to be the person whose signature appears above, and acknowledged to me that he signed the foregoing document for the purposes therein contained. IN WITNESS WHEREOF, I have set my hand and official seal.

_____
Notary Public

Seal:

DRAFT

Exhibit A

Legal Description

Sixteenth: SW Quarter: SW Section: 14 Township: 21N Range: 07E PCL LAND SW4 SEC 14; COM SW COR SEC 14; TH N 88-40-05 E 498.63'; TH N 88-46-22 E 94.31'; TH N 88-33-15 E 97.00'; TH N 88-33-15 E 17.13'; TH N 88-49-16 E 33.06' TO PT ON CURVE, RADIUS N 83-36-13 E; TH NLY 266.06' ALNG SAID CURVE, HAVING CENTRAL ANGLE OF 22-52-57 & RADIUS OF 666.20' TPOB; TH CONTINUING NLY 91.43' ALNG SAID CURVE, CENTRAL ANGLE OF 07-51-49 RADIUS 666.20'; TH N 24-20-59 E 100.00' TO BEG OF CURVE CONCAVE TO W, RADIUS PT N 65-39-01 W; TH NLY 161.97' ALNG SAID CURVE, CENTRAL ANGLE OF 16-52-24, RADIUS 550.00'; TH CONTINUING ALNG SAID CURVE 30.02', CENTRAL ANGLE 03-07-38; TH N 04-20-59 E 128.87' TO BEG OF CURVE CONCAVE TO W, RADIUS PT N 85-39-01 W; TH NLY 516.81' ALNG SAID CURVE, CENTRAL ANGLE OF 11-36-44, RADIUS 2550.00';TH S 81-54-10 E 435.11'; TH S 25-00-00 E 595.79'; TH S 71-30-21 W 320.98'; TH S 18-30-39 E 251.55'; TH S 71-29-50 W 566.31'; TH N 18-16-58 W 121.42' TPOB.

DRAFT

From: Elizabeth Collins
To: Alaxandra Pucciarelli; Reid Miller
Cc: Kate Morley
Subject: NAIPTA residential ecoPASS
Date: Thursday, April 25, 2019 11:56:42 AM
Attachments: image002.png
Miramonte, residential ecopass 04.18.2019.doc

Hi Alaxandra and Reid, I wanted to give you an update on NAIPTA's conversation with Jack Kemmerly at Miramonte Homes. He was very interested in an agreement to provide an ecoPASS for each unit and bundle the cost into the HOA fee. NAIPTA was able to adapt our existing employer ecoPASS program into a residential ecoPASS. See attached agreement. I understand Jack is now taking this agreement to his HOA organization for review.

Please note that this agreement is a pilot program as we are currently going through a Fare Study. Part 3 of the agreement outlines this:
3. Pilot Program. It is understood that the initial rate of $33.20 per bed is deemed a pilot program and is subject to change after a Fare Study is conducted. However, this agreement will grandfather the proposed development and any future increase, if applicable, will be capped at ten percent (10%) in any given year.

NAIPTA intends to continue offering the residential ecoPASS program to developers as high-density housing developments are proposed. As we reach out to developers, appropriate City staff will be included on the email and updated on any agreements that are made.

Thank you, Bizzy

From: Jacki Lenners
Sent: Friday, April 19, 2019 9:42 AM
To: Jack Kemmerly <JKemmerly@miramontehomes.com>; Jennifer Mott <JMott@awdlaw.com>
Cc: Elizabeth Collins <ecollins@naipta.az.gov>; Kate Morley <kmorley@naipta.az.gov>; Heather Dalmolin <hdalmolin@naipta.az.gov>
Subject: Miramonte, residential ecopass 04.01.2019

Good Morning Jack and Jennifer,

Please find attached a draft of an ecoPASS agreement for Miramonte's residential project on Ponderosa Parkway. I know we went back and forth on the number of units/residents. For the purposes of this agreement, I assumed that fell in the 51-200 range which is the $33.50/pass price point. If it exceeds the 200 mark, the price would go down to $28.50 per pass.

I've copied our Administrative Director Heather Dalmolin on this email, as she oversees our legal agreements. Please feel free to reply all, or contact Heather directly, with any feedback, questions, etc.

Have a wonderful weekend…

Jacki

Jacki Lenners
Marketing Manager
Mountain Line
3773 N. Kaspar Dr., Flagstaff, AZ 86004
W: 928.679.8933
C: 602.791.6879
www.mountainline.az.gov

ML Logo for Email



Attention: This message is intended only for the individual to whom it is addressed and may contain information that is confidential or privileged. If you are not the intended recipient, or the employee or person responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use is strictly prohibited. If you have received this communication in error, please notify the sender and destroy or delete this communication immediately.

AGREEMENT FOR TRANSIT PASSES

THIS AGREEMENT FOR TRANSIT PASSES ("Agreement") is entered into by, between and among the Northern Arizona Intergovernmental Public Transportation Authority, a corporate body and political subdivision of the State of Arizona ("NAIPTA"), and Miramonte Homes ("Developer") authorized to conduct business in the State of Arizona. NAIPTA and Developer are collectively referred to herein as "Parties," or individually as a "Party."

RECITALS:

A. NAIPTA is a public intergovernmental public transportation authority created pursuant to the provisions of Arizona Revised Statutes, Title 28, Chapter 26, and is responsible for providing certain public transit services in the City of Flagstaff, including the campus of Northern Arizona University.

B. Developer is the owner of Miramonte at Pondersosa Parkway, (the "Property"), within the City of Flagstaff.

C. Residents of the City have identified mitigation of traffic congestion as a significant community goal. Developer has proposed, as a means of mitigating traffic congestion, an agreement whereby the residents would purchase Residential ecoPASSes through their HOA fees for the next 10 years.

D. NAIPTA is authorized to enter into this Agreement with Developer pursuant to the provisions of A.R.S. § 28-9124.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals and mutual promises set forth in this Agreement, NAIPTA and Developer agree as follows:

1. Purpose. The purpose of this Agreement is to set forth the terms and conditions pursuant to which NAIPTA will provide to the Property a residential ecopass program for all households. The pass will provide access to all Mountain Line Transit routes within the City of Flagstaff.

2. Payment by Developer. Developer will pay NAIPTA the sum of $33.50 per bed for 10 years, adjusted annually to reflect changes in the Transportation Consumer Price Index, for the Term of this Agreement. Payments will be made in 4 equal quarterly installments of the annual fee due for total beds of _____, in advance, on the first day of each quarter beginning with July 1, 2019.

3. Pilot Program. It is understood that the initial rate of $33.20 per bed is deemed a pilot program and is subject to change after a Fare Study is conducted. However, this agreement will grandfather the proposed development and any future increase, if applicable, will be capped at ten percent (10%) in any given year.

4. **General Provisions.**

4.1 Term. This Term of this Agreement shall be for ten (10) years, unless terminated sooner as provided herein and will autorenew for 10 years in perpetuity unless notice is provided by either party no less than 180 days prior to the authorenewal.

4.2 Notices and Filings. All notices, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and (i) delivered personally, (ii) sent by recognized courier service for next business day delivery or (iii) sent by certified United States Mail, postage pre-paid and return receipt requested, if to:

NAIPTA:		Developer:
With Copy to:		With Copy to:

or to such other address or addresses as may hereafter be specified by notice given by any of the above for itself to the others. Any notice or other communication directed to either Party shall become effective upon the earliest of the following: (a) actual receipt by that Party; or (b) thirty-six (36) hours after deposit with the United States Postal Service, addressed to the Party.

4.3 Default. Failure or unreasonable delay by a Party to perform or otherwise act in accordance with any term or provision hereof shall constitute a breach of this Agreement. Any breach not cured within thirty (30) days after written notice is received from another Party, shall constitute a default under this Agreement; provided, however, that if the failure is such that more than thirty (30) days would reasonably be required to perform such action or comply with any term or provision hereof, then the Party shall have such additional time as may be necessary to perform or comply so long as the Party commences performance or compliance within said thirty (30) day period and diligently proceeds to complete such performance or fulfill such obligation. Any notice of a breach shall specify the nature of the alleged breach and the manner in which said breach may be satisfactorily cured, if possible. The thirty (30) day period shall not apply where an ordinance or statute requires NAIPTA to perform or otherwise act in a period in excess of thirty (30) days.

4.4 Dispute Resolution. If a dispute arises out of or relates to this Agreement and if the dispute cannot be settled through negotiation, the Parties agree that there shall be a forty-five (45) day moratorium on litigation while the parties first try in good faith to resolve the dispute by mediation before resorting to some other dispute

resolution procedure. Mediation will be self-administered and conducted under the CPR Mediation Procedures established by the CPR Institute for Dispute Resolution, 366 Madison Avenue, New York, New York 10017, (212) 949-6490, www.cpradr.org with the exception of the mediator selection provisions, or the procedures used by the Alternative Dispute Resolution ("ADR") Program at the Coconino County Superior Court. The parties shall agree upon a attorney mediator, failing which on the application of either party to the Director of the ADR Program ("Director") at the Coconino County Superior Court, an attorney mediator will be appointed promptly by the Director for that purpose. Each party agrees to bear its own costs in mediation. The Parties will not be obligated to mediate if an indispensable party is unwilling to join the mediation. This section does not constitute a waiver of a Party's right to initiate legal action if a dispute is not resolved through good faith mediation, or if provisional relief is required under the Arizona Rules of Civil Procedure.

4.5 Choice of Law and Venue. Any dispute, controversy, claim or cause of action arising out of or related to this Agreement shall be governed by the substantive law of the State of Arizona, without regard to principles of conflicts of law. The sole and exclusive venue for any such dispute shall be the Superior Court of the State of Arizona, in and for the County of Coconino, and each Party waives the right to object to venue in Coconino County or to remove an action from such court for any reason. The Parties confirm that this Section 5.6 has been separately bargained for and constitutes additional consideration for NAIPTA's entering into this Agreement.

4.6 Good Standing and Authority. The Parties represent and warrant that each is duly formed and validly existing under applicable state laws and that the individuals executing this Agreement on behalf of their respective Party are authorized and empowered to bind the Party on whose behalf each such individual is signing.

4.7 Assignment. The provisions of this Agreement are binding upon and shall inure to the benefit of the Parties, and all of their successors in interest and assigns; provided; however, that a party's rights and obligations hereunder may be assigned, in whole or in part, only to a person or entity that has acquired any applicable property rights and has expressly assumed all of the rights and obligations of the assigning party.

4.8 Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other agreement between the Parties. No term or provision of this Agreement is intended to, or shall be for the benefit of any person or entity not a party hereto, and no such other person or entity shall have any right or cause of action hereunder.

4.9 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof; and no waiver of any breach shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant, or condition of this Agreement. No waiver shall be effective unless it is writing and is signed by the Party asserted to have granted such waiver.

4.10 Further Documentation. The Parties agree in good faith to execute

such further or additional instruments and documents and to take such further acts as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

4.11 Fair Interpretation. The Parties have been represented by counsel in the negotiation and drafting of this Agreement and this Agreement shall be construed according to the fair meaning of its language. The rule of construction that ambiguities shall be resolved against the Party who drafted a provision shall not be employed in interpreting this Agreement.

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

4.13 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

4.14 Computation of Time. In computing any period of time under this Agreement, the date of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so completed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or Legal holiday. The time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. (Arizona time) on the last day of the applicable time period provided herein.

4.15 Conflict of Interest. This Agreement is subject to the terms of Arizona Revised Statutes § 38-511.

4.16 Entire Agreement. This Agreement, together with the following Exhibits attached hereto (which are in incorporated herein by this reference) constitutes the entire agreement between the Parties.

All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written are superseded by and merged in this Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) written below.

NAIPTA:

By: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Dickinson Wright PLLC
NAIPTA General Counsel

DEVELOPER:

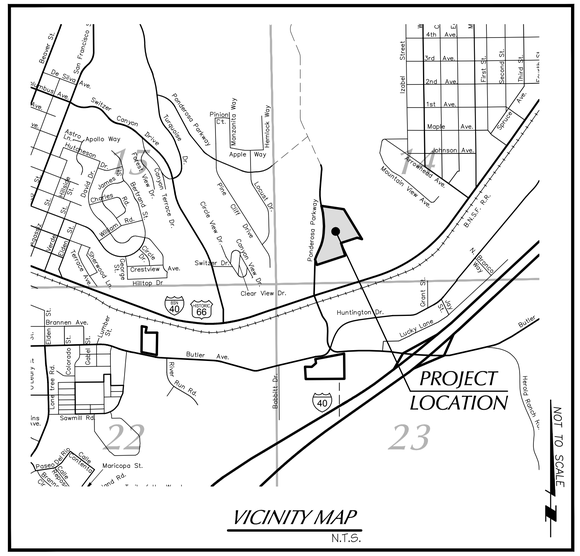
_____
an Arizona limited liability company

By: _____
Its: _____
Date: _____

.

LEGEND & ABBREVIATIONS

———	CENTERLINE (CL or ℄)
———	RIGHT OF WAY (R.O.W.)
———	PROPERTY LINE (PL or ℗)
— EX W —	EXISTING WATER LINE
8"W	NEW WATER LINE (WL)
8"S	NEW SEWER LINE (SL)
FS	NEW FIRE SERVICE (FS)
WS	NEW WATER SERVICE (WS)
BSL	NEW BUILDLING SUPPLY LINE (BSL)
SS	NEW SEWER SERVICE (SS)
EX S	EXISTING SEWER MANHOLE
S	NEW SEWER MANHOLE (MH)
	EXISTING EDGE OF PAVEMENT / CURB
	NEW EDGE OF PAVEMENT / CURB
	PUBLIC UTILITY EASEMENT (PUE)
GL	GRADING LIMITS (GL)
EX OVHD	EXISTING OVERHEAD UTILITY LINE (EX OVHD)
	EXISTING FIRE HYDRANT (EX FH)
	NEW FIRE HYDRANT (FH)
	EXISTING WATER VALVE (EX WV)
	NEW WATER VALVE (WV)
	EXISTING WATER METER (EX WM)
	NEW WATER METER (WM)
	EXISTING STREET LIGHT (EX SL)
	NEW STREET LIGHT (SL)
X-ING	CROSSING
RP	RADIUS POINT
R	RADIUS
IS	INTERSECTION
DC	DEPRESSED CURB
BC	BACK OF CURB (TOP)
FC	FACE OF CURB (TOP)
BSW	BACK OF SIDEWALK
FSW	FACE OF SIDEWALK
C&G	CURB AND GUTTER
EOP	EDGE OF PAVEMENT
S/W	SIDEWALK
PKY	PARKWAY
D/W	DRIVEWAY
℄ or FL	FLOWLINE
EG	EXISTING GRADE
FG	FINISH GRADE
EOL	END OF LINE BLOWOFF
TS&V	TAPPING SLEEVE and VALVE
SDMH	STORM DRAIN MANHOLE
DB	DRAIN BASIN
CB	CATCH BASIN
TW	TOP OF WALL
GB	GRADE BREAK
(TYP)	TYPICAL
EX	EXISTING
SHT	SHEET
VG	VALLEY GUTTER
FF	FINISH FLOOR ELEVATION
EA	EACH
LF	LINEAL FEET
SF	SQUARE FOOT
SY	SQUARE YARDS
CY	CUBIC YARDS
D.E.	DRAINAGE EASEMENT
S.E.	SLOPE EASEMENT
G	GUTTER
P	PAVEMENT
C	CONCRETE
LT	LEFT
RT	RIGHT
TRANS	TRANSITION
B.F.P.	BACK FLOW PREVENTION
HC	HANDICAP
MES	MOGOLLON ENGINEERING & SURVEYING, INC.
C.O.F.	CITY OF FLAGSTAFF



VICINITY MAP
N.T.S.

INDEX TO SHEETS

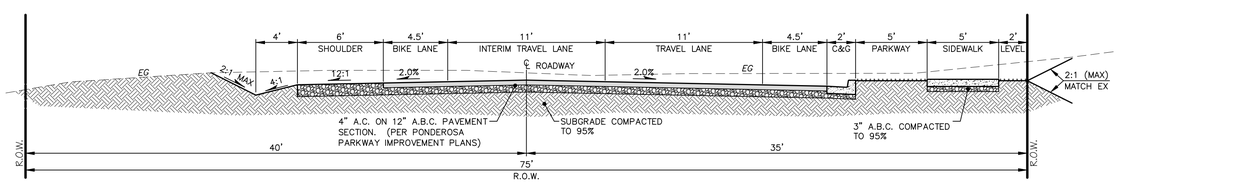
1	COVER SHEET and PROJECT INFORMATION
2	PRELIMINARY GRADING
3	PRELIMINARY UTILITY PLAN
4	RESOURCE PROTECTION PLAN
5	AREA MAP & SITE ANALYSIS
6	PONDEROSA PARKWAY PLAN & PROFILE

UNIT COUNT and PARKING INFORMATION

PARKING CALCULATIONS:	TOTAL UNITS		PARKING REQUIRED PER UNIT	PARKING SPACES
MARKET RATE UNITS				
STUDIO UNITS:	13	x	1.25	16.25 (16)
ONE BEDROOM UNITS:	52	x	1.5	78
TWO BEDROOM UNITS:	78	x	2	156
THREE BEDROOM UNITS:	26	x	2	52
TOTAL UNITS:	169			302
VISITOR PARKING:	*0.25/EACH 2+ BEDROOM = 104*0.25 = 26*			
REQUIRED PARKING:				328 SPACES REQUIRED

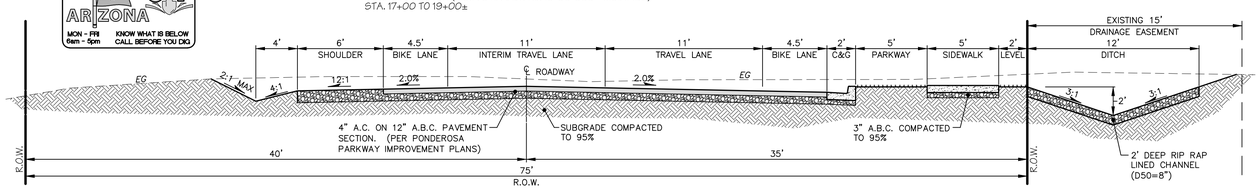
PARKING REDUCTIONS:	20% MAXIMUM = 66 SPACE MAX. REDUCTION
10% PER 10-50.80.060 A (TRANSIT):	33 SPACE REDUCTION
5% PER 10-50.80.060 E (FOREST RESOURCES):	16 SPACE REDUCTION
5% MAX. PER 10-50.80.060 F (BIKE PARKING):	16 SPACE REDUCTION (5 BIKE RACKS / BUILDING) 64 BIKE RACKS / 4 = 16 SPACE REDUCTION
REQUIRED PARKING:	263 SPACES REQUIRED
TOTAL AUTOMOBILE PARKING PROVIDED:	273 (INCLUDING 8 H.C. SPACES)
TOTAL MOTORCYCLE PARKING PROVIDED:	7 (DOES NOT APPLY TO TOTAL)

PRELIMINARY
NOT FOR CONSTRUCTION OR RECORDING



TYPICAL ROADWAY CROSS SECTION
(PUBLIC IMPROVEMENT) N.T.S.
MINOR COLLECTOR (C.O.F. STD. DET. No. 10-09-035 - MODIFIED)
STA. 17+00 TO 19+00±

ARIZONA 811
MON - FRI 6am - 5pm
KNOW WHAT IS BELOW CALL BEFORE YOU DIG



TYPICAL ROADWAY CROSS SECTION
(PUBLIC IMPROVEMENT) N.T.S.
MINOR COLLECTOR (C.O.F. STD. DET. No. 10-09-035 - MODIFIED)
STA. 19+00 TO 25+05±

SITE PLAN
FOR
PONDEROSA PARKWAY

LOCATED IN THE SW 1/4 OF SECTION 14,
TOWNSHIP 21 NORTH, RANGE 7 EAST, G&S.R.M.
FLAGSTAFF, COCONINO COUNTY, ARIZONA

SUSTAINABLE BUILDING STANDARD DENSITY BONUS

MEETS ALL THE MINIMUM STANDARDS AS SPELLED OUT IN THE DEVELOPMENT AGREEMENT PER C.O.F. ZONING CODE SECTION 10-30.70.040

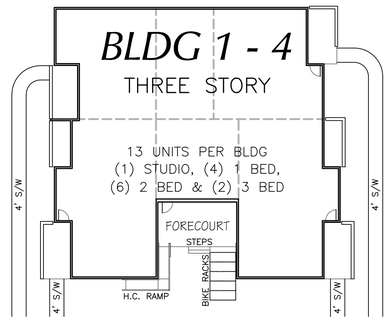
MAXIMUM UNITS ALLOWED PER THE REGIONAL PLAN:	156
PERCENTAGE OF UNITS MEETING HERS 50 STANDARD PER TABLE 10-30.70.303A	100%
DENSITY BONUS FOR 100% OF UNITS MEETING HERS 50 STANDARD:	25%
DENSITY BONUS:	156 x 0.25 = 39
MAXIMUM NUMBER OF UNITS ALLOWED AFTER DENSITY BONUS:	156 + 39 = 195
TOTAL NUMBER OF UNITS:	169 (AFTER DENSITY BONUS)

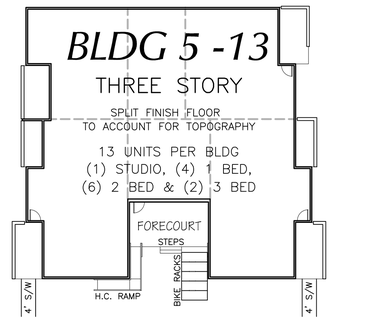
PROJECT INFORMATION

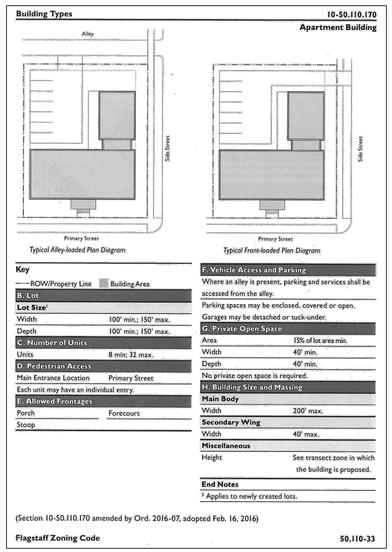
PROJECT NAME:	PONDEROSA PARKWAY
PROJECT LOCATION:	1650 E. PONDEROSA PARKWAY
ASSESSORS PARCEL NUMBER:	107-07-002E
TOTAL SQUARE FOOTAGE:	521,174 PRE R.O.W. DEDICATION
TOTAL ACREAGE:	11.9645± PRE R.O.W. DEDICATION
TOTAL SQUARE FOOTAGE:	519,944 POST R.O.W. DEDICATION
TOTAL ACREAGE:	11.9363± POST R.O.W. DEDICATION
CURRENT ZONING DISTRICT:	RR - RURAL RESIDENTIAL
PROPOSED ZONING DISTRICT:	HR - HIGH DENSITY RESIDENTIAL
REGIONAL PLAN DESIGNATION:	SUBURBAN ACTIVITY CENTER
ALLOWED DENSITY PER THE REGIONAL PLAN:	6 MIN. - 13 MAX. PER ACRE
MAXIMUM UNITS ALLOWED PER THE REGIONAL PLAN:	156
SUSTAINABLE BUILDING STANDARD DENSITY BONUS:	DENSITY BONUS OF 25% (SEE SUSTAINABLE BUILDING STANDARD DENSITY BONUS NOTE ON THIS SHEET)
TOTAL NUMBER OF UNITS:	169 (AFTER DENSITY BONUS)
DENSITY (UNITS PER ACRE):	14.13
CURRENT USE:	VACANT
PROPOSED USE:	CONDOS
FEMA FLOOD ZONE:	ZONE "X" (NO SHADING)
LOCATED WITHIN THE R.P.O. ZONE:	YES
OWNER/DEVELOPER:	PONDEROSA PARKWAY, L.L.C. MR. JACK KEMMERLY 2502 E. RIVER RD. TUCSON, AZ. 85718 (928) 774-0028

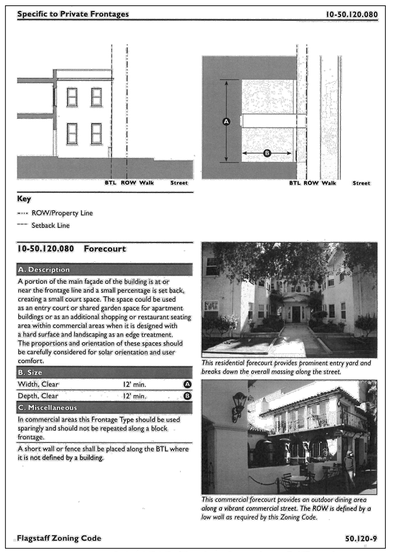
PRELIMINARY BUILDING FOOTPRINTS

SCALE: 1"=20'









Mogollon Inc
ENGINEERING & SURVEYING
411 W Santa Fe Avenue
Flagstaff, Arizona 86001
Phone: 928-214-0214

PONDEROSA PARKWAY
SITE PLAN FOR MIRAMONTE HOMES
COVER SHEET - PROJECT INFORMATION
8/5/19
MES# 18275

PRELIMINARY
NOT FOR CONSTRUCTION OR RECORDING

DATE:	8/5/19
DESIGNED BY:	RC//PKE
DRAWN BY:	RC//PKE
CHECKED BY:	RC//PKE
PROJECT NO.	18275
FN: SHEET01.DWG	
VERT SCALE:	N/A
HOR SCALE:	N/A

REVISIONS- PER C.O.F. COMMENTS DATED 1/25/19
PER C.O.F. COMMENTS DATED 3/1/19
PER C.O.F. COMMENTS DATED 5/2/19
PER C.O.F. E-MAIL DATED 8/2/19

COF PROJECT #PZ-17-00227-01

DEPARTURE SIGHT TRIANGLES
MINOR APPROACH
CLEAR VIEW ZONES

POSTED SPEED LIMIT PONDEROSA PARKWAY = 30
DESIGN SPEED = 30 MPH – PONDEROSA PARKWAY
14.5' FROM MAJOR ROAD TRAVEL WAY

CASE B1 LEFT TURN FROM MINOR (STOP CONTROL)
I.S.D. TO RIGHT=1.47(30)(7.5+0.5)=352.8' (355')

CASE B2 RIGHT TURN FROM MINOR (STOP CONTROL)
I.S.D. TO LEFT=1.47(30)(6.5)=286.6 (290')

NOTE: ALL MINOR ROAD APPROACH GRADES ARE LESS THAN 3%, NO ADJUSTMENT FOR GRADE FOR CASE B1 AND B2 (STOP CONDITION) IS REQUIRED PER A.A.S.H.T.O. STANDARDS.

APPROACH SIGHT TRIANGLES
PONDEROSA PARKWAY: 30 MPH

LOCATION	DIRECTION	ISD (FT)	% GRADE	ADJUSTMENT	ADJ. ISD (FT)
SOUTH DRIVEWAY	NB	140	−4.4%	1.1	154
	SB	140	+4.4%	1.0	140
MIDDLE DRIVEWAY	NB	140	+7%	0.9	126
	SB	140	−7%	1.1	154
NORTH DRIVEWAY	NB	140	+7%	0.9	126
	SB	140	−7%	1.1	154

NOTE: MINOR APPROACH DEPARTURE SIGHT TRIANGLES CONTROL.

OPEN SPACE

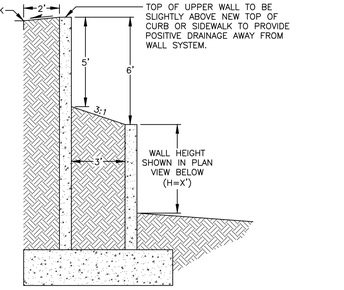
TOTAL LOT AREA:	521,174 S.F.
MINUS CIVIC SPACE:	27,990 S.F.
MINUS IMPERVIOUS SURFACES:	206,054 S.F.
EQUALS OPEN SPACE AREA:	287,130 S.F.
OPEN SPACE PERCENTAGE:	55.09 %

CIVIC SPACE

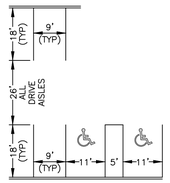
CIVIC SPACE 1:	6,655 S.F.
CIVIC SPACE 2:	4,160 S.F.
CIVIC SPACE 3:	17,175 S.F.
TOTAL CIVIC SPACE :	27,990 S.F.
CIVIC SPACE PERCENTAGE :	5.4 %

RAINWATER HARVESTING REQUIREMENTS

USE ALL NATIVE/DROUGHT TOLERANT PLANTS IN COMPLIANCE WITH COF LANDSCAPING STANDARDS AND UTILIZE PASSIVE RAINWATER HARVESTING.



PRELIMINARY TERRACED WALL DETAIL
PRIVATE IMPROVEMENT N.T.S.



TYPICAL DRIVE AISLE & PARKING SPACES
PRIVATE IMPROVEMENT N.T.S.

SCALE: 1"=40'
0 20 40 80

PARCEL BOUNDARY
S31°26'45"E 865.38'
17%-24.9% SLOPE BOUNDARY
USABLE OPEN SPACE
17%-24.9% SLOPE
SLOPE DISTURBANCE
RETAINING WALL OR CUT PER SOILS REPORT (TYP)
CROWN DITCH ALONG BACK OF WALL TO DIVERT OFF-SITE & ON-SITE EXISTING UNDEVELOPED RUNOFF TO NEW ROADSIDE DITCH (TYP)
DRAINAGE FLOW PATH (TYP)
CROWN DITCH W/ BERM TO DIVERT OFF-SITE & ON-SITE EXISTING UNDEVELOPED RUNOFF TO NEW ROADSIDE DITCH (TYP)
PRELIMINARY FINISH GRADES (TYP)
PRELIMINARY FINISH / FLOOR ELEVATIONS
PRELIMINARY FINISH FLOOR ELEVATIONS
PRELIMINARY FINISH FLOOR ELEVATIONS
PRELIMINARY FINISH GRADES (TYP)
BIKE RACK (TYP AT ALL BLDG'S)
DOUBLE DUMPSTER ENCLOSURE (TYP OF 5)
FIRE DEPT. / TRASH TRUCK TURNAROUND PER D105.1
20' AISLE
26' AISLE
10' PEDESTRIAN CONNECTION
4'x4' MINI L.S. ISLAND (TYP)
5' L.S. ISLAND
6' L.S. ISLAND
RET. WALLS
NEW 6' S/W
NEW 5' S/W
NEW 5' PKY
NEW CURB
NEW EOP
EX EOP
EX. RETAINING WALL
RIP RAP V-DITCH TO DIVERT DEVELOPED RUNOFF TO NEW EXTENDED DETENTION BASIN (TYP)
NEW RETAINING WALLS (TYP.)
OUTLET STR.
EDB #1
BASIN BOTTOM=6860.0
SURFACE AREA=6029 SF
TOP OF WALL=6865.0
EX. TWIN 48"x42" C.B.C.
INV.=6853.6±
EX. 16" P.U.E.
EX. OVHD ELEC.
EXISTING STORMWATER DISCHARGE LOCATION
TOTAL AREA=245 ACRES
Q2=54 CFS; Q10=131 CFS; Q100=306 CFS: PER FINAL DRAINAGE REPORT FOR San Francisco De Asis School and Church, COF DRB #08-083, Dated December 12, 2011.
HW AT Q100= 12.45' (6866.05)
QCAP=180 CFS @ HW/D=1.5 (6858.1)
QCAP=128 CFS @ LEFT OVERBANK OVERTOPPING (6857.1)
OCAP=270 CFS @ HW/D=1.5
EX. A.C. PAVEMENT AND EX. ROADSIDE DITCH TO BE REMOVED AND REPLACED WITH C.O.F. STD. DET. No. 10-09-035 'MINOR COLLECTOR' 1/2 WIDTH PLUS 10' PER DETAILS ON SHEET 1.
SEE SHEET 3 FOR NEW ROADWAY CONDITION.
EX 15" D.E. STOP SIGN
NEW 30" CMP DRIVEWAY CULVERT
NEW RIPRAP V-CHANNEL 3:1 SIDES; D=2'
NEW 26' WIDE M.A.G. 251 D/W
EX 40' R.O.W.
PONDEROSA PARKWAY
75' R.O.W.
35' R.O.W.
23' BOC
CLEARVIEW ZONE 355' RT. (NORTH D/W)
CLEARVIEW ZONE 290' RT. (MIDDLE D/W)
CLEARVIEW ZONE 290' LT. (NORTH D/W)
CLEARVIEW ZONE 290' LT. (MIDDLE D/W)
CLEARVIEW ZONE 355' RT. (SOUTH D/W)
CLEARVIEW ZONE 290' LT. (SOUTH D/W)
EX. 81"x59" CMPA
NEW 26' WIDE M.A.G. 251 D/W
NEW 10' CONC. PUTS
STOP SIGN
EX 30" S.E. ROOF SYSTEM DRAIN (TYP)
STORM DRAIN (TYP)
DRAIN BASIN
DRAIN BASIN (TYP)
EX PUBLIC 29' D.E. PER INSTRUMENT 3546724
EX PUBLIC 29' D.E. PER INSTRUMENT 3546725
POST R.O.W. R=895.74' L=90.98' D=05°49'11" T=45.53'
POST R.O.W. R=884.74' L=306.84' D=20°00'51" T=155.01'
POST R.O.W. R=884.74' L=174.60' D=11°18'28" T=87.78'
POST R.O.W. N25°35'59"E 45.98'
POST R.O.W. N65°29'41"W 11.00'
S18°16'31"E 251.51'
S31°26'45"E 386.06'
N24°33'19"E 247.60'
N18°01'24"W 10.93'
R=765.00' L=79.79' D=05°58'34" T=39.93'
R=200.0'
R=45.0'
R=1648.76' L=521.38' D=18°07'07" T=262.89'
CIVIC SPACE 1 6,655 S.F.
CIVIC SPACE 2 4,160 S.F.
CIVIC SPACE 3 17,175 S.F.
BLDG 1 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 2 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 3 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 4 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 5 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 6 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 7 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 8 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 9 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 10 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 11 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 12 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
BLDG 13 THREE STORY (12 UNITS PER BLDG. (1) 3 BED & (11) 2 BED)
-107-09-001D HARMON STEVEN B and MEGHAN (ZONE HC)
-107-08-004C CF CARWASH FLAGSTAFF LLC (ZONE HC)
-107-08-004E MAYER MOUNTAIN PROPERTIES LLC (ZONE HC)
-107-08-002E NEMEC FAMILY TRUST (ZONE HC)
-107-07-001G 249 A STREET LLC (ZONE HC)
STARBUCKS
-107-07-002H SAN FRANCISCO DE ASIS ROMANS CATHOLIC PARISH FLAGSTAFF (ZONE RR)
50' ACCESS EASEMENT
26' SEWER EASEMENT
C.O.F. FIRE STATION #2

IMPERVIOUS SURFACES

NEW BUILDINGS:	78,689 S.F.
CONCRETE SIDEWALKS:	25,645 S.F.
ON-SITE A.C. PAVEMENT:	99,585 S.F.
TRASH ENCLOSURES:	2,135 S.F.
TOTAL IMPERVIOUS SURFACES:	206,054 S.F.
ROCV REQUIRED:	206,054 x 1/12 = 17,172 C.F.

LOW IMPACT DEVELOPMENT AREA PROVIDED

L.I.D. BASIN	IMPERVIOUS SURFACE (S.F.)	R.O.C.V. REQ'D (C.F.)	R.O.C.V. DEPTH (FT.)	TOTAL ROCV & RET. PROVIDED (C.F.)	ROVC & RET. DEPTH (FT.)	LOCATION
E.D.B. No. 1	105,777	8,815	1.45'	18,520	3.00'	SURFACE
E.D.B. No. 2	68,563	5,714	2.44'	5,873	2.50'	SURFACE
E.D.B. No. 3	14,187	1,182	1.00'	3,765	3.00'	SURFACE
E.D.B. No. 4	17,512	1,459	1.92'	2,547	3.00'	SURFACE

NOTE: FINAL DRAINAGE DESIGN WILL INFILTRATE AND RETAIN (WITH METERING IN 24 TO 36 HOURS) A 100-YEAR DEVELOPED VOLUME SUFFICIENT TO REDUCE TOTAL 100-YEAR VOLUME DISCHARGED FROM THE SITE TO LESS THAN PRE-DEVELOPED 100-YEAR VOLUME.

PRELIMINARY
NOT FOR CONSTRUCTION OR RECORDING

Mogollon Inc ENGINEERING & SURVEYING
411 W. Santa Fe
Flagstaff, Arizona 86001
Phone: 928-214-0214

5/16/19
MES# 18275

PONDEROSA PARKWAY
SITE PLAN FOR MIRAMONTE HOMES
PRELIMINARY GRADING PLAN

DATE:	5/16/19
PROJECT NO.	18275
FN:	SHEET-02.DWG
VERT SCALE:	N/A
HOR SCALE:	1"=40'
DESIGNED BY:	MWE
DRAWN BY:	MWE
CHECKED BY:	KVH

REVISIONS PER C.O.F. COMMENTS DATED 11/8/18
PER C.O.F. COMMENTS DATED 1/25/19
PER C.O.F. COMMENTS DATED 3/11/19
PER C.O.F. COMMENTS DATED 5/2/19

CONCEPT-08

SHEET NO. 2 OF 6

COF PROJECT # PZ-17-00227-01

P.U.E.'s FOR WATER & SEWER

EASEMENTS ARE NOT FULLY LABELED FOR CLARITY:
(2) UTILITY LINES = 26' WIDE P.U.E.
(1) UTILITY LINE = 20' WIDE P.U.E.
FIRE HYDRANT LINES = 8' WIDE P.U.E. EXTENDED 4' BEYOND F.H.
WATER METER = 6' WIDE P.U.E. EXTENDED 4' BEYOND W.M.

PUBLIC WATER & SEWER MAINS

ALL NEW 8" WATER & SEWER MAINS SHALL BE PUBLIC.

WATER & SEWER SERVICES

ALL NEW SEWER SERVICES SHALL BE 4" MINIMUM AND ALL NEW WATER SERVICES SHALL BE A 2". FIRE SPRINKLER LINE SIZE SHALL BE 4" MINIMUM.

FIRE PREVENTION

A NFPA 13R FIRE SPRINKLER SYSTEM IS REQUIRED FOR THIS PROJECT. ADDITIONALLY, A FIRE ALARM SYSTEM DESIGNED IN ACCORDANCE WITH NFPA 72 NATIONAL FIRE ALARM AND SIGNALING CODE IS REQUIRED.

FIRE SPRINKLER ROOMS

THE FIRE SPRINKLER ROOMS ARE CALLED OUT AS "F.S.R." IN EACH BUILDING

FIRE DEPARTMENT CONNECTION

FIRE DEPARTMENT CONNECTIONS ARE IDENTIFIED AS "F.D.C. #". # INDICATES BUILDING NUMBER.

FIRE HYDRANTS

FIRE HYDRANTS LOCATED IN CURBED LANDSCAPE ISLANDS SHALL HAVE PROTECTIVE BOLLARDS IN ACCORDANCE WITH C.O.F. STD. DET. No. 13-03-012

BACKFLOW PREVENTION

BACKFLOW PREVENTION SHALL BE IN ACCORDANCE WITH CITY CODE SECTION 7-03-001-0015

ABBREVIATIONS

SS	SEWER SERVICE
WS	WATER SERVICE
FS	FIRE SERVICE
FH	FIRE HYDRANT
W	WATER
S	SEWER
F.D.C.	FIRE DEPT. CONNECTION
F.S.R.	FIRE SPRINKLER ROOM

SCALE: 1"=40'
0 20 40 80

PARCEL BOUNDARY
BLDG 13 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6907.5 F.S.R. FFE= 6905.0
BLDG 12 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6907.5 F.S.R. FFE= 6905.0
BLDG 11 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6907.5 F.S.R. FFE= 6905.0
BLDG 10 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6905.5 F.S.R. FFE= 6903.0
BLDG 9 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6905.0 F.S.R. FFE= 6902.5
BLDG 8 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6876.5 F.S.R. FFE= 6871.0
BLDG 7 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6879.0 F.S.R. FFE= 6874.5
BLDG 6 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6886.0 F.S.R. FFE= 6880.5
BLDG 5 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6887.5 F.S.R. FFE= 6882.0
BLDG 4 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6876.0 F.S.R.
BLDG 3 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6870.0 F.S.R.
BLDG 2 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6871.5 F.S.R.
BLDG 1 THREE STORY (13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED) FFE= 6873.0 F.S.R.
FIRE SPRINKLER ROOM (TYP FOR ALL BLDG'S)
10' WIDE PEDESTRIAN CONNECTION BETWEEN UPPER & LOWER UNITS
NEW 8" W
NEW 8" S
NEW 12" W
NEW 12" S
26' P.U.E.
20' P.U.E.
EX 12" S
EX 8" W
CONNECT TO EXISTING 8" WATER
CONNECT TO EX. SEWERLINE
EX. OHPD ELEC.
EX 16' P.U.E.
EDB #1 BASIN BOTTOM=6860.0 SURFACE AREA=6029 SF TOP OF WALL=6865.0
EDB #2 BASIN BOTTOM=6865.0 SURFACE AREA=1,965 SF TOP OF WALL=6870.0
EDB #3 BASIN BOTTOM=6865.0 SURFACE AREA=1,965 SF TOP OF WALL=6870.0
4:1
TABLE
NEW FH
NEW WS (TYP)
NEW FS (TYP)
NEW SS (TYP)
STREET TREES SPACED AT 45'±
EX 15' D.E.
PARCEL BOUNDARY / R.O.W.
NEW 135W STREET LIGHT
A.D.O.T. TYPE 5 DOUBLE SUMP C.B. W/ SYM. 11.5' WINGS & 18" H.D.P.E. STORM DRAIN
EX PUBLIC 20' D.E. PER INSTRUMENT 3546724
EX 30' S.E.
RET. WALL (TYP)
STUB-OUT WITH PLUG
R=48' TEMP. TURNAROUND
35' R.O.W.
40' R.O.W.
PONDEROSA PARKWAY
EX. 81"x59" CMPA
8" SEWER STUB PER M.A.G. 427
FUTURE CONDITION SHOWN. C.O.F.—STD. DET. No. 10-08-035 "MINOR COLLECTOR" 1/2 WIDTH PLUS 10' PER DETAILS ON SHEET 1.
SEE AREA MAP FOR TRANSITION TO EXISTING DRIVEWAY
CAUTION EX 4" HIGH PRESSURE GAS IN THIS VICINITY (VERIFY)
CONNECT (2) EX. 6" SEWER SERVICES TO NEW SEWER MAIN.
(2) EX. 6" SEWER SERVICES TO BE REMOVED AND RECONNECTED AT END OF NEW SEWER MAIN
CONNECT TO EX. SEWERLINE
CONNECT TO EX. WATERLINE
STREET TREES SPACED AT 45'±
ABANDON EX. WATER STUB AT THE MAIN
EX 12" W
EX 6" W
EX 12" S
EX 6" S
EX. 135W STREET LIGHT
EX. 10' P.U.E.
EX. FIRE DEPT. DRIVEWAY
C.O.F. FIRE STATION #2
STARBUCKS
50' ACCESS EASEMENT
26' SEWER EASEMENT
EX. CURB
EX. 12" AC
EX. 6" WATER
EX. 8" W
EX. 8" S
EX. 12" W
EX. 12" S
EX. 6" W
EX. 6" S
EX. 16" P.U.E.
EX. 20' P.U.E.
EX. 26' P.U.E.
EX. 12" S
EX. 8" W
EX. OHPD ELEC.
RET. WALL (TYP)
NEW 12" W
NEW 12" S
NEW 8" W
NEW 8" S
NEW 6" W
NEW 6" S
EX. G-1
EX. G-2
EX. G-3
EX. G-4
EX. G-5
EX. G-6
EX. G-7
EX. G-8
EX. G-9
EX. G-10
EX. G-11
EX. G-12
EX. G-13
EX. G-14
EX. G-15
EX. G-16
EX. G-17
EX. G-18
EX. G-19
EX. G-20
EX.

PRE DEVELOPMENT TREE POINTS

1 POINT TREES	55	x 1	=	55
2 POINT TREES	48	x 2	=	96
4 POINT TREES	38	x 4	=	152
8 POINT TREES	16	x 8	=	128
20 POINT TREES	0	x 20	=	0
TOTAL TREE POINTS			=	431
50% OF TOTAL			=	216

POST DEVELOPMENT TREE POINTS

1 POINT TREES	19	x 1	=	19
2 POINT TREES	15	x 2	=	30
4 POINT TREES	17	x 4	=	68
8 POINT TREES	11	x 8	=	88
20 POINT TREES	0	x 20	=	0
SUB TOTAL TREE POINTS			=	205
EXCESS SLOPE POINTS			=	21
TOTAL TREE POINTS			=	226
TREE SAVE PERCENTAGE			=	52.4

TREE TO BE SAVED

TREE TO BE REMOVED

SLOPE CALCULATIONS

NO SLOPES OVER 24.99%

17-24.99% SLOPE:	133,440	S.F.
MAX. 30% DISTURBANCE:	40,032	S.F.
SLOPE DISTURBANCE:	38,990	S.F.
SLOPE DISTURBANCE:	29.2	%
EXCESS SLOPE:	1,042	S.F.
EXCESS SLOPE TREE POINTS:	21	

(1,042 / 50 = 20.8)

THE CROWN DITCH WITH BERM IS INCLUDED IN THE SLOPE DISTURBANCE CALCULATIONS.

SCALE: 1"=40'

0 20 40 80

PARCEL BOUNDARY

SLOPE DISTURBANCE

RETAINING WALL OR CUT PER SOILS REPORT (TYP)

FIRE SPRINKLER ROOM (TYP FOR ALL BLDG'S)

CROWN DITCH ALONG BACK OF WALL TO DIVERT OFF-SITE & ON-SITE EXISTING UNDEVELOPED RUNOFF TO NEW ROADSIDE DITCH (TYP)

BLDG 13 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6907.5 F.F.E. 6905.0

BLDG 12 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6907.5 F.F.E. 6905.0

BLDG 11 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6907.5 F.F.E. 6905.0

BLDG 10 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6908.5 F.F.E. 6906.0

BLDG 9 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6908.5 F.F.E. 6906.0

BLDG 8 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6876.5 F.F.E. 6871.0

BLDG 7 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6879.0 F.F.E. 6875.5

BLDG 6 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6886.0 F.F.E. 6882.5

BLDG 5 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6887.5 F.F.E. 6882.0

BLDG 4 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6876.0

BLDG 3 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6870.0

BLDG 2 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6871.5

BLDG 1 THREE STORY 13 UNITS PER BLDG (1) STUDIO, (6) 1 BED & (6) 2 BED FFE= 6875.0

F.D.C.#1&2

F.D.C.#3

EDB #1 BASIN BOTTOM=6860.0 SURFACE AREA=6029 SF TOP OF WALL=6865.0

EDB #2 BASIN BOTTOM=6865.0 SURFACE AREA=1425 SF TOP OF WALL=6870.0

EDB #3 BASIN BOTTOM=6865.0 SURFACE AREA=1425 SF TOP OF WALL=6870.0

CONNECT TO EXISTING 8" WATER

EX 8" W

NEW 8" W

26' P.U.E.

20' P.U.E.

EX 12" S

EX 16" P.U.E.

CONNECT TO EX. SEWERLINE

EX. OHPD ELEC.

CONNECT TO EX. WATERLINE

STREET TREES SPACED AT 45'±

ABANDON EX. WATER STUB AT THE MAIN

EX. 30" S.E.

EX 12" W

EX. 10" FH.T.S.

EX. FIRE DEPT. DRIVEWAY

EX CURB

D/W

EX. 135W STREET LIGHT

A.D.O.T. TYPE 5 DOUBLE SUMP C.B. W/ SYM. 11.5' WINGS & 18" H.D.P.E. STORM DRAIN

RET. WALL (TYP)

STREET TREES SPACED AT 45'±

EX. 15" D.E.

NEW FH

PARCEL BOUNDARY / R.O.W.

NEW 12" W

NEW 12" S

35' R.O.W.

40' R.O.W.

PONDEROSA PARKWAY

NEW 135W STREET LIGHT

EX. 81"x59" CMPA

8" SEWER STUB PER M.A.G. 427

CAUTION EX 4" HIGH PRESSURE GAS IN THIS VICINITY (VERIFY)

(2) EX. 6" SEWER SERVICES TO BE REMOVED AND RECONNECTED AT END OF NEW SEWER MAIN

CONNECT TO EX. SEWERLINE

CONNECT TO EX. WATERLINE

FUTURE CONDITION SHOWN. C.O.F. STD. DET. No. 10-08-035 "MINOR COLLECTOR" 1/2 WIDTH PLUS 10' PER DETAILS ON SHEET 1.

R=48' TEMP. TURNAROUND

SEE AREA MAP FOR TRANSITION TO EXISTING DRIVEWAY

CAUTION EX 4" HIGH PRESSURE GAS IN THIS VICINITY (VERIFY)

CONNECT (2) EX. 6" SEWER SERVICES TO NEW SEWER MAIN.

C.O.F. FIRE STATION #2

STARBUCKS

50' ACCESS EASEMENT

26' SEWER EASEMENT

107-07-002H SAN FRANCISCO DE ASIS ROMANS CATHOLIC PARISH FLAGSTAFF (ZONE RR)

107-09-001D HARMON STEVEN B and MEGHAN (ZONE HC)

107-08-004C CF CARWASH FLAGSTAFF LLC (ZONE HC)

107-08-004E MAYER MOUNTAIN PROPERTIES LLC (ZONE HC)

107-08-002E NEMEC FAMILY TRUST (ZONE HC)

107-07-001G 249 A STREET LLC (ZONE HC)

PRELIMINARY
NOT FOR CONSTRUCTION OR RECORDING

PONDEROSA PARKWAY
SITE PLAN FOR MIRAMONTE HOMES
RESOURCE PROTECTION PLAN

5/16/19

MES# 18275

Mogollon Inc
ENGINEERING & SURVEYING
411 W. Santa Fe Avenue
Flagstaff, Arizona 86001
Phone: 928-214-0214

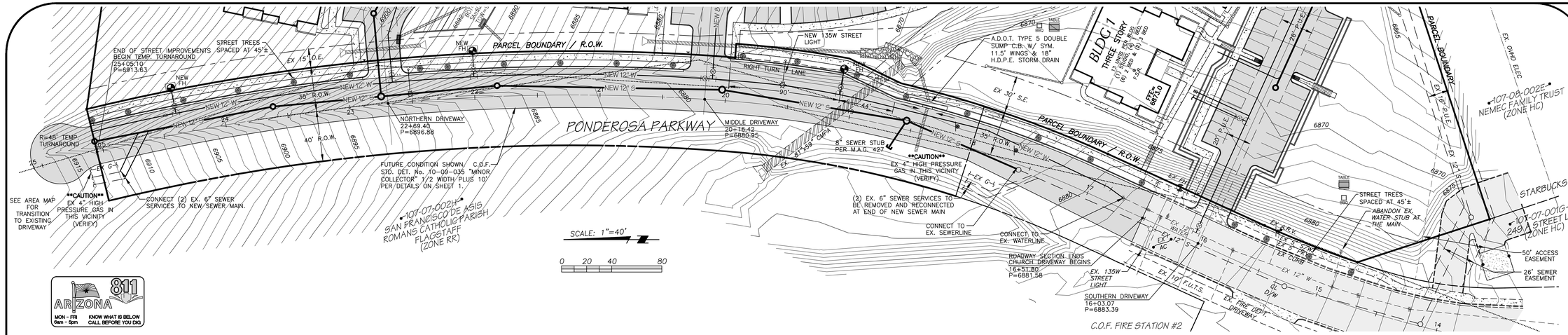
DATE: 5/16/19	REVISIONS PER C.O.F. COMMENTS DATED 11/14/18
PROJECT NO. 18275	PER C.O.F. COMMENTS DATED 1/25/19
FN: SHEET-04.DWG	PER C.O.F. COMMENTS DATED 3/11/19
DESIGNED BY: MWE	PER C.O.F. COMMENTS DATED 5/2/19
DRAWN BY: MWE	
VERT SCALE: N/A	HOR SCALE: 1"=40'
CHECKED BY: KVH	

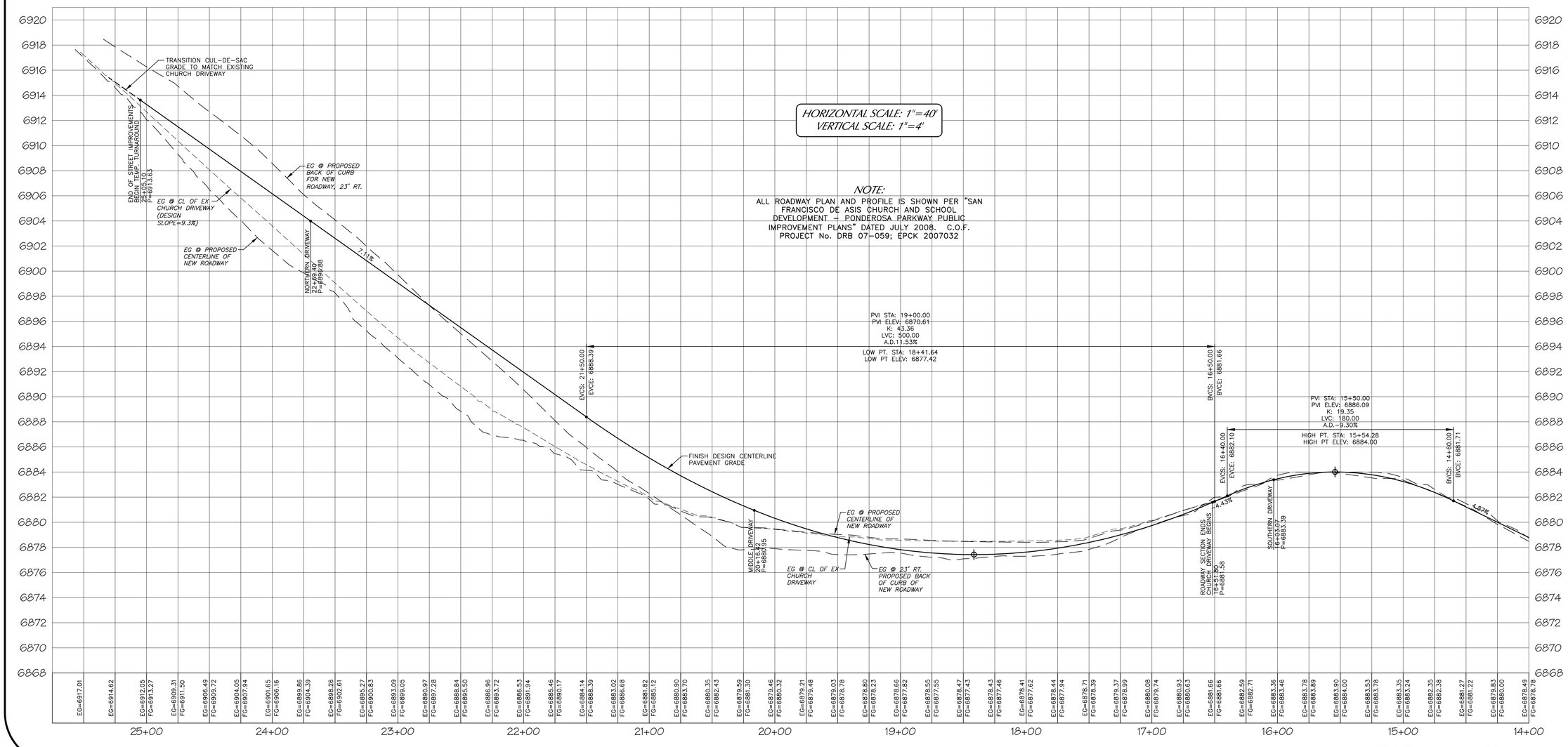
CONCEPT-08

SHEET NO. 4 OF 6

COF PROJECT # PZ-17-00227-01


VIEW CORRIDORS
ELDEN
ANDERSON MESA
JUN 21 SUN
DEC 21 SUN
CLIMATIC CONSIDERATIONS
RAIN, SNOW & HAIL
SEE PRECIPITAION PATTERN NOTE
AND WEATHER AVERAGES CHART
USE: VACANT
USE: RETAIL
107-09-001E HARMON STEVEN B and MEGHAN (ZONE HC)
USE: VEHICLE SERVICE
107-09-001D HARMON STEVEN B and MEGHAN (ZONE HC)
107-08-004C CF CARWASH FLAGSTAFF LLC (ZONE HC)
107-08-004E MAYER MOUNTAIN PROPERTIES LLC (ZONE HC)
107-08-002E NEMEC FAMILY TRUST (ZONE HC)
STARBUCKS 107-07-009G 2423 A STREET LLC (ZONE HC)
PONDEROSA PARKWAY
E. ROUTE 66
BNSF R/R
USE: PUBLIC SERVICES
USE: TELECOM
USE: LODGING
107-08-001A CITY OF FLAGSTAFF (ZONE RR)
107-07-002H SAN FRANCISCO DE ASIS, ROMAN CATHOLIC PARISH FLAGSTAFF (ZONE RR)
PROJECT BOUNDARY
EXISTING & DEVELOPED STORMWATER DISCHARGE LOCATION
MOUNTAIN LINE BUS STOP
RUNOFF FLOW ARROWS
OFF-SITE RUNOFF (TYP.)
DIVERSION CROWN DITCH W/BERM
RIP-RAP SWALE
PONDEROSA PINE (TYP) (GOOD QUALITY)
PREVAILING WINDS
UNNAMED WASH
SLOPE BOUNDARY
ROADWAY TRANSITION TO EXISTING DRIVEWAY
EXISTING RIP-RAP SWALE
CATHOLIC CHURCH AC DRIVEWAY
EX 81"x59" CMPA
QDAP=270 CFS @ HW/D=1.5
EX F.U.T.S.
EX DRIVEWAY
EX BUILDING (TYP)
EX AC
EX SDMH
EX 8" W
EX 12" W
EX 8" S
EX 12" S
EX 24" S.D.
EX 18" S
EX 30" S
EX 36" S
EX CDB
EX 24" CMP
EX 18" CMP
EX EDB
EX EP
EX AG
EX TWW
EX OHP
EX 50MH
EX 60MH
EX 72MH
EX 84MH
EX 96MH
EX 108MH
EX 120MH
EX 144MH
EX 150MH
EX 156MH
EX 168MH
EX 180MH
EX 192MH
EX 204MH
EX 216MH
EX 228MH
EX 240MH
EX 252MH
EX 264MH
EX 276MH
EX 288MH
EX 300MH
EX 312MH
EX 324MH
EX 336MH
EX 348MH
EX 360MH
EX 372MH
EX 384MH
EX





Mogollon Inc ENGINEERING & SURVEYING
411 N. Santa Fe Avenue
Flagstaff, Arizona 86001
Phone: 928-214-0214

PRELIMINARY
NOT FOR CONSTRUCTION OR RECORDING

5/16/19
MES# 18275

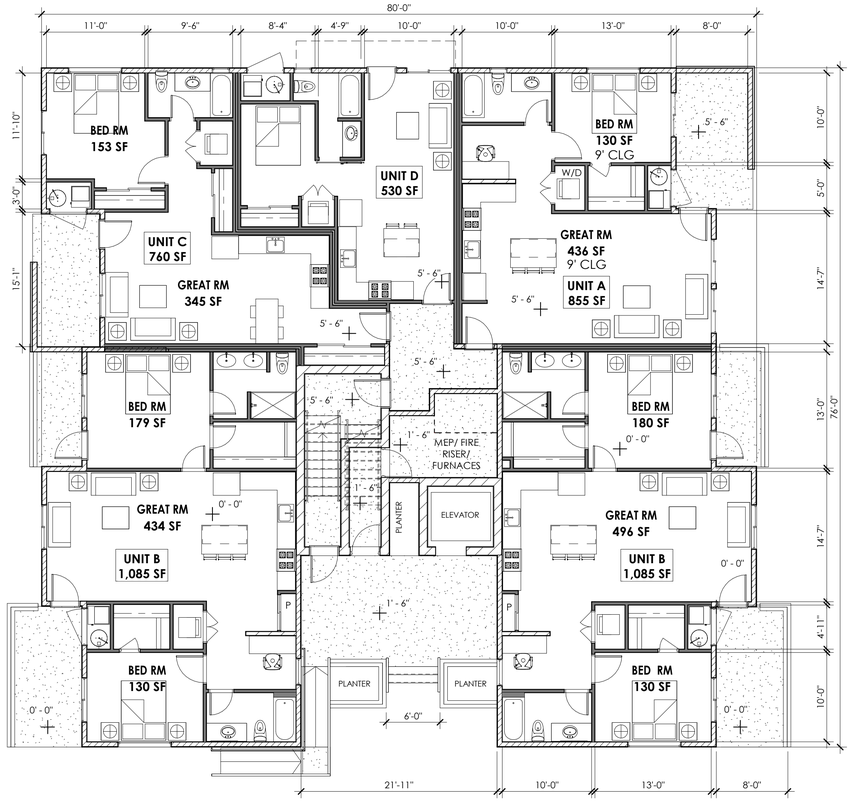
PONDEROSA PARKWAY
SITE PLAN FOR MIRAMONTE HOMES
PONDEROSA PARKWAY PLAN & PROFILE

DATE: 5/16/19	PROJECT NO. 18275	REVISIONS: PER C.O.F. COMMENTS DATED 11/8/18
DESIGNED BY: MME	FN: SHEET-06.DWG	PER C.O.F. COMMENTS DATED 1/28/19
DRAWN BY: MME	VERT SCALE: N/A	PER C.O.F. COMMENTS DATED 3/11/19
CHECKED BY: KVH	HOR SCALE: 1"=40'	PER C.O.F. COMMENTS DATED 5/2/19

CONCEPT-08

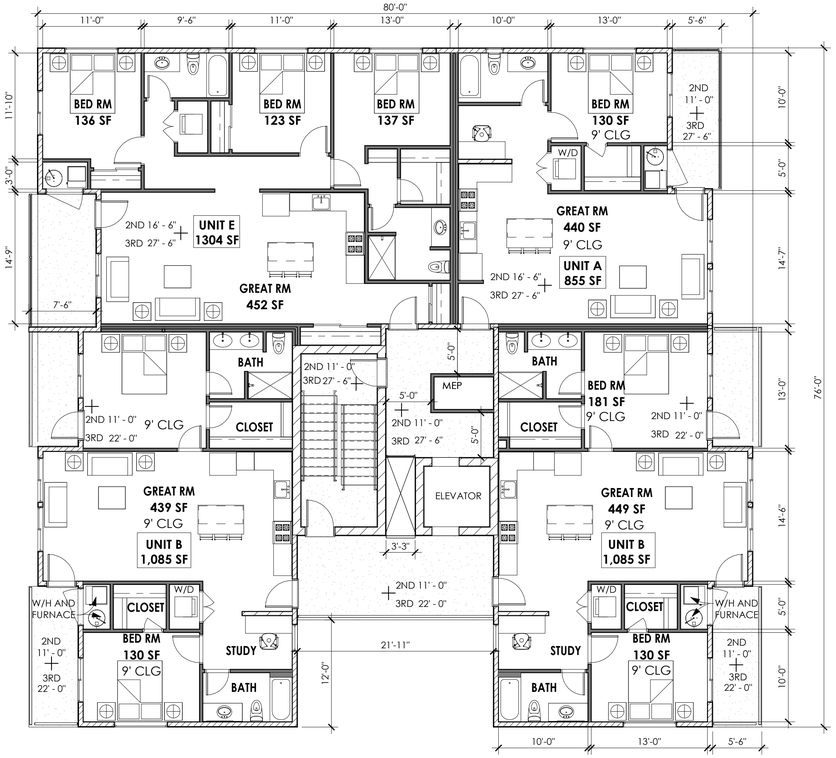
SHEET NO. 6 OF 6

COF PROJECT # PZ-17-00227-01



C3 1ST FLOOR

SCALE: 1/8" = 1'-0"



C7 2ND/ 3RD FLOOR PLAN

SCALE: 1/8" = 1'-0"

No	REVISIONS/SUBMISSIONS	DATE

MIRAMONTE HOMES

MIRAMONTE HOMES
PONDEROSA PARKWAY
FLAGSTAFF, ARIZONA

FLOOR PLANS

GLHN
ARCHITECTS & ENGINEERS, INC
2939 E. Broadway Blvd. Tucson, AZ. 85716
T 520.881.4544 F 520.795.1822 GLHN.com

NOT FOR CONSTRUCTION

PROJECT NO.:	18048
DESIGN BY:	BH/SL
DRAWN BY:	SL/TR
CHECKED BY:	BH/SL
DATE:	2/16/2019

AL110

Copyright 2019 GLHN ARCHITECTS & ENGINEERS, INC.
ALL RIGHTS RESERVED



E1 SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



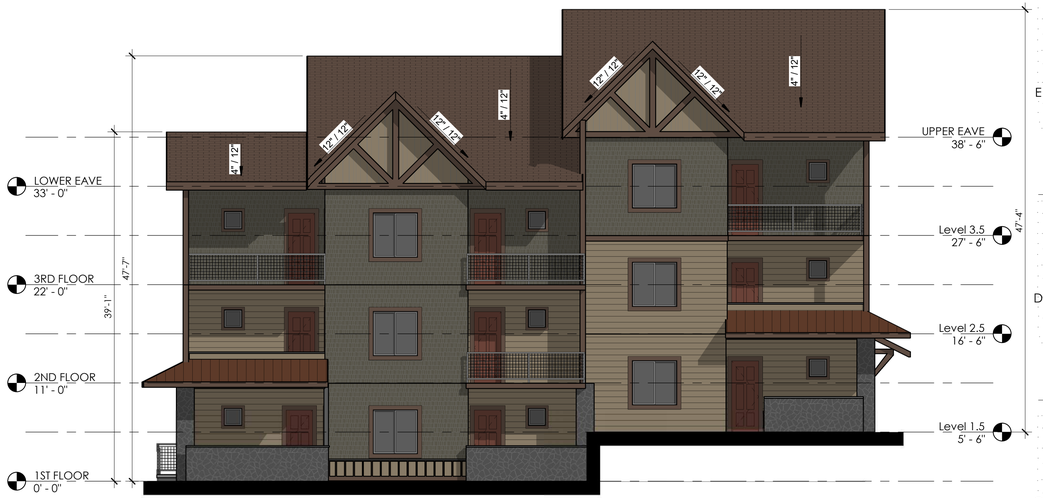
E6 NORTH ELEVATION

SCALE: 1/8" = 1'-0"



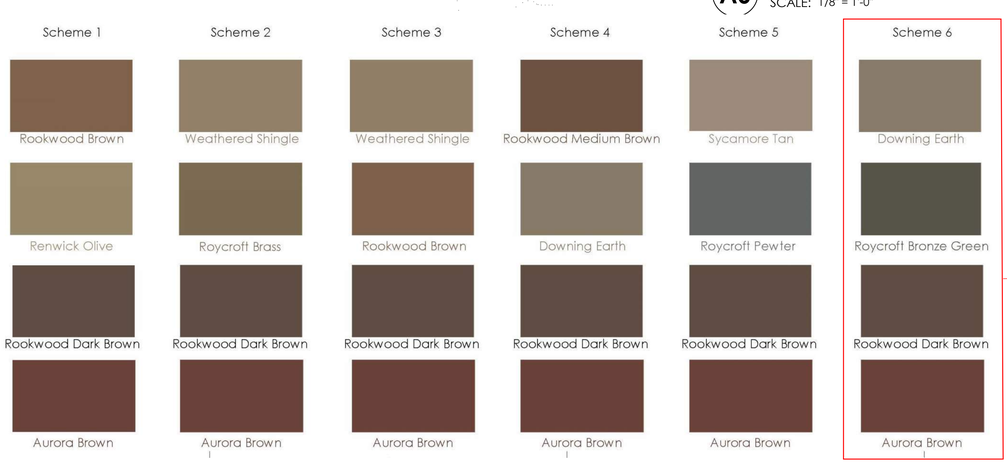
A1 WEST ELEVATION

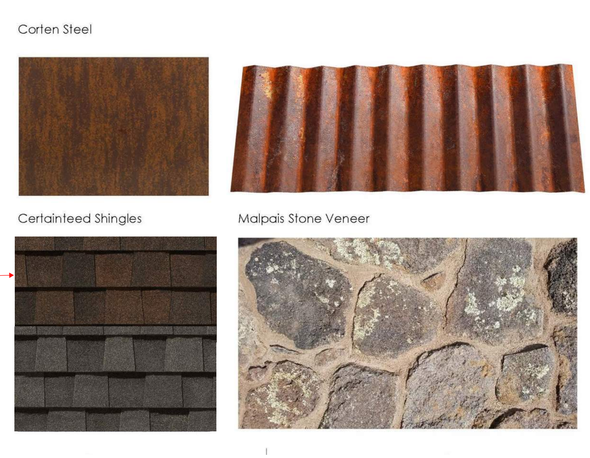
SCALE: 1/8" = 1'-0"



A6 EAST ELEVATION

SCALE: 1/8" = 1'-0"





No	REVISIONS/SUBMISSIONS	DATE

MIRAMONTE HOMES

MIRAMONTE HOMES
PONDEROSA PARKWAY
FLAGSTAFF, ARIZONA
ARCHITECTURAL STYLE 1

GLHN
ARCHITECTS & ENGINEERS, INC
2939 E. Broadway Blvd. Tucson, AZ. 85716
T 520.881.4546 F 520.795.1822 GLHN.com

CONCEPTUAL

PROJECT NO.	18048
DESIGN BY:	SL
DRAWN BY:	TR/SK
CHECKED BY:	BH
DATE:	4/18/2019

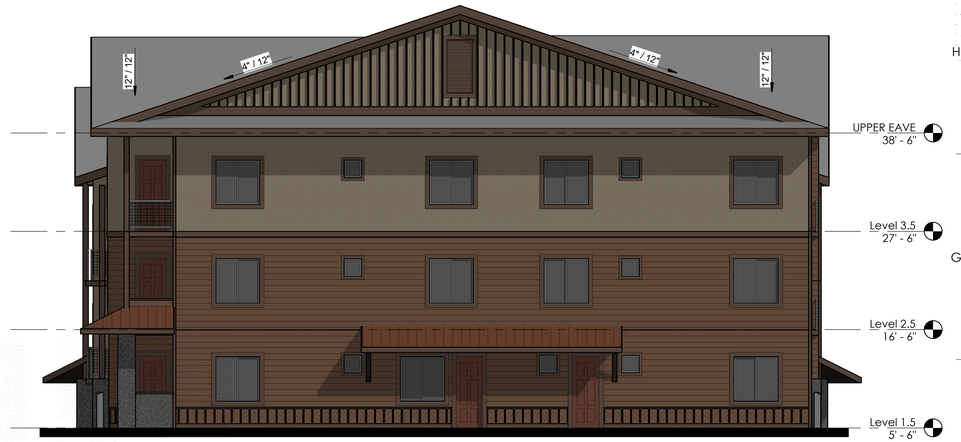
AB110

Copyright 2019 GLHN Architects & Engineers Inc.
All rights reserved



E1 SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



E6 NORTH ELEVATION

SCALE: 1/8" = 1'-0"



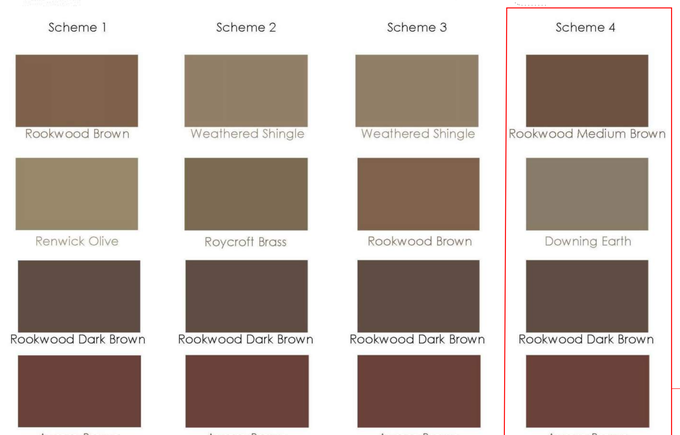
A1 WEST ELEVATION

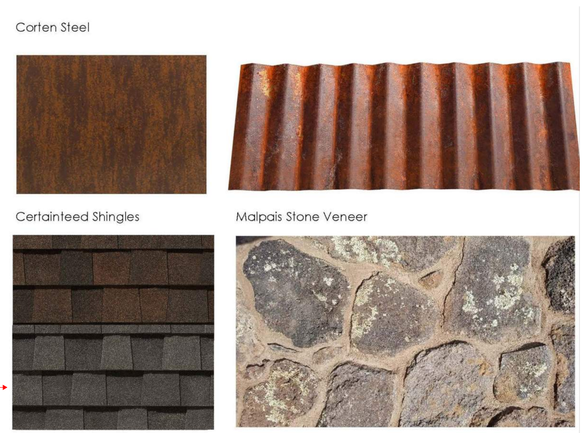
SCALE: 1/8" = 1'-0"



A6 EAST ELEVATION

SCALE: 1/8" = 1'-0"





No	REVISIONS/SUBMISSIONS	DATE

MIRAMONTE HOMES

MIRAMONTE HOMES
PONDEROSA PARKWAY
FLAGSTAFF, ARIZONA
ARCHITECTURAL STYLE 2

GLHN
ARCHITECTS & ENGINEERS, INC
2939 E. Broadway Blvd. Tucson, AZ. 85716
T 520.881.4546 F 520.795.1822 GLHN.com

CONCEPTUAL

PROJECT NO.	18048
DESIGN BY:	SL
DRAWN BY:	TR/SK
CHECKED BY:	BH
DATE:	4/18/2019

AB111

Copyright 2019 GLHN Architects & Engineers Inc.
All rights reserved



E1 SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



E6 NORTH ELEVATION

SCALE: 1/8" = 1'-0"



A1 WEST ELEVATION

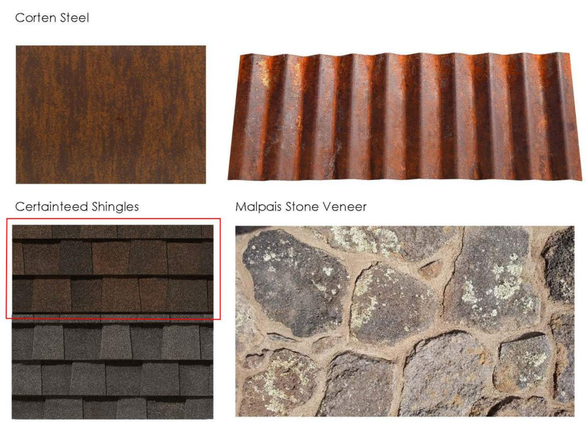
SCALE: 1/8" = 1'-0"



A6 EAST ELEVATION

SCALE: 1/8" = 1'-0"





	DATE
No	REVISIONS/SUBMISSIONS

MIRAMONTE HOMES

MIRAMONTE HOMES
PONDEROSA PARKWAY
FLAGSTAFF, ARIZONA
ARCHITECTURAL STYLE 1

GLHN
ARCHITECTS & ENGINEERS, INC
2939 E. Broadway Blvd. Tucson, AZ. 85716
T 520.881.4546 F 520.795.1822 GLHN.com

CONCEPTUAL

PROJECT NO.	18048
DESIGN BY:	SL
DRAWN BY:	TR/SK
CHECKED BY:	BH
DATE:	5/16/2019

AB113

Copyright 2019 GLHN Architects & Engineers Inc.
All rights reserved



E1 SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



E6 NORTH ELEVATION

SCALE: 1/8" = 1'-0"



A1 WEST ELEVATION

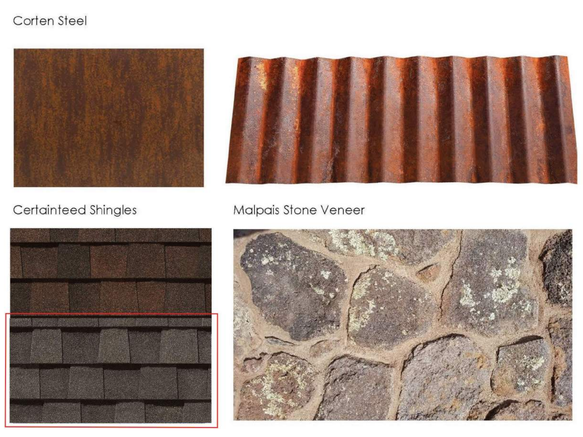
SCALE: 1/8" = 1'-0"



A6 EAST ELEVATION

SCALE: 1/8" = 1'-0"





No	REVISIONS/SUBMISSIONS	DATE

MIRAMONTE HOMES

MIRAMONTE HOMES
PONDEROSA PARKWAY
FLAGSTAFF, ARIZONA
ARCHITECTURAL STYLE 2

GLHN
ARCHITECTS & ENGINEERS, INC
2939 E. Broadway Blvd, Tucson, AZ. 85716
T. 520.881.4546 F. 520.795.1822 GLHN.com

CONCEPTUAL

PROJECT NO.	18048.00
DESIGN BY:	SL
DRAWN BY:	TR/SK
CHECKED BY:	BH
DATE:	2019/05/16

AB114

Copyright 2019 GLHN Architects & Engineers Inc.
All rights reserved

GENERAL NOTES

A. EACH UNIT SHALL HAVE ONE UNIT ADJACENT TO THE ENTRY DOOR AND ONE UNIT ADJACENT TO THE PATIO DOOR. TOTAL OF 416 LUMINAIRES.



1 LIGHITNG SITE PLAN

SCALE: 1" = 50'-0"

OUTDOOR LIGHTING CODE COMPLIANCE - LUMEN CALCULATION

CITY OF FLAGSTAFF

FIXTURE ID	FIXTURE QUANTITY	LIGHT SOURCE TYPE	LUMENS PER LUMINAIRE	LUMEN MULTIPLIER	FULL CUT-OFF	UNDER CANOPY	PARTIALLY SHIELDED LUMENS	NON-NARROW SPECTRUM AMBER LED	FULLY SHIELD AND PARTIALLY SHIELDED
SA	35	AMBER LED	3,391	1.00	YES	NO			118,685
SB	6	AMBER LED	2,207	1.00	YES	NO			13,242
WA	416	AMBER LED	1,703	0.25	YES	YES			177,112
TOTAL OUTDOOR LIGHT OUTPUT LIMITS PER TABLE 10-50.70.050.A, COMMERCIAL, INDUSTRIAL AND MULTI-FAMILY RESIDENTIAL			LIGHTING ZONE	SITE ACRES	ALLOWED PER ACRE FOR LED (divided by 1.43)		5500 3846	5000 3497	50000 34965
			2	11.97	TOTAL SITE LUMENS ALLOWED		46,038	41,853	418,531
					TOTAL LUMENS USED ON SITE:		**0**	**0**	**309,039**

No	REVISIONS/SUBMISSIONS	DATE

MIRAMONTE HOMES

MIRAMONTE HOMES
PONDEROSA PARKWAY
FLAGSTAFF, ARIZONA

LIGHTING SITE PLAN AND CALCULATIONS

GLHN
ARCHITECTS & ENGINEERS, INC
3030 N. 3rd Street, Suite 600, Phoenix, AZ 85012
T. 602.386.9595 F. 520.795.1822 GLHN.com

NOT FOR CONSTRUCTION

PROJECT NO.:	18048.00
DESIGN BY:	BW
DRAWN BY:	BW
CHECKED BY:	RAA
DATE:	2018/10/30

ES101

Copyright 2018 GLHN ARCHITECTS & ENGINEERS, INC.
ALL RIGHTS RESERVED

PONDEROSA PARKWAY LANDSCAPE PLAN

LOCATED IN THE SW 1/4 OF SECTION 14,
TOWNSHIP 21 NORTH, RANGE 7 EAST, G&S.R.M.
FLAGSTAFF, COCONINO COUNTY, ARIZONA

RAINWATER HARVESTING REQUIREMENTS

USE ALL NATIVE/DROUGHT TOLERANT PLANTS IN COMPLIANCE WITH
COF LANDSCAPING STANDARDS & UTILIZE PASSIVE RAINWATER HARVESTING.

NOTES:

1. ROOF RUNOFF COLLECTED IN GUTTERS/DOWNSPOUTS
WILL PASSIVELY IRRIGATE AT-GRADE LANDSCAPING
2. ALL LANDSCAPING INSTALLED PER CITY OF FLAGSTAFF
LANDSCAPE STANDARDS SECTION 10-50.60

PROJECT INFORMATION

PROJECT NAME:	MIRAMONTE AT PONDEROSA PARKWAY
PROJECT LOCATION:	1650 E. PONDEROSA PARKWAY
APNs:	107-07-002E
TOTAL SQUARE FOOTAGE:	521,413.2 SQUARE FEET
TOTAL ACREAGE:	11.97 ACRES
CURRENT ZONING DISTRICT:	RURAL RESIDENTIAL (RR)
PROPOSED ZONING DISTRICT:	HIGH DENSITY RESIDENTIAL (HR)
TOTAL NUMBER OF RESIDENTIAL:	169 UNITS
DENSITY:	14.11 UNITS/ACRE
HEIGHT:	3 STORIES
CURRENT USE:	VACANT
DEVELOPER:	MIRAMONTE HOMES
	102 S. MIKES PIKE ST.
	FLAGSTAFF, AZ 86001
	928-774-0028

LANDSCAPE NOTES

1. ALL MAINTENANCE SHALL BE PERFORMED PER FLAGSTAFF CITY CODE SECTION #910.12.
2. MAINTENANCE SHALL BE PERFORMED ON A MONTHLY BASIS AS FOLLOWS:
   A. PRUNING AND CLIPPING FOR PEDESTRIAN VEHICULAR ACCESS.
   B. REPLACEMENT OF DEAD AND UNHEALTHY PLANTS WITH PLANTS OF THE SAME SIZE AND TYPE.
   C. REPLACEMENT OF ERODED OR WASHEDOUT D.G. WITH SAME.
   D. MAINTENANCE OF IRRIGATION SYSTEM.
3. DECOMPOSED GRANITE (D.G.) SHALL BE INSTALLED TO A 2" DEPTH OVER ALL PLANTERS AND DISTURBED AREAS INCLUDING ADJACENT RIGHTS OF WAY .
4. MATERIALS WITHIN SITE VISIBILITY TRIANGLES SHALL BE PLACED AND MAINTAINED SO AS NOT TO INTERFERE WITH A VISIBILTY PLANE DESCRIBED BY 2 HORIZONTAL LINES 30 INCHES AND 72 INCHES ABOVE FINISHED GRADE OF THE ROADWAY SURFACE.

IRRIGATION NOTES

1. MAINLINE & VALVE LOCATIONS SHOWN FOR CLARITY LOCATE IN PLANTER AREAS AND WITHIN PROJECT BOUNDARY.
2. ALL MAINLINE SHOWN IS CL200 PVC., ALL POLY SHOWN IS 1/2". INSTALL TRACER WIRE AT ALL MAINLINES.
3. INSTALL ALL PIPE BENEATH WALKS AND PAVING WITHIN A SCH 40 PVC SLEEVE 2 SIZES LARGER THAN IRRIGATION PIPE (PVC AND POLYETHYLENE (PE)).
4. SEE CIVIL DWG. FOR WATER SOURCE SIZE & LOCATION PROVIDE METER PER WATER CO. REQ'S.
5. IRRIGATION DESIGN PRESSURE 30 PSI FOR SYSTEM. CONTRACTOR SHALL VERIFY EXIST. WATER PRESSURE AT VALVE & NOTIFY LANDSCAPE ARCHITECT OF DISCREPANCIES, BETWEEN EXISTING & DESIGN PRESSURE PRIOR TO CONTINUING WORK.
6. ELECTRIC POWER TO THE CONTROLLER IS SUPPLIED BY ELECTRICAL CONTRACTOR IN LOCATIONS SHOWN.
7. COORDINATE WITH ELECTRICAL CONTRACTOR FOR POWER SOURCE.
8. EACH CONTROLLER TO BE EQUIPPED WITH RAIN SHUT OFF SENSOR AND MOISTURE SENSOR.

TABULATIONS

STREET BUFFER:	1050.23 LF/25 = 42 TREES 84 SHRUBS 84 GROUND COVERS REQUIRED
PERIPHERAL BUFFER:	2443.02 LF/25 = 98 TREES 196 SHRUBS 196 GROUND COVERS REQUIRED
PARKING AREAS:	273 / 8 * 2 = 68 TREES 136 GROUND COVERS
BUILDING FOUNDATIONS (PER BLDING):	367 LF/25 = 14.68 TREES 29.36 SHRUBS
TOTAL FOR 13 BUILDINGS:	191 TREES 382 SHRUBS 382 GROUND COVERS REQUIRED
TOTAL PLANTS REQUIRED:	399 TREES 798 SHRUBS 798 GROUND COVERS REQUIRED
EXISTING TREES CREDITS:	157 TREES 314 SHRUBS 314 GROUND COVERS
NEW TREES PROVIDED:	260
NEW SHRUBS PROVIDED:	520 (2 PLANTED @ EACH TREE)
NEW GROUNDCOVER PROVIDED:	520 (2 PLANTED @ EACH TREE)

PLANT LIST

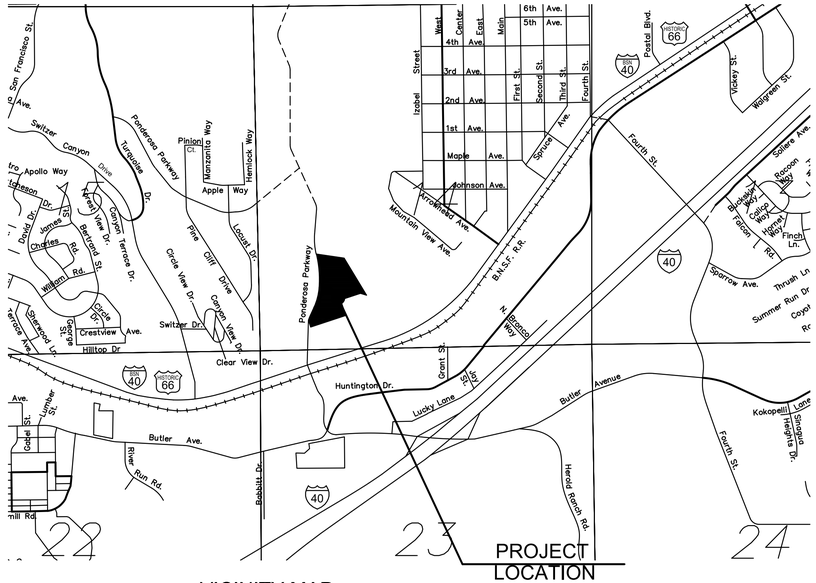
KEY	BOTANICAL NAME	COMMON NAME	REMARKS	SIZE	QTY.
TREES					
	ACER FREEMANII	AUTUMN BLAZE MAPLE		6' HT.	11
	CERCIS OCCIDENTALIS	WESTERN REDBUD		6' HT.	27
	FRAXINUS VELUTINA	ARIZONA ASH	NATIVE	15 G.C.	47
	GLEDITSIA TRIACANTHUS 'INERMIS'	HONEY LOCUST		6' HT	63
	MALUS SPECIES	FLOWERING CRAB APPLE		6' HT	15
	PICEA PUNGENS	COLORADO BLUE SPRUCE		6' HT	59
	PINUS EDULIS	PINYON PINE	NATIVE	15 G.C.	38
SHRUBS					
	ARCTOSTAPHYLOS PUNGENS	MANZANITA	NATIVE	1 G.C.	151
	BERBERIS FREMONTII	FREMONT BARBERRY	NATIVE	1 G.C.	66
	FALLUGIA PARADOXA	APACHE PLUME	NATIVE	1 G.C.	89
	JUNIPERUS CHINENSIS	SEA GREEN JUNIPER		5 G.C.	107
	MAHONIA AQUIFOLIUM	OREGON GRAPE		5 G.C.	107
GROUND COVERS AND ACCENTS					
	ARABIS CAUCASICA	WALL ROCKCRESS		1 G.C.	191
	CALYLOPHUS HARTWEGII	SIERRA SUNDROP		1 G.C.	246
	JUNIPERUS HORIZONTALIS	PROSTRATE JUNIPER		1 G.C.	83

EXISTING TREE LEGEND

SYMBOL	DESCRIPTION	QUANTITY
6	EXISTING TREE TO BE REMOVED NUMBER WITHIN DENOTES CALIPER	94
6	EXISTING TREE TO BE PRESERVED IN PLACE NUMBER WITHIN DENOTES CALIPER	64
CALIPER	EXISTING TREE CREDITS CALCULATIONS	CREDITS
6"-10"	25 @ 1:1	25
10"-18"	63 @ 2:1	126
>18"	2 @ 3:1	6
	TOTAL	157

IRRIGATION EQUIPMENT SCHEDULE

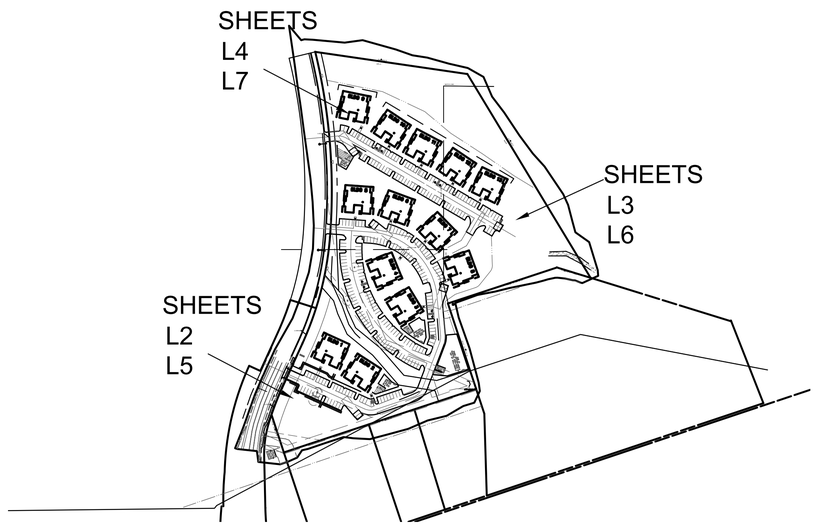
SYMBOL	DESCRIPTION	SPECIFICATION	QUANTITY
C	CONTROLLER	RAINBIRD ESP–SMT – WALL MOUNT 4 STA.	6
C6	CONTROLLER	RAINBIRD ESP–SMT – WALL MOUNT 6 STA.	1
	BACKFLOW PREVEVTER	FEBCO 825Y 3/4"	2
	DRIP VALVE ASSEMBLY	RAINBIRD XCZ-075-PRF	7
	DRIP VALVE ASSEMBLY ANTI-SYPHON	RAINBIRD XACZ-075-PRF	12
	TREE EMITTER	RAINBIRD XB-10-6	272
	SHRUB EMITTER	RAINBIRD XB-10-6	815



VICINITY MAP

N.T.S.

NOT TO SCALE



KEY PLAN

SCALE 1" = 200'

REGISTERED LANDSCAPE ARCHITECT
CERTIFICATE NO.
12666
STEVE
ACUNA
5-14-19
Tucson, U.S.A.
Expires 3/31/20

PONDEROSA PARKWAY

LANDSCAPE PLAN COVER SHEET

Acuña Coffeen
Landscape Architects
3532 N. Avenida Albor Tucson, Arizona 85745
(520) 441-2754

L1 OF 4

HORIZ.	
VERT.	
F.B.	
DESIGN	SA
DRAWN	SA
CHKD.	SA
JOB NO.	

5-19



LANDSCAPE PLAN

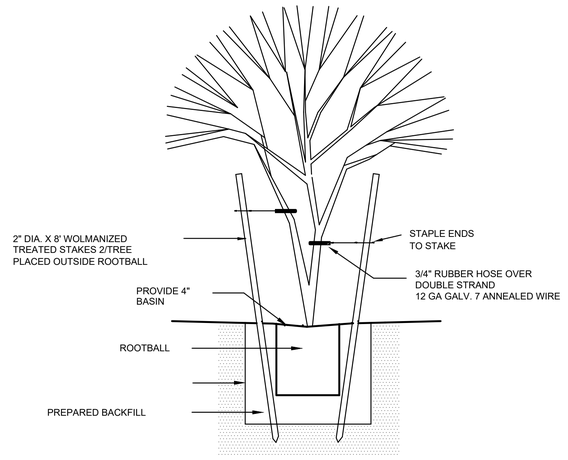
North
1"=30'

EXISTING TREE LEGEND	
SYMBOL	DESCRIPTION
6	EXISTING TREE TO BE REMOVED NUMBER WITHIN DENOTES CALIPER
6	EXISTING TREE TO BE PRESERVED IN PLACE NUMBER WITHIN DENOTES CALIPER

PLANT LIST		
KEY	BOTANICAL NAME	COMMON NAME
TREES		
	ACER FREEMANII	AUTUMN BLAZE MAPLE
	CERCIS OCCIDENTALIS	WESTERN REDBUD
	FRAXINUS VELUTINA	ARIZONA ASH
	GLEDITSIA TRIACANTHUS 'INERMIS'	HONEY LOCUST
	MALUS SPECIES	FLOWERING CRAB APPLE
	PICEA PUNGENS	COLORADO BLUE SPRUCE
	PINUS EDULIS	PINYON PINE
SHRUBS		
	ARCTOSTAPHYLOS PUNGENS	MANZANITA
	BERBERIS FREMONTII	FREMONT BARBERRY
	FALLUGIA PARADOXA	APACHE PLUME
	JUNIPERUS CHINENSIS	SEA GREEN JUNIPER
	MAHONIA AQUIFOLIUM	OREGON GRAPE
GROUND COVERS AND ACCENTS		
	ARABIS CAUCASICA	WALL ROCKCRESS
	CALYLOPHUS HARTWEGII	SIERRA SUNDROP
	JUNIPERUS HORIZONTALIS	PROSTRATE JUNIPER

1 SHRUB PLANTING DETAIL

NTS



* NO STAKES FOR BOXED TREES SIZES

2 TREE PLANTING DETAIL

NTS

REGISTERED LANDSCAPE ARCHITECT
CERTIFICATE NO.
12666
STEVE ACUNA
DATE SIGNED 12-14-19
ARIZONA U.S.A.
Expires 3/31/20

PONDEROSA PARKWAY

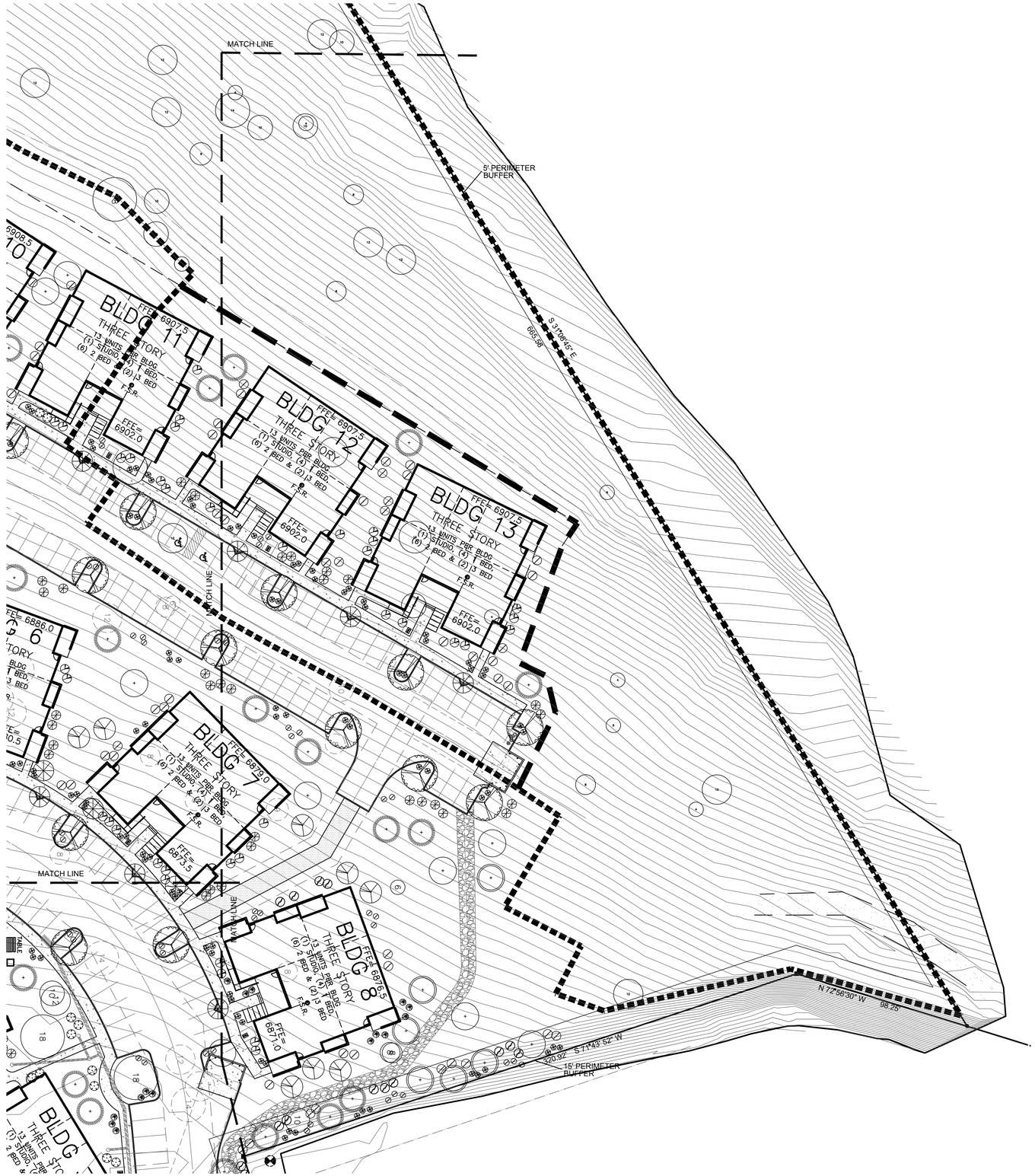
LANDSCAPE PLAN

Acuña Coffeen
Landscape Architects
3532 N. Avenida Albor Tucson, Arizona 85745
(520) 441-2754

L2 OF 4

HORIZ.	
VERT.	
F.B.	
DESIGN	SA
DRAWN	SA
CHKD.	SA
JOB NO.	

5-19



LANDSCAPE PLAN

North
1"=30'

PLANT LIST

KEY	BOTANICAL NAME	COMMON NAME
TREES		
	ACER FREEMANII	AUTUMN BLAZE MAPLE
	CERCIS OCCIDENTALIS	WESTERN REDBUD
	FRAXINUS VELUTINA	ARIZONA ASH
	GLEDITSIA TRIACANTHUS 'INERMIS'	HONEY LOCUST
	MALUS SPECIES	FLOWERING CRAB APPLE
	PICEA PUNGENS	COLORADO BLUE SPRUCE
	PINUS EDULIS	PINYON PINE
SHRUBS		
	ARCTOSTAPHYLOS PUNGENS	MANZANITA
	BERBERIS FREMONTII	FREMONT BARBERRY
	FALLUGIA PARADOXA	APACHE PLUME
	JUNIPERUS CHINENSIS	SEA GREEN JUNIPER
	MAHONIA AQUIFOLIUM	OREGON GRAPE
GROUND COVERS AND ACCENTS		
	ARABIS CAUCASICA	WALL ROCKCRESS
	CALYLOPHUS HARTWEGII	SIERRA SUNDROP
	JUNIPERUS HORIZONTALIS	PROSTRATE JUNIPER

EXISTING TREE LEGEND

SYMBOL	DESCRIPTION
6	EXISTING TREE TO BE REMOVED NUMBER WITHIN DENOTES CALIPER
6	EXISTING TREE TO BE PRESERVED IN PLACE NUMBER WITHIN DENOTES CALIPER

REGISTERED LANDSCAPE ARCHITECT
CERTIFICATE NO.
12666
STEVE
ACUNA
Date Signed 5-14-19
Arizona U.S.A.
Expires 3/31/20

PONDEROSA PARKWAY

LANDSCAPE PLAN

Acuña Coffeen
Landscape Architects
3532 N. Avenida Alber Tucson, Arizona 85745
(520) 441-2754

L3 OF 4

HORIZ.	
VERT.	
F.B.	
DESIGN	SA
DRAWN	SA
CHKD.	SA
JOB NO.	

5-19



LANDSCAPE PLAN

North
1"=30'

PLANT LIST

KEY	BOTANICAL NAME	COMMON NAME
TREES		
	ACER FREEMANII	AUTUMN BLAZE MAPLE
	CERCIS OCCIDENTALIS	WESTERN REDBUD
	FRAXINUS VELUTINA	ARIZONA ASH
	GLEDITSIA TRIACANTHUS 'INERMIS'	HONEY LOCUST
	MALUS SPECIES	FLOWERING CRAB APPLE
	PICEA PUNGENS	COLORADO BLUE SPRUCE
	PINUS EDULIS	PINYON PINE
SHRUBS		
	ARCTOSTAPHYLOS PUNGENS	MANZANITA
	BERBERIS FREMONTII	FREMONT BARBERRY
	FALLUGIA PARADOXA	APACHE PLUME
	JUNIPERUS CHINENSIS	SEA GREEN JUNIPER
	MAHONIA AQUIFOLIUM	OREGON GRAPE
GROUND COVERS AND ACCENTS		
	ARABIS CAUCASICA	WALL ROCKCRESS
	CALYLOPHUS HARTWEGII	SIERRA SUNDROP
	JUNIPERUS HORIZONTALIS	PROSTRATE JUNIPER

EXISTING TREE LEGEND

SYMBOL	DESCRIPTION
6	EXISTING TREE TO BE REMOVED NUMBER WITHIN DENOTES CALIPER
6	EXISTING TREE TO BE PRESERVED IN PLACE NUMBER WITHIN DENOTES CALIPER

REGISTERED LANDSCAPE ARCHITECT
CERTIFICATE NO.
12666
STEVE
ACUNA
Date Signed 5-14-19
STATE OF ARIZONA
Expires 3/31/20

PONDEROSA PARKWAY

LANDSCAPE PLAN

Acuña Coffeen
Landscape Architects
3532 N. Avenida Albor Tucson, Arizona 85745
(520) 441-2754

L4 OF 4

HORIZ.	
VERT.	
F.B.	
DESIGN	SA
DRAWN	SA
CHKD.	SA
JOB NO.	

5-19

14. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Alaxandra Pucciarelli, Planning Development Manager - AP
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Adoption of Resolution No. 2019-43: A resolution authorizing the execution of a Development Agreement between Ponderosa Parkway, LLC and the City of Flagstaff related to the development of approximately 11.97 acres of real property located 1650 East Ponderosa Parkway. (Miramonte at Ponderosa Parkway Condominiums Development Agreement)

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-43 by title only
2) City Clerk reads Resolution No. 2019-43 by title only (if approved above)
3) Adopt Resolution No. 2019-43

Executive Summary:

State law allows the City to enter into development agreements by resolution of the City Council. The Miramonte at Ponderosa Parkway Development Agreement will be between Ponderosa Parkway, LLC and the City of Flagstaff. The proposed agreement governs the terms and conditions of the entitlements, "Attainable Housing," and the requirements of the Residential Sustainability Density Bonus.

Financial Impact:

No financial impacts are associated with the development agreement.

Policy Impact:

There are no policy impacts affiliated with this development agreement.

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

Council Goals
Support development and increase the inventory of public and private affordable housing for renters and home-owners throughout the community.

Regional Plan
A complete analysis of the Regional Plan goals and policies can be found in the Planning & Zoning Commission Direct to Ordinance Zoning Map Amendment staff report dated August 2, 2019.

Team Flagstaff Strategic Plan
Strategic Priority #4: Work in partnership to enhance a safe and livable community.

Has There Been Previous Council Decision on This:

There has not been previous Council decision on this item.

Options and Alternatives:

1. Approve the Miramonte at Ponderosa Parkway Condominiums Development Agreement as presented.
2. Approve the Miramonte at Ponderosa Parkway Condominiums Development Agreement with additional, modified, or deleted terms.
3. Remand the Miramonte at Ponderosa Parkway Condominiums Development Agreement back to staff for additional negotiations with Ponderosa Parkway, LLC.
4. Deny the Miramonte at Ponderosa Parkway Condominiums Development Agreement.

Background/History:

The applicant is proposing to amend the City of Flagstaff's Rural Residential (RR) zone for an 11.97-acre parcel to High Density Residential (HR) zone. The parcel is located on East Ponderosa Parkway, just north of Route 66, behind the existing commercial development. The proposed development will consist of 169 multi-family residential for-sale units, constructed as 13 three-story buildings. Each building will consist of 13 units ranging from 500 to 1,300 square feet in size. The remainder of the parcel will be common area regulated by the homeowners' association and the property manager. These areas include tree and steep slope resources, common open space amenities, private access easements, drainage, storm water detention facilities, and civic space.

Key Considerations:

The development agreement helps to ensure that the development of the property complies with City standards for development and engineering improvements, Regional Plan goals and policies, and City Council goals. Staff believes that the development of the property pursuant to this agreement will result in planning, safety, and other benefits to the City and its residents.

Summary of Miramonte at Ponderosa Parkway Condominiums Development Agreement Points:

- Establishes Developer's proposed sustainability commitments, including those required to obtain a density bonus per Flagstaff Zoning Code section 10-30.70.040 Residential Sustainable Building Standards.
- Developer agrees to record separate drainage and slope easements.
- Developer agrees to designate a minimum of 10% of the total units to be sold at or below 100% of the Area Median Income ("AMI").

Community Benefits and Considerations:

The applicant identifies this project as a multi-family development which provides entry-level ownership opportunities and much needed “Attainable Housing” for low income residents. The project includes 16 for-sale housing units serving buyers who earn up to 100% of area median income (AMI). The proposed project facilitates efficient use of the current commercial and transportation corridors and contributes to the growth of a preexisting mixed-use neighborhood. The required civic space also provides an amenity to the community and protects a cluster of existing ponderosa pines adjacent to the existing commercial development to the south.

Community Involvement:

The applicant conducted a neighborhood meeting on May 1, 2019, at the Aquaplex to discuss the proposed Zoning Map Amendment with the surrounding community, as required by the Flagstaff Zoning Code. There have been no specific public meetings on the Miramonte at Ponderosa Parkway Condominiums Development Agreement.

Attachments: Res. 2019-43
Development Agreement
Redlined Development Agreement
Presentation

RESOLUTION NO. 2019-43

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN PONDEROSA PARKWAY, LLC AND THE CITY OF FLAGSTAFF RELATED TO THE DEVELOPMENT OF APPROXIMATELY 11.97 ACRES OF REAL PROPERTY LOCATED AT 1650 EAST PONDEROSA PARKWAY, FLAGSTAFF, ARIZONA AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, Ponderosa Parkway, LLC ("Developer") has submitted a Direct to Ordinance Zoning Map Amendment for a development consisting of a 169-unit multi-family residential community; and

WHEREAS, Developer and the City of Flagstaff ("City") wish to enter into a development agreement, in the form attached to the staff summary submitted in support of this Resolution (the "Development Agreement"), to provide for the terms and conditions under which the Property will be developed and to set forth in detail certain obligations of Developer and the City; and

WHEREAS, developing the Property under the terms and conditions of the proposed Development Agreement will be consistent with the Flagstaff Regional Plan 2030, and Developer and the City acknowledge that the Development Agreement will operate to the benefit of both parties; and

WHEREAS, Arizona Revised Statutes § 9-500.05 authorizes the City to enter into development agreements in order to facilitate the orderly and effective development of properties.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The Development Agreement provides benefit to the City of Flagstaff.

SECTION 2. The Development Agreement is consistent with the purpose, intent, goals, policies, programs and land use designations of the General Plan, any applicable specific plans, and the Zoning Code.

SECTION 3. The Development Agreement complies with the requirements of Arizona Revised Statutes § 9-500.05.

SECTION 4. That the City of Flagstaff be hereby authorized to enter into the Development Agreement in the form attached to the staff summary submitted in support of this Resolution.

SECTION 5. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Development Agreement and its related documents and to take all steps necessary to carry out the purpose

and intent of this Resolution.

SECTION 6. That City Clerk be hereby directed to record a copy of the agreement with the Coconino County recorder no later than ten days after the development agreement is executed.

SECTION 7. This Resolution 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 3rd day of September, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

[RECORDING HEADER AND MARGINS]

Return to:
City Clerk
City of Flagstaff
211 West Aspen Ave.
Flagstaff, AZ 86001

DEVELOPMENT AGREEMENT

Miramonte at Ponderosa Parkway Condominiums

THIS DEVELOPMENT AGREEMENT ("Agreement") by and between the City of Flagstaff, an Arizona municipal corporation ("City") and Ponderosa Parkway, LLC, an Arizona limited liability company ("Developer") (individually "Party" or collectively "Parties") is made this _____ day of _____, 2019.

RECITALS

A. A.R.S. § 9-500.05 authorizes City to enter into development agreements with landowners and persons having an interest in real property located in the City. City and Developer acknowledge this Agreement is a development agreement pursuant to this section.

B. Developer is the owner of real property located at 1650 E. Ponderosa Parkway, Flagstaff, Arizona (APN 107-07-002E), which is more specifically described in Exhibit "A" (the "Property").

C. Developer proposes to amend the City of Flagstaff's Rural Residential ("RR") zoning designation for the Property to High Density Residential ("HR"). Developer seeks a Zoning Map amendment by way of Direct Ordinance with a Site Plan process.

D. Developer proposes to develop the Property into a multi-family residential community consisting of up to 169 residential condominium units disbursed through thirteen (13) three-story buildings, civic spaces, and open areas. "Project" herein means the development of the Property for the uses, intensities, and densities currently shown in the submitted Site Plans.

E. Flagstaff City Code Division 10-30.70 provides for a density bonus incentive for new residential developments meeting certain residential sustainable building practices. The Project, as shown in the Site Plans, meets said requirements and is eligible for a density bonus, specifically.

    1. The landscape design for the Project will not include an "oasis zone" as otherwise permitted in Section 10-50.60.050(C) and Section 10-50.60.060 of the Flagstaff Zoning Code;

2. The Project is located within at least one-quarter mile of a Flagstaff Urban Trail System (FUTS) trail or connected to it;

3. The Project site is located within at least one-quarter mile of a bus stop;

4. The Project will have a written solid waste program that includes a plan for recycling or reuse of paper, cardboard, plastics and metals; recycling or reuse of lumber scraps; and diversion of masonry, cementitious and possibly gypsum material from the landfill; and

5. All of the residential units in the Project will meet an energy efficiency score of 50 or lower on the HERS rating system (Home Energy Rating System) as certified by an independent third party.

F. Developer proposes to voluntarily deed restrict a minimum of ten percent (10%) of the proposed residential units in the Project for attainable housing as detailed below.

G. This Agreement is consistent with the Flagstaff Regional Plan 2030 in effect on the date this Agreement is executed.

H. The City has an interest in ensuring that the development of the Property complies with City standards for development and engineering improvements, 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.

I. The Developer acknowledges that development of the Property pursuant to this Agreement will be beneficial and advantageous to the Developer by providing assurances to the Developer that it will have the ability to develop the Property within the City pursuant to this Agreement, under the zoning described in Recital C above, and in accordance with the Site Plan.

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:

INCORPORATION OF RECITALS

1. Each of the recitals set forth above is incorporated into this Agreement as though fully set forth herein.

DEVELOPMENT AND ENTITLEMENTS

2. Scope of Development. The City and Developer hereby acknowledge that the City of Flagstaff Development Review Staff approved, subject to conditions, the site plan and building

elevations for the Project attached hereto as Exhibit "B" and incorporated by this reference (collectively the "Site Plan"). The Site Plan sets forth the basic land uses, intensity and density of such uses, relative height, bulk and size of buildings and structures proposed by Developer for development within the Property. The Site Plan sets forth required improvements and dedications for the Project. As depicted on the Site Plan, the overall maximum number of multi-family condominium units on the Property is 169 with a total of 299 bedrooms. Notwithstanding the foregoing, the City acknowledges that, while the Developer intends to develop the Project in general conformance with the Site Plan, in order to make the Project economically viable and otherwise feasible, Developer may request amendments to the Site Plan. The City shall process all submittals made by Developer in conformance with its minor site plan modification process, and 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.

3. Zoning Map Amendment. Developer hereby agrees to be subject to the terms, conditions, and stipulations of the rezoning ordinance for PZ-17-00227-03 (City Ordinance No. 2019-27) and Site Plan (PZ-17-00227-02). Should the Flagstaff City Council decline to approve the zoning map amendment, this Agreement will automatically become null and void.

4. Housing Density Entitlement; Sustainable Building. Developer will meet or exceed the minimum standards under Flagstaff City Code Section 10-30.70.040 for residential sustainable building practices making Developer eligible for a minimum housing density bonus of ten percent (10%). Developer agrees to utilize only an eight percent (8%) density bonus to allow an additional 13 units above the maximum 156 units otherwise allowed for the parcel per the City of Flagstaff Code and Flagstaff Regional Plan 2030. Developer agrees to incorporate the following into the Project:

a. A landscape design for the Project that will not include an "oasis zone" as otherwise permitted in Section 10-50.60.050(C) and Section 10-50.60.060 of the Flagstaff Zoning Code;
b. A written solid waste program to reduce waste during construction that includes a plan for recycling or reuse of paper, cardboard, plastics and metals; recycling or reuse of lumber scraps; and diversion of masonry, cementitious and possibly gypsum material from the landfill; and
c. All of the units will meet a HERS (Home Energy Rating System) energy efficiency score of 50 or lower as certified by an independent third party.

5. Development Standards. The development of the Property, as well as the requirements for off-site and on-site public improvements, will be governed by the Flagstaff Zoning Code, ordinances, regulations, rules, guidelines, and policies controlling permitted uses of the site, design review standards, the density and intensity of uses, and the maximum and minimum height and size of the buildings in existence as of the Effective Date of this Agreement will apply. For any development modifications made after five (5) years from the Effective Date of this Agreement, the current codes, ordinances, regulations, rules, guidelines, and standards in effect at the time of submittal shall apply. Regardless of the time of development, current City Engineering Standards, Building Code, Fire Code, and other Code provisions, regulations, rules, and guidelines will apply to the Project.

DEVELOPER OBLIGATIONS

6. Infrastructure Improvements. All on-site roadway, water, sewer, and stormwater improvements and any required public easements are identified on the Site Plan and will be completed by Developer.

7. Homeowners' Association. Prior to the submittal of the first application for a building permit to City and pursuant to a condominium declaration ("Declaration") by Developer, Developer will form one or more Arizona nonprofit corporations to serve as the homeowners' association(s) ("HOA") for the Project and exercise all rights and obligations as may be granted, undertaken, or assigned to the HOA(s). The Declaration will:

a. incorporate the requirements of this Agreement;
b. provide that either the HOA, a sub-association, or Developer (until such time as Developer, as "Developer," relinquishes control of the HOA(s) to the property owners, as provided in the Declaration) shall manage and maintain the common elements of the Project;
c. identify the HOA that will be assigned all of the Developer's rights and obligations to operate the attainable housing components of the Project
d. include a provision requiring the lease period be a minimum of thirty (30) days.

8. Adjacent Right-of-Way Landscaping Maintenance. All landscaping and irrigation in adjacent right-of-way areas along Ponderosa Parkway shall be maintained by the Developer or its assignee(s).

9. Prewiring for Electric Vehicles. Developer will prewire the Project for six (6) electronic vehicle (EV) charging stations in common areas of the Project.

10. Bike Parking. Developer will provide covered bike parking areas for the Project. The structures will consist of bike racks covered with an open roof assembly of steel materials.

11. Drainage and Slope Easements and Right of Way. Developer and City will prepare and record separate drainage and slope easements, including access to maintain the same, utilizing the City's standard form of easements, clarifying the previous conveyance to the City, as set forth in the Official Records of Coconino County in Instruments 3555010, 3555011, and 3546724. At the time of final plat, Developer shall dedicate to the City right-of-way in accordance with civil plans approved by the City and associated with this Project or, in the event Developer does not seek a plat, before the issuance of certificate of occupancy.

12. Attainable Housing. The Project will designate a minimum of ten percent (10%) of the total residential condominium ownership units to be initially sold at or below 100% of the Area Median Income ("AMI") affordability level ("Attainable Units") as follows:

a. Attainable Units will range in size from studios to three (3) bedroom units and be dispersed through the Project as feasible. Attainable Units must be occupied by the owner(s) as a primary residence and cannot be rented. The Attainable Units will be available beginning in the first phase of construction with a unit-mix

dictated by buyers' preference and construction timing.

b. Developer will assign responsibility for the attainable housing program to an HOA for the Project. Developer or its assignee intends to contract with a third party entity to manage and oversee the buyer income qualification of the attainable housing component of the Project.

c. *Deed Restrictions*. Attainable Units will be subject to permanent deed restrictions or other binding affordability restrictions that run with the land and require transfer of the Attainable Units to another income qualified household for a maximum sales price in a form agreed upon by the City of Flagstaff Housing Director or designee ("Deed Restrictions"). Prior to the conveyance of an Attainable Unit from Developer to a third party purchaser ("Initial Sale"), Deed Restrictions for the particular Attainable Unit incorporating the requirements of this Agreement and will be recorded by Developer in the official records of Coconino County.

d. *Initial Sale Price*. Developer agrees to restrict the Initial Sale of Attainable Units to purchasing households with a maximum household income at or below 100% of the AMI affordability level for Flagstaff based on then current figures as determined by the United States Department of Housing and Urban Development ("HUD") adjusted for household size ("Initial Sales Price"). In determining the Initial Sales Price, the eligible buyers housing expense ratio will not exceed thirty-five percent (35%) without approval by the Director of the City of Flagstaff Housing Section or designee. Developer will offer Attainable Units at a price point of at least twenty-five percent (25%) lower than the market rates for comparable units.

e. *Resale Procedure*. Resale of Attainable Units will be regulated through the Deed Restrictions which will outline the maximum future resale price and define future buyer income eligibility and incorporate the relevant portions of this Agreement regarding attainable housing. The HOA assigned responsibility for the attainable housing program will establish the practical procedures consistent with the deed restriction document and this Agreement for when the owner of an Attainable Unit wishes to sell or transfer the unit. The procedures will address notification to the HOA, commission and payment for a market valuation of the unit (appraisal), and calculation of maximum resale price.

f. *Maximum Resale Price*. The maximum purchase price an Attainable Unit may be sold to a new eligible buyer will be equal to the lesser of: (1) the current appraised value of the Attainable Unit; or (2) the sum of then owner's purchase price of the Attainable Unit plus twenty five percent (25%) of the increase in the market value of the unit when appraised as if not deed restricted (determined by subtracting the purchase price from the current appraised value) ("Maximum Resale Price"). Resale of Attainable Units will be restricted to income eligible buyers with a maximum household income at or below 125% of the AMI affordability level for Flagstaff based on then current HUD figures as adjusted for household size. In

determining the Maximum Sales Price, the eligible buyers' housing expense ratio will not exceed thirty-five percent (35%) without approval by the City of Flagstaff Housing Director or designee.

g. If an Attainable Unit is not under contract for sale within 120 days from the date the unit is first listed by the current owner with the Multiple Listing Service or similar real estate listing service, the Deed Restriction for that unit will terminate. If the Attainable Unit is sold without the Maximum Resale Price requirements, the difference between the Maximum Resale Price and the unrestricted market rate purchase price shall be paid to the City of Flagstaff for down payment assistance or comparable direct assistance for up to 125% AMI homebuyers.

h. *Conveyance to an Attainable Housing Program*. Developer may convey any Attainable Unit at the Initial Sale Price with deed restrictions agreed upon by the City of Flagstaff Housing Director or designee to a third party entity that operates an affordable housing program whether for affordable ownership or affordable rentals. An Owner of an Attainable Unit may convey the Unit at the Maximum Resale Price with deed restrictions agreed upon by the City of Flagstaff Housing Director or designee to a third party entity that operates an affordable housing program whether for affordable ownership or affordable rentals.

13. Materials Management. Developer agrees to incorporate infrastructure to support residents' recycling activities on-site, including the provision of adequate space to locate recycling receptacles next to receptacles dedicated for trash. During construction, Developer will have a written solid waste program that includes a plan for recycling or reuse of paper, cardboard, plastics and metals; recycling or reuse of lumber scraps; and diversion of masonry, cementitious and possibly gypsum material from the landfill. To the extent feasible, Developer will reuse native materials on-site. To ensure compliance with this section and with Developer's sustainability commitments for the density bonus, Developer agrees to work with the City and allow City access to the Project site as needed (including during construction).

14. Permits and Building Fees. Developer agrees and understands that upon the submittal date of any application or permit, the current fees in effect at the time of submittal shall apply to the Project.

DEFAULT; REMEDIES

15. Events Constituting Default. A Party shall be deemed to be in default under this Agreement if such Party breaches any obligation required to be performed by the respective Party 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.

16. 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 costs of any such mediation shall be divided equally between City and Developer or in a manner as the mediator may order. If the

Parties do not agree to a binding resolution, a Party shall be free to initiate litigation upon the conclusion of mediation.

17. Developer's Remedies. In the event that City is in default under this Agreement and fails to cure any such default within the time period required therefore as set forth above, then, in that event, in addition to all other legal and equitable remedies which Developer may have, Developer may terminate this Agreement by written notice delivered to City.

18. City's Remedies. In the event that Developer is in default under this Agreement, and Developer thereafter fails to cure any such default within the time period described above, then, in that event, in addition to all other legal and equitable remedies which City may have, City may terminate this Agreement by written notice delivered to Developer.

19. Development Rights in the Event of Termination. Upon the termination of this Agreement as provided herein, Developer shall have no further rights to develop the Property pursuant to this Agreement.

20. No Personal Liability. No current or former member, official, or employee of City or Developer when acting within the scope of their official capacity shall be personally liable (a) in the event of any default or breach by City or Developer, as applicable; (b) for any amount that may become due to the nonbreaching Party or its successor or assign; or (c) pursuant to any obligation of City or Developer, as applicable, under the terms of this Agreement.

21. Liability and Indemnification. Developer shall indemnify, protect, defend and hold harmless the City, its Council members, officers, employees, and agents for, from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, directly or indirectly, in whole or in part, out of the performance of this Agreement by City or Developer, or nonperformance of this Agreement by the Developer.

GENERAL PROVISIONS

22. Effective Date and Term. This Agreement will be effective on the date of recordation, in accordance with A.R.S. § 9-500.05, after execution by Parties ("Effective Date"). The Agreement will automatically terminate thirty (30) years from the Effective Date.

23. Further Assurances. Each Party, promptly upon the request of the other, will take such further actions and will execute, acknowledge and deliver to the other any and all further instruments as may be necessary or proper to carry out the purpose and intent of this Agreement.

24. Successors and Assigns. All of the provisions hereof will inure to the benefit of and be binding upon the successors and assigns of the Parties pursuant to A.R.S. § 9-500.05(D), except as provided below. Developer's rights and obligations hereunder may only be assigned to a person or entity that has acquired the Property or a portion thereof and only by a written instrument, recorded in the official records of Coconino County, Arizona, expressly assigning such rights and obligations. All rights and obligations of Developer under this Agreement will

constitute covenants that run with the land and will be binding on all of Developer's respective successors and assigns.

a. Notwithstanding the foregoing, City agrees that Developer's common element ownership, operation, and maintenance obligations provided by this Agreement may be assigned to HOA(s) to be established by Developer.

b. Notwithstanding the foregoing, City agrees that Developer's operation, oversight, and management of the attainable housing components of the Project provided by this Agreement may be assigned to HOA(s) to be established by Developer.

c. Notwithstanding any other provisions of this Agreement, Developer may assign all or part of its rights and duties under this Agreement to any financial institution from which such Developer has borrowed funds for developing the Property or a portion thereof.

25. Entire Agreement. This Agreement contains the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes any prior written or oral understandings or agreements between the Parties. All exhibits attached hereto are incorporated herein by reference as though fully set forth herein.

26. Modification of Agreement. This Agreement may be amended or cancelled in whole or in part at any time by written amendment executed by the Parties or by their successor in interest or assigns. All amendments to this Agreement must be recorded in the official records of Coconino County, Arizona, within ten (10) days following execution, as required by A.R.S. § 9- 500.05(D).

27. 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 any other provision of this Agreement.

28. 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.

29. Terms. Common nouns and pronouns will be deemed to refer to the masculine, feminine, neuter, singular, and plural, as the identity of the person may in the context require; and the word "person" or "party" will include a corporation, limited liability company, firm, partnership, proprietorship, or other form of association.

30. Descriptive Headings. The descriptive headings throughout this Agreement are for convenience and reference only, and the words contained therein will in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

31. Construction of Agreement. This Agreement has been arrived at by negotiation and will not be construed against either Party or against the Party who prepared the last draft.

32. Governing Law and Venue. This Agreement and the rights of the Parties shall be governed by and construed in accordance with the laws of the State of Arizona. and 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 or in the United States District Court for the District of Arizona, if appropriate under 28 U.S.C. § 1331.

33. Cancellation for Conflict of Interest. This Agreement is subject to the cancellation provisions of A.R.S. § 38-511.

34. Attorneys' Fees. 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, as well as expenses incurred in connection with the prosecution or defense of such action. For purposes of this Agreement, the term "attorneys' fees" or "attorneys' fees and costs" will mean the reasonable fees and expenses of in-house and outside counsel to the Parties hereto, which may include reasonable printing, photocopying, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons performing services under the supervision of an attorney, and the reasonable costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The provisions of this Section will survive the entry of any judgment, and will not merge, or be deemed to have merged, into any judgment.

35. Negation of Partnership. The Parties specifically acknowledge that the Project will be developed as private property, that no Party is acting as the agent of any other Party in any respect, and that each Party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. None of the terms or provisions of this Agreement are intended to create a partnership or other joint enterprise between the Parties.

36. No Obligation to Develop Property. Except as expressly set forth in this Agreement, neither City or Developer will be required to complete any part or all of the development of the Property.

37. No Third-Party Beneficiaries. City and Developer acknowledge and agree that the terms, provisions, and conditions of this Agreement are for the sole benefit of, and may be enforced solely by, City and Developer, and none of the terms, provisions, conditions, and obligations are for the benefit of or may be enforced by any third party.

38. Compliance with All Laws. Developer will comply with all applicable Federal, State, County and City laws, regulations and policies.

39. Time of the Essence. Time is of the essence in implementing the terms of this Agreement.

40. Authorization. The execution and performance of this Agreement has been duly authorized by all necessary laws, resolutions, or corporate actions of the respective Parties. The Parties to this Agreement represent and warrant that the persons executing this Agreement have full authority to bind the respective Parties.

41. 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:	To Developer:
City Manager City of Flagstaff 211 West Aspen Avenue Flagstaff, Arizona 86001	Ponderosa Parkway, LLC 102 S. Mikes Pike Street Flagstaff, Arizona 86001

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 seventy-two (72) hours following deposit in the United States Postal Service in the manner set forth above.

42. 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 the Developer execute the Agreement, amendment, or cancellation, as required by A.R.S. § 9-500.05.

WAIVER OF CLAIMS

43. Waiver of Claims for Diminution in Value. Developer hereby waives and fully releases any and all financial loss, injury, claims, and causes of action that the Developer may have, now or in the future, for any "diminution in value" and for any "just compensation" under the Private Property Rights Protection Act, codified in A.R.S §§ 12-1131 through 12-1138, in connection with the application of City's existing land use laws and including Ordinance Number 2019-27 regarding the Property. This waiver constitutes a complete release of any and all claims and causes of action that may arise or may be asserted under the Act with regard to the subject Property. Developer agrees to indemnify, hold harmless, and defend City, its officers, employees, and agents, from any and all claims, causes of actions, demands, losses and expenses, including attorney's fees and litigation costs, that may be asserted by or may result from any of the present or future owners of any interest in the Property seeking potential compensation, damages, attorney's fees, or costs under the Act that they may have, as a result of the application of City's existing land use laws, including Ordinance Number 2019-27, upon the Property.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly authorized representatives, and Developer has signed the same on or as of the day and year first above written.

[Signature page follows]

City of Flagstaff, an Arizona municipal corporation

_____
Coral Evans, Mayor
Date_____

Attest:

_____
City Clerk
Date_____

Approved as to form:

_____
City Attorney
Date_____

Ponderosa Parkway, LLC, an Arizona limited liability company

By_____
Its_____
Date_____

STATE OF ARIZONA)
) ss.
County of Coconino)

On this _____ day of _____, 2019, before me, the undersigned Notary Public, personally appeared _____, personally known to me or shown by satisfactory evidence to be the person whose signature appears above, and acknowledged to me that he signed the foregoing document for the purposes therein contained. IN WITNESS WHEREOF, I have set my hand and official seal.

_____
Notary Public

Seal:

Exhibit A

Legal Description

Sixteenth: SW Quarter: SW Section: 14 Township: 21N Range: 07E PCL LAND SW4 SEC 14; COM SW COR SEC 14; TH N 88-40-05 E 498.63'; TH N 88-46-22 E 94.31'; TH N 88-33-15 E 97.00'; TH N 88-33-15 E 17.13'; TH N 88-49-16 E 33.06' TO PT ON CURVE, RADIUS N 83-36-13 E; TH NLY 266.06' ALNG SAID CURVE, HAVING CENTRAL ANGLE OF 22-52-57 & RADIUS OF 666.20' TPOB; TH CONTINUING NLY 91.43' ALNG SAID CURVE, CENTRAL ANGLE OF 07-51-49 RADIUS 666.20'; TH N 24-20-59 E 100.00' TO BEG OF CURVE CONCAVE TO W, RADIUS PT N 65-39-01 W; TH NLY 161.97' ALNG SAID CURVE, CENTRAL ANGLE OF 16-52-24, RADIUS 550.00'; TH CONTINUING ALNG SAID CURVE 30.02', CENTRAL ANGLE 03-07-38; TH N 04-20-59 E 128.87' TO BEG OF CURVE CONCAVE TO W, RADIUS PT N 85-39-01 W; TH NLY 516.81' ALNG SAID CURVE, CENTRAL ANGLE OF 11-36-44, RADIUS 2550.00';TH S 81-54-10 E 435.11'; TH S 25-00-00 E 595.79'; TH S 71-30-21 W 320.98'; TH S 18-30-39 E 251.55'; TH S 71-29-50 W 566.31'; TH N 18-16-58 W 121.42' TPOB.

[RECORDING HEADER AND MARGINS]

Return to:
City Clerk
City of Flagstaff
211 West Aspen Ave.
Flagstaff, AZ 86001

DEVELOPMENT AGREEMENT

Miramonte at Ponderosa Parkway Condominiums

THIS DEVELOPMENT AGREEMENT ("Agreement") by and between the City of Flagstaff, an Arizona municipal corporation ("City") and Ponderosa Parkway, LLC, an Arizona limited liability company ("Developer") (individually "Party" or collectively "Parties") is made this _____ day of _____, 2019.

RECITALS

A. A.R.S. § 9-500.05 authorizes City to enter into development agreements with landowners and persons having an interest in real property located in the City. City and Developer acknowledge this Agreement is a development agreement pursuant to this section.

B. Developer is the owner of real property located at 1650 E. Ponderosa Parkway, Flagstaff, Arizona (APN 107-07-002E), which is more specifically described in Exhibit "A" (the "Property").

C. Developer proposes to amend the City of Flagstaff's Rural Residential ("RR") zoning designation for the Property to High Density Residential ("HR"). Developer seeks a Zoning Map amendment by way of Direct Ordinance with a Site Plan process.

D. Developer proposes to develop the Property into a multi-family residential community consisting of up to 169 residential condominium units disbursed through thirteen (13) three-story buildings, civic spaces, and open areas. "Project" herein means the development of the Property for the uses, intensities, and densities currently shown in the submitted Site Plans.

E. Flagstaff City Code Division 10-30.70 provides for a density bonus incentive for new residential developments meeting certain residential sustainable building practices. The Project, as shown in the Site Plans, meets said requirements and is eligible for a density bonus, specifically.

    1. The landscape design for the Project will not include an "oasis zone" as otherwise permitted in Section 10-50.60.050(C) and Section 10-50.60.060 of the Flagstaff Zoning Code;

2. The Project is located within at least one-quarter mile of a Flagstaff Urban Trail System (FUTS) trail or connected to it;

3. The Project site is located within at least one-quarter mile of a bus stop;

4. The Project will have a written solid waste program that includes a plan for recycling or reuse of paper, cardboard, plastics and metals; recycling or reuse of lumber scraps; and diversion of masonry, cementitious and possibly gypsum material from the landfill; and

5. ~~A minimum of twenty-five percent (25%)~~All of the residential units in the Project will meet an energy efficiency score of 50 or lower on the HERS rating system (Home Energy Rating System) as certified by an independent third party.

F. Developer proposes to voluntarily deed restrict a minimum of ten percent (10%) of the proposed residential units in the Project for attainable housing as detailed below.

G. This Agreement is consistent with the Flagstaff Regional Plan 2030 in effect on the date this Agreement is executed.

H. The City has an interest in ensuring that the development of the Property complies with City standards for development and engineering improvements, 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.

I. The Developer acknowledges that development of the Property pursuant to this Agreement will be beneficial and advantageous to the Developer by providing assurances to the Developer that it will have the ability to develop the Property within the City pursuant to this Agreement, under the zoning described in Recital C above, and in accordance with the Site Plan.

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:

INCORPORATION OF RECITALS

1. Each of the recitals set forth above is incorporated into this Agreement as though fully set forth herein.

DEVELOPMENT AND ENTITLEMENTS

2. Scope of Development. The City and Developer hereby acknowledge that the City of

Flagstaff Development Review Staff approved, subject to conditions, the site plan and building elevations for the Project attached hereto as Exhibit "B" and incorporated by this reference (collectively the "Site Plan"). The Site Plan sets forth the basic land uses, intensity and density of such uses, relative height, bulk and size of buildings and structures proposed by Developer for development within the Property. The Site Plan sets forth required improvements and dedications for the Project. As depicted on the Site Plan, the overall maximum number of multi-family condominium units on the Property is 169 with a total of 299 bedrooms. Notwithstanding the foregoing, the City acknowledges that, while the Developer intends to develop the Project in general conformance with the Site Plan, in order to make the Project economically viable and otherwise feasible, Developer may request amendments to the Site Plan. The City shall process all submittals made by Developer in conformance with its minor site plan modification process, and 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.

3. Zoning Map Amendment. Developer hereby agrees to be subject to the terms, conditions, and stipulations of the rezoning ordinance for PZ-17-00227-03 (City Ordinance No. 2019-27) and Site Plan (PZ-17-00227-02). Should the Flagstaff City Council decline to approve the zoning map amendment, this Agreement will automatically become null and void.

4. Housing Density Entitlement; Sustainable Building. Developer will meet or exceed the minimum standards under Flagstaff City Code Section 10-30.70.040 for residential sustainable building practices making Developer eligible for a minimum housing density bonus of ten percent (10%). Developer agrees to utilize only an eight percent (8%) density bonus to allow an additional 13 units above the maximum 156 units otherwise allowed for the parcel per the City of Flagstaff Code and Flagstaff Regional Plan 2030. Developer agrees to incorporate the following into the Project:

a. A landscape design for the Project that will not include an "oasis zone" as otherwise permitted in Section 10-50.60.050(C) and Section 10-50.60.060 of the Flagstaff Zoning Code;
b. A written solid waste program to reduce waste during construction that includes a plan for recycling or reuse of paper, cardboard, plastics and metals; recycling or reuse of lumber scraps; and diversion of masonry, cementitious and possibly gypsum material from the landfill; and
c. ~~Developer will use reasonable efforts to construct 100%~~All of the units ~~to~~will meet a HERS (Home Energy Rating System) energy efficiency ~~score of 50 or lower. A minimum of twenty-five percent (25%) of the residential units of the Project shall achieve a HERS~~ score of 50 or lower as certified by an independent third party.

5. Development Standards. The development of the Property, as well as the requirements for off-site and on-site public improvements, will be governed by the Flagstaff Zoning Code, ordinances, regulations, rules, guidelines, and policies controlling permitted uses of the site, design review standards, the density and intensity of uses, and the maximum and minimum height and size of the buildings in existence as of the Effective Date of this Agreement will apply. For any development modifications made after five (5) years from the Effective Date of this Agreement, the current codes, ordinances, regulations, rules, guidelines, and standards in effect at

the time of submittal shall apply. Regardless of the time of development, current City Engineering Standards, Building Code, Fire Code, and other Code provisions, regulations, rules, and guidelines will apply to the Project.

DEVELOPER OBLIGATIONS

6. Infrastructure Improvements. All on-site roadway, water, sewer, and stormwater improvements and any required public easements are identified on the Site Plan and will be completed by Developer.

7. Homeowners' Association. Prior to the submittal of the first application for a building permit to City and pursuant to a condominium declaration ("Declaration") by Developer, Developer will form one or more Arizona nonprofit corporations to serve as the homeowners' association(s) ("HOA") for the Project and exercise all rights and obligations as may be granted, undertaken, or assigned to the HOA(s). The Declaration will:

a. incorporate the requirements of this Agreement ~~and further~~ ;
b. provide that either the HOA, a sub-association, or Developer (until such time as Developer, as "Developer," relinquishes control of the HOA(s) to the property owners, as provided in the Declaration) shall manage and maintain the common elements of the Project~~. The Declaration will~~ ;
~~a.~~c. identify the HOA that will be assigned all of the Developer's rights and obligations to operate the attainable housing components of the Project~~.~~
d. include a provision requiring the lease period be a minimum of thirty (30) days.

~~7.~~8. Adjacent Right-of-Way Landscaping Maintenance. All landscaping and irrigation in adjacent right-of-way areas along Ponderosa Parkway shall be maintained by the Developer or its assignee(s).

9. Prewiring for Electric Vehicles. Developer will prewire the Project for six (6) electronic vehicle (EV) charging stations in common areas of the Project.

10. Bike Parking. Developer will provide covered bike parking areas for the Project. The structures will consist of bike racks covered with an open roof assembly of steel materials.

~~8.~~11. Drainage and Slope Easements and Right of Way. Developer and City will prepare and record separate drainage and slope easements, including access to maintain the same, utilizing the City's standard form of easements, clarifying the previous conveyance to the City, as set forth in the Official Records of Coconino County in Instruments 3555010, 3555011, and 3546724. At the time of final plat, Developer shall dedicate to the City right-of-way in accordance with civil plans approved by the City and associated with this Project or, in the event Developer does not seek a plat, before the issuance of certificate of occupancy.

~~9.~~12. Attainable Housing. The Project will designate a minimum of ten percent (10%) of the total residential condominium ownership units to be initially sold at or below 100% of the Area Median Income ("AMI") affordability level ("Attainable Units") as follows:

a. Attainable Units will range in size from studios to three (3) bedroom units and be dispersed through the Project as feasible. Attainable Units must be occupied by the owner(s) as a primary residence and cannot be rented. The Attainable Units will be available beginning in the first phase of construction with a unit-mix dictated by buyers' preference and construction timing.

b. Developer will assign responsibility for the attainable housing program to an HOA for the Project. Developer or its assignee intends to contract with a third party entity to manage and oversee the buyer income qualification of the attainable housing component of the Project.

c. *Deed Restrictions*. Attainable Units will be subject to permanent deed restrictions or other binding affordability restrictions that run with the land and require transfer of the Attainable Units to another income qualified household for a maximum sales price in a form agreed upon by the City of Flagstaff Housing Director or designee ("Deed Restrictions"). Prior to the conveyance of an Attainable Unit from Developer to a third party purchaser ("Initial Sale"), Deed Restrictions for the particular Attainable Unit incorporating the requirements of this Agreement and will be recorded by Developer in the official records of Coconino County.

d. *Initial Sale Price*. Developer agrees to restrict the Initial Sale of Attainable Units to purchasing households with a maximum household income at or below 100% of the AMI affordability level for Flagstaff based on then current figures as determined by the United States Department of Housing and Urban Development ("HUD") adjusted for household size ("Initial Sales Price"). In determining the Initial Sales Price, the eligible buyers housing expense ratio will not exceed thirty-five percent (35%) without approval by the Director of the City of Flagstaff Housing Section or designee. Developer will offer Attainable Units at a price point of at least twenty-five percent (25%) lower than the market rates for comparable units.

e. *Resale Procedure*. Resale of Attainable Units will be regulated through the Deed Restrictions which will outline the maximum future resale price and define future buyer income eligibility and incorporate the relevant portions of this Agreement regarding attainable housing. The HOA assigned responsibility for the attainable housing program will establish the practical procedures consistent with the deed restriction document and this Agreement for when the owner of an Attainable Unit wishes to sell or transfer the unit. The procedures will address notification to the HOA, commission and payment for a market valuation of the unit (appraisal), and calculation of maximum resale price.

f. *Maximum Resale Price*. The maximum purchase price an Attainable Unit may be sold to a new eligible buyer will be equal to the lesser of: (1) the current appraised value of the Attainable Unit; or (2) the sum of then owner's purchase price of the Attainable Unit plus twenty five percent (25%) of the increase in the market value of the unit when appraised as if not deed restricted (determined by subtracting the

purchase price from the current appraised value) ("Maximum Resale Price"). Resale of Attainable Units will be restricted to income eligible buyers with a maximum household income at or below 125% of the AMI affordability level for Flagstaff based on then current HUD figures as adjusted for household size. In determining the Maximum Sales Price, the eligible buyers' housing expense ratio will not exceed thirty-five percent (35%) without approval by the City of Flagstaff Housing Director or designee.

g. If an Attainable Unit is not under contract for sale within 120 days from the date the unit is first listed by the current owner with the Multiple Listing Service or similar real estate listing service, the Deed Restriction for that unit will terminate. If the Attainable Unit is sold without the Maximum Resale Price requirements, the difference between the Maximum Resale Price and the unrestricted market rate purchase price shall be paid to the City of Flagstaff for down payment assistance or comparable direct assistance for up to 125% AMI homebuyers.

h. *Conveyance to an Attainable Housing Program*. Developer may convey any Attainable Unit at the Initial Sale Price with deed restrictions agreed upon by the City of Flagstaff Housing Director or designee to a third party entity that operates an affordable housing program whether for affordable ownership or affordable rentals. An Owner of an Attainable Unit may convey the Unit at the Maximum Resale Price with deed restrictions agreed upon by the City of Flagstaff Housing Director or designee to a third party entity that operates an affordable housing program whether for affordable ownership or affordable rentals.

~~10.~~13. Materials Management. Developer agrees to incorporate infrastructure to support residents' recycling activities on-site, including the provision of adequate space to locate recycling receptacles next to receptacles dedicated for trash. During construction, Developer will have a written solid waste program that includes a plan for recycling or reuse of paper, cardboard, plastics and metals; recycling or reuse of lumber scraps; and diversion of masonry, cementitious and possibly gypsum material from the landfill. To the extent feasible, Developer will reuse native materials on-site. To ensure compliance with this section and with Developer's sustainability commitments for the density bonus, Developer agrees to work with the City and allow City access to the Project site as needed (including during construction).

~~11.~~14. Permits and Building Fees. Developer agrees and understands that upon the submittal date of any application or permit, the current fees in effect at the time of submittal shall apply to the Project.

DEFAULT; REMEDIES

~~12.~~15. Events Constituting Default. A Party shall be deemed to be in default under this Agreement if such Party breaches any obligation required to be performed by the respective Party 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.

~~13.~~16. 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 costs of any such mediation shall be divided equally between City and Developer or in a manner as the mediator may order. If the Parties do not agree to a binding resolution, a Party shall be free to initiate litigation upon the conclusion of mediation.

~~14.~~17. Developer's Remedies. In the event that City is in default under this Agreement and fails to cure any such default within the time period required therefore as set forth above, then, in that event, in addition to all other legal and equitable remedies which Developer may have, Developer may terminate this Agreement by written notice delivered to City.

~~15.~~18. City's Remedies. In the event that Developer is in default under this Agreement, and Developer thereafter fails to cure any such default within the time period described above, then, in that event, in addition to all other legal and equitable remedies which City may have, City may terminate this Agreement by written notice delivered to Developer.

~~16.~~19. Development Rights in the Event of Termination. Upon the termination of this Agreement as provided herein, Developer shall have no further rights to develop the Property pursuant to this Agreement.

~~17.~~20. No Personal Liability. No current or former member, official, or employee of City or Developer when acting within the scope of their official capacity shall be personally liable (a) in the event of any default or breach by City or Developer, as applicable; (b) for any amount that may become due to the nonbreaching Party or its successor or assign; or (c) pursuant to any obligation of City or Developer, as applicable, under the terms of this Agreement.

~~18.~~21. Liability and Indemnification. Developer shall indemnify, protect, defend and hold harmless the City, its Council members, officers, employees, and agents for, from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, directly or indirectly, in whole or in part, out of the performance of this Agreement by City or Developer, or nonperformance of this Agreement by the Developer.

GENERAL PROVISIONS

~~19.~~22. Effective Date and Term. This Agreement will be effective on the date of recordation, in accordance with A.R.S. § 9-500.05, after execution by Parties ("Effective Date"). The Agreement will automatically terminate thirty (30) years from the Effective Date.

~~20.~~23. Further Assurances. Each Party, promptly upon the request of the other, will take such further actions and will execute, acknowledge and deliver to the other any and all further instruments as may be necessary or proper to carry out the purpose and intent of this Agreement.

~~21.~~24. Successors and Assigns. All of the provisions hereof will inure to the benefit of and be binding upon the successors and assigns of the Parties pursuant to A.R.S. § 9-500.05(D),

except as provided below. Developer's rights and obligations hereunder may only be assigned to a person or entity that has acquired the Property or a portion thereof and only by a written instrument, recorded in the official records of Coconino County, Arizona, expressly assigning such rights and obligations. All rights and obligations of Developer under this Agreement will constitute covenants that run with the land and will be binding on all of Developer's respective successors and assigns.

a. Notwithstanding the foregoing, City agrees that Developer's common element ownership, operation, and maintenance obligations provided by this Agreement may be assigned to HOA(s) to be established by Developer.

b. Notwithstanding the foregoing, City agrees that Developer's operation, oversight, and management of the attainable housing components of the Project provided by this Agreement may be assigned to HOA(s) to be established by Developer.

c. Notwithstanding any other provisions of this Agreement, Developer may assign all or part of its rights and duties under this Agreement to any financial institution from which such Developer has borrowed funds for developing the Property or a portion thereof.

~~22.~~25. Entire Agreement. This Agreement contains the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes any prior written or oral understandings or agreements between the Parties. All exhibits attached hereto are incorporated herein by reference as though fully set forth herein.

~~23.~~26. Modification of Agreement. This Agreement may be amended or cancelled in whole or in part at any time by written amendment executed by the Parties or by their successor in interest or assigns. All amendments to this Agreement must be recorded in the official records of Coconino County, Arizona, within ten (10) days following execution, as required by A.R.S. § 9- 500.05(D).

~~24.~~27. 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 any other provision of this Agreement.

~~25.~~28. 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.

~~26.~~29. Terms. Common nouns and pronouns will be deemed to refer to the masculine, feminine, neuter, singular, and plural, as the identity of the person may in the context require; and the word "person" or "party" will include a corporation, limited liability company, firm, partnership, proprietorship, or other form of association.

~~27.~~30. Descriptive Headings. The descriptive headings throughout this Agreement are for convenience and reference only, and the words contained therein will in no way be held to

explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

~~28.~~31. Construction of Agreement. This Agreement has been arrived at by negotiation and will not be construed against either Party or against the Party who prepared the last draft.

~~29.~~32. Governing Law and Venue. This Agreement and the rights of the Parties shall be governed by and construed in accordance with the laws of the State of Arizona. and 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 or in the United States District Court for the District of Arizona, if appropriate under 28 U.S.C. § 1331.

~~30.~~33. Cancellation for Conflict of Interest. This Agreement is subject to the cancellation provisions of A.R.S. § 38-511.

~~31.~~34. Attorneys' Fees. 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, as well as expenses incurred in connection with the prosecution or defense of such action. For purposes of this Agreement, the term "attorneys' fees" or "attorneys' fees and costs" will mean the reasonable fees and expenses of in-house and outside counsel to the Parties hereto, which may include reasonable printing, photocopying, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons performing services under the supervision of an attorney, and the reasonable costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The provisions of this Section will survive the entry of any judgment, and will not merge, or be deemed to have merged, into any judgment.

~~32.~~35. Negation of Partnership. The Parties specifically acknowledge that the Project will be developed as private property, that no Party is acting as the agent of any other Party in any respect, and that each Party is an independent contracting entity with respect to the terms, covenants, and conditions contained in this Agreement. None of the terms or provisions of this Agreement are intended to create a partnership or other joint enterprise between the Parties.

~~33.~~36. No Obligation to Develop Property. Except as expressly set forth in this Agreement, neither City or Developer will be required to complete any part or all of the development of the Property.

~~34.~~37. No Third-Party Beneficiaries. City and Developer acknowledge and agree that the terms, provisions, and conditions of this Agreement are for the sole benefit of, and may be enforced solely by, City and Developer, and none of the terms, provisions, conditions, and obligations are for the benefit of or may be enforced by any third party.

~~35.~~38. Compliance with All Laws. Developer will comply with all applicable Federal, State, County and City laws, regulations and policies.

~~36.~~39. Time of the Essence. Time is of the essence in implementing the terms of this

Agreement.

~~37.~~40. Authorization. The execution and performance of this Agreement has been duly authorized by all necessary laws, resolutions, or corporate actions of the respective Parties. The Parties to this Agreement represent and warrant that the persons executing this Agreement have full authority to bind the respective Parties.

~~38.~~41. 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:	To Developer:
City Manager City of Flagstaff 211 West Aspen Avenue Flagstaff, Arizona 86001	Ponderosa Parkway, LLC 102 S. Mikes Pike Street Flagstaff, Arizona 86001

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 seventy-two (72) hours following deposit in the United States Postal Service in the manner set forth above.

~~39.~~42. 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 the Developer execute the Agreement, amendment, or cancellation, as required by A.R.S. § 9-500.05.

WAIVER OF CLAIMS

~~40.~~43. Waiver of Claims for Diminution in Value. Developer hereby waives and fully releases any and all financial loss, injury, claims, and causes of action that the Developer may have, now or in the future, for any "diminution in value" and for any "just compensation" under the Private Property Rights Protection Act, codified in A.R.S §§ 12-1131 through 12-1138, in connection with the application of City's existing land use laws and including Ordinance Number 2019-27 regarding the Property. This waiver constitutes a complete release of any and all claims and causes of action that may arise or may be asserted under the Act with regard to the subject Property. Developer agrees to indemnify, hold harmless, and defend City, its officers, employees, and agents, from any and all claims, causes of actions, demands, losses and expenses, including attorney's fees and litigation costs, that may be asserted by or may result from any of the present or future owners of any interest in the Property seeking potential compensation, damages, attorney's fees, or costs under the Act that they may have, as a result of the application of City's existing land use laws, including Ordinance Number 2019-27, upon the Property.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly

authorized representatives, and Developer has signed the same on or as of the day and year first above written.

[Signature page follows]

City of Flagstaff, an Arizona municipal corporation

_____
Coral Evans, Mayor
Date_____

Attest:

_____
City Clerk
Date_____

Approved as to form:

_____
City Attorney
Date_____

Ponderosa Parkway, LLC, an Arizona limited liability company

By_____
Its_____
Date_____

STATE OF ARIZONA)
) ss.
County of Coconino)

On this _____ day of _____, 2019, before me, the undersigned Notary Public, personally appeared _____, personally known to me or shown by satisfactory evidence to be the person whose signature appears above, and acknowledged to me that he signed the foregoing document for the purposes therein contained. IN WITNESS WHEREOF, I have set my hand and official seal.

_____
Notary Public

Seal:

Exhibit A

Legal Description

Sixteenth: SW Quarter: SW Section: 14 Township: 21N Range: 07E PCL LAND SW4 SEC 14; COM SW COR SEC 14; TH N 88-40-05 E 498.63'; TH N 88-46-22 E 94.31'; TH N 88-33-15 E 97.00'; TH N 88-33-15 E 17.13'; TH N 88-49-16 E 33.06' TO PT ON CURVE, RADIUS N 83-36-13 E; TH NLY 266.06' ALNG SAID CURVE, HAVING CENTRAL ANGLE OF 22-52-57 & RADIUS OF 666.20' TPOB; TH CONTINUING NLY 91.43' ALNG SAID CURVE, CENTRAL ANGLE OF 07-51-49 RADIUS 666.20'; TH N 24-20-59 E 100.00' TO BEG OF CURVE CONCAVE TO W, RADIUS PT N 65-39-01 W; TH NLY 161.97' ALNG SAID CURVE, CENTRAL ANGLE OF 16-52-24, RADIUS 550.00'; TH CONTINUING ALNG SAID CURVE 30.02', CENTRAL ANGLE 03-07-38; TH N 04-20-59 E 128.87' TO BEG OF CURVE CONCAVE TO W, RADIUS PT N 85-39-01 W; TH NLY 516.81' ALNG SAID CURVE, CENTRAL ANGLE OF 11-36-44, RADIUS 2550.00';TH S 81-54-10 E 435.11'; TH S 25-00-00 E 595.79'; TH S 71-30-21 W 320.98'; TH S 18-30-39 E 251.55'; TH S 71-29-50 W 566.31'; TH N 18-16-58 W 121.42' TPOB.

Miramonte at Ponderosa Parkway

Resolution for a Development Agreement

Alaxandra Pucciarelli
Planning Development Manager

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Development Agreement

Purpose of the agreement:

- Establishes the requirements for the developer to obtain a density bonus per Flagstaff Zoning Code section 10-30.70.040 Residential Sustainable Building Standards.
- Developer agrees to record a separate easement agreement ratifying the previous conveyance to the City of drainage and slope easements.
- Developer agrees to designate a minimum of 10% of the total units to be sold at or below 100% of the Area Median Income ("AMI").

Council Options:

1. Approve the Miramonte at Ponderosa Parkway Condominiums Development Agreement as presented.
2. Approve the Miramonte at Ponderosa Parkway Condominiums Development Agreement with additional, modified, or deleted terms.
3. Remand the Miramonte at Ponderosa Parkway Condominiums Development Agreement back to staff for additional negotiations with Ponderosa Parkway, LLC.
4. Deny the Miramonte at Ponderosa Parkway Condominiums Development Agreement.

14. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Alaxandra Pucciarelli, Planning Development Manager - AP
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Adoption of Ordinance No. 2019-28: An ordinance of the Flagstaff City Council accepting drainage and slope easements along Ponderosa Parkway; delegating authority, and establishing an effective date.

STAFF RECOMMENDED ACTION:

At the September 3, 2019 Council Meeting:

1) Read Ordinance No. 2019-28 by title only for the first time
2) City Clerk reads Ordinance No. 2019-28 by title only (if approved above)

At the September 17, 2019 Council Meeting:

3) Read Ordinance No. 2019-28 by title only for the final time
4) City Clerk reads Ordinance No. 2019-28 by title only (if approved above)
5) Adopt Ordinance No. 2019-28

Executive Summary:

Under ordinance No. 2019-28 the City will formally accept the easements received on March 1, 2010 per the Special Warranty Deed, Document Number 3555011; and the City will accept slope and drainage easements in the same location from the current property owner, Miramonte, using the City's standard forms, in order to clarify and define the obligations of the City and Miramonte.

Financial Impact:

None

Policy Impact:

None

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

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

Has There Been Previous Council Decision on This:

Yes, Ordinance No. 2009-39 approving the Development and Disposition Agreement dated December 3rd, 2009.

Options and Alternatives:

1. Approve Ordinance No. 2019-28 which formally accepts the easements.
2. Do not approve Ordinance No. 2019-28 and the existing easements remain in place, however, the obligations of the easements will remain unclear.

Background/History:

Under the original Development and Disposition Agreement dated December 3, 2009, Document Number 3546724, official records of Coconino County ("DA"), Gemini (now Miramonte) was required to dedicate slope and drainage easements to the City, per paragraph 7 (a) of the DA. The City received these easements on March 1, 2010, by Special Warranty Deed, Document Number 3555011, however, neither the DA nor the Special Warranty Deed indicated the scope of the easements; rights of access, maintenance obligations, restrictions of the easement. This ordinance will formally accept the easements received in the Special Warranty Deed, Document Number 3555011 and will authorize staff to accept non-exclusive easements granted by Miramonte over the same legally described parcels, using our standard forms for slope and drainage easements.

Key Considerations:

The City has standard forms for drainage and slope easements that are used in development projects. The language of the easements outlines the obligations and responsibilities of the parties for maintenance, access, exclusivity, and overall purpose of the easement. Without the easement, the obligations and responsibilities of the parties are unclear. Recording the slope and drainage easements will clarify this and provide public notice.

Expanded Financial Considerations:

None

Community Benefits and Considerations:

Recording the slope and drainage easements outline the obligations of the parties which will protect the public infrastructure; road and drainage system.

Community Involvement:

Inform

Attachments: Development Agreement
Special Warranty Deed 3555011

Special Warranty Deed 3555010
Slope Easement
Drainage Easement
Ord. 2019-28
Vicinity Map

Official Records of Coconino County 3546724
Candace Owens - Recorder 12/03/2009 03:22 PM Pgs: 129
FLAGSTAFF CITY OF AM $73.00

When recorded, return to:

City Clerk
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

DEVELOPMENT AND DISPOSITION AGREEMENT
[Ponderosa Parkway Project]
Ordinance No. 2009-39

THIS DEVELOPMENT AND DISPOSITION AGREEMENT ("Agreement") is made and entered into as of the 3rd day of December 2009, by and between the CITY OF FLAGSTAFF, an Arizona municipal corporation ("City"); Laurie Jeanne Nemec and Frank A. Nemec, Jr., Trustees of the Nemec Family Trust dated October 12, 1982 ("Nemec"); Reid Plaza Enterprises, L.L.C., an Arizona limited liability company ("Reid Plaza"); Thomas James Olmsted, Bishop of the Roman Catholic Church of the Diocese of Phoenix, a corporation sole ("Diocese"); CLT Clark Family, L.L.C., an Arizona limited liability company, ("Clark"); and Gemini Flagstaff, L.L.C., an Arizona limited liability company ("Gemini") (collectively "Parties").

RECITALS

A. The Parties have been in intermittent negotiations over the last several years regarding property acquisition and development issues concerning several parcels of land on the north side of Route 66, across from Enterprise Drive on both sides of the City's proposed Ponderosa Parkway Project ("Development Area"). Through this Agreement, the Parties desire to accomplish transfers of various property interests, including a real estate exchange, right of way dedications, and easement conveyances, cost allocations for Ponderosa Parkway Improvements, and other matters.

B. The Parties believe that significant benefits will accrue to all of them by entering into this Agreement, and the Parties acknowledge that this Agreement is a development agreement pursuant to the provisions of Ariz. Rev. Stat. Ann. §9-500.05.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto state, confirm and agree as follows:

AGREEMENT

1. Effective Date.

This Agreement shall not become effective, and no Party shall have any obligation under this Agreement unless each of the following occurs: (1) this Agreement is executed by all Parties; (2) the City adopts Ordinance No. 2009-39 authorizing the City to enter into the Agreement following a second reading; (3) the City adopts Ordinance No. 2009-35 rezoning approximately 28 acres of land owned by the Diocese located at 1600 East Route 66 from RR, Rural Residential Zoning District to HR, High Density Residential Zoning District following a second reading; (4)

Unofficial Copy

this Agreement is recorded in accordance with **Section 10(i)**, as required by A.R.S. § 9-500.05(D); (5) Ordinance No. 2009-39 has become final following expiration of the time period in which it may be challenged or referred to the qualified electors of the City; and (6) Ordinance No. 2009-35 has become final following expiration of the time period in which it may be challenged or referred to the qualified electors of the City.

2. City/Nemec Real Estate Exchange and Escrow.

a. The City hereby agrees to convey to Nemec by exchange that parcel of land described in **Exhibit A**, attached to and made a part hereof ("Parcel A" [City to Nemec Parcel]), together with all improvements, rights, privileges, easements, and appurtenances thereto, and Nemec hereby agrees to convey to the City by exchange that parcel of land described in **Exhibit B**, attached to and made a part hereof ("Parcel B" [Nemec to City Parcel]), together with all improvements, rights, privileges, easements, and appurtenances thereto.

b. The City and Nemec agree that Parcel A and Parcel B are of equal or comparable value and that each shall convey to the other by good and sufficient special warranty deed, subject to any acceptable exceptions and reservations contained therein. Nemec acknowledges and agrees that the deed to Nemec from the City will contain a reservation of land for the sign easement to the Diocese as described in **Exhibit C and Exhibit Y**, attached to and made a part hereof ("Diocese Sign Design"), and a reservation of land for an access easement for the benefit of Parcel A [City to Nemec Parcel], the parcel of land identified as Coconino County Assessor's Parcel Number 107-07-002E, and Coconino County Assessor's Parcel Number 107-08-002, which access easement is described in **Exhibit L**, attached to and made a part hereof ("Reserved Joint Access Easement"). The City shall deposit into Escrow a special warranty deed in the form attached to and made a part of this Agreement as **Exhibit C**, and Nemec shall deposit into Escrow a special warranty deed in the form attached to and made a part of this Agreement as **Exhibit D.**

c. For purposes of this Agreement, the opening of escrow ("Opening of Escrow") shall be deemed to be the date on which a fully executed copy of this Agreement is delivered to and accepted by Escrow Agent. Subject to the conditions set forth in **Section 1** above, the consummation of the transactions contemplated by this Agreement ("Closing") shall occur at 10:00 a.m., Mountain Standard Time, at the earlier of sixty (60) days from the date of this Agreement or satisfaction of the requirements of this Agreement to be satisfied on or before Closing.

d. The Closing shall occur at the offices of First American Title Insurance Agency, Inc., with offices at 403 N. Agassiz Street, Flagstaff, Arizona ("Escrow Agent"), or at such other place as the Parties may agree in writing. Such Closing shall be deemed to have occurred when (i) all closing documents contemplated by this Agreement have been delivered to, received by, and executed by the appropriate Parties, (ii) all conditions to such Closing contemplated by this Agreement have been satisfied or waived, (iii) the deeds required pursuant to Conveyance have been recorded, and (iv) any funds required to be paid under this Agreement have been properly delivered to Escrow Agent and are available for distribution by Escrow Agent.

Unofficial Copy

e. On or before fifteen (15) days after the Opening of Escrow, Escrow Agent shall deliver to Nemec and the City a preliminary title report pertaining to the Property each desires to acquire ("Title Commitment").

f. On or before fifteen (15) days after receipt of each Title Commitment, either Nemec or the City may notify the other Party of any matters or exceptions shown on the Title Commitment concerning the property such Party seeks to acquire, or on any documents identified in such Party's Title Commitment as title exceptions, that are not acceptable ("Objections"). Any matters or title exceptions to which either Party does not object within such time period shall be deemed to be acceptable matters.

g. Nemec and the City shall each have fifteen (15) days from receipt of notice of the other Party's Objections to elect whether to cure all such Objections or to decline to cure said Objections. Mortgages, deeds of trust and other liens encumbering the properties shall be cleared at or before Closing. Should either Nemec or the City be unable to cure or elect not to cure the Objections of the other Party within the fifteen (15) day period, then the other Party may, at its option, terminate this Agreement or waive its Objections and proceed to Closing.

h. Nemec and the City each agrees to convey to the other, good, marketable, insurable and indefeasible fee simple title to the property it conveys. All conveyances shall be free and clear of all mortgages, deeds of trust, leases, and liens.

i. Nemec and the City shall each pay the premium for a standard owner's policy of title insurance through the Escrow Agent, with a limit of liability in an amount of the appraised value with respect to the property each is conveying, or as mutually agreed upon, and the acquiring Party shall pay the additional premium for any extended or other coverage desired by the acquiring Party. Nemec and the City shall split equally all closing costs, escrow fees, recording costs and other costs incurred in the transfer of Parcel A and Parcel B, as determined by the Escrow Agent.

j. Ad valorem and similar taxes and assessments relating to the properties and accruing to the date of Closing shall be prorated between Nemec and the City as of the date of Closing.

k. Nemec and the City each warrants that there shall be no material or adverse change to the condition of the warranting Party's property prior to Closing. All improvements, equipment and fixtures that are on each property as of the effective date of this Agreement shall remain on such property and in the same condition and shall be conveyed at Closing, except with respect to the dwelling on Parcel B.

l. Nemec and the City each hereby grants permission to the other Party (the "acquiring Party") to enter onto its property to undertake an "Environmental Investigation" which may include, but not be limited to, a physical inspection of the Property as well as any and all improvements, and as deemed reasonably necessary, a Phase I and/or a Phase II environmental assessment (scope to be determined by the acquiring Party) at the acquiring Party's expense. Nemec and the City each may choose and retain its own environmental consultant without seeking approval of the other Party. Nemec and the City each acknowledges that any Environmental Condition found on either of the properties will be the sole responsibility of the current owner of such property. Nemec and the City each

Unofficial Document

further acknowledges that the acquiring Party's participation in the performance of any Environmental Investigation will not create any liability for the acquiring Party as to any Environmental Condition that may exist on the property, unless during the course of the acquiring Party's Environmental Investigation of the property the acquiring Party or its consultant exacerbates an existing Environmental Condition. "Environmental Condition" shall mean the presence, release, or threatened release into the environment (which includes air, soil or water) of a hazardous or regulated material, waste, substance, toxin, chemical, or pollutant as those terms are defined by federal, state or local law, rule, regulation, or statute.

m. Nemec and the City shall each have a period of time beginning on the first day following the effective date of the Agreement and expiring forty-five (45) days thereafter ("Due Diligence Period") to conduct an Environmental Investigation of the property it seeks to acquire to assess the Environmental Condition of the property. If, as of the end of the Due Diligence Period, an acquiring Party has found that the Environmental Investigation reveals any Environmental Condition that is unacceptable to the acquiring Party, the acquiring Party may either: (i) cancel the Agreement; (ii) obtain an estimate as to the expected costs to cure, correct, respond to or remediate the Environmental Condition as required by applicable law and/or as deemed acceptable to the acquiring Party, and obtain the conveying Party's agreement to place a sum equivalent to that cost estimate in escrow to be used for curing, correcting, responding to or remediating the Environmental Condition; or (iii) obtain the conveying Party's agreement to cure, correct, respond to, and remediate any Environmental Condition identified in the Environmental Investigation and deliver the property free of any Environmental Condition. At the election of the conveying Party to pursue the third alternative set forth above in this paragraph, the conveying Party shall promptly commence the cure, correction, response to or remediation of the Environmental Condition and shall continue in a reasonable manner until receipt from the appropriate governmental agency of a document evidencing that the necessary and reasonable cure, correction, response or remediation has been accomplished. With respect to the second alternative set forth above in this paragraph, if the conveying Party elects neither to place a sum equivalent to the cost estimate for addressing the Environmental Condition nor to cure, correct, respond to or remediate the Environmental Condition, the acquiring Party may cancel the Agreement.

n. The following subsections of this **Section 2(n)** pertain to transactions contemplated in this Agreement other than the City and Nemec land exchange:

i. Each acquiring Party may perform whatever title and environmental due diligence that such Party desires, including obtaining title insurance, all at its own cost. Each conveying Party shall cooperate with the acquiring Party and grant the acquiring Party access as may be reasonably necessary.

ii. As to Property to be conveyed in fee, each Party agrees to convey to the other, good, marketable, insurable and indefeasible fee simple title to the property it conveys. All conveyances shall be free and clear of all mortgages, deeds of trust, leases, and liens.

iii. Ad valorem and similar taxes and assessments relating to the Property and accruing to the date of Closing shall be prorated among the Parties as of the date of Closing.

Unofficial Document

iv. Each conveying Party warrants that there shall be no material or adverse change to the condition of its Property prior to Closing.

v. The above notwithstanding, except for the requirement that all documents for dedications to the State of Arizona be delivered to Escrow Agent as provided above, any and all dedications of right of way to the State of Arizona hereunder shall be on such terms and conditions as are mutually agreed between the respective dedicating Parties and the State of Arizona.

3. Other Obligations of the City.

a. The City's deed to Nemec for Parcel A [City to Nemec Parcel] to be delivered to Escrow Agent as provided in **Section 2(b)** shall contain a reservation of an easement for sign placement to the Diocese as described in **Exhibit C** and **Exhibit Y**.

b. The City shall complete the design and cost estimate of the Parkway/Route 66 turn/deceleration lane and signal ("Ponderosa Parkway Improvements" or "Improvements") and construct the same with a November, 2010 target date, subject to certain conditions set forth below. The Ponderosa Parkway Improvements shall include, at a minimum, 660 feet of roadway north of Route 66 ending in a temporary cul-de-sac, including wet and dry utilities, curb, gutter, sidewalk, and parkway; a right turn lane and deceleration lane on Route 66 for approximately 600 feet eastbound from this intersection; and a four-way signal at Route 66 and Ponderosa Parkway (fire preemption), in accordance with the approved construction plans and as depicted in **Exhibit E**, attached to and made a part hereof.

c. City staff shall deliver a letter to Clark in support of Clark's future development rights of Assessor's Parcel No. 106-01-004D and shall deliver a copy thereof to Escrow Agent prior to Closing.

d. The City shall bear thirty-three and 5/10 percent (33.5%) of the costs of the Ponderosa Parkway Improvements, which, based on a two million dollar ($2,000,000) estimate, shall be six hundred seventy thousand dollars ($670,000), and the City shall manage the construction thereof.

e. The City shall deliver to Escrow Agent a good and sufficient deed dedicating to the State of Arizona that parcel of land described in **Exhibit F**, attached to and made a part hereof, for right of way purposes ("ADOT Right of Way from City") for Route 66 prior to Closing.

f. The City shall deliver to Escrow Agent a good and sufficient special warranty deed for conveyance to the Diocese of that triangle shaped parcel of land described in **Exhibit G**, attached to and made a part hereof ("Diocese Triangle from City"), for combination with Diocese property, free and clear of all mortgages, deeds of trust, leases, and liens, prior to Closing.

g. The City shall deliver to Escrow Agent a good and sufficient instrument dedicating to the public a permanent public right of way for a portion of the Ponderosa Parkway on and across that parcel of land described in **Exhibit U**, attached to and made a part hereof ("Parkway Right of Way from City No. 1"), prior to Closing.

Unofficial Document

h. The City shall deliver to Escrow Agent a good and sufficient instrument dedicating to the public a permanent public right of way for a portion of the Ponderosa Parkway on and across that parcel of land described in **Exhibit V**, attached to and made a part hereof ("Parkway Right of Way from City No. 2"), prior to Closing.

i. The City shall deliver to Escrow Agent a good and sufficient deed dedicating to the State of Arizona that parcel of land described in **Exhibit W**, attached to and made a part hereof, for right of way purposes ("ADOT Right of Way from City") for Route 66 prior to Closing.

j. The City shall deliver to Escrow Agent a good and sufficient instrument dedicating to the public a permanent public sewer easement on and within that parcel of land described in **Exhibit X**, attached to and made a part hereof ("Public Sewer Easement from City"), prior to Closing.

k. City staff shall deliver a letter to Nemec in support of commercial zoning for current Parcel A [City to Nemec Parcel] and shall deliver a copy thereof to Escrow Agent prior to Closing.

l. City staff shall support the rezoning of Parcel A [City to Nemec Parcel] and will make application and process the rezoning from RR, Rural Residential Zoning District, to C-3, Commercial Zoning District, at no cost to Nemec for processing fees. Nemec agrees to cooperate with City staff in connection with the rezoning. Although the City and Nemec agree that this Agreement cannot bind the current or a future City Council to approve such rezoning, the City agrees that City staff will not issue a final certificate of occupancy for the fire station to be constructed on Parcel B [Nemec to City Parcel], until this rezoning is approved by the City Council.

m. Upon completion of the land transactions contemplated in this Agreement, City staff shall approve the placement of up to four (4) signs with a maximum total square footage of four hundred twenty-five (425) square feet allocated among parcels 107-07-001C, 107-08-002, 107-08-003, and 107-08-004 along Route 66, which signs shall comply in all respects with the applicable City Code provisions. In addition, Nemec shall have the right to install one standard free standing sign along the frontage of Parcel 107-07-001C along the future Ponderosa Parkway, which shall comply in all respects with the applicable City Code provisions.

n. The City hereby approves the Diocese's future installation and maintenance of a sign on that portion of Parcel A [City to Nemec Parcel] containing the sign easement described in **Section 2(b)** and in **Exhibit C** hereof, in the form of the sign depicted in **Exhibit Y**, attached to and made a part hereof, which sign complies in all respects with the applicable City Code provisions.

4. Obligations of the Diocese.

a. The Diocese shall deliver to Escrow Agent a good and sufficient special warranty deed for dedication to the City of that parcel of land described in **Exhibit H**, attached to and made a

Unofficial Copy

part hereof, for right of way purposes ("City Right of Way from Diocese") free and clear of all mortgages, deeds of trust, leases, and liens, prior to Closing.

b. The Diocese shall deliver to Escrow Agent a good and sufficient special warranty deed for dedication to the City of that triangle shaped parcel of land described in **Exhibit I**, attached to and made a part hereof ("City Triangle from Diocese"), for combining with Parcel B [Nemec to City Parcel], free and clear of all mortgages, deeds of trust, leases, and liens, prior to Closing.

c. Prior to Closing the Diocese shall deliver to Escrow Agent for tender to the City thirty-three and 5/10 percent (33.5%) of the costs of the Ponderosa Parkway Improvements, which, based on a two million dollar ($2,000,000) estimate, shall be six hundred seventy thousand dollars ($670,000).

d. The Diocese shall obtain authorization from Arizona Engineering Company for the City's use and modification of the construction plans for the City's construction of Ponderosa Parkway on any portion of land owned or controlled by the Diocese within thirty (30) days of the date of this Agreement.

5. Obligations of Nemec and Reid Plaza.

a. Nemec and Reid Plaza shall deliver to Escrow Agent a good and sufficient deed dedicating to the State of Arizona that parcel of land described in **Exhibit J**, attached to and made a part hereof, for right of way purposes ("ADOT Right of Way from Nemec") for Route 66 prior to Closing.

b. Prior to Closing Nemec shall deliver to Escrow Agent for tender to the City thirty percent (30%) of the costs of the Ponderosa Parkway Improvements, which, based on a two million dollar ($2,000,000) estimate, shall be six hundred thousand dollars ($600,000).

c. Nemec and Reid Plaza shall deliver to Escrow Agent a good and sufficient deed dedicating a permanent sewer easement to the City on and within that parcel of land described in **Exhibit K**, attached to and made a part hereof ("City Sewer Easement from Nemec"), free and clear of all mortgages, deeds of trust, leases, and liens, prior to Closing. Building setbacks will continue to be measured from the actual property line.

d. Nemec and Reid Plaza shall deliver to Escrow Agent a good and sufficient deed dedicating a perpetual sidewalk and landscaping easement to the City across that parcel of land described in **Exhibit M**, attached to and made a part hereof ("City Sidewalk and Landscaping Easement from Nemec"), free and clear of all mortgages, deeds of trust, leases, and liens, prior to Closing. Building setbacks will continue to be measured from the actual property line.

6. Obligations of Clark.

a. Clark shall deliver to Escrow Agent a good and sufficient special warranty deed for dedication to the City of that parcel of land described in **Exhibit N**, attached to and made a

Unofficial Copy

part hereof, for right of way purposes for Ponderosa Parkway ("City Right of Way from Clark"), free and clear of all mortgages, deeds of trust, leases, and liens, prior to Closing.

b. Clark shall deliver to Escrow Agent a good and sufficient deed dedicating to the State of Arizona that parcel of land described in **Exhibit O**, attached to and made a part hereof, for right of way purposes for Route 66 ("ADOT Right of Way from Clark"), prior to Closing.

c. Prior to Closing Clark shall deliver to Escrow Agent for tender to the City three percent (3%) of the costs of the Ponderosa Parkway Improvements, which, based on a two million dollar ($2,000,000) estimate, shall be sixty thousand dollars ($60,000).

7. Obligations of Gemini.

a. Gemini shall deliver to Escrow Agent a good and sufficient deed dedicating a permanent slope and drainage easement to the City for Ponderosa Parkway on that parcel of land described in **Exhibit P**, attached to and made a part hereof ("City Slope and Drainage Easement from Gemini"), free and clear of all mortgages, deeds of trust, leases, and liens, prior to Closing.

b. Gemini shall deliver to Escrow Agent a good and sufficient deed dedicating a permanent sewer easement to the City on and within that parcel of land described in **Exhibit Q**, attached to and made a part hereof ("City Sewer Easement from Gemini No. 1"), free and clear of all mortgages, deeds of trust, leases, and liens, prior to Closing.

c. Gemini shall deliver to Escrow Agent a good and sufficient deed granting a permanent joint access easement on and within that parcel of land described in **Exhibit R**, attached to and made a part hereof ("Joint Access Easement from Gemini for Assessor's Parcel Number 107-07-002E"), for the benefit of Coconino County Accessor's Parcel Number 107-08-002, free and clear of all mortgages, deeds of trust, leases, and liens, prior to Closing.

d. Gemini shall deliver to Escrow Agent a good and sufficient deed dedicating a permanent sewer easement to the City on and within that parcel of land described in **Exhibit S**, attached to and made a part hereof ("City Sewer Easement from Gemini No. 2"), free and clear of all mortgages, deeds of trust, leases, and liens, prior to Closing.

8. Additional Cost Sharing for Ponderosa Parkway Improvements.

If the total cost to build the Ponderosa Parkway Improvements exceeds two million dollars ($2,000,000), then the Parties specified below shall share those excess costs in the following proportions: The City shall bear thirty-five percent (35%) of said excess Improvement costs; the Diocese shall bear thirty-five percent (35%) of said excess Improvement costs; and Nemec shall bear thirty percent (30%) of said excess Improvement costs. The City shall be initially responsible for payment of all construction costs with respect to the Improvements. When the City determines that it has paid in excess of two million dollars ($2,000,000) for the Improvements, the City shall notify the Diocese and Nemec thereof, pursuant to **Section 10(a)**, and the Diocese and Nemec shall pay their respective percentages of such excess costs to the City within one hundred eighty (180) days of such notice. All amounts due to the City hereunder that are not paid when due shall be subject to a penalty of five percent (5%) of any amount due

Unofficial Document

and owing and shall bear interest until paid at the lesser of two percent (2%) per month or the highest rate permitted by law. Any Party's failure to pay all amounts that such Party owes the City hereunder within ninety (90) days of notice that the City has paid in excess of two million dollars ($2,000,000) shall constitute a material breach of this Agreement, and the City may seek recourse against such Party as provided in **Section 9** of this Agreement.

9. Default; Alternative Dispute Resolution.

a. Except as otherwise provided herein, in the event any Party hereto fails to comply with any terms, conditions, provisions and obligations under this Agreement which are applicable to such Party within thirty (30) days after receipt of written notice from another Party (an "Event of Default"), such Party shall be deemed to be in default under this Agreement. After the occurrence of such Event of Default, the Parties hereby agree that the following dispute resolution procedures shall apply:

b. If a dispute arises out of or relates to this Agreement and if the dispute cannot be settled through negotiation, the Parties agree first to try in good faith to resolve the dispute by mediation before resorting to litigation or some other dispute resolution procedure. The Developer and the City agree that this **Section 9** is a dispute resolution process as described in Ariz. Rev. Stat. Ann. §12-821.01.C.

c. Mediation will take place in Flagstaff, Arizona, be self-administered and be conducted under the CPR Mediation Procedures established by the CPR Institute for Dispute Resolution, 366 Madison Avenue, New York, New York 10017, (212) 949-6490, www.cpradr.org, with the exception of the mediator selection provisions, unless other procedures are agreed upon by the Parties.

d. Any Party may refer the dispute to mediation by sending by U.S. mail, certified and return receipt requested, to the other Party or Parties a written notice (the "Mediation Notice") calling on the other Party or Parties to proceed to mediation. The Party or Parties who have received a Mediation Notice shall contact the Party calling for mediation within seven (7) days from receipt of the Mediation Notice to confirm receipt thereof and to begin the mediator selection process.

e. Unless the Parties agree otherwise, the Parties shall select the mediator(s) from the roster of attorney mediators trained under the Alternative Dispute Resolution Program of the Coconino County Superior Court. If the Parties are unable to agree upon a mediator within fourteen (14) days of the confirmation of receipt of Mediation Notice, each Party shall independently inform the Director of the Alternative Dispute Resolution Program of the Coconino County Superior Court (the "Director") of three attorney mediators from that roster that are acceptable to the Party, and further, inform the Director of any preference as to matters such as whether co-mediation is preferable, mediation style, subject matter expertise, or other factors pertinent to the case. The Director shall then select one or more attorney mediators from the Parties' lists or such other attorney mediator(s) from the above noted roster as the Director may deem, in the Director's sole discretion, appropriate under the circumstances.

Unofficial Copy

f. Each Party agrees to bear its own fees and costs in mediation. The Parties shall enter into a written agreement with the mediator(s) regarding the mediator(s)' fees and expenses before the first mediation session. The Parties involved in the mediation shall share equally the mediators' fees and mediation expenses.

g. The Parties agree to encourage participation in mediation by all relevant Parties. The Parties will not be obligated to mediate if an indispensable party is unwilling to join the mediation.

h. This section does not constitute a waiver of the Parties' rights to arbitrate or initiate legal action if a dispute is not resolved through good faith negotiation or mediation, or if provisional relief is required under the Arizona Rules of Civil Procedure.

i. Except as otherwise agreed by the Parties or required by law, any litigation brought by a Party against any other to enforce the provisions of this Agreement must be filed in the Coconino County Superior Court. In any legal action, the prevailing Party or Parties in such action will be entitled to reimbursement by the other Party or Parties for all costs and expenses of such action, including reasonable attorneys' fees as may be fixed by the Court.

10. General Provisions.

a. Notices. All notices required or permitted to be given hereunder shall be in writing and may be given in person or by United States mail or by courier. Any notice directed to a Party shall become effective upon the earliest of the following: (a) actual receipt by that Party; (b) hand delivery to such Party at its designated notice address; (c) one (1) business day after deposit for delivery with a nationally-recognized overnight courier; (d) telephone facsimile with receipt confirmed; or (e) if given by certified or registered United States mail, seventy-two (72) hours after deposit with the United States Postal Service, postage prepaid, addressed to that Party at its designated address. The designated address of a Party shall be the address of that Party shown below or such other address as that Party, from time to time, may specify by notice to the other Party:

To the City:	City Manager City of Flagstaff 211 West Aspen Avenue Flagstaff, Arizona 86001
With copies to:	Flagstaff City Attorney 211 West Aspen Avenue Flagstaff, Arizona 86001
To Nemec:	Mrs. Laurie J. Nemec P.O. Box 23584 Flagstaff, Arizona 86002
And:	Mr. Frank A. Nemec, Jr. 16800 Bohlman Road Saratoga, California 95070

Unofficial Copy

To Reid Plaza:	Mrs. Laurie J. Nemec P.O. Box 23584 Flagstaff, Arizona 86002
To the Diocese:	The Roman Catholic Diocese of Phoenix Attn: Office of Buildings and Properties 400 East Monroe Street Phoenix, Arizona 85004
With copies to:	San Francisco de Asis Roman Catholic Parish Flagstaff Attn: Pastor 2257 East Cedar Avenue Flagstaff, Arizona 86004
To Gemini:	Gemini Flagstaff, L.L.C. Barry Werner and F.R. Lupton, Jr., Summit Sales 7802 East Gray Road Scottsdale, Arizona 85262
To Clark:	Dave Clark c/o Judy Louks Century 21 Associates 24 W. Route 66 Flagstaff, Arizona 86001

Any Party hereto shall have the right to change its designated notice address by providing to the other Parties written notice of such change in the manner described above.

b. Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties hereto; provided, however, that no assignment or transfer of a Party's interest in this Agreement or the subject matter hereof shall be effective until the other Parties are provided notice thereof pursuant to **Section 10(a)**.

c. Captions. The captions used herein are for convenience only and not a part of this Agreement and do not in any way limit or amplify the terms or provisions hereof.

d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. This Agreement has been made and entered into in Coconino County, Arizona.

e. Waiver. No waiver by any Party of any breach of any of the terms, covenants or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same for any other term, covenant or condition herein contained.

f. Severability. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or

Unofficial Copy

f. Severability. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permitted by law.

g. Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, negotiations and understandings of the Parties hereto, oral or written, are hereby superseded and merged herein.

h. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

i. Recordation. This Agreement shall be recorded in the Official Records of Coconino County, Arizona within ten (10) days after its approval and execution by the City.

j. Conflict of Interest. This Agreement is subject to Ariz. Rev. Stat. Ann. §38-511.

k. No Partnership; Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between or among the Parties. 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.

l. Authority. Each of the Parties hereto represents and warrants to the others that the individual executing this Agreement on behalf of a respective Party is authorized and empowered to bind the Party on whose behalf such individual is signing and that this Agreement shall be binding upon such Parties.

IN WITNESS WHEREOF, the undersigned have caused this Development and Disposition Agreement to be executed as of the day and year first above written.

ATTEST:

City Clerk

CITY OF FLAGSTAFF, an Arizona municipal corporation

By
Mayor

APPROVED AS TO FORM:

City Attorney

Unofficial Document

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

On this 3rd day of December, 2009, before me, the undersigned officer, personally appeared Sara Presler, who acknowledged herself to be Mayor of the CITY OF FLAGSTAFF, an Arizona municipal corporation:

✓ whom I know personally;
___ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
___ whose identity I verified on the basis of his/her _____,

and she, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

Laura Matthews
Notary Public

OFFICIAL SEAL
LAURA MATTHEWS
Notary Public - State of Arizona
COCONINO COUNTY
My Comm. Expires April 24, 2012

END OF PAGE

Unofficial Copy

LAURIE JEANNE NEMEC, Trustee of the Nemec Family Trust

Laurie Jeanne Nemec

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

On this 17 day of November, 2009, before me, the undersigned officer, personally appeared Laurie Jeanne Nemec, who acknowledged hermself to be Trustee of the NEMEC FAMILY TRUST.

_____ whom I know personally;
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
X whose identity I verified on the basis of his/her Ca DL A0454615,

and she, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

Notary Public

OFFICIAL SEAL
IVY SAMPSON
Notary Public – State of Arizona
COCONINO COUNTY
My commission expires March 13, 2011

END OF PAGE

Unofficial Copy

FRANK A. NEMEC, Jr., Trustee of the Nemec Family Trust

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2009, before me, _____, Notary Public, personally appeared Frank A. Nemec, Jr. Trustee of the Nemec Family Trust, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as Trustee of the Nemec Family Trust, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify upon PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

State of California, County of Santa Clara
On Nov 16, 09 before me, Nathan Ganeshan, Notary Public,
Personally appeared FRANK A. NEMEC, Jr.
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.
11/16/2009

NATHAN GANESHAN
Commission # 1704797
Notary Public - California
Santa Clara County
My Comm. Expires Nov 13, 2010

END OF PAGE

Unofficial Copy

REID PLAZA ENTERPRISES, L.L.C., an Arizona limited liability company

By Laurie Jeanne Nemec
Laurie Jeanne Nemec
Title: Manager

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

On this 17th day of November, 2009, before me, the undersigned officer, personally appeared Laurie Jeanne Nemec, who acknowledged herself to be the Manager of REID PLAZA ENTERPRISES, L.L.C., an Arizona limited liability company.

_____ whom I know personally;
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
X whose identity I verified on the basis of his/her Ca. DL A0454615,

and she, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

Notary Public

OFFICIAL SEAL
IVY SAMPSON
Notary Public - State of Arizona
COCONINO COUNTY
My commission expires March 13, 2011

END OF PAGE

Unofficial Copy

THOMAS JAMES OLMSTED, BISHOP OF THE ROMAN CATHOLIC CHURCH OF THE DIOCESE OF PHOENIX, a corporation sole

Thomas James Olmsted, Bishop of the Roman Catholic Church of the Diocese of Phoenix, a corporation sole

Thomas J Olmsted

By: Fredrick J Adamson
Fredrick Adamson, Agent

Rev. Fredrick J. Adamson

STATE OF ARIZONA)
) ss.
COUNTY OF Maricopa)

On this 16th day of November, 2009, before me, the undersigned officer, personally appeared Rev. Fredrick J. Adamson, who acknowledged her/himself to be Agent of the ROMAN CATHOLIC CHURCH OF THE DIOCESE OF PHOENIX, a corporation sole:

✓ whom I know personally;
____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
____ whose identity I verified on the basis of his/her _____,

and s/he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

LORETTA GARCIA
NOTARY PUBLIC
MARICOPA COUNTY, ARIZONA
MY COMM. EXPIRES 07-09-2011

Loretta Garcia
Notary Public

END OF PAGE

Unofficial Copy

GEMINI FLAGSTAFF, L.L.C., an Arizona limited liability company

By _____
Name F.P. Lupton, Jr.
Title Member

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this 16 day of NOVEMBER, 2009, before me, the undersigned officer, personally appeared FRANK P LUPTON, who acknowledged her/himself to be MEMBER of GEMINI FLAGSTAFF, L.L.C., an Arizona limited liability company:

_____ whom I know personally;
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
✓ whose identity I verified on the basis of his/her AZ DRIVERS LICENSE,

and s/he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL: OFFICIAL SEAL
PAUL SCHLENKER
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires May 16, 2011

_____
Notary Public

END OF PAGE

Unofficial Copy

GEMINI FLAGSTAFF, L.L.C., an Arizona limited liability company

By _____
Name Barry Werner
Title ~~Member~~ Member

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this 16 day of NOVEMBER, 2009, before me, the undersigned officer, personally appeared BARRY WERNER, who acknowledged her/himself to be MEMBER of GEMINI FLAGSTAFF, L.L.C., an Arizona limited liability company:

_____ whom I know personally;
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
✓ whose identity I verified on the basis of his/her AZ DRIVERS LICENSE,

and s/he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

OFFICIAL SEAL
PAUL SCHLENKER
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires May 16, 2011

_____
Notary Public

END OF PAGE

Unofficial Copy

CLT CLARK FAMILY, L.L.C., an Arizona limited liability company

By _____
Name L. David Clark
Title Manager

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

On this 5 day of November, 2009, before me, the undersigned officer, personally appeared L. David Clark, who acknowledged her/himself to be Manager of CLT CLARK FAMILY, L.L.C., an Arizona limited liability company:

✓ whom I know personally;
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;
_____ whose identity I verified on the basis of his/her _____,

and s/he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

Judy Louks
Notary Public

OFFICIAL SEAL
JUDY LOUKS
Notary Public – State of Arizona
COCONINO COUNTY
My commission expires Nov. 13, 2012

Unofficial Copy

LIST OF EXHIBITS

Exhibit A	-	Parcel A [City to Nemec Parcel]
Exhibit B	-	Parcel B [Nemec to City Parcel
Exhibit C	-	Special Warranty Deed from City to Nemec
Exhibit D	-	Special Warranty Deed from Nemec to City
Exhibit E	-	Ponderosa Parkway Improvements
Exhibit F	-	ADOT Right of Way from City
Exhibit G	-	Diocese Triangle from City
Exhibit H	-	City Right of Way from Diocese
Exhibit I	-	City Triangle from Diocese
Exhibit J	-	ADOT Right of Way from Nemec
Exhibit K	-	City Sewer Easement From Nemec
Exhibit L	-	Reserved Joint Access Easement
Exhibit M	-	City Sidewalk and Landscaping Easement from Nemec
Exhibit N	-	City Right of Way from Clark
Exhibit O	-	ADOT Right of Way from Clark
Exhibit P	-	City Slope and Drainage Easement from Gemini
Exhibit Q	-	City Sewer Easement from Gemini No. 1
Exhibit R	-	Joint Access Easement from Gemini for Assessor's Parcel No. 107-07-002E
Exhibit S	-	City Sewer Easement from Gemini No. 2
Exhibit T	-	(vacant)
Exhibit U	-	Parkway Right of Way from City No. 1
Exhibit V	-	Parkway Right of Way from City No. 2
Exhibit W	-	ADOT Right of Way from City

Unofficial Copy

Exhibit X - Public Sewer Easement from City

Exhibit Y - Diocese Sign Design

Unofficial Copy

Exhibit A
(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471, of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23 and the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471, monumented with a scribed X in concrete;

Unofficial Document

THENCE North 71°20'15" East along the south line of Parcel 1 (Docket 1827, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936 and to the southeast corner of Parcel 1 (Docket 1827, Page 471);

THENCE North 18°35'24" West along the west line of Parcel 3 and along the east line of Parcel 1 (Docket 1827, Page 471), 16.00 feet to the **TRUE POINT OF BEGINNING** of this description;

THENCE South 71°20'15" West parallel with and 16.00 feet north of the north right of way line of Route 66, 97.50 feet;

THENCE North 57°53'12" West, 42.26 feet to a non-tangent curve whose radius point bears North 78°56'38" East;

THENCE northerly along a curve to the right having a radius of 742.50 feet and a central angle of 9°34'24", an arc distance of 124.06 feet (chord bearing North 06°16'10" West, chord distance 123.92 feet);

THENCE North 01°28'58" West, 142.83 feet;

THENCE northerly along a curve to the right having a radius of 300.43 feet and a central angle of 17°54'18", an arc distance of 93.88 feet.(chord bearing North 07°28'11" East, chord distance 93.50 feet);

THENCE northerly along a curve to the right having a radius of 765.00 feet and a central angle of 1°57'22", an arc distance of 26.12 feet (chord bearing North 17°24'01" East, chord distance 26.12 feet) to the west line of the parcel of land described in Instrument No. 3385837 and to the west line of Parcel 1(Docket 1827, Page 471);

THENCE South 18°16'17" East along the west line of the parcel of land described in Instrument No. 3385837 and along the east line of Parcel 1(Docket 1827, Page 471), 110.77 feet to the southwest corner of the parcel of land described in Instrument No. 3385837 and to the northwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936, monumented with a 4"x4" concrete post;

THENCE South 18°35'24" East along the west line of Parcel 3 and along the east line of Parcel 1 (Docket 1827, Page 471), 284.51 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.71 acres, more or less.

For a drawing of the parcel described above, see **Exhibit A (Drawing)**, which by this reference is made part of this description.

Land Transfer - City of Flagstaff to Nemec
Descriptive Title

03-09012
City File No.



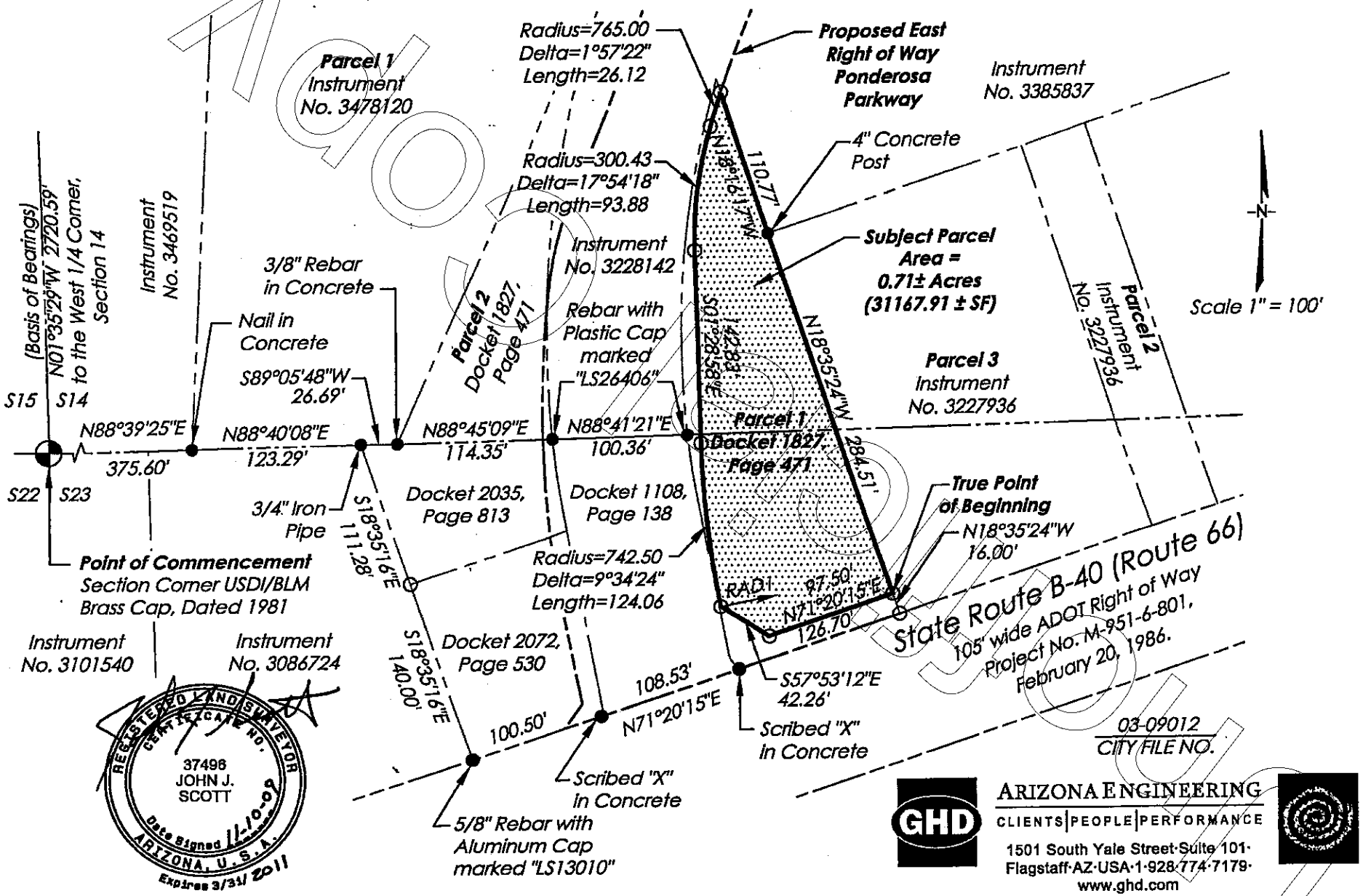
Unofficial Copy

3546724 Pages: 25 of 129 12/03/2009 03:22:47 PM

Exhibit A (Drawing)

A portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471. Located in the Southwest 1/4 of Section 14 and the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

RADIAL BEARING TABLE	
RAD1	N78°56'38"E



03-09012
CITY FILE NO.

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Exhibit B

(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 1 in Instrument No. 3478120 of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 02°48'58" East along the west line of Parcel 1 and along the east line of the parcel of land described in Instrument No. 3469519, 316.56 feet to the southeast corner of the parcel of land described in Docket 1633, Page 508, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 02°47'32" East along the west line of Parcel 1 and the east line of the parcel of land described in Docket 1633, Page 508, 216.69 feet to the northwest corner of Parcel 1, monumented with a nail in concrete;

THENCE North 75°29'09" East along the north line of Parcel 1 and along the east line of the parcel of land described in Docket 1633, Page 508, 76.78 feet to the east line of the parcel of land described in Docket 1633, Page 508 and to the west line of the parcel of land described in Instrument No. 3228142, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 89°04'58" East, 229.65 feet to the east line of Parcel 1 and to the west line of the parcel of land described in Instrument No. 3228142;

THENCE South 00°41'45" West along the east line of Parcel 1 and along the west line of the parcel of land described in Instrument No. 3228142, 156.85 feet to the northwest corner of the parcel of land described as Parcel 2 in Docket 1827, Page 471;

THENCE South 24°15'41" West along the east line of Parcel 1 and along the west line of Parcel 2, 433.72 feet to the south line of the southwest 1/4 of Section 14, and to the southeast corner of Parcel 1 and to the southwest corner of Parcel 2 and to the north line of the parcel of land described in Docket 2053, Page 813, monumented with a 3/8" rebar in concrete;

Unofficial Document

THENCE South 89°05'48" West along the south line of the southwest 1/4 of Section 14, and along the south line of Parcel 1 and along the north line of the parcel of land described in Docket 2035, Page 813, 26.69 feet to the northwest corner of the parcel of land described in Docket 2035, Page 813, and to the northeast corner of the parcel of land described in Instrument No. 3086724, monumented with a 3/4" iron pipe;

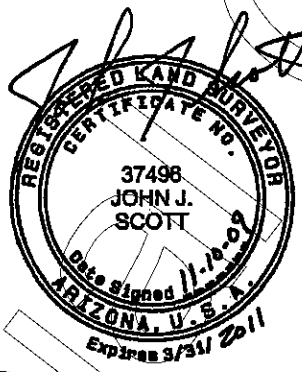
THENCE South 88°40'08" West along the south line of the southwest 1/4 of Section 14, along the south line of Parcel 1 and along the north line of the parcel of land described in Instrument No. 3086724, 123.29 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 3.15 acres (137,393.86 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit B (Drawing)**, which by this reference is made part of this description.

Land Transfer -Nemec to City of Flagstaff
Descriptive Title

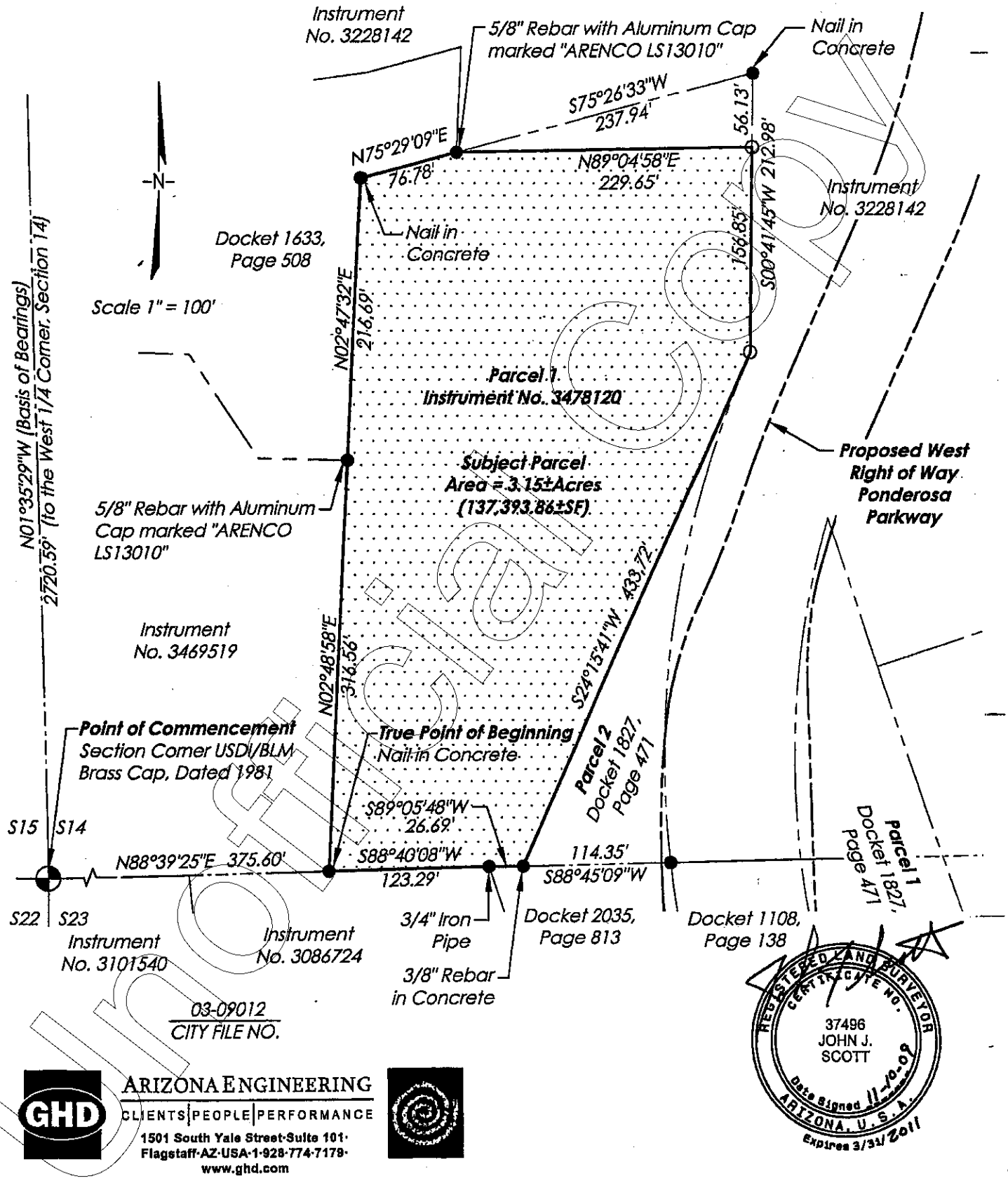
03-09012
City File No.



Unofficial Copy

Exhibit B (Drawing)

A portion of the parcel of land described as Parcel 1 in Instrument No. 3478120. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J. SCOTT
Date Signed 11-10-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Unofficial Document

EXHIBIT C TO DEVELOPMENT AGREEMENT

WHEN RECORDED MAIL TO:

[Exempt under A.R.S. Section 11-1134(A)(3)]

SPECIAL WARRANTY DEED

For the consideration of ten dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, the City of Flagstaff, an Arizona municipal corporation (hereinafter "Grantor"), does hereby grant and convey to the Nemec Family Trust dated October 12, 1982, (hereinafter "Grantee"), that real property situated in Coconino County, Arizona and described in Exhibit A, attached hereto and incorporated by this reference ("Subject Property"), together with all rights and privileges appurtenant thereto;

Subject to current taxes and other assessments, reservations in patents and all easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record, and all matters which an accurate survey or physical inspection of the real property would disclose; and

Subject to the reservation of an easement to the Roman Catholic Church of the Diocese of Phoenix for the construction, placement and maintenance of a sign as depicted in Exhibit B, attached hereto and incorporated herein and at the location described in Exhibit C, attached hereto and incorporated herein; and

Subject to the reservation of a motorized vehicle access easement for the benefit of the Subject Property, for the benefit of Assessor's Parcel No. 107-07-002E, and for the benefit of Assessor's Parcel No. 107-08-002, as described in Exhibit D, attached hereto and incorporated herein;

Grantor warrants title to the Subject Property, subject to the matters referred to above, as against all acts of Grantor and none other.

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed as of the day and year above written.

Unofficial Copy

GRANTOR

CITY OF FLAGSTAFF

By: _____
Sara Presler

Its: _____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me this ___day of _____, 2009, by Sara Presler, the Mayor of the City of Flagstaff, on behalf of the City of Flagstaff, an Arizona municipal corporation.

WITNESS my hand and official seal.

_____
Notary Public

My Commission Expires:

_____

Unofficial Copy

Exhibit A

(Description)
(To Special Warranty Deed)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 1 in Instrument No. 3478120 of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 02°48'58" East along the west line of Parcel 1 and along the east line of the parcel of land described in Instrument No. 3469519, 316.56 feet to the southeast corner of the parcel of land described in Docket 1633, Page 508, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 02°47'32" East along the west line of Parcel 1 and the east line of the parcel of land described in Docket 1633, Page 508, 216.69 feet to the northwest corner of Parcel 1, monumented with a nail in concrete;

THENCE North 75°29'09" East along the north line of Parcel 1 and along the east line of the parcel of land described in Docket 1633, Page 508, 76.78 feet to the east line of the parcel of land described in Docket 1633, Page 508 and to the west line of the parcel of land described in Instrument No. 3228142, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 89°04'58" East, 229.65 feet to the east line of Parcel 1 and to the west line of the parcel of land described in Instrument No. 3228142;

THENCE South 00°41'45" West along the east line of Parcel 1 and along the west line of the parcel of land described in Instrument No. 3228142, 156.85 feet to the northwest corner of the parcel of land described as Parcel 2 in Docket 1827, Page 471;

THENCE South 24°15'41" West along the east line of Parcel 1 and along the west line of Parcel 2, 433.72 feet to the south line of the southwest 1/4 of Section 14, and to the southeast corner of Parcel 1 and to the southwest corner of Parcel 2 and to the north line of the parcel of land described in Docket 2053, Page 813, monumented with a 3/8" rebar in concrete;

UNOFFICIAL COPY

THENCE North 71°20'15" East along the south line of Parcel 1 (Docket 1827, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936 and to the southeast corner of Parcel 1 (Docket 1827, Page 471);

THENCE North 18°35'24" West along the west line of Parcel 3 and along the east line of Parcel 1 (Docket 1827, Page 471), 16.00 feet to the **TRUE POINT OF BEGINNING** of this description;

THENCE South 71°20'15" West parallel with and 16.00 feet north of the north right of way line of Route 66, 97.50 feet;

THENCE North 57°53'12" West, 42.26 feet to a non-tangent curve whose radius point bears North 78°56'38" East;

THENCE northerly along a curve to the right having a radius of 742.50 feet and a central angle of 9°34'24", an arc distance of 124.06 feet (chord bearing North 06°16'10" West, chord distance 123.92 feet);

THENCE North 01°28'58" West, 142.83 feet;

THENCE northerly along a curve to the right having a radius of 300.43 feet and a central angle of 17°54'18", an arc distance of 93.88 feet.(chord bearing North 07°28'11" East, chord distance 93.50 feet);

THENCE northerly along a curve to the right having a radius of 765.00 feet and a central angle of 1°57'22", an arc distance of 26.12 feet (chord bearing North 17°24'01" East, chord distance 26.12 feet) to the west line of the parcel of land described in Instrument No. 3385837 and to the west line of Parcel 1(Docket 1827, Page 471);

THENCE South 18°16'17" East along the west line of the parcel of land described in Instrument No. 3385837 and along the east line of Parcel 1(Docket 1827, Page 471), 110.77 feet to the southwest corner of the parcel of land described in Instrument No. 3385837 and to the northwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936, monumented with a 4"x4" concrete post;

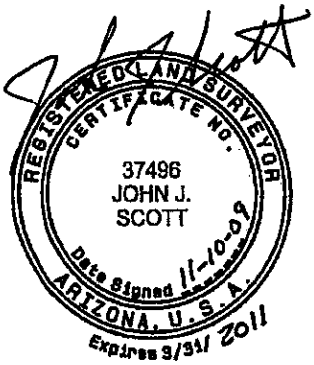
THENCE South 18°35'24" East along the west line of Parcel 3 and along the east line of Parcel 1 (Docket 1827, Page 471), 284.51 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.71 acres, more or less.

For a drawing of the parcel described above, see **Exhibit A (Drawing)**, which by this reference is made part of this description.

Land Transfer - City of Flagstaff to Nemec
Descriptive Title

03-09012
City File No.



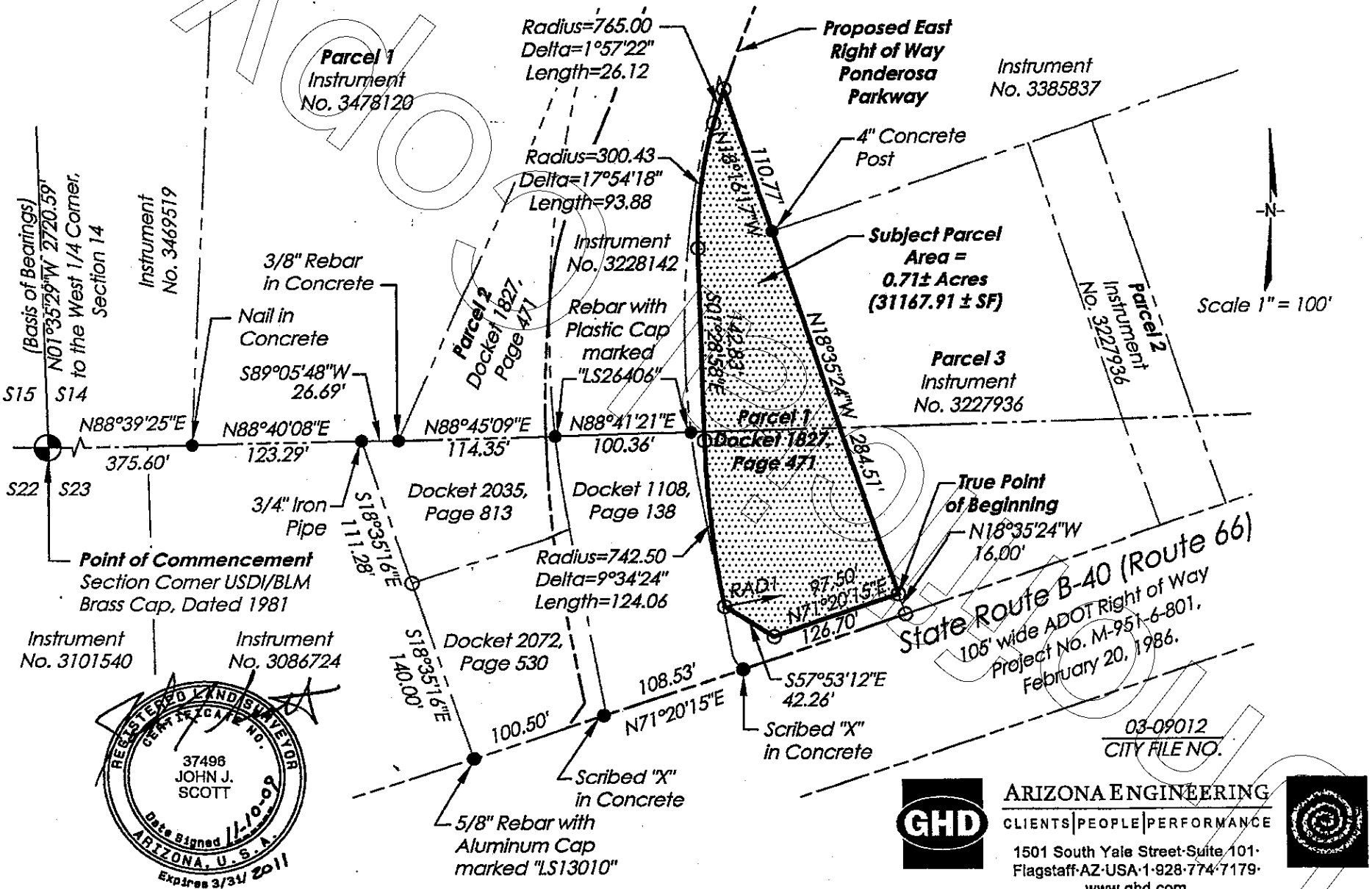
Unofficial Copy

3546724 Pages: 33 of 129 12/03/2009 03:22:47 PM

Exhibit A (Drawing)

A portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471. Located in the Southwest 1/4 of Section 14 and the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

RADIAL BEARING TABLE	
RAD1	N78°56'38"E



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 11-10-09
ARIZONA, U.S.A.
Expires 3/31/ 2011

03-09012
CITY FILE NO.

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

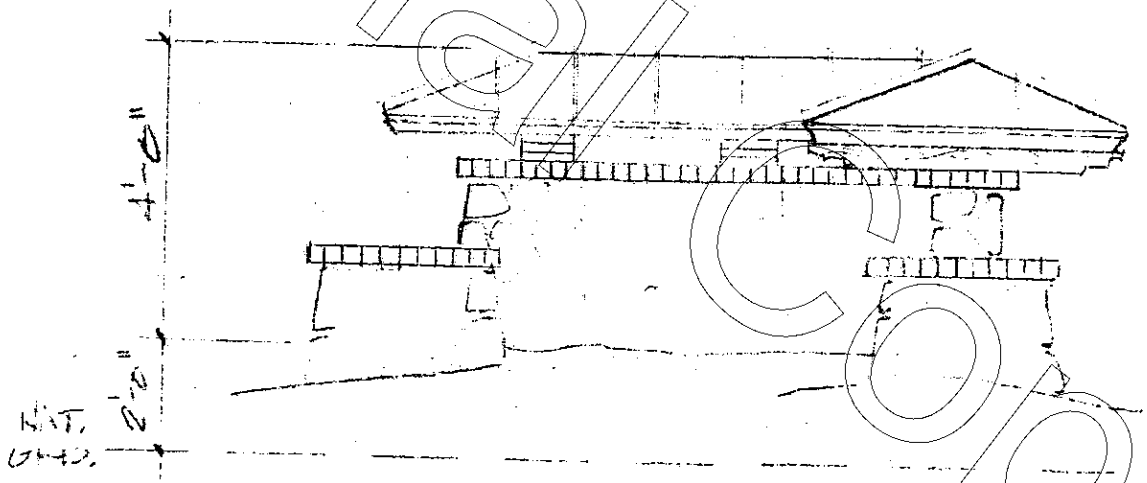
Exhibit B

(To Special Warranty Deed)



FRONT & RIGHT ELEVATION

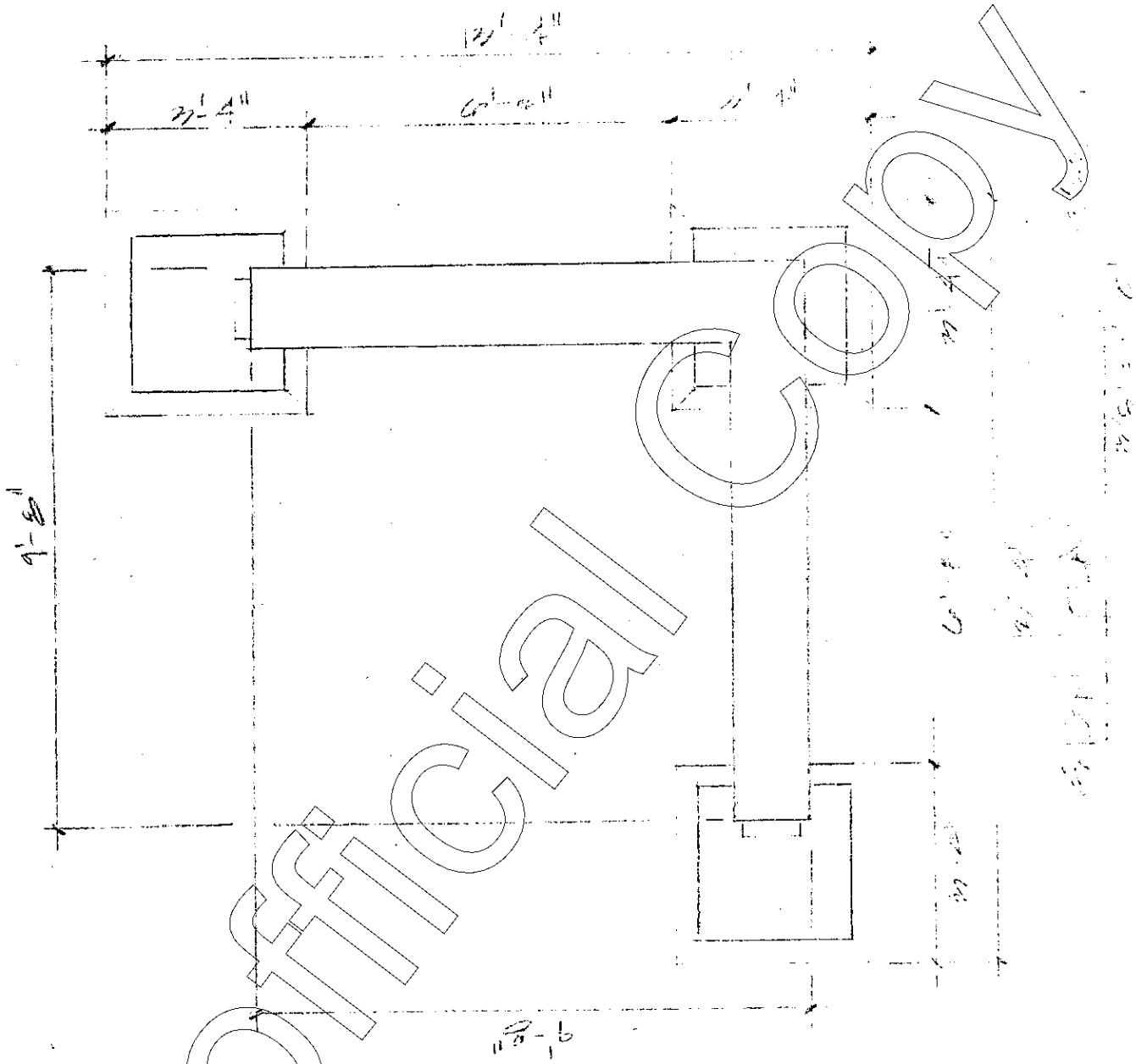
3/8" = 1'-0"



REAR & LEFT ELEVATION

Unofficial Copy

3546724 Pages: 34 of 129 12/03/2009 03:22:47 PM



Unofficial Copy

Exhibit C
(To Special Warranty Deed)

LEGAL DESCRIPTION

A triangular shaped tract of land situated in the Northwest quarter of Section 23, Township 21 North, Range 7 East of the Gila and Salt River Base and Meridian in the City of Flagstaff, Coconino County, Arizona, said tract of land is described as follows:

COMMENCING, for reference, at the Northwest corner of said Section 23, from which the West quarter corner of Section 14 lies North 01°35'29" West a distance of 2720.59 feet away (Basis of Bearing as per Book 21 of Land Surveys, Page17);

THENCE South 88°41'09" West from said Northwest corner of Section 23, a distance of 750.11;

THENCE South 01°28'58" East a distance of 6.78 feet to the beginning of a curve, concave to the East;

THENCE Southeasterly along said curve a distance of 124.06 feet, the radius of which is 742.50, through a central angle of 09°34'24", the chord of which bears South 06°16'10" East for 123.92 feet, to the TRUE POINT OF BEGINNING of this description;

THENCE North 78°46'22" East a distance of 30.25 feet;

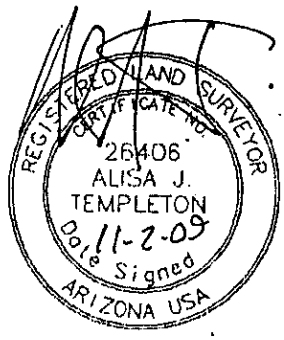
THENCE South 32°06'48" West a distance of 20.75 feet;

THENCE North 57°53'12" West a distance of 22.00 feet to the point of beginning.

SAID Tract of land contains 228 square feet, more or less, as shown on the attached Exhibit A-1 which is made a part of this description by this reference.

City File Number: _____

Descriptive Title: _____



Unofficial Copy

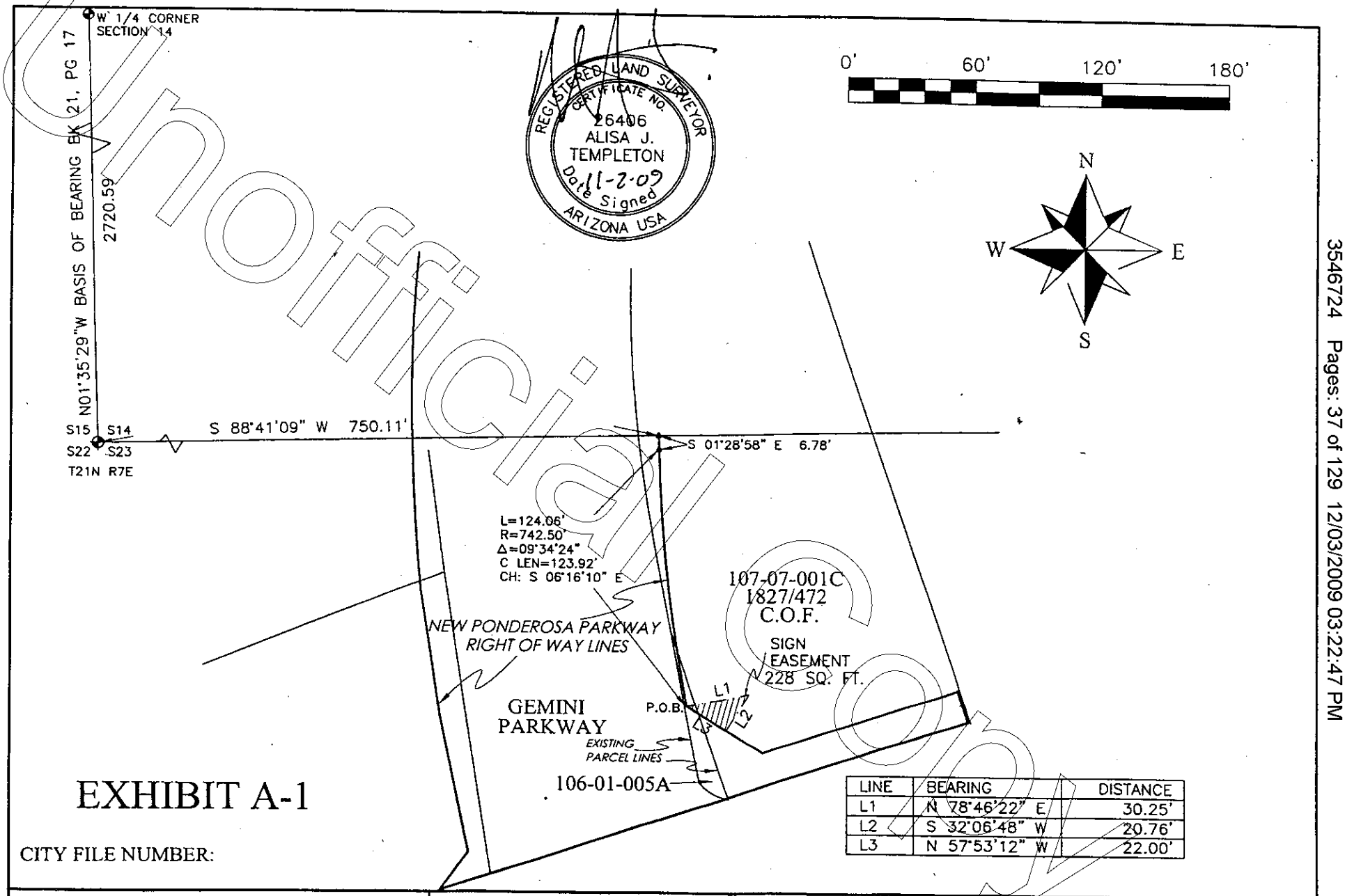


EXHIBIT A-1

CITY FILE NUMBER:

LINE	BEARING	DISTANCE
L1	N 78°46'22" E	30.25'
L2	S 32°06'48" W	20.76'
L3	N 57°53'12" W	22.00'

A PORTION OF SECTION 23, TWP 21N, RGE 7E G&SRB&M CITY OF FLAGSTAFF COCONINO COUNTY, ARIZONA	EXTREME MEASURES LAND SURVEYS, INC. 10800 NIGHTHAWK LANE, FLAGSTAFF, ARIZONA 86004 928.853.3661		JOB # 08-19
	DRAWN BY: ALISA TEMPLETON	CLIENT: SFDA	SCALE: 1"=60'	DATE: 2 NOVEMBER 2009

Unofficial Copy

3546724 Pages: 37 of 129 12/03/2009 03:22:47 PM

Exhibit D

(To Special Warranty Deed)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471, of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of

UNOFFICIAL COPY

the parcel of land described as Parcel 1 in Docket 1827, Page 471, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of Parcel 1(Docket 1872, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1872, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West, along the east line of Parcel 1(Docket 1872, Page 471) and along the west line of Parcel 3, 300.51 feet, to the northwest corner of Parcel 3 and to a point of the south line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 80°01'56" West, 55.29 feet to a non-tangent curve whose radius bears South 87°17'01" East;

THENCE northerly along a curve to the right having a radius of 300.43 feet and a central angle of 09°33'20", an arc distance of 50.10 feet (chord bearing North 07°29'39" East, chord distance 50.05 feet);

THENCE South 80°01'56" East, 30.60 feet to the east line of Parcel 1(Docket 1872, Page 471) and to the south line of the parcel of land described in Instrument No. 3385837;

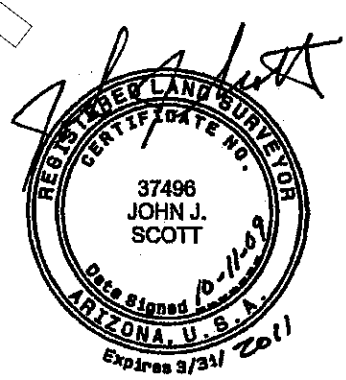
THENCE South 18°16'17" East, along the east line of Parcel 1(Docket 1872, Page 471) and along the south line of the parcel of land described in Instrument No. 3385837, 56.75 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.05 acres (2182.15 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit L (Drawing 1)**, which by this reference is made part of this description.

50 Foot Wide Access Easement
Descriptive Title

03-09012
City File No.



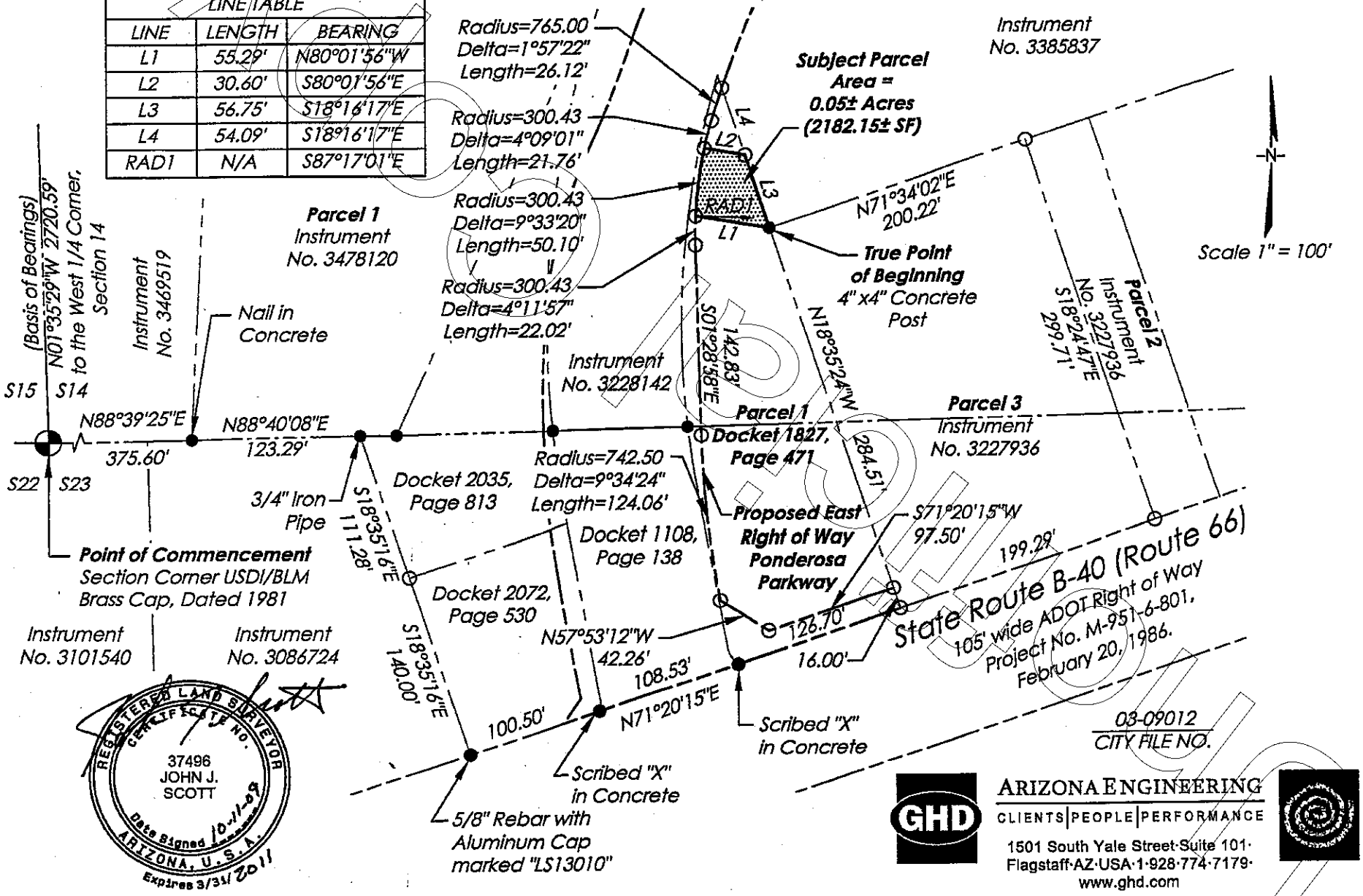
Unofficial Copy

3546724 Pages: 40 of 129 12/03/2009 03:22:47 PM

Exhibit L (Drawing 1)

A portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

LINE TABLE		
LINE	LENGTH	BEARING
L1	55.29'	N80°01'56"W
L2	30.60'	S80°01'56"E
L3	56.75'	S18°16'17"E
L4	54.09'	S18°16'17"E
RAD1	N/A	S87°17'01"E



GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

EXHIBIT D TO DEVELOPMENT AGREEMENT

WHEN RECORDED MAIL TO:
City Clerk
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, Arizona 86001

[Exempt under A.R.S. Section 11-1134(A)(3)]

SPECIAL WARRANTY DEED

For the consideration of ten dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Nemec Family Trust dated October 12, 1982 (hereinafter "Grantor"), acting by and through Grantor's undersigned Trustees Laurie Jeanne Nemec and Frank A. Nemec, Jr., does hereby grant and convey to the City of Flagstaff, an Arizona municipal corporation (hereinafter "Grantee"), that real property situated in Coconino County, Arizona and described in Exhibit A, attached hereto and incorporated by this reference ("Subject Property"), together with all rights and privileges appurtenant thereto;

Subject to current taxes and other assessments, reservations in patents and all easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record, and all matters which an accurate survey or physical inspection of the real property would disclose;

Grantor warrants title to the Subject Property, subject to the matters referred to above, as against all acts of Grantor and none other.

IN WITNESS WHEREOF, Grantor, acting by and through its undersigned Trustees has executed this Special Warranty Deed as of the day and year above written.

GRANTOR

NEMEC FAMILY TRUST DATED OCTOBER 12, 1982

By: _____
Laurie Jeanne Nemec, Trustee

By: _____
Frank A. Nemec, Jr., Trustee

Unofficial Copy

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me this ___ day of _____, 2009, by Laurie Jeanne Nemec, Trustee, on behalf of the Nemec Family Trust dated October 12, 1982.

WITNESS my hand and official seal.

_____
Notary Public

My Commission Expires:

_____

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2009, before me, _____, Notary Public, personally appeared Frank A. Nemec, Jr., Trustee of the Nemec Family Trust, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as Trustee of the Nemec Family Trust, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify upon PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

Unofficial Copy

Exhibit A

(Description)
(To Special Warranty Deed)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 1 in Instrument No. 3478120 of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 02°48'58" East along the west line of Parcel 1 and along the east line of the parcel of land described in Instrument No. 3469519, 316.56 feet to the southeast corner of the parcel of land described in Docket 1633, Page 508, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 02°47'32" East along the west line of Parcel 1 and the east line of the parcel of land described in Docket 1633, Page 508, 216.69 feet to the northwest corner of Parcel 1, monumented with a nail in concrete;

THENCE North 75°29'09" East along the north line of Parcel 1 and along the east line of the parcel of land described in Docket 1633, Page 508, 76.78 feet to the east line of the parcel of land described in Docket 1633, Page 508 and to the west line of the parcel of land described in Instrument No. 3228142, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 89°04'58" East, 229.65 feet to the east line of Parcel 1 and to the west line of the parcel of land described in Instrument No. 3228142;

THENCE South 00°41'45" West along the east line of Parcel 1 and along the west line of the parcel of land described in Instrument No. 3228142, 156.85 feet to the northwest corner of the parcel of land described as Parcel 2 in Docket 1827, Page 471;

THENCE South 24°15'41" West along the east line of Parcel 1 and along the west line of Parcel 2, 433.72 feet to the south line of the southwest 1/4 of Section 14, and to the southeast corner of Parcel 1 and to the southwest corner of Parcel 2 and to the north line of the parcel of land described in Docket 2053, Page 813, monumented with a 3/8" rebar in concrete;

Unofficial Copy

THENCE South 89°05'48" West along the south line of the southwest 1/4 of Section 14, and along the south line of Parcel 1 and along the north line of the parcel of land described in Docket 2035, Page 813, 26.69 feet to the northwest corner of the parcel of land described in Docket 2035, Page 813, and to the northeast corner of the parcel of land described in Instrument No. 3086724, monumented with a 3/4" iron pipe;

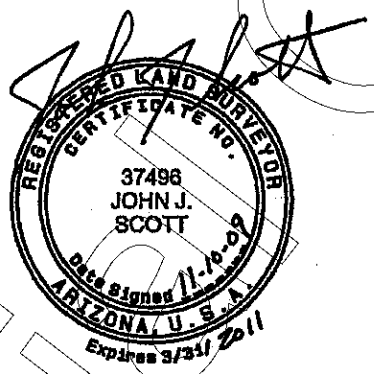
THENCE South 88°40'08" West along the south line of the southwest 1/4 of Section 14, along the south line of Parcel 1 and along the north line of the parcel of land described in Instrument No. 3086724, 123.29 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 3.15 acres (137,393.86 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit B (Drawing)**, which by this reference is made part of this description.

Land Transfer -Nemec to City of Flagstaff
Descriptive Title

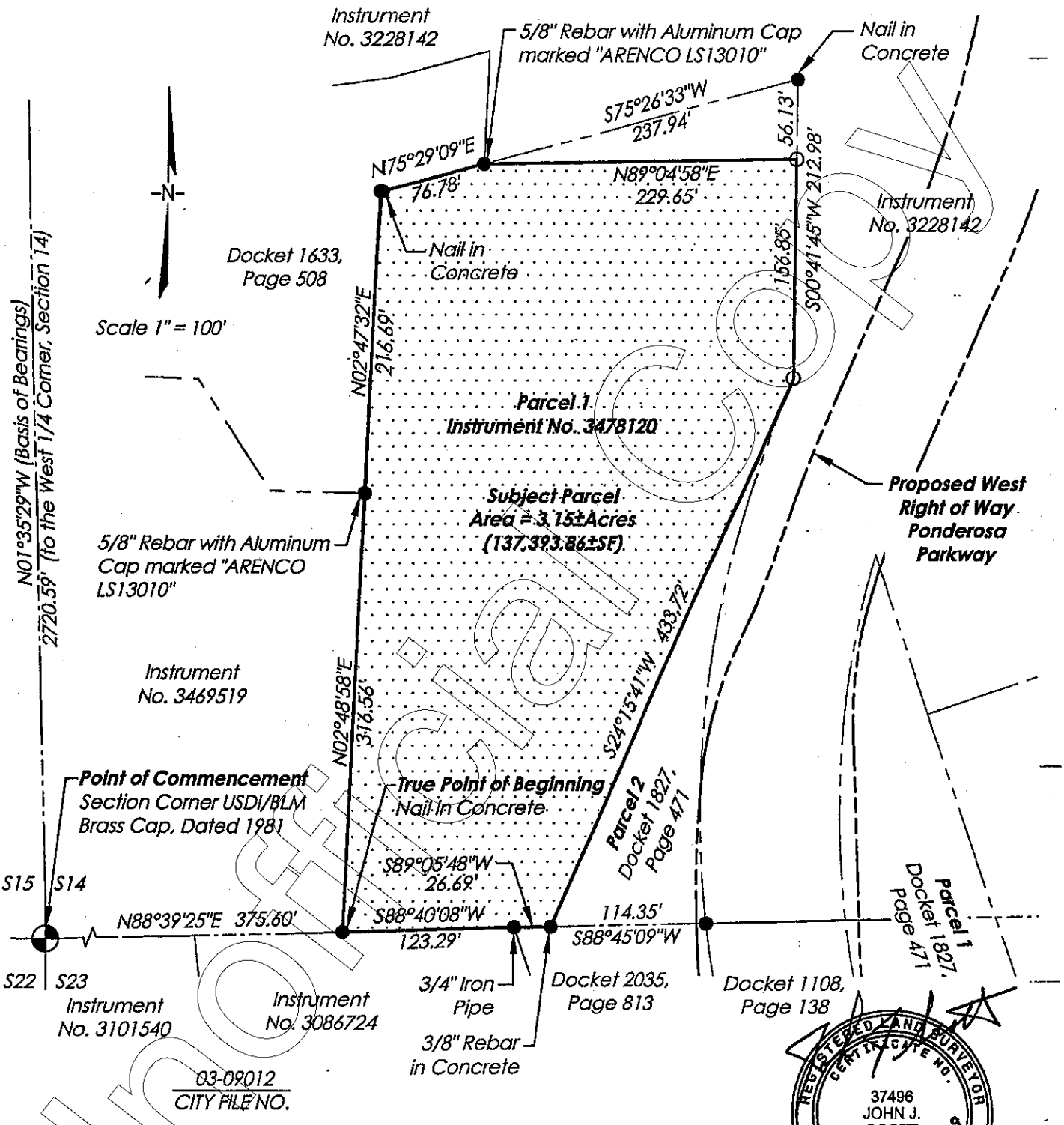
03-09012
City File No.



Unofficial Copy

Exhibit B (Drawing)

A portion of the parcel of land described as Parcel 1 in Instrument No. 3478120. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

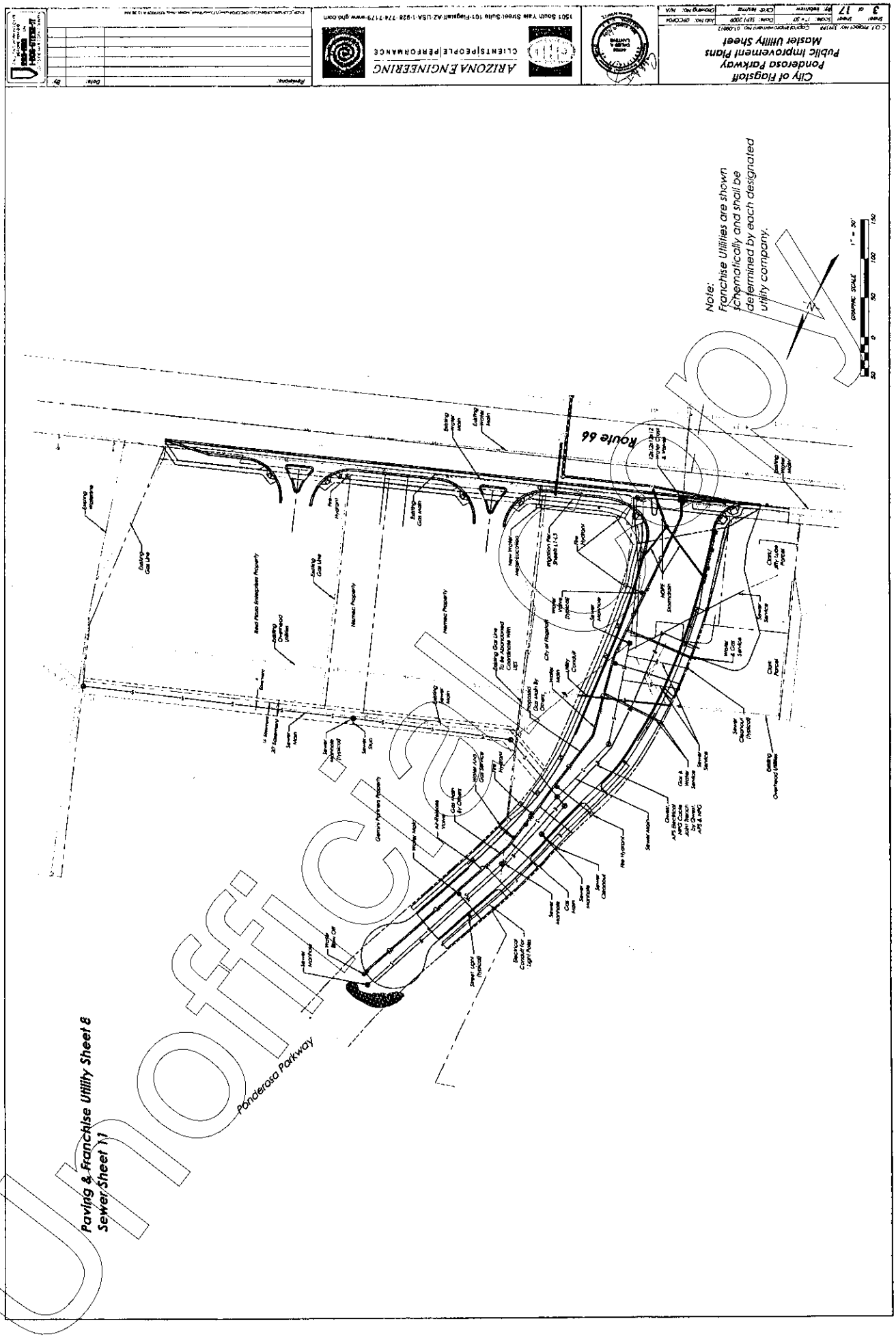


REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J. SCOTT
Date Signed 11-10-09
ARIZONA, U. S. A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Unofficial Document
COPY

Exhibit E



Unofficial Document

Exhibit F

(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471, of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, Township 21 North, Range 7 East monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471, to a non-tangent curve

Unofficial Document

whose radius point bears North 38°01'28" East, monumented with a scribed X in concrete, the **TRUE POINT OF BEGINNING** of this description.

THENCE northwesterly along the east line of the parcel of land described in Docket 1108, Page 138 and along the west line of Parcel 1(Docket 1827, Page 471), along a curve to the right having a radius of 23.00 feet and a central angle of 32°03'44", an arc distance of 12.87 feet (Chord bearing North 35°56'40" West, chord distance 12.70 feet), monumented with a scribed X in concrete;

THENCE North 10°37'17" West along the east line of the parcel of land described in Docket 1108, Page 138 and along the west line of Parcel 1(Docket 1827, Page 471), 36.64 feet;

THENCE North 55°11'08" East, 1.19 feet;

THENCE South 57°53'12" East, 42.26 feet to a point which lies 16.00 feet northerly of the north right of way line of Route 66;

THENCE North 71°20'15" East parallel with and 16.00 fee north of the north right of way line of Route 66, 97.50 feet to the east line Parcel 1(Docket 1827, Page 471) and to the west line of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE South 18°35'24" East along the east line of Parcel 1(Docket 1827, Page 471) and along the west line of Parcel 3, 16.00 feet to the southeast corner of Parcel 1(Docket 1827, Page 471) and to the southwest corner of Parcel 3, and to the north right of way line of Route 66;

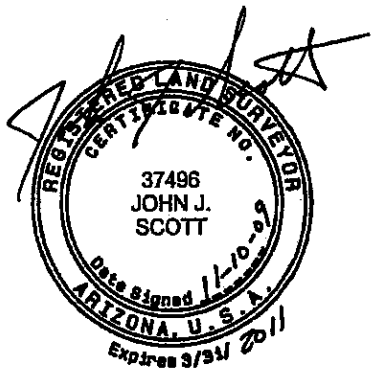
THENCE South 71°20'15" West along the south line of Parcel 1(Docket 1827, Page 471) and along the north right of way line of Route 66, 126.70 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.06 acres (2620.33 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit F (Drawing)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

03-09012
City File No.



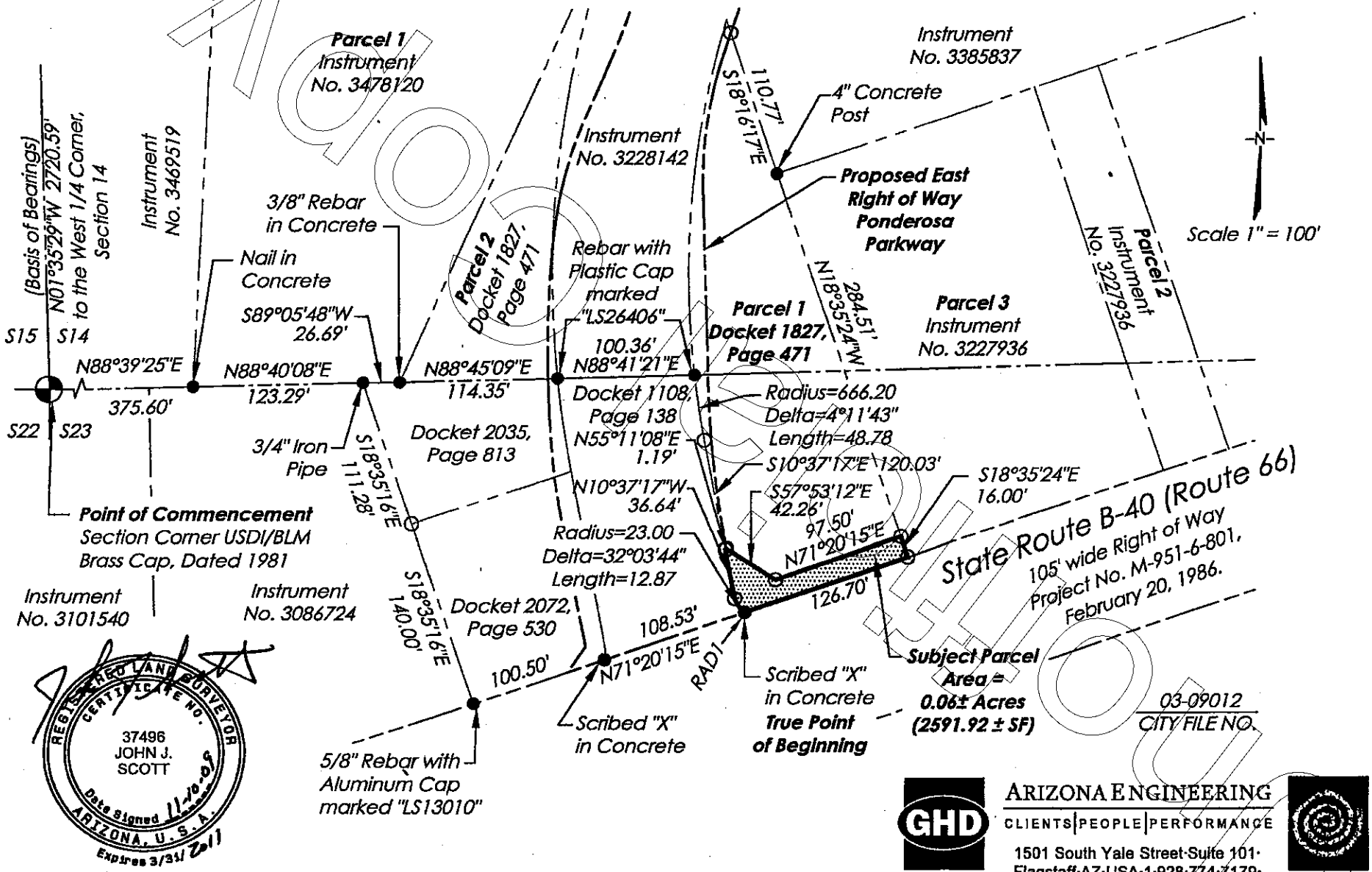
Unofficial Copy

3546724 Pages: 49 of 129 12/03/2009 03:22:47 PM

Exhibit F (Drawing)

A portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471. Located in the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

RADIAL BEARING TABLE	
RAD1	N38°01'28"E



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 11-10-09
ARIZONA, U.S.A.
Expires 3/31/

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

03-09012
CITY FILE NO.

Approved
Not Approved

Exhibit G
(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 1 in Instrument No. 3478120 of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 02°48'58" East along the west line of Parcel 1 and the east line of the parcel of land described in Instrument No. 3469519, 316.56 feet to the southeast corner of the parcel of land described in Docket 1633, Page 508, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 02°47'32" East along the west line of Parcel 1 and the east line of the parcel of land described in Docket 1633, Page 508, 216.69 feet to the northwest corner of Parcel 1, monumented with a nail in concrete;

THENCE North 75°29'09" East along the north line of Parcel 1 and along the east line of the parcel of land described in Docket 1633, Page 508, 76.78 feet to the west line of the parcel of land described in Instrument No. 3228142, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 75°26'33" East along the north line of Parcel 1 and along the west line of the parcel of land described in Instrument No. 3228142, 237.94 feet to the northeast corner of Parcel 1, monumented with a nail in concrete;

THENCE South 00°41'45" West along the east line of Parcel 1 and along the west line of the parcel of land described in Instrument No. 3228142, 56.13 feet;

THENCE South 89°04'58" West, 229.65 feet to the **TRUE POINT OF BEGINNING** of this description.

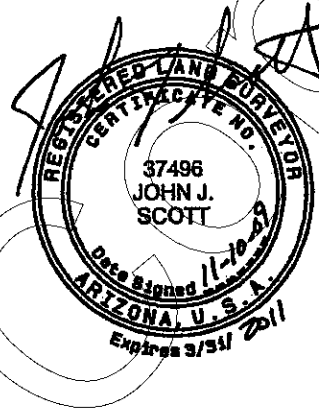
Unofficial Document

The above described parcel of land contains 0.148 acres (6442.97 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit G (Drawing)**, which by this reference is made part of this description.

Land Transfer - Nemec to San Francisco de Asis
Descriptive Title

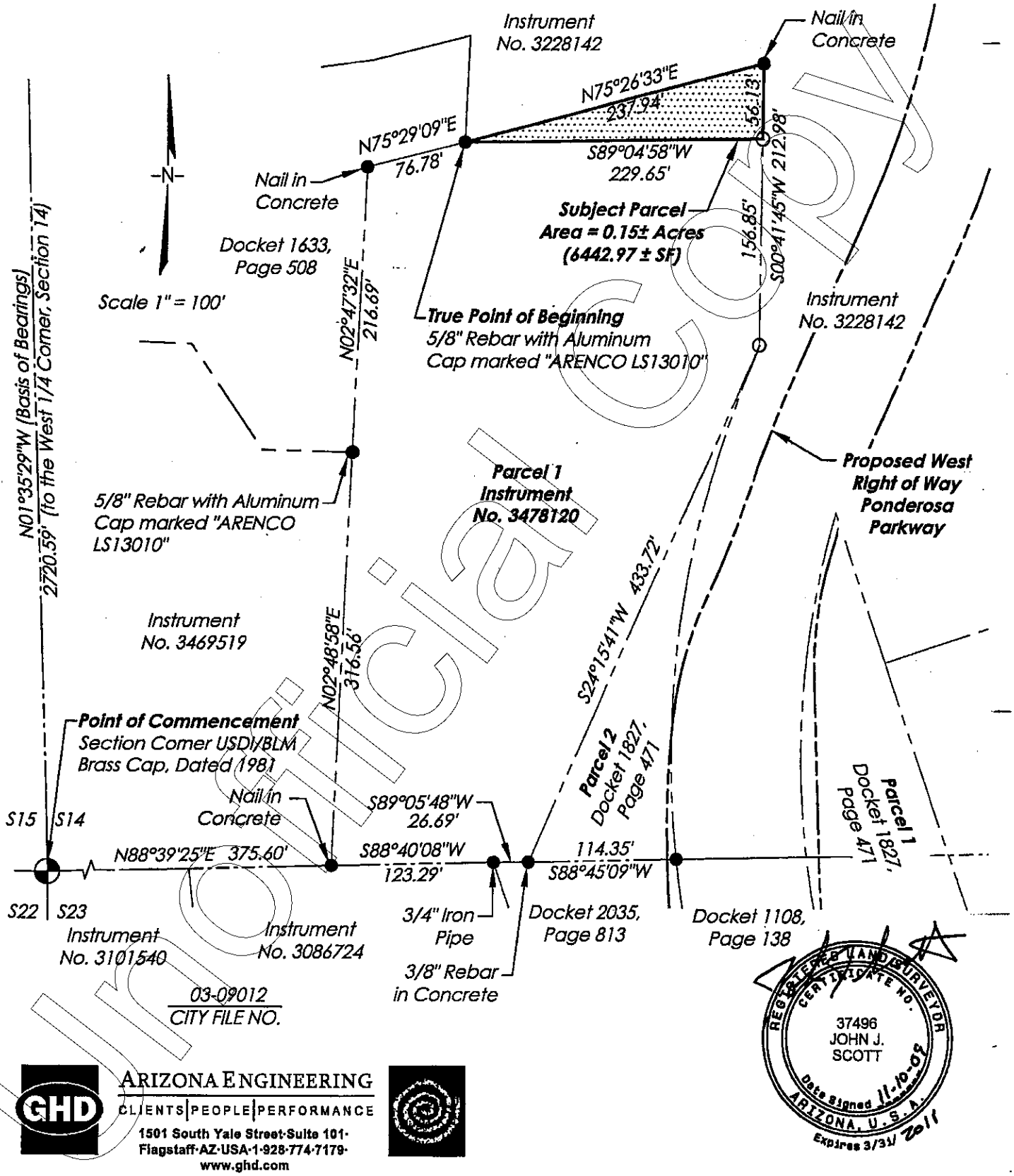
03-09012
City File No.



Unofficial Copy

Exhibit G (Drawing)

A portion of the parcel of land described as Parcel 1 in Instrument No. 3478120. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



Unofficial Copy

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date signed 11-10-09
ARIZONA, U.S.A.
Expires 3/31/ 2011

Exhibit H

(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3228142 of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1, 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe.;

THENCE North 89°05'48" East, along the south line of the southwest 1/4 of Section 14, and along the south line of Parcel 1 and along the north line of the parcel of land described in Docket 2035, Page 813, 26.69 feet to the southeast corner of the parcel of Parcel 1 and to the southwest corner of Parcel 2 in Docket 1827, Page 471, monumented with a 3/8" rebar in concrete;

THENCE North 88°45'09" East along the south line of the southwest 1/4 of Section 14 and along the south line of Parcel 2 and along the north line of the parcel of land described in Docket 2035, Page 813, 107.52 feet to a non-tangent curve whose radius point bears North 88°18'26" East, the **TRUE POINT OF BEGINNING** of this description:

THENCE northerly along a curve to the right having a radius of 763.27 feet and a central angle of 7°57'48", an arc distance of 106.08 feet.(chord bearing North 02°17'19" East, chord distance 106.00 feet) to a non-tangent curve whose radius point bears South 83°57'12" East;

THENCE northeasterly along a curve to the right having a radius of 304.56 feet and a central angle of 19°05'53", an arc distance of 101.52 feet.(chord bearing North 15°35'45" East, chord distance 101.05 feet);

THENCE North 25°08'41" East, 1.60 feet to a non-tangent curve whose radius point bears North 65°03'40" West;

UNOFFICIAL DOCUMENT

THENCE northeasterly along a curve to the left having a radius of 745.65 feet and a central angle of 6°18'19", an arc distance of 82.06 feet.(chord bearing North 21°47'10" East, chord distance 82.02 feet) to a non-tangent curve whose radius point bears South 71°34'21" East;

THENCE northeasterly along a curve to the right having a radius of 840.00 feet and a central angle of 5°55'21", an arc distance of 86.83 feet.(chord bearing North 21°23'20" East, chord distance 86.79 feet);

THENCE North 24°21'00" East, 137.50 feet;

THENCE northeasterly along a curve to the left having a radius of 809.74 feet and a central angle of 6°51'54", an arc distance of 97.02 feet.(chord bearing North 20°55'04" East, chord distance 96.96 feet);

THENCE South 72°30'53" East, 75.00 feet to a non-tangent curve whose radius point bears North 72°30'53" West;

THENCE southwesterly along a curve to the right having a radius of 884.74 feet and a central angle of 6°51'54", an arc distance of 106.00 feet.(chord bearing South 20°55'04" West, chord distance 105.94 feet);

THENCE South 24°21'00" West, 137.50 feet;

THENCE southwesterly along a curve to the left having a radius of 765.00 feet and a central angle of 7°55'40", an arc distance of 105.85 feet.(chord bearing South 20°23'10" West, chord distance 105.77 feet) to a point of compound curvature;

THENCE southwesterly along a curve to the left having a radius of 300.43 feet and a central angle of 17°54'18", an arc distance of 93.88 feet.(chord bearing South 07°28'11" West, chord distance 93.50 feet);

THENCE South 01°28'58" East, 136.26 feet to the south line of the southwest 1/4 of Section 14;

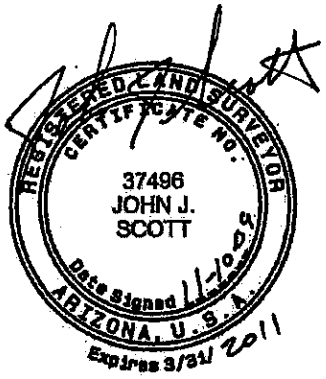
THENCE South 88°41'33" West along the south line of the southwest 1/4 of Section 14, 117.06 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 1.18 acres, more or less.

For a drawing of the parcel described above, see **Exhibit H (Drawing)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

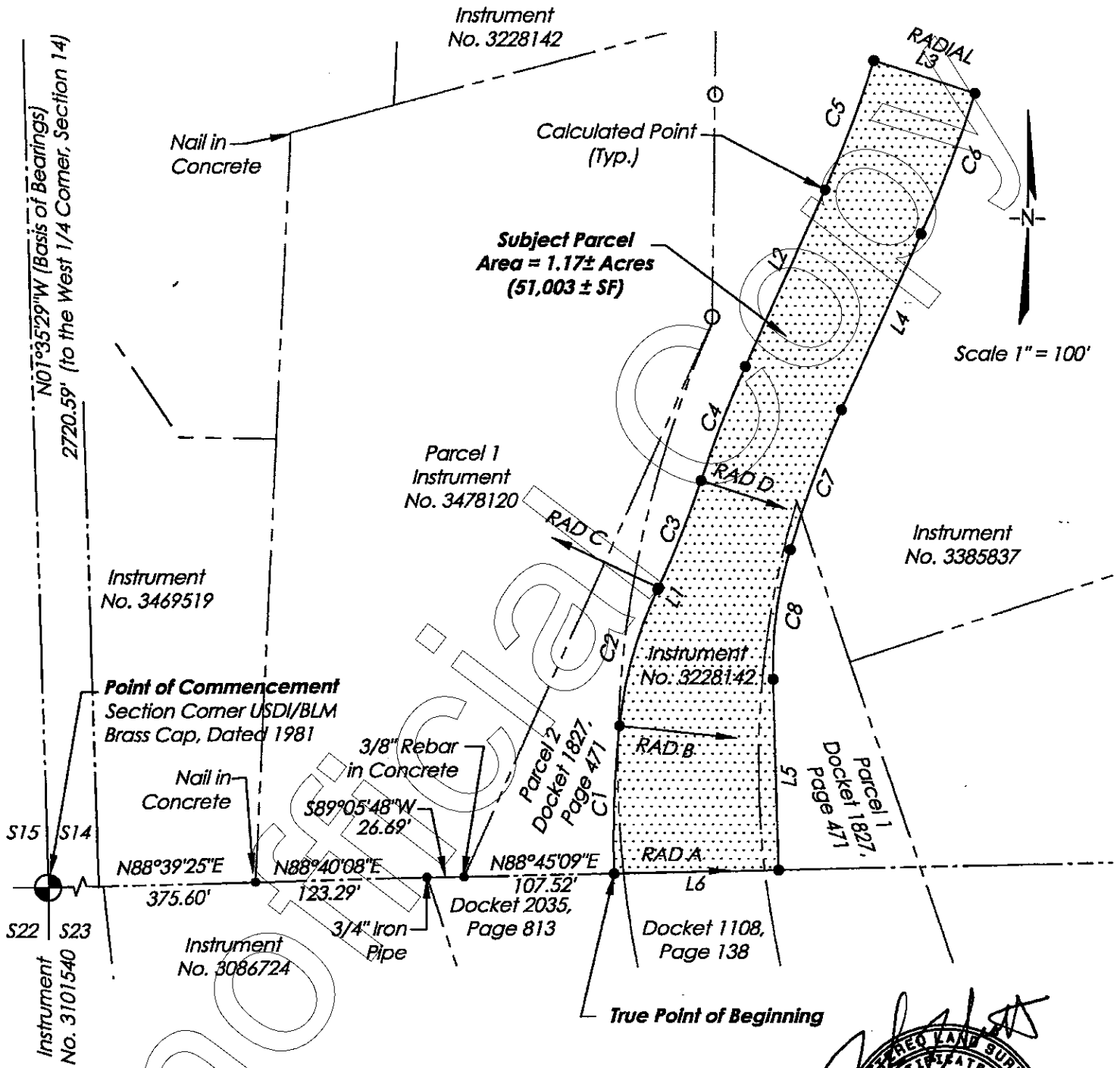
03-09012
City File No.



Unofficial Copy

Exhibit H (Drawing)

A portion of the parcel of land described as in Instrument No. 3228142 and located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



03-09012
CITY FILE NO.

Unofficial Document

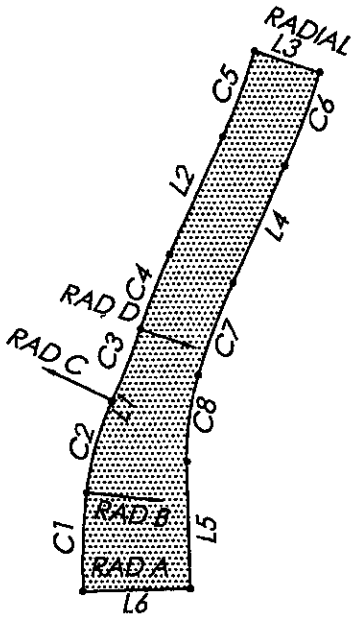
GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 11-10-09
ARIZONA, U.S.A.
Expires 9/30/2011

SHEET 1 OF 2

Exhibit H (Drawing)

SHEET 2 OF 2



Scale 1" = 200'

CURVE TABLE				
CURVE	LENGTH	RADIUS	DELTA	TANGENT
C1	106.08	763.27	7°57'48"	53.13
C2	101.52	304.56	19°05'53"	51.23
C3	82.06	745.65	6°18'19"	41.07
C4	86.83	840.00	5°55'21"	43.45
C5	97.02	809.74	6°51'54"	48.57
C6	106.00	884.74	6°51'54"	53.07
C7	105.85	765.00	7°55'40"	53.01
C8	93.88	300.43	17°54'18"	47.33

RADIAL BEARING TABLE	
RAD A	N88°18'26"E
RAD B	S83°57'12"E
RAD C	N65°03'40"W
RAD D	S71°34'21"E

LINE TABLE		
LINE	LENGTH	BEARING
L1	1.60	N25°08'41"E
L2	137.50	N24°21'00"E
L3	75.00	S72°30'53"E
L4	137.50	S24°21'00"W
L5	136.26	S01°28'58"E
L6	117.06	S88°41'33"W

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 11-10-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Unofficial Document

Exhibit I
(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3228142 of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1, 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe.;

THENCE North 89°05'48" East, along the south line of the southwest 1/4 of Section 14, and along the south line of Parcel 1 and along the north line of the parcel of land described in Docket 2035, Page 813, 26.69 feet to the southeast corner of Parcel 1 and to the southwest corner of the parcel of land described as Parcel 2 in Docket 1827, Page 471, monumented with a 3/8" rebar in concrete;

THENCE North 24°15'41" East along the east line of Parcel 1 and along the west line of Parcel 2, 433.72 feet to the most northwest corner of Parcel 2 and to the west line of the parcel of land described in Instrument No. 3228142;

THENCE South 65°39'07" East along the north line of Parcel 2 and along a portion of the west line of the parcel of land described in Instrument No. 3228142, 0.43 feet to the northeast corner of Parcel 2 the **TRUE POINT OF BEGINNING** of this description:

THENCE South 65°39'00" East, 33.89 feet;

THENCE South 24°21'00" West, 18.95 feet;

THENCE southwesterly along a curve to the left having a radius of 840.00 feet and a central angle of 5°55'21", an arc distance of 86.83 feet (chord bearing South 21°23'20" West, chord distance 86.79 feet) to a non-tangent curve whose radius point bears North 71°21'59" West;

Unofficial Copy

THENCE southwesterly along a curve to the right having a radius of 745.65 feet and a central angle of 6°18'19", an arc distance of 82.06 feet (chord bearing South 21°47'10" West, chord distance 82.02 feet) to a non-tangent line;

THENCE South 25°08'41" West, 1.60 feet, to a non-tangent curve whose radius bears South 64°51'19" East;

THENCE southerly along a curve to the left having a radius of 304.56 feet and a central angle of 19°05'53", an arc distance of 101.52 feet (chord bearing South 15°35'45" East, chord distance 101.05 feet) to a non-tangent curve whose radius point bears South 83°43'12" East;

THENCE southerly along a curve to the left having a radius of 763.27 feet and a central angle of 0°45'27", an arc distance of 10.09 feet (chord bearing South 05°53'30" West, chord distance 10.09 feet) to a non-tangent curve whose radius point bears South 88°35'20" East and to the east line of Parcel 2 and to the west line of the parcel of land described in Instrument No.3228142;

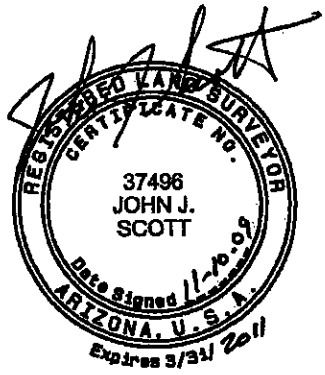
THENCE northeasterly along the east line of Parcel 2 and along the west line of the parcel of land described in Instrument No.3228142 along a curve to the right having a radius of 766.20 feet and a central angle of 22°56'13", an arc distance of 306.73 feet (chord bearing North 12°51'21" East, chord distance 305.30 feet) to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.15 acres (6442.97 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit I (Drawing)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

03-09012
City File No.

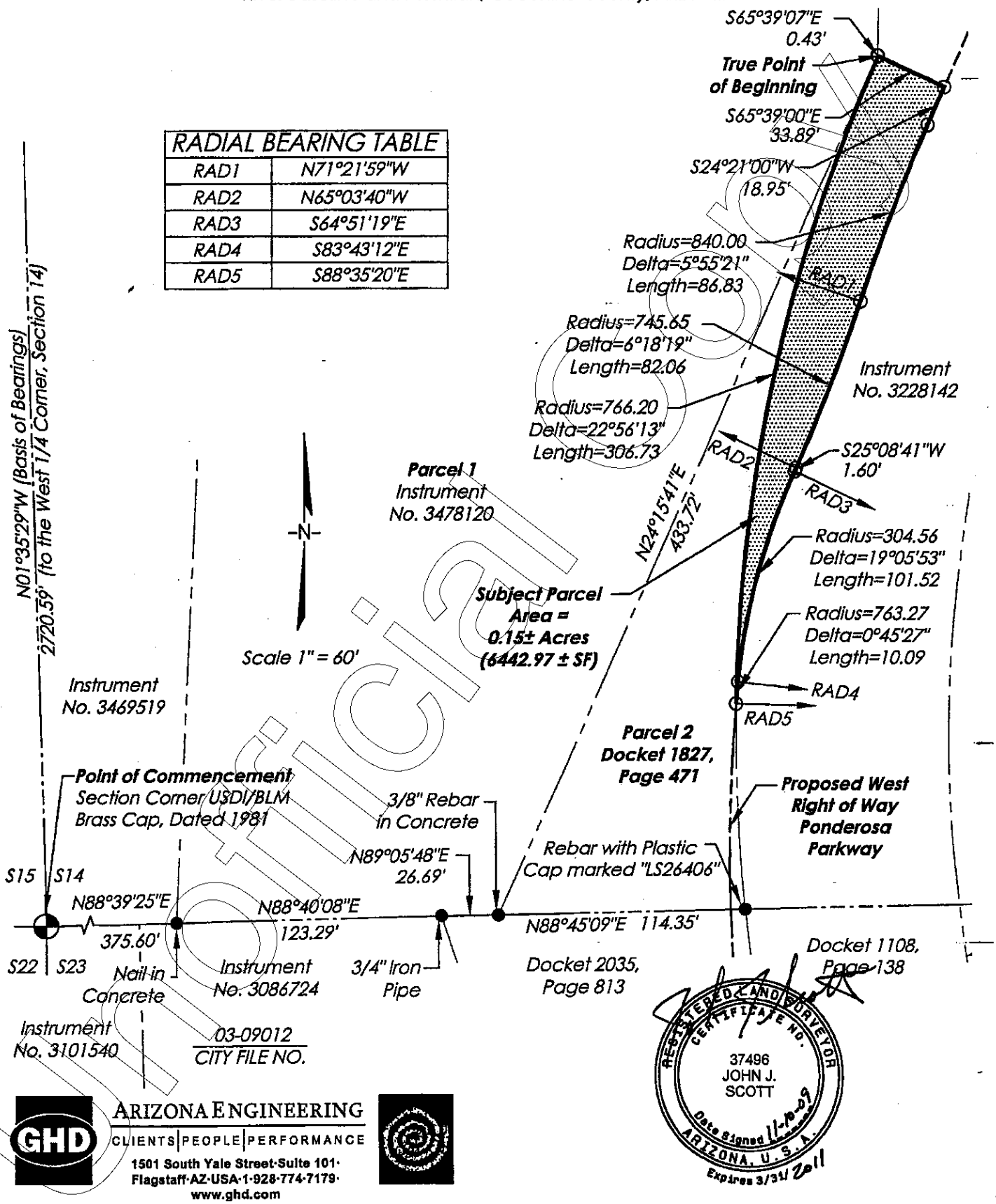


Unofficial Copy

Exhibit I (Drawing)

A portion of the parcel of land described in Instrument No. 3228142 and located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

RADIAL BEARING TABLE	
RAD1	N71°21'59"W
RAD2	N65°03'40"W
RAD3	S64°51'19"E
RAD4	S83°43'12"E
RAD5	S88°35'20"E



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 11-10-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Unofficial Document

Exhibit J

(Description 1)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 3 in Instrument 3227936, of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, Township 21 North, Range 7 East, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471, monumented with a scribed X in concrete;

UNOFFICIAL COPY

THENCE North 71°20'15" East, along the south line of Parcel 1 (Docket 1872, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1872, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 18°35'24" West, along the east line of Parcel 1 (Docket 1872, Page 471) and along the west line of Parcel 3, 6.00 feet;

THENCE North 71°20'15" East, parallel with and 6.00 feet north of the north right of way line of Route 66, 199.31 feet to the east line of Parcel 3 and to the west line of the parcel of land described as Parcel 2 in Instrument No. 3227936;

THENCE South 18°24'47" East, along the east line of Parcel 3 and along the west line of Parcel 2, 6.00 feet to the north right of way line of Route 66;

THENCE South 71°20'15" West, along the south line of Parcel 3 and along the north right of way line of Route 66, 199.29 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.027 acres (1195.81 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit J (Drawing 1)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

03-09012
City File No.

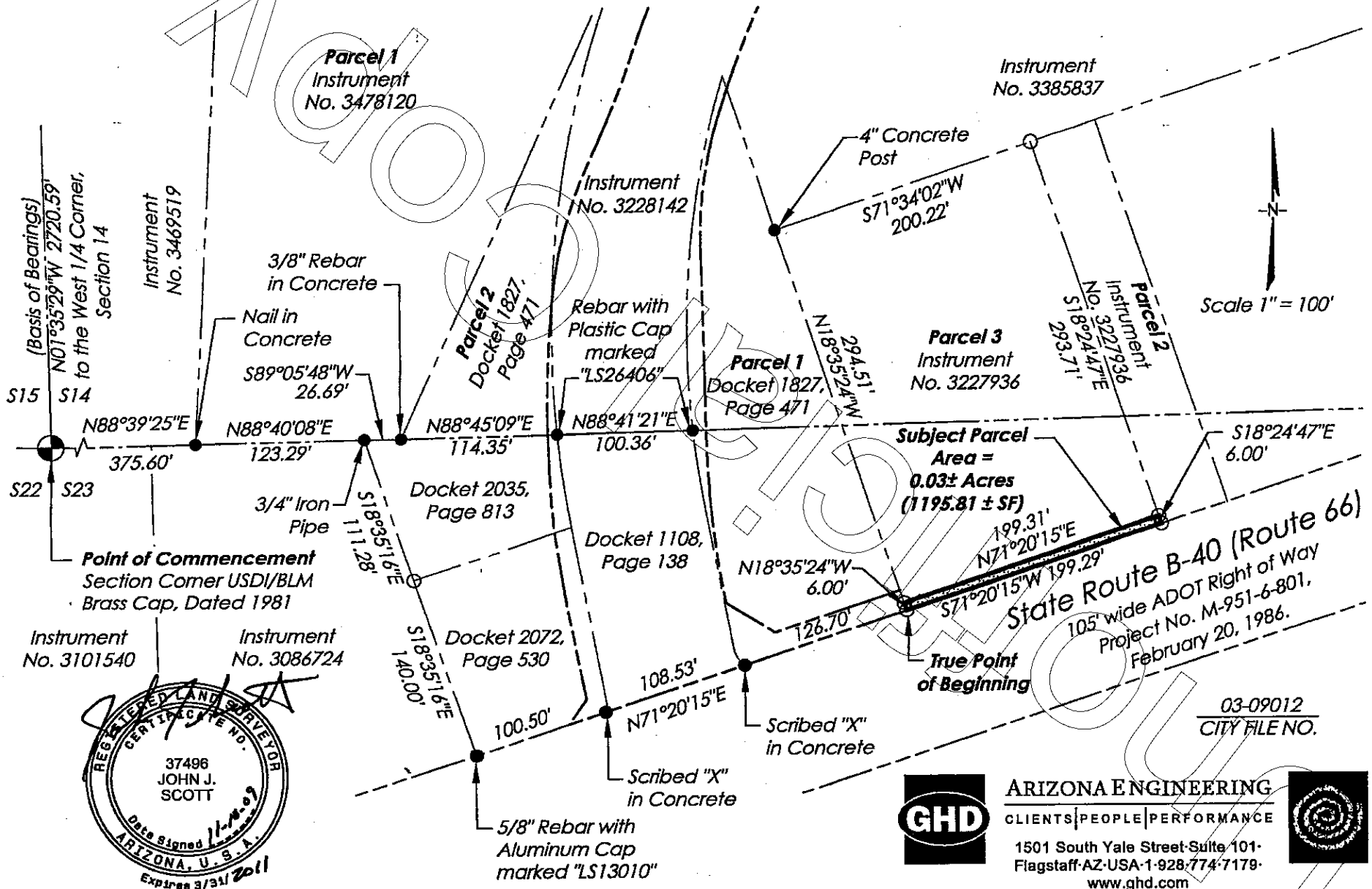


Unofficial Copy

3546724 Pages: 62 of 129 12/03/2009 03:22:47 PM

Exhibit J (Drawing 1)

A portion of the parcel of land described as Parcel 3 in Instrument No. 3227936. Located in the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 11-18-09
ARIZONA, U. S. A.
Expires 3/31/2011

03-09012
CITY FILE NO.

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Aqo Solutions

Exhibit J

(Description 2)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 2 in Instrument 3227936, of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, Township 21 North, Range 7 East monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471, monumented with a scribed X in concrete;

UNOFFICIAL COPY

THENCE North 71°20'15" East, along the south line of Parcel 1 (Docket 1872, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1872, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 71°20'15" East, along the south line of Parcel 3 and along the north right of way line of Route 66, 199.29 feet to the southeast corner of Parcel 3 and to the southwest corner of the parcel of land described as Parcel 2 in Instrument No. 3227936, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 18°24'47" West, along the east line of Parcel 3 and along the west line of Parcel 2, 6.00 feet;

THENCE North 71°20'15" East, parallel with and 6.00 feet north of the north right of way line of Route 66, 50.00 feet to the east line of Parcel 2 and to the west line of the parcel of land described in Instrument No. 3340460;

THENCE South 18°24'47" East, along the east line of Parcel 2 and along the west line of the parcel of land described in Instrument No. 3340460, 6.00 feet to the north right of way line of Route 66;

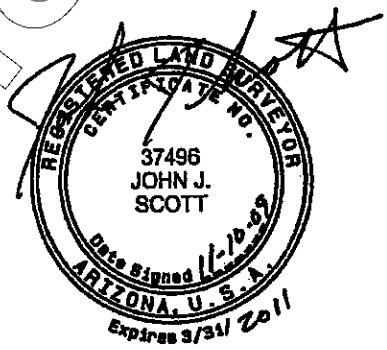
THENCE South 71°20'15" West, along the south line of Parcel 2 and along the north right of way line of Route 66, 50.00 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.007 acres (300.00 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit J(Drawing 2)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

03-09012
City File No.

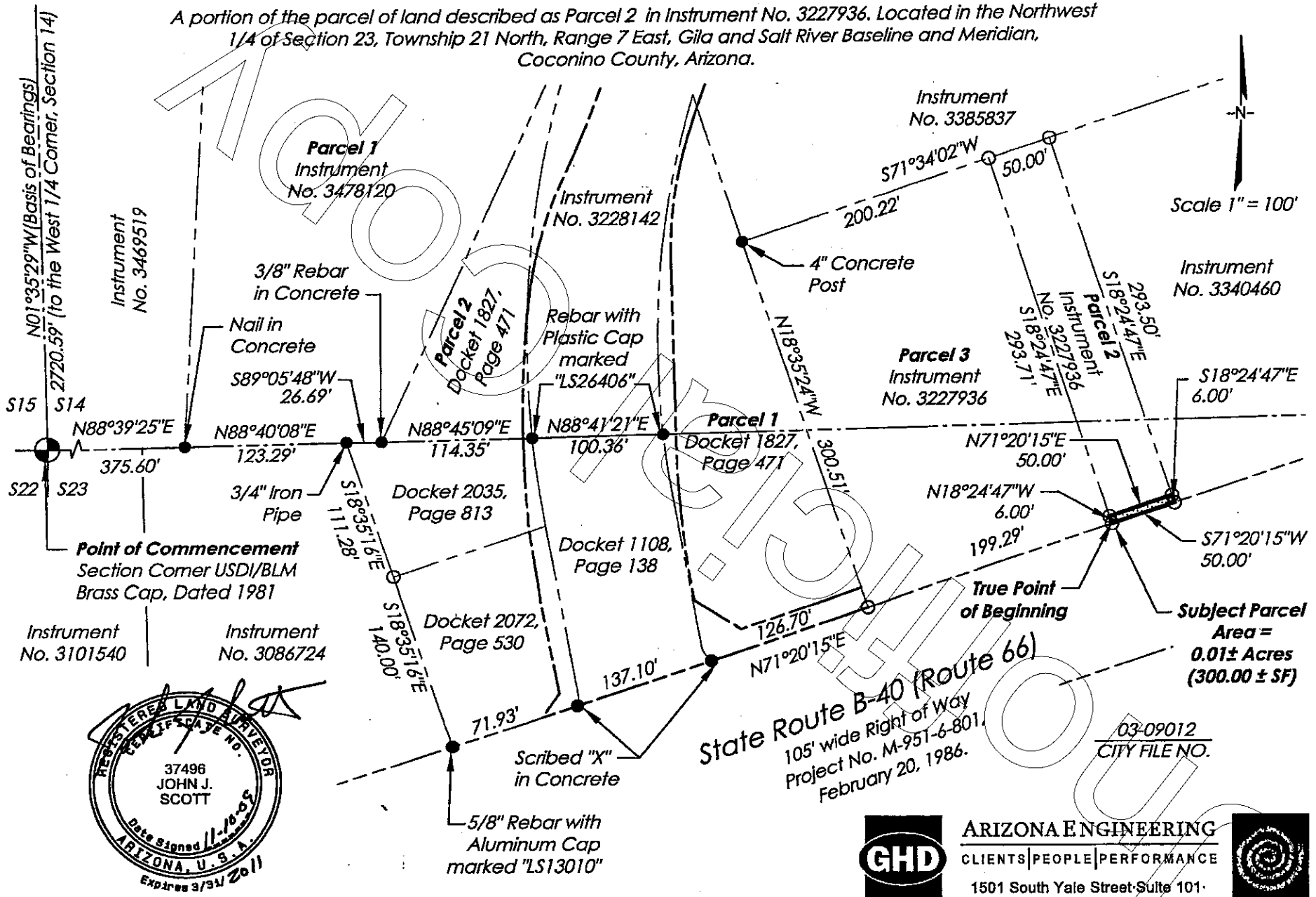


Unofficial Copy

3546724 Pages: 65 of 129 12/03/2009 03:22:47 PM

Exhibit J (Drawing 2)

A portion of the parcel of land described as Parcel 2 in Instrument No. 3227936. Located in the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 11-10-09
ARIZONA, U.S.A.
Expires 3/31/ 2011

03-09012
CITY FILE NO.

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

NOT OFFICIAL DOCUMENT

Exhibit J

(Description 3)

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3340460, of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23 and the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the north right of way line of Route 66, 335.73 feet to the southeast corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471 and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 71°20'15" East, along the south line of Parcel 3 and along the north right of way line of Route 66, 199.29 feet to the southeast corner of Parcel 3 and to the southwest corner of the parcel of land described as Parcel 2 in Instrument No. 3227936;

THENCE North 71°20'15" East, along the south line of Parcel 2 and along the north right of way line of Route 66, 50.00 feet to the southeast corner of Parcel 2 and to the southwest corner of

UNOFFICIAL DOCUMENT

the parcel of land described in Instrument No. 3340460, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 18°24'47" West, along the east line of Parcel 2 and along the west line of the parcel of land described in Instrument No. 3340460, 6.00 feet;

THENCE North 71°20'15" East, parallel with the north right of way line of Route 66, 249.48 feet to the east line of the parcel of land described in Instrument No. 3340460 and to the west line of the parcel of land described in Docket 1947, Page 830;

THENCE South 01°32'06" East, along the east line of the parcel of land described in Instrument No. 3340460 and along the west line of the parcel of land described in Docket 1947, Page 830, 16.74 feet to the southeast corner of the parcel of land described in Instrument No. 3340460 and to the southwest corner of the parcel of land described in Docket 1947, Page 830 and to the north right of way line of Route 66;

THENCE South 71°20'15" West, along the south line of the parcel of land described in Instrument No. 3340460 and along the north right of way line of Route 66, 102.81 feet;

THENCE North 00°44'50" West, along the south line of the parcel of land described in Instrument No. 3340460 and along the north right of way line of Route 66, 10.51 feet;

THENCE South 71°20'15" West, along the south line of the parcel of land described in Instrument No. 3340460 and along the north right of way line of Route 66, 145.00 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.057 acres (2518.79 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit J(Drawing 3)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

03-09012
City File No.

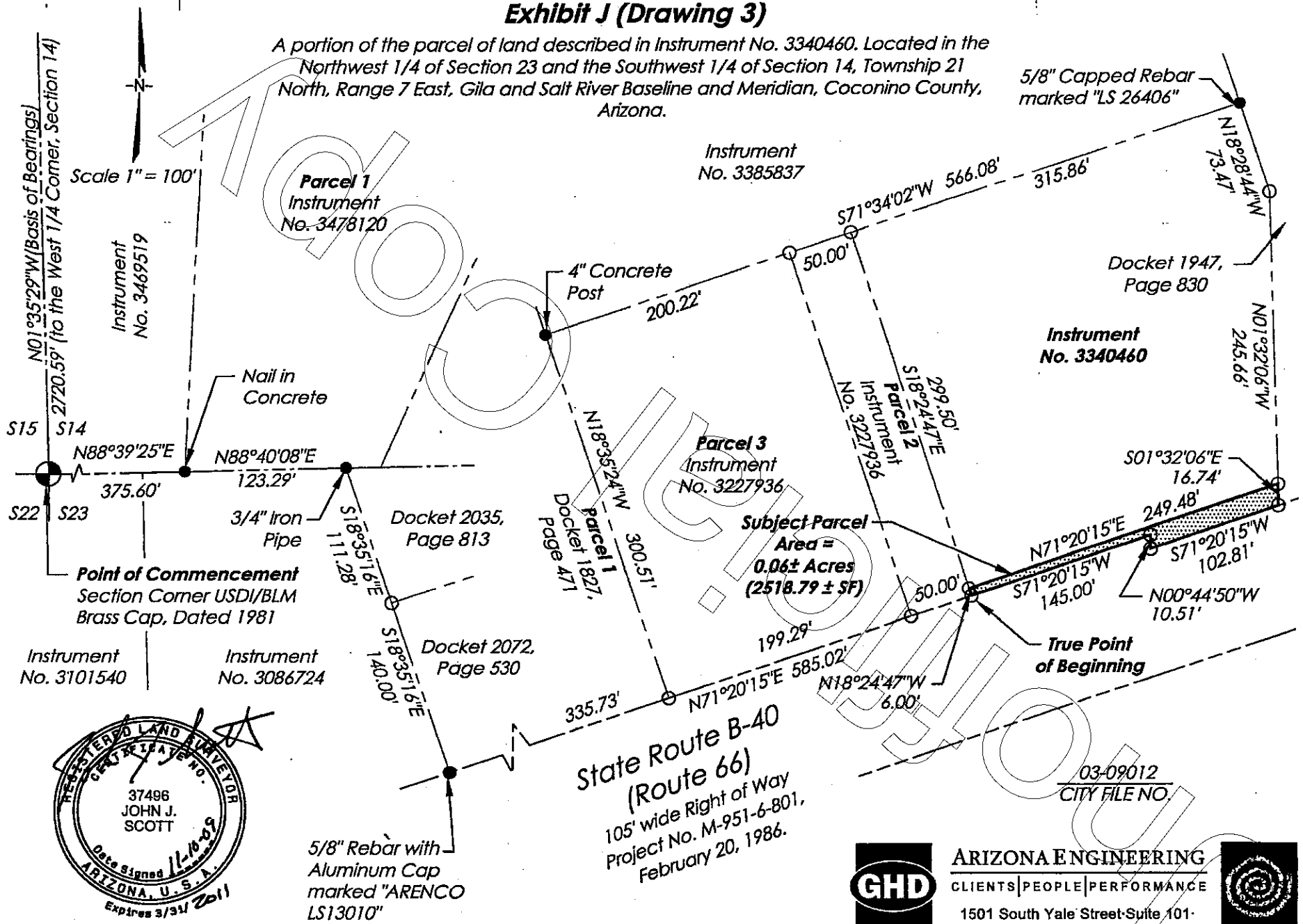


Unofficial Document

3546724 Pages: 68 of 129 12/03/2009 03:22:47 PM

Exhibit J (Drawing 3)

A portion of the parcel of land described in Instrument No. 3340460. Located in the Northwest 1/4 of Section 23 and the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date signed 11-10-09
ARIZONA, U.S.A.
Expires 3/31/2011

03-09012
CITY FILE NO.

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Do Not Copy

Exhibit K

(Description 1)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 3 in Instrument No. 3227936, of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references to recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the north right of way line of Route 66, 335.73 feet to the southeast corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471 and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West along the east line of Parcel 1 (Docket 1827, Page 471) and along the west line of Parcel 3, 296.51 feet to the **TRUE POINT OF BEGINNING** of this description.

THENCE North 18°35'24" West along the east line of Parcel 1 (Docket 1827, Page 471) and along the west line of Parcel 3, 4.00 feet to the northwest corner of Parcel 3 and to the south

UNOFFICIAL COPY

line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post;

THENCE North 71°34'02" East along the north line of Parcel 3 and along the south line of the parcel of land described in Instrument No. 3385837, 200.22 feet to the northeast corner of Parcel 3 and the northwest corner of the parcel of land described as Parcel 2 in Instrument No. 3227936;

THENCE South 18°24'47" East along the east line of Parcel 3 and along the west line of Parcel 2, 4.00 feet;

THENCE South 71°34'02" West parallel with and 4.00 feet south of the north line of Parcel 3, 200.22 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.018 acres (800.88 sq ft), more or less.

For a drawing of the parcel of land described above see **Exhibit K (Drawing 1)**, which by this reference is made part of this description.

4 Foot Wide Sewer Easement
Descriptive Title

03-09012
City File No.

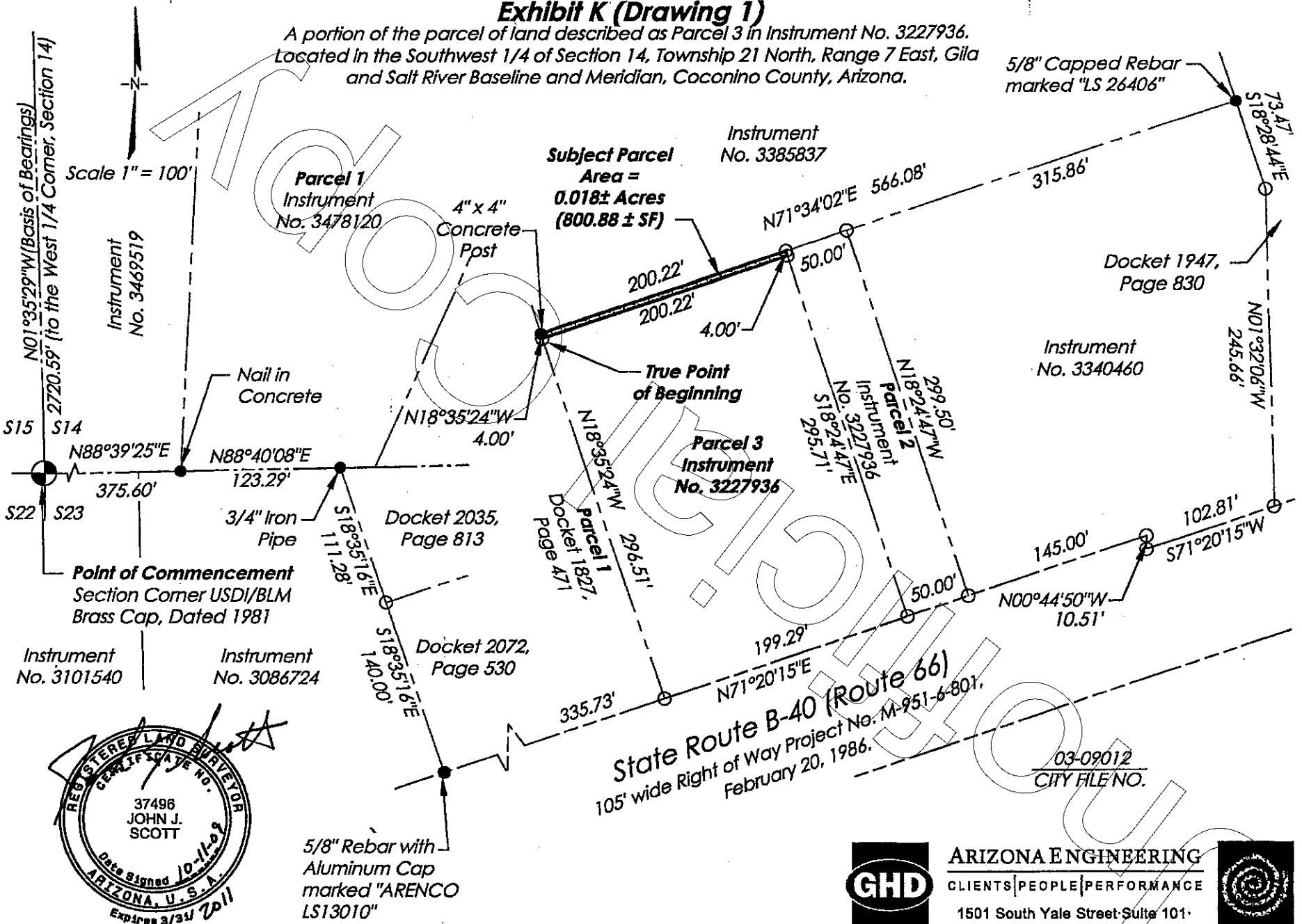


Unofficial Copy

3546724 Pages: 71 of 129 12/03/2009 03:22:47 PM

Exhibit K (Drawing 1)

A portion of the parcel of land described as Parcel 3 in Instrument No. 3227936. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J. SCOTT
Date Signed 10-11-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Document is NOT OFFICIAL!

Exhibit K

(Description 2)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 2 in Instrument No. 3227936, of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the north right of way line of Route 66, 335.73 feet to the southeast corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471 and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West along the east line of Parcel 1 (Docket 1827, Page 471) and along the west line of Parcel 3, 300.51 feet to the northwest corner of Parcel 3 and to the south line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post;

THENCE North 71°34'02" East along the north line of Parcel 3 and along the south line of the parcel of land described in Instrument No. 3385837, 200.22 feet to the northeast corner of

Unofficial Document

Parcel 3 and the northwest corner of the parcel of land described as Parcel 2 in Instrument No. 3227936, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 71°34'02" East along the north line of Parcel 2 and along the south line of the parcel of land described in Instrument No. 3385837, 50.00 feet to the northeast corner of Parcel 2 and the northwest corner of the parcel of land described in Instrument No. 3340460;

THENCE South 18°24'47" East along the east line of Parcel 2 and along the west line of the parcel of land described in Instrument No. 3340460, 4.00 feet;

THENCE South 71°34'02" West parallel with and 4.00 feet south of the north line of Parcel 2, 50.00 feet to the east line of Parcel 3 and to the west line of Parcel 2;

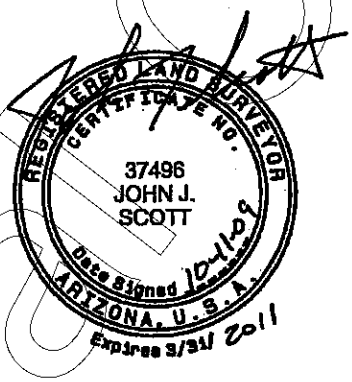
THENCE North 18°24'47" West along the east line of parcel 3 and along the west line of Parcel 2, 4.00 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.004 acres (200.00 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit K (Drawing 2)**, which by this reference is made part of this description.

4 Foot Wide Sewer Easement
Descriptive Title

03-09012
City File No.

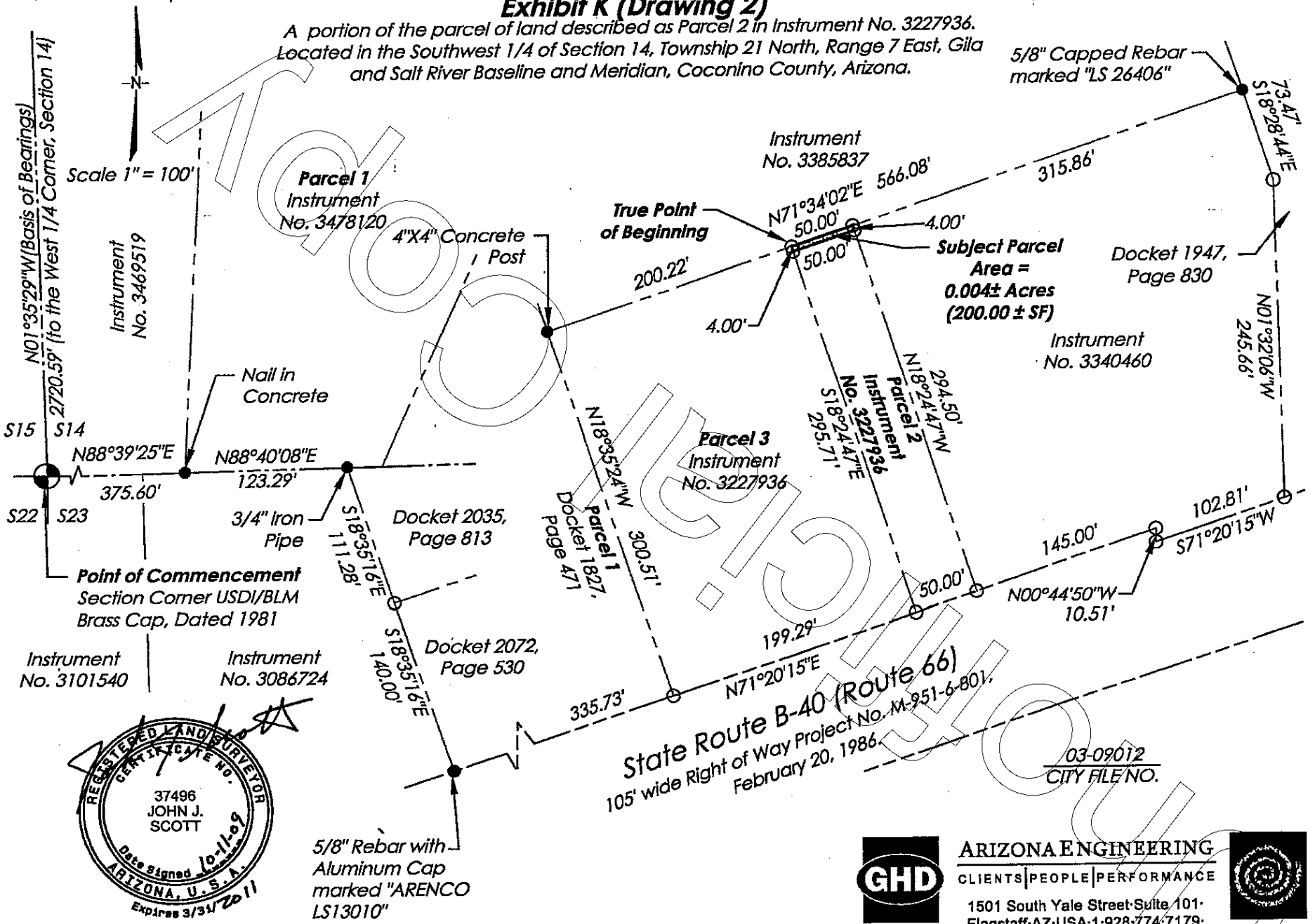


Unofficial Copy

3546724 Pages: 74 of 129 12/03/2009 03:22:47 PM

Exhibit K (Drawing 2)

A portion of the parcel of land described as Parcel 2 in Instrument No. 3227936. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-11-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Document is NOT OFFICIAL! This Document is the property of the Coconino County Recorder's Office. The Recorder's Office does not guarantee the accuracy of any drawings attached hereto.

Exhibit K

(Description 3)

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3340460, of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the north right of way line of Route 66, 335.73 feet to the southeast corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471 and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West, along the east line of Parcel 1 (Docket 1827, Page 471) and along the west line of Parcel 3, 300.51 feet to the northwest corner of Parcel 3 and to a point on the south line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post;

THENCE North 71°34'02" East, along the north line of Parcel 3 and along the south line of the parcel of land described in Instrument No. 3385837, 200.22 feet to the northeast corner of

Unofficial Document

Parcel 3 and the northwest corner of the parcel of land described as Parcel 2 in Instrument No. 3227936;

THENCE North 71°34'02" East, along the north line of Parcel 2 and along the south line of the parcel of land described in Instrument No. 3385837, 50.00 feet to the northeast corner of Parcel 2 and the northwest corner of the parcel of land described in Instrument No. 3340460, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 71°34'02" East, along the north line of the parcel of land described in Instrument No. 3340460 and along the south line of the parcel of land described in Instrument No. 3385837, 315.86 feet to the northeast corner of the parcel of land described in Instrument No. 3340460 and to a point on the west line of the parcel of land described in Docket 1947, Page 830, monumented with a 5/8 inch capped rebar marked LS 26406;

THENCE South 18°24'47" East, along the east line of the parcel of land described in Instrument No. 3340460 and along the west line of the parcel of land described in Docket 1947, Page 830, 4.00 feet;

THENCE South 71°34'02" West, parallel with and 4.00 feet south of the north line of the parcel of land described in Instrument No. 3340460, 315.86 feet to west line of Parcel 2 and to the east line of the parcel of land described in Instrument No. 3340460;

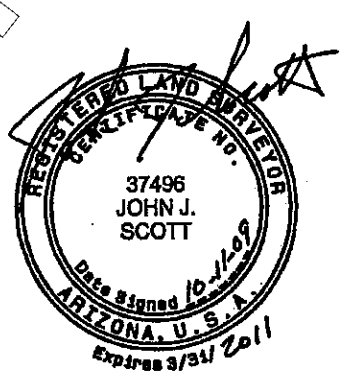
THENCE North 18°24'47" West, along the east line of Parcel 2 and along the west line of the parcel of land described in Instrument No. 3340460, 4.00 feet, to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.029 acres (1263.45 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit K (Drawing 3)**, which by this reference is made part of this description.

4 Foot Wide Sewer Easement
Descriptive Title

03-09012
City File No.

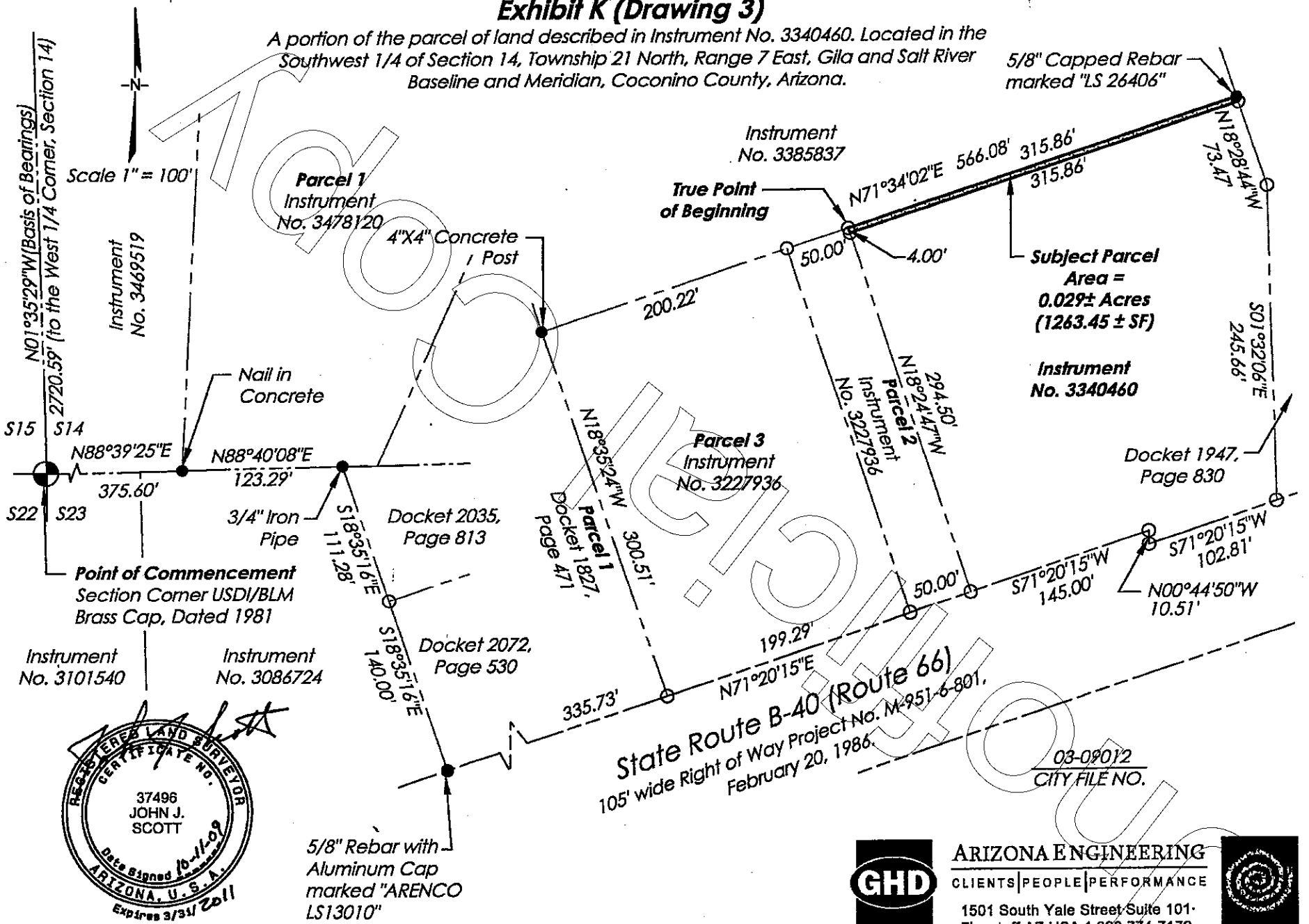


Unofficial COPY

3546724 Pages: 77 of 129 12/03/2009 03:22:47 PM

Exhibit K (Drawing 3)

A portion of the parcel of land described in Instrument No. 3340460. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-1-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

ADOC.TIF

Exhibit L

(Description 1)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471, of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description);

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of

Unofficial Document

the parcel of land described as Parcel 1 in Docket 1827, Page 471, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of Parcel 1(Docket 1872, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1872, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West, along the east line of Parcel 1(Docket 1872, Page 471) and along the west line of Parcel 3, 300.51 feet, to the northwest corner of Parcel 3 and to a point of the south line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 80°01'56" West, 55.29 feet to a non-tangent curve whose radius bears South 87°17'01" East;

THENCE northerly along a curve to the right having a radius of 300.43 feet and a central angle of 09°33'20", an arc distance of 50.10 feet (chord bearing North 07°29'39" East, chord distance 50.05 feet);

THENCE South 80°01'56" East, 30.60 feet to the east line of Parcel 1(Docket 1872, Page 471) and to the south line of the parcel of land described in Instrument No. 3385837;

THENCE South 18°16'17" East, along the east line of Parcel 1(Docket 1872, Page 471) and along the south line of the parcel of land described in Instrument No. 3385837, 56.75 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.05 acres (2182.15 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit L (Drawing 1)**, which by this reference is made part of this description.

50 Foot Wide Access Easement
Descriptive Title

03-09012
City File No.



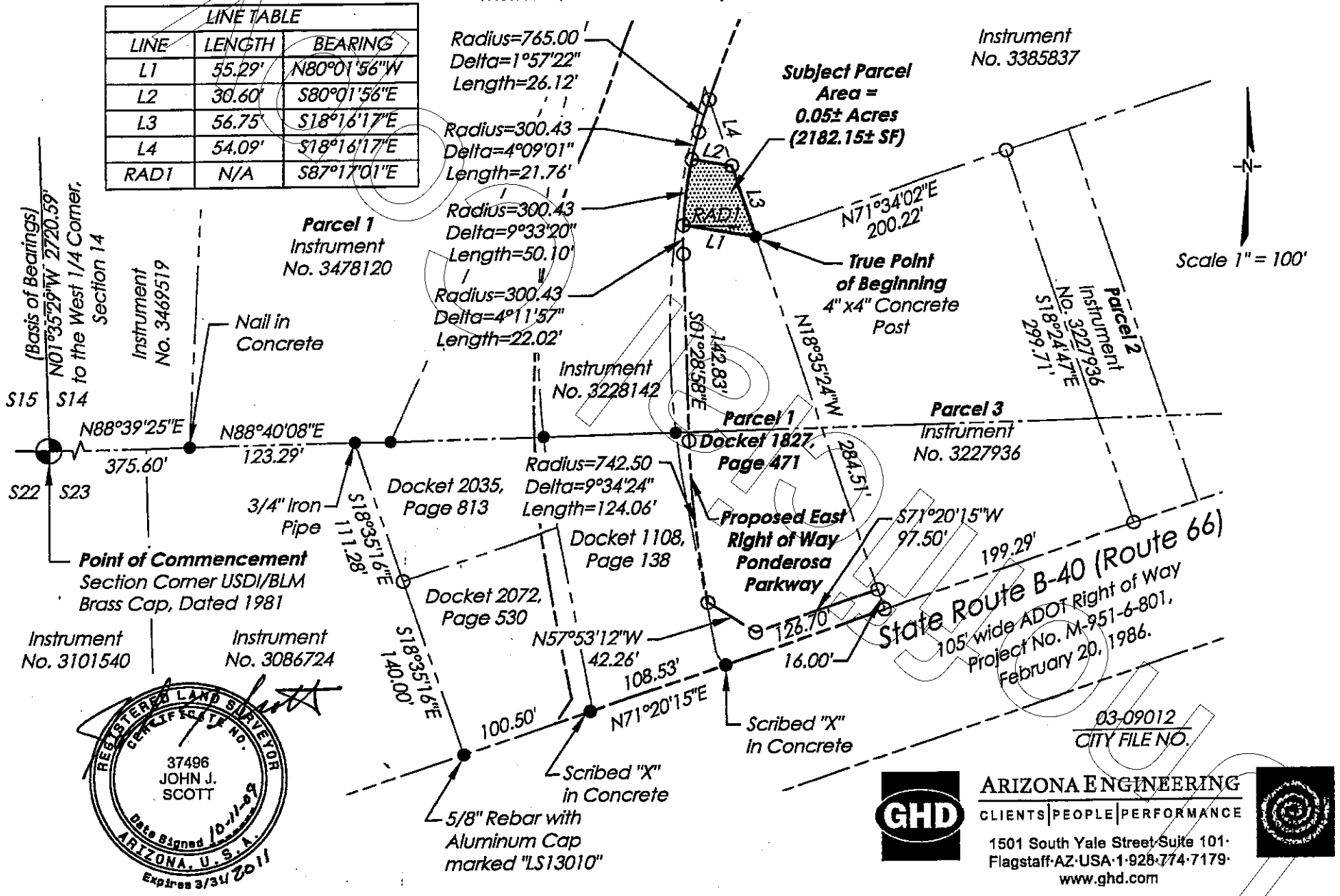
Unofficial Copy

3546724 Pages: 80 of 129 12/03/2009 03:22:47 PM

Exhibit L (Drawing 1)

A portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

LINE TABLE		
LINE	LENGTH	BEARING
L1	55.29'	N80°01'56"W
L2	30.60'	S80°01'56"E
L3	56.75'	S18°16'17"E
L4	54.09'	S18°16'17"E
RAD1	N/A	S87°17'01"E



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-11-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Exhibit L

(Description 2)

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3385837, of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471, monumented with a scribed X in concrete;

Unofficial Document

THENCE North 71°20'15" East along the south line of Parcel 1(Docket 1872, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1872, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West along the east line of Parcel 1(Docket 1872, Page 471) and along the west line of Parcel 3, 300.51 feet, to the northwest corner of Parcel 3 and to the south line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 18°16'17" West along the east line of Parcel 1(Docket 1872, Page 471) and along the south line of the parcel of land described in Instrument No. 3385837, 56.75 feet;

THENCE South 80°01'56" East 119.33 feet to the north line of Parcel 3 and to the south line of the parcel of land described in Instrument No. 3385837;

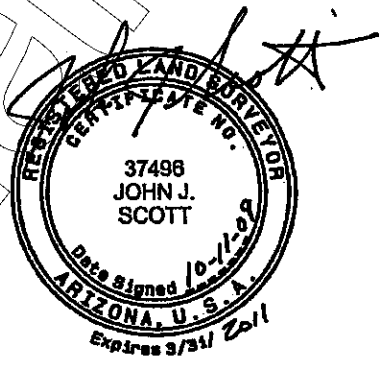
THENCE South 71°34'02" West along the north line of Parcel 3 and along the south line of the parcel of land described in Instrument No. 3385837, 105.12 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.068 acres (2938.13 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit L (Drawing 2)**, which by this reference is made part of this description.

Access Easement
Descriptive Title

03-09012
City File No.



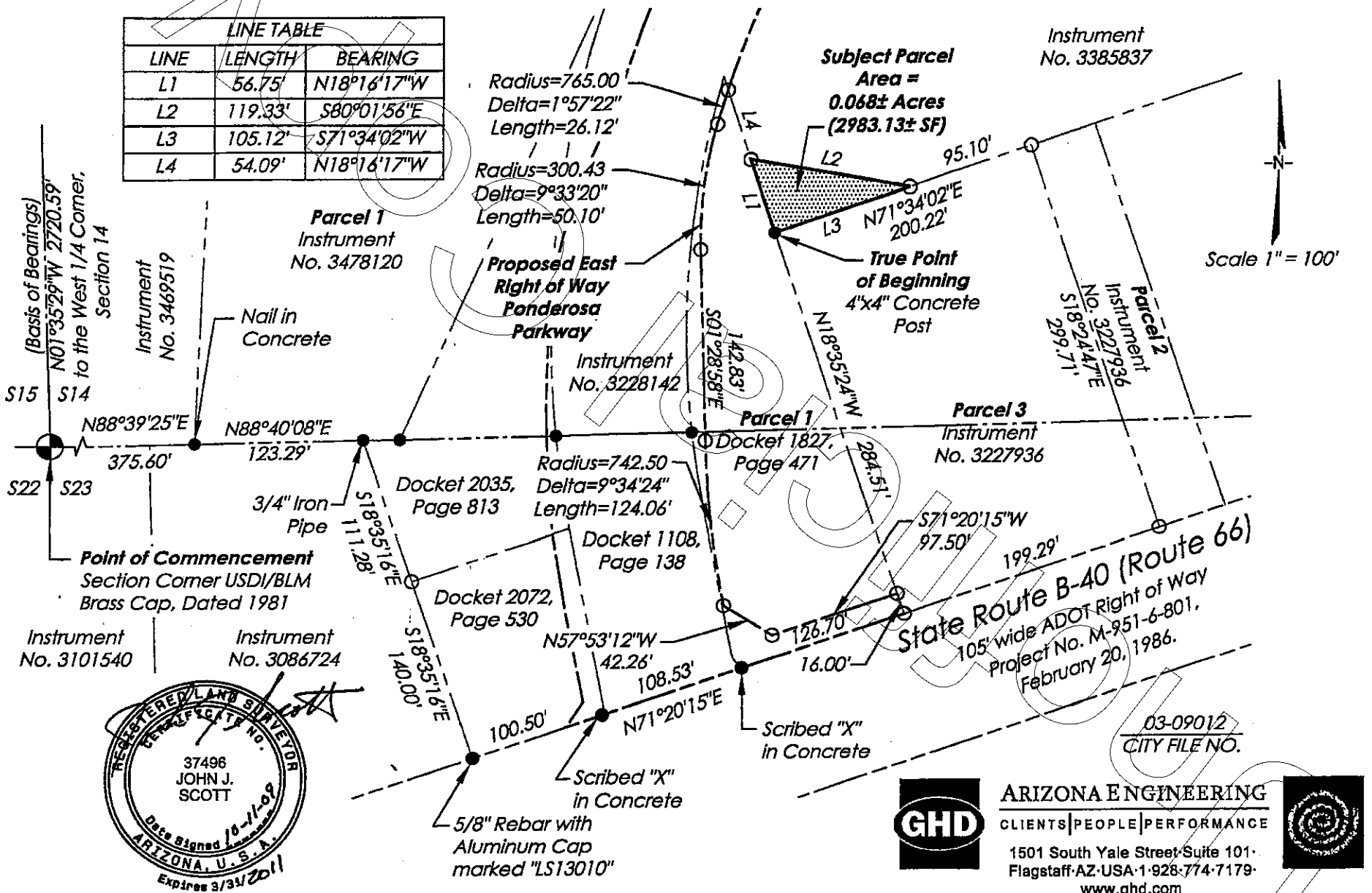
Unofficial Copy

3546724 Pages: 83 of 129 12/03/2009 03:22:47 PM

Exhibit L (Drawing 2)

A portion of the parcel of land described in instrument No. 3385837. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

LINE TABLE		
LINE	LENGTH	BEARING
L1	56.75'	N18°16'17"W
L2	119.33'	S80°01'56"E
L3	105.12'	S71°34'02"W
L4	54.09'	N18°16'17"W



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-1-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Exhibit M

(Description 1)

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3340460, of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23 and the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the north right of way line of Route 66, 335.73 feet to the southeast corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471 and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 71°20'15" East along the south line of Parcel 3 and along the north right of way line of Route 66, 199.29 feet to the southeast corner of Parcel 3 and to the southwest corner of the parcel of land described as Parcel 2 in Instrument No. 3227936;

THENCE North 71°20'15" East along the south line of Parcel 2 and along the north right of way line of Route 66, 50.00 feet to the southeast corner of Parcel 2 and to the southwest corner of the parcel of land described in Instrument No. 3340460;

Unofficial Document

THENCE North 18°24'47" West along the east line of Parcel 2 and along the west line of the parcel of land described in Instrument No. 3340460, 6.00 feet to the **TRUE POINT OF BEGINNING** of this description.

THENCE North 18°24'47" West along the east line of Parcel 2 and along the west line of the parcel of land described in Instrument No. 3340460, 6.00 feet;

THENCE North 71°20'15" East, 251.31 feet to the east line of the parcel of land described in Instrument No. 3340460 and to the west line of the parcel of land described in Docket 1947, Page 830;

THENCE South 01°32'06" East, along the east line of the parcel of land described in Instrument No. 3340460 and along the west line of the parcel of land described in Docket 1947, Page 830, 6.28 feet;

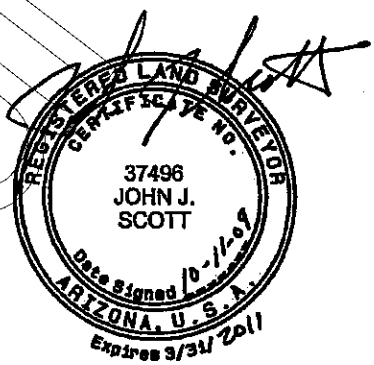
THENCE South 71°20'15" West, 249.48 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.034 acres (1502.37 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit M (Drawing 1)**, which by this reference is made part of this description.

6 Foot Wide Sidewalk Easement
Descriptive Title

03-09012
City File No.

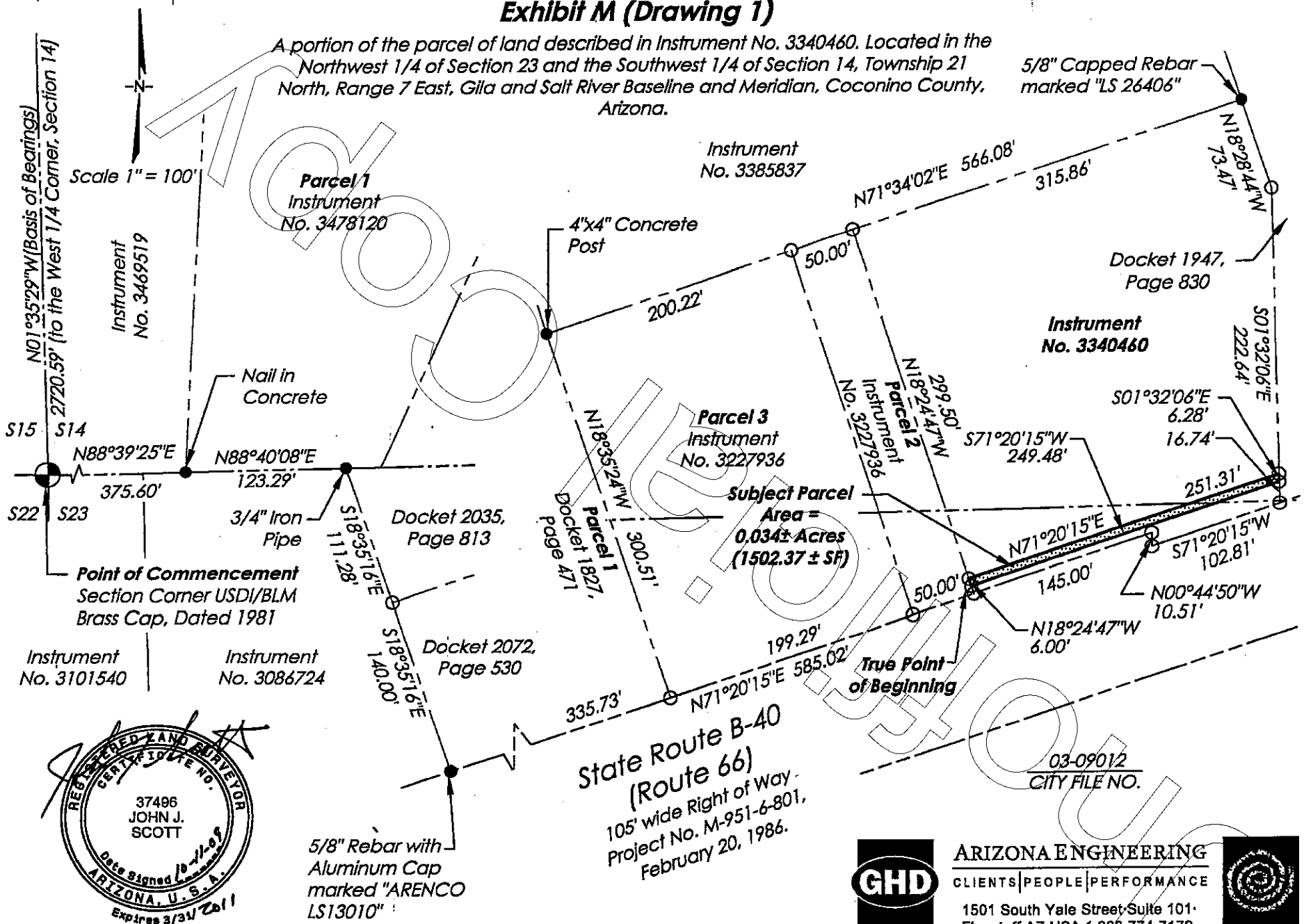


Unofficial Copy

3546724 Pages: 86 of 129 12/03/2009 03:22:47 PM

Exhibit M (Drawing 1)

A portion of the parcel of land described in Instrument No. 3340460. Located in the Northwest 1/4 of Section 23 and the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-11-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Document is NOT OFFICIAL! This Document is the property of the Coconino County Recorder's Office. The Recorder's Office does not guarantee the accuracy of any drawings included in this document. The customer is responsible for verifying the acceptability of any drawing.

Exhibit M

(Description 2)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 3 in Instrument 3227936, of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, Township 21 North, Range 7 East monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471, monumented with a scribed X in concrete;

UNOFFICIAL DOCUMENT

THENCE North 71°20'15" East, along the south line of Parcel 1 (Docket 1872, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1872, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West along the east line of Parcel 1 (Docket 1827, Page 471) and along the west line of Parcel 3, 6.00 feet to the **TRUE POINT OF BEGINNING** of this description;

THENCE North 71°20'15" East parallel with and 12.00 feet north of the south line of Parcel 3 and the north right of way line of Route 66, 199.33 feet to the east line of Parcel 3 and to the west line of Parcel 2 as described in Instrument No. 3227936;

THENCE South 18°24'47" East along the east line of Parcel 3 and along the west line of Parcel 2, 6.00 feet;

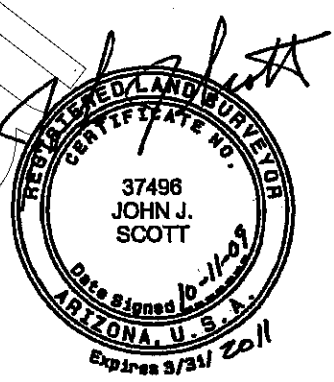
THENCE South 71°20'15" West parallel with and 6.00 feet north of the south line of Parcel 3 and the north right of way line of Route 66, 199.31 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.027 acres (1195.92 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit M (Drawing 2)**, which by this reference is made part of this description.

6 Foot Wide Sidewalk Easement
Descriptive Title

03-09012
City File No.

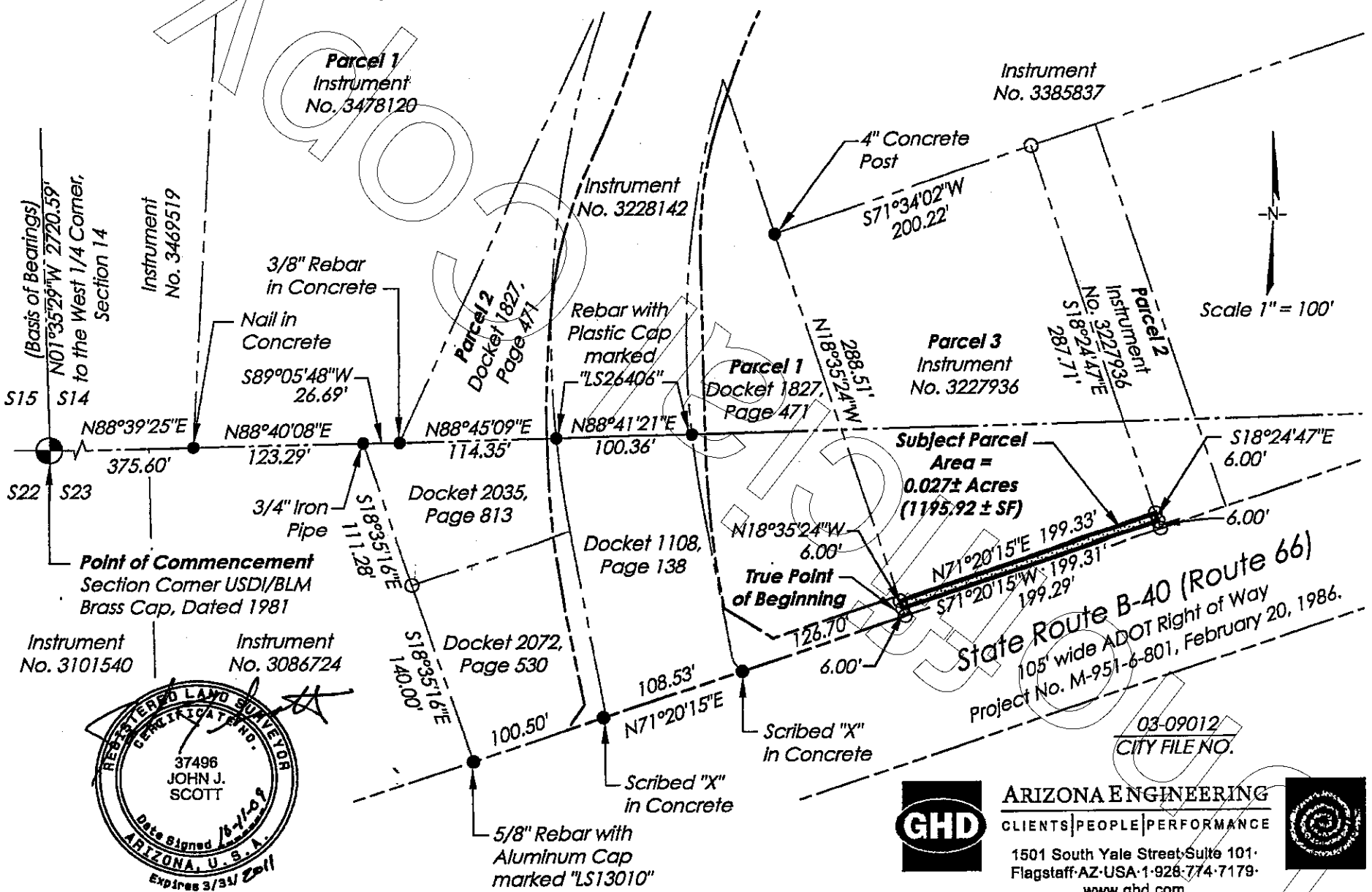


Unofficial Copy

3546724 Pages: 89 of 129 12/03/2009 03:22:47 PM

Exhibit M (Drawing 2)

A parcel of land which is a portion of the parcel of land described as Parcel 3 in Instrument No. 3227936 and located in the the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 6-11-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

TaSC Check Copy

Exhibit M

(Description 3)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 2 in Instrument 3227936, of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, Township 21 North, Range 7 East monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471, monumented with a scribed X in concrete;

Unofficial Document

THENCE North 71°20'15" East, along the south line of Parcel 1 (Docket 1872, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1872, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 71°20'15" East, along the south line of Parcel 3 and along the north right of way line of Route 66, 199.29 feet to the southeast corner of Parcel 3 and to the southwest corner of the parcel of land described as Parcel 2 in Instrument No. 3227936;

THENCE North 18°24'47" West, along the east line of Parcel 3 and along the west line of Parcel 2, 6.00 feet to the **TRUE POINT OF BEGINNING** of this description:

THENCE North 18°24'47" West along the east line of Parcel 3 and along the west line of Parcel 2, 6.00 feet;

THENCE North 71°20'15" East parallel with and 12.00 feet north of the south line of Parcel 2 and the north right of way line of Route 66, 50.00 feet to the east line of Parcel 2 and to the west line of the parcel of land described in Instrument No. 3340460;

THENCE South 18°24'47" East along the east line of Parcel 2 and along the west line of the parcel of land described in Instrument No, 3340460, 6.00 feet;

THENCE South 71°20'15" West parallel with and 6.00 feet north of the south line of Parcel 2 and the north right of way line of Route 66, 50.00 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.007 acres (300.00 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit M (Drawing 3)**, which by this reference is made part of this description.

6 Foot Wide Sidewalk Easement
Descriptive Title

03-09012
City File No.

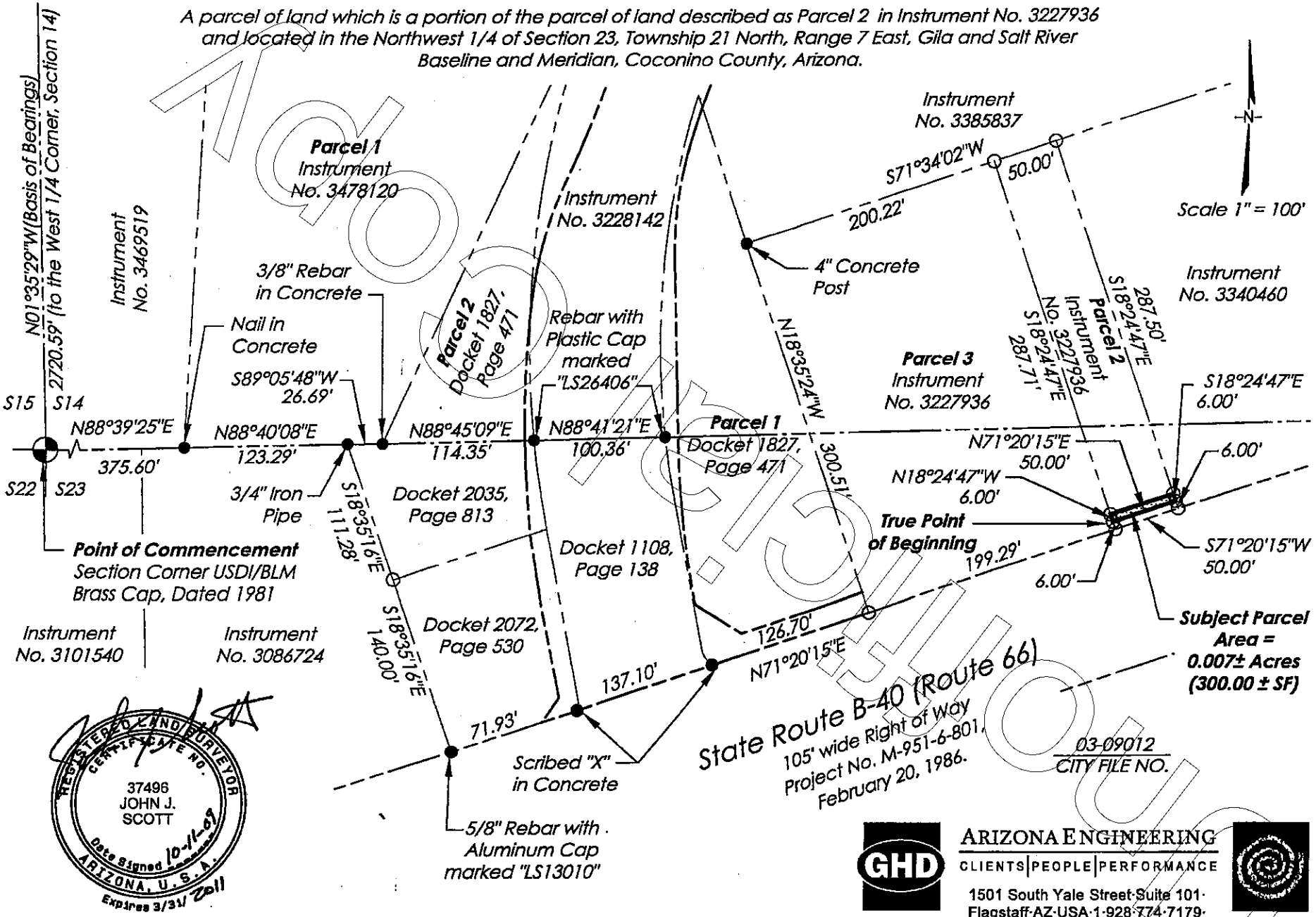


Unofficial Copy

3546724 Pages: 92 of 129 12/03/2009 03:22:47 PM

Exhibit M (Drawing 3)

A parcel of land which is a portion of the parcel of land described as Parcel 2 in Instrument No. 3227936 and located in the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-14-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

NOT OFFICIAL DOCUMENT

Exhibit N

(Description 1)

Following is a description of a parcel of land which is a portion of the parcel of land described in Docket 2072, Page 530 of the records of the Coconino County Recorder's Office. The parcel of land is located in the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, Township 21 North, Range 7 East monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1, 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE North 71°19'04" East along the south line of the parcel of land described in Docket 2035, Page 813 and along the north line of the parcel of land described in Docket 2072, Page 530, 108.98 feet to the **TRUE POINT OF BEGINNING** of this description:

THENCE North 71°19'04" East along the south line of the parcel of land described in Docket 2035, Page 813 and along the north line of the parcel of land described in Docket 2072, Page 530, 13.17 feet to the southeast corner of the parcel of land described in Docket 2035, Page 813 and to the northeast corner of the parcel of land described in Docket 2072, Page 530 and to the west line of the parcel of land described in Docket 1108, Page 138;

THENCE South 10°37'17" East along the west line of the parcel of land described in Docket 1108, Page 138 and along the east line of the parcel of land described in Docket 2072, Page 530, 123.35 feet;

THENCE South 55°11'08" West, 15.37 feet;

THENCE North 11°13'38" West, 68.43 feet;

Unofficial Document

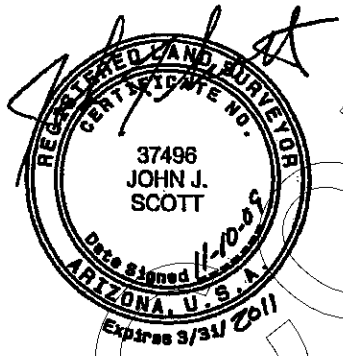
THENCE North 08°58'59" West, 59.39 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.04 acres (1776.64 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit N (Drawing 1)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

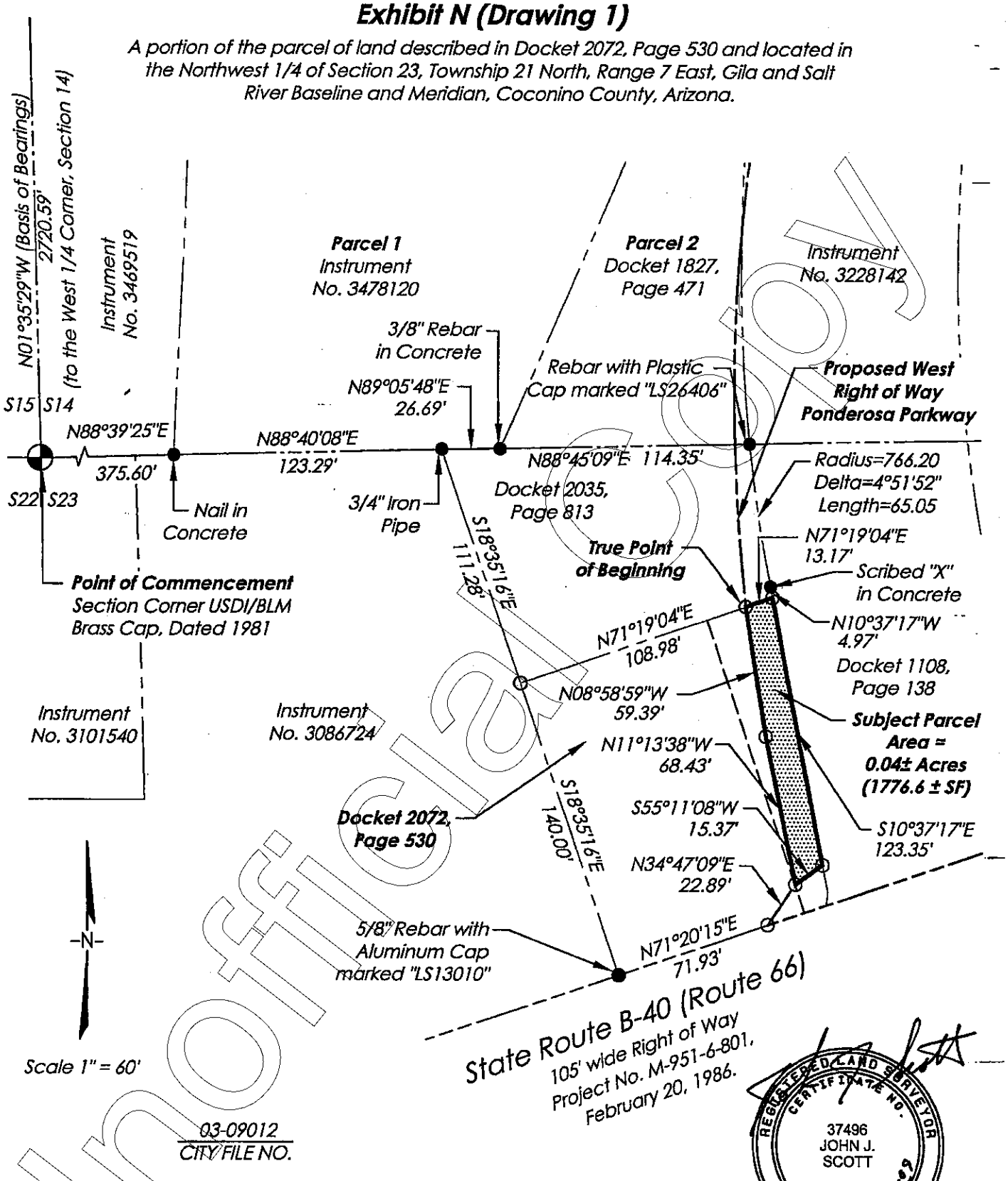
03-09012
City File No.



Unofficial Copy

Exhibit N (Drawing 1)

A portion of the parcel of land described in Docket 2072, Page 530 and located in the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 11-10-09
ARIZONA, U.S.A.
Expires 3/31/2011

03-09012
CITY FILE NO.

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Unofficial Copy

Exhibit N

(Description 2)

Following is a description of a parcel of land which is a portion of the parcel of land described in Docket 2035, Page 813 of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, Township 21 North, Range 7 East monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1, 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe.;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE North 71°19'04" East along the north line of the parcel of land described in Docket 2072, Page 530 and along the south line of the parcel of land described in Docket 2035, Page 813, 108.98 feet to a non-tangent curve whose radius point bears North 84°04'52" East, the **TRUE POINT OF BEGINNING** of this description:

THENCE northerly along a curve to the right having a radius of 859.10 feet and a central angle of 4°26'21", an arc distance of 66.56 feet (chord bearing North 03°41'57" West, chord distance 66.55 feet) to a non-tangent curve whose radius point bears North 87°47'15" East;

THENCE northerly along a curve to the right having a radius of 763.27 feet and a central angle of 0°31'11", an arc distance of 6.92 feet (chord bearing North 01°57'10" West, chord distance 6.92 feet) to the north line of the northwest 1/4 of Section 23 and to the south line of the parcel of land described as Parcel 2 in Docket 1827, Page 471 and to the north line of the parcel of land described in Docket 2035, Page 813;

THENCE North 88°45'09" East along the north line of the northwest 1/4 of Section 23 and along the south line of Parcel 2 and along the north line of the parcel of land described in Docket

Unofficial Document

2035, Page 813, 6.83 feet to the southeast corner of Parcel 2 and to the southwest corner of the parcel of land described in Instrument No. 3228142 and to the northwest corner of the parcel of land described in Docket 1108, Page 138 and to the northeast corner of the parcel of land described in Docket 2035, Page 813, to a non-tangent curve whose radius point bears North 84°14'35" East, monumented with a rebar with plastic cap RLS 26406;

THENCE southerly along the west line of the parcel of land described in Docket 1108, Page 138 and along the east line of the parcel of land described in Docket 2035, Page 813, along a curve to the left having a radius of 766.20 feet and a central angle of 4°51'52", an arc distance of 65.05 feet (chord bearing South 08°11'21" East, chord distance 65.03 feet), monumented with a scribed X in concrete;

THENCE South 10°37'17" East along the west line of the parcel of land described in Docket 1108, Page 138 and along the east line of the parcel of land described in Docket 2035, Page 813, 4.97 feet to the northeast corner of the parcel of land described in Docket 2072, Page 530 and to the southeast corner of the parcel of land described in Docket 2035, Page 813;

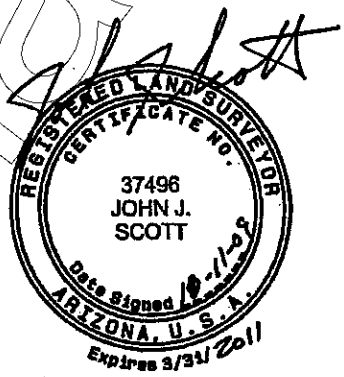
THENCE South 71°19'04" West along the north line of the parcel of land described in Docket 2072, Page 530 and along the south line of the parcel of land described in Docket 2035, Page 813, 13.17 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.02 acres (703.19 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit N (Drawing 2)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

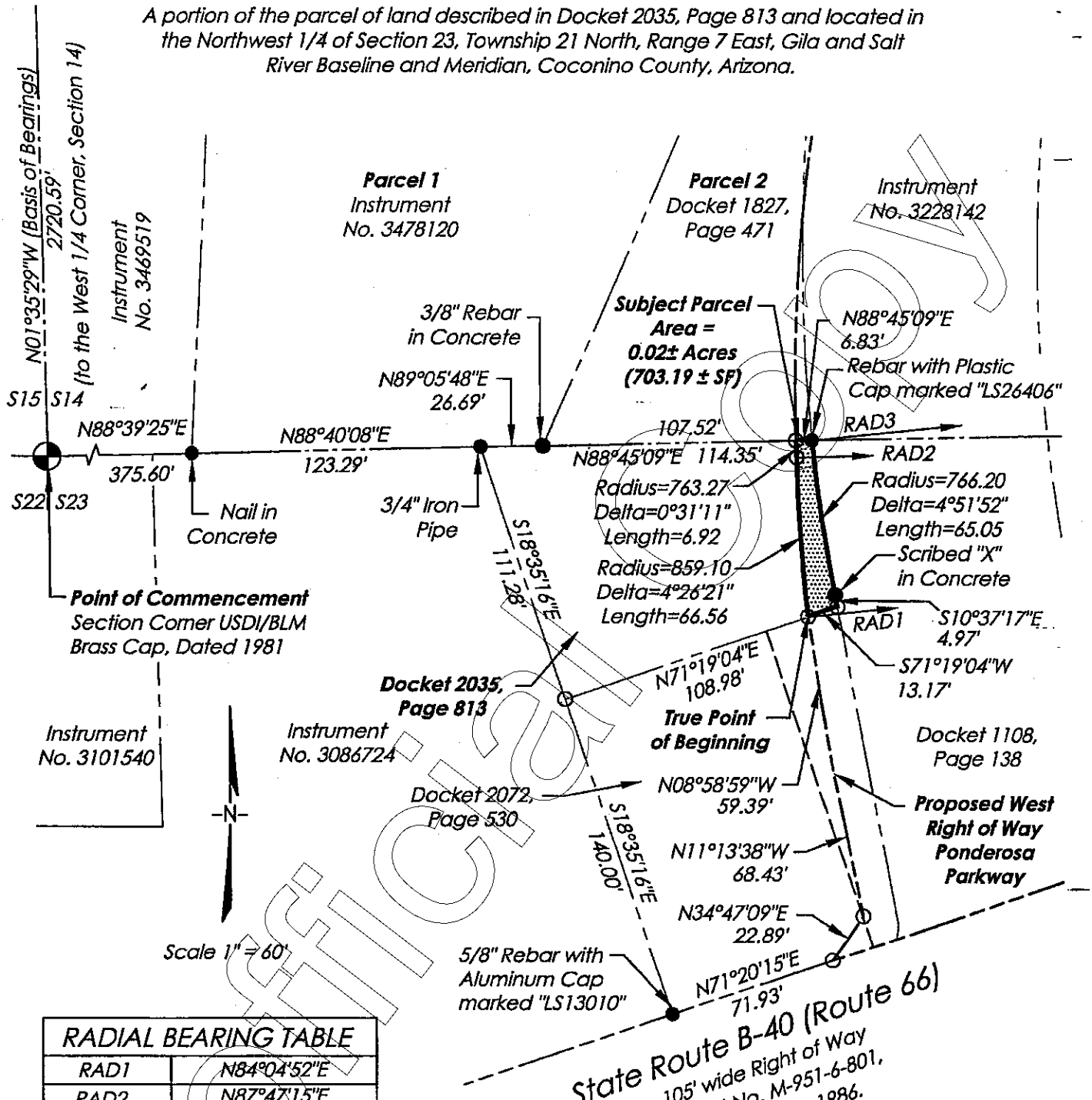
03-09012
City File No.



Unofficial Document

Exhibit N (Drawing 2)

A portion of the parcel of land described in Docket 2035, Page 813 and located in the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



RADIAL BEARING TABLE	
RAD1	N84°04'52"E
RAD2	N87°47'15"E
RAD3	N84°14'35"E

03-09012
CITY FILE NO.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-16-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Unofficial Copy

Exhibit O

(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described in Docket 2072, Page 530 of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, Township 21 North, Range 7 East monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description).

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1, 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe.;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 71.93 feet to the **TRUE POINT OF BEGINNING** of this description:

THENCE North 34°47'09" East, 22.89 feet;

THENCE North 55°11'08" East, 15.37 feet to the east line of the parcel of land described in Docket 2072, Page 530 and to the west line of the parcel of land described in Docket 1108, Page 138;

THENCE South 10°37'17" East along the east line of the parcel of land described in Docket 2072, Page 530 and along the west line of the parcel of land described in Docket 1108, Page

Unofficial Document

138, 12.23 feet to a non-tangent curve whose radius point bears South 89°35'31" West, monumented with a scribed X in concrete;

THENCE southerly along the east line of the parcel of land described in Docket 2072, Page 530 and along the west line of the parcel of land described in Docket 1108, Page 138, along a curve to the right having a radius of 23.00 feet and a central angle of 16°09'27", an arc distance of 6.49 feet (chord bearing South 07°40'15" West, chord distance 6.46 feet) to the southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, and to the north right of way line of Route 66, monumented with a scribed X in concrete;

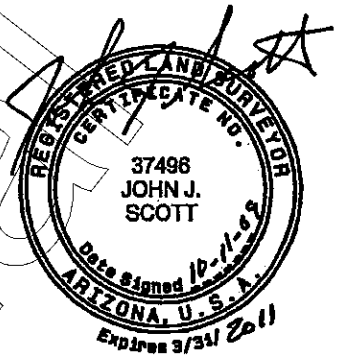
THENCE South 71°20'15" West along the south line of the parcel of land described in Docket 2072, Page 530 and along the north right of way line of Route 66, 28.57 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.01 acres (330.50 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit O (Drawing)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

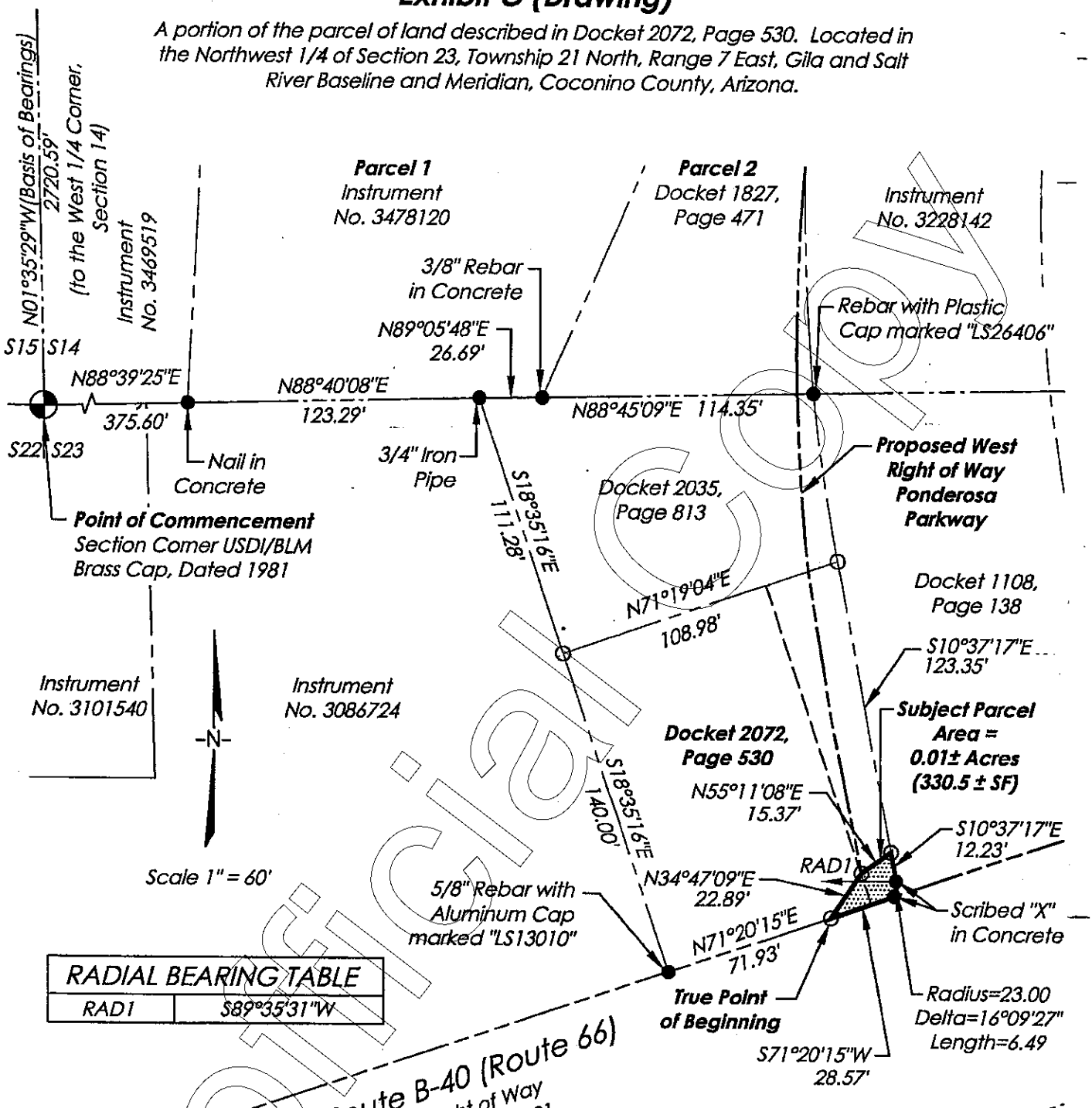
03-09012
City File No.



Unofficial Copy

Exhibit O (Drawing)

A portion of the parcel of land described in Docket 2072, Page 530. Located in the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



RADIAL BEARING TABLE	
RAD1	S89°35'31"W

03-09012
CITY FILE NO.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-11-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street-Suite 101-
Flagstaff-AZ-USA-1-928-774-7179-
www.ghd.com

Unofficial Copy

Exhibit P
Exhibit Q
Exhibit R

Following is a description of a parcel of land which is a portion of the parcels of land described in Instrument No. 3376344 and re-recorded in Instrument No. 3385837 and Instrument No. 3228142 of the records of the Coconino County Recorders Office. (Note: All references to recorded instruments refer to the records of the Coconino County Recorders Office).

The parcel of land is located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

The **GRANTOR** may reference the following parcel as Lot 7 (Exhibit A fee title) and the attached Easements by dedication in the San Francisco De Asis Church and School Development Final Plat (developed by Arizona Engineering Company)containing 11.97 acres more or less, pursuant to the requirements of the City of Flagstaff.

The parcel is more particularly described by metes and bounds as follows:

COMMENCING at the Southwest corner of Section 14, monumented with a USDI/BLM Brass Cap dated 1981 from which point the West 1/4 corner of Section 14, monumented with a 3" aluminum cap marked "LS 26406", bears North 01°35'29" West, 2720.59 feet;

THENCE North 88°39'25" East along the South line of the Southwest 1/4 of Section 14 and along the North lines of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724, 498.81 feet to the Northwest corner of the parcel of land described in Docket 2035, Page 813 and to the Northeast corner of the parcel of land described in Instrument No. 3086724, monumented with a 1/2" iron pipe;

THENCE North 88°47'13" East along the South line of the Southwest 1/4 of Section 14 and along the North line of the parcel of land described in Docket 2035, Page 813, 134.25 feet to the proposed West right of way line of Ponderosa Parkway;

THENCE North 88°41'10" East along the South line of the Southwest 1/4 of Section 14 and along the North line the parcel of land described in Docket 1108, Page 138, 107.25 feet to the West line of Parcel 1 as described in Docket 1827, Page 472;

THENCE North 88°41'10" East along the South line of the Southwest 1/4 of Section 14, 9.80 feet to the proposed East right of way line of Ponderosa Parkway;

THENCE North 88°41'10" East along the South line of the Southwest 1/4 of Section 14, 99.88 feet to the East line of Parcel 1 as described in Docket 1827, Page 472 and to the West line of the parcel of land described in Docket 3227, Page 936;

THENCE North 18°26'19" West along the East line of Parcel 1 described in Docket 1827, Page 472 and along the West line of the parcel of land described in Docket 3227, Page 936, 153.89 feet to the Southwest corner of the parcel of land described in Instrument No. 3385837, monumented with a 4" concrete post, the **POINT OF BEGINNING** of this description, hereinafter referred to as **POINT "A"**;

Unofficial Copy

THENCE North 18°13'20" West along the East line of Parcel 1 and along the West line of the parcel of land described in Instrument No. 3385837, 110.98 feet, to the proposed East right of way line of Ponderosa Parkway, hereinafter referred to as **POINT "D"**;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 765.00 feet and a central angle of 5°57'54", an arc distance of 79.64 feet (chord bearing North 21°22'04" East, chord distance 79.61 feet);

THENCE North 24°21'00" East along the proposed East right of way line of Ponderosa Parkway, 137.50 feet;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 20°00'01", an arc distance of 308.84 feet (chord bearing North 14°21'00" East, chord distance 307.27 feet);

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 1648.76 feet and a central angle of 18°07'31", an arc distance of 521.57 feet (chord bearing North 04°42'46" West, chord distance 519.40 feet), to the North line of the parcel of land described in Instrument No. 3385837;

THENCE South 81°54'10" East along the North line of the parcel of land described in Instrument No. 3385837, 429.72 feet to the Northeast corner of the parcel of land described in Instrument No. 3385837;

THENCE South 31°18'30" East, 665.41 feet to the South line of the parcel of land described in Instrument No. 3228142 and to the North line of the parcel of land described in Docket 1947, Page 830;

THENCE North 73°06'23" West along the South line of the parcel of land described in Instrument No. 3228142 and along the North line of the parcel of land described in Docket 1947, Page 830, 98.22 feet to the Southeast corner of the parcel of land described in Instrument No. 3385837, monumented with a 5/8" capped rebar marked "LS 26406";

THENCE South 71°29'36" West along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcel of land described in Docket 1947, Page 830, 320.96 feet to the Northwest corner of the parcel of land described in Docket 1947, Page 830, monumented with a 5/8" capped rebar marked "LS 13010";

THENCE South 18°30'41" East along the South line of the parcel of land described in Instrument No. 3385837 and along the West line of the parcel of land described in Docket 1947, Page 830, 251.55 feet to the Northeast corner of the parcel of land described in Instrument No. 3340460, monumented with a 5/8" capped rebar marked "LS 26406", hereinafter referred to as **POINT "B"**;

THENCE South 71°32'55" West along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcels of land described in

Unofficial Document

Instrument No. 3340460 and Docket 3227, Page 936, 566.31 feet to the **POINT OF BEGINNING** of this description;

The above described parcel of land contains 11.97 acres, more or less.

For a drawing of the parcel described above, see **Exhibit "A-1"**, which by this reference is made part of this description.

The above described parcel is subject to the reservation by the grantor, of the following described easements which may be referenced on a Final Plat of Dedication to the City of Flagstaff, pursuant to the requirements of the City of Flagstaff:

EASEMENT "A" – 16' Wide Private and Public Utility Easement:

A 16' wide strip of land which lies 8.0 feet on each side of the following described line:

COMMENCING at the above mentioned **POINT "B"**, a 5/8" capped rebar marked "LS 26406;

THENCE North 18°30'41" West along the South line of the parcel of land described in Instrument No. 3385837 and along the West line of the parcel of land described in Docket 1947, Page 830, 8.00 feet to the **POINT OF BEGINNING** of the this description;

THENCE South 71°32'55" West, parallel with and 8.0 feet North of the South line of the parcel of land described in Instrument No. 3385837, 553.09 feet;

THENCE North 64°41'32" West, 18.17 feet to the East line of Parcel 1 and to the West line of the parcel of land described in Instrument No. 3385837, the **POINT OF TERMINUS** of this description.

The sidelines to be lengthened or shortened to meet the South and West lines of the parcel of land described in Instrument No. 3385837.

The above described 16' wide private and public utility easement contains 0.21 acres, more or less.

For a drawing of the parcel described above, see **Exhibit "A-3"**, which by this reference is made part of this description.

EASEMENT "B" - 40' Wide Private Non-Exclusive Ingress/Egress Easement

The following is a description of a 40' wide private non-exclusive ingress/egress easement to provide access to and from the property described in Docket 3227, Page 936 and Parcel 1 of Docket 1827, Page 472. The 40' wide strip of land lies 20.0 feet on each side of the following described line and is more particularly described as follows:

COMMENCING at the above mentioned **POINT "A"**, a 4" concrete post;

THENCE North 71°32'55" East along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcel of land described in Docket 3227, Page 936, 54.31 feet to the **POINT OF BEGINNING** of this description;

Unofficial Copy

THENCE North 81°00'52" West, 61.07 feet to the East line of Parcel 1 as described in Docket 1827, Page 472 and to the West line of the parcel of land described in Instrument No. 3385837, the **POINT OF TERMINUS** of this description.

The sidelines to be lengthened or shortened to meet the South and West lines of the parcel of land described in Instrument No. 3385837.

The above described 40' wide private non-exclusive ingress/egress easement contains 0.06 acres, more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "C" – Drainage Easement:

A drainage easement is more particularly described by metes and bounds as follows:

COMMENCING at **POINT "A"**, a 4" concrete post;

THENCE North 18°13'20" West along the East line of Parcel 1 described in Docket 1827, Page 472 and along the West line of the parcel of land described in Instrument No. 3385837, 110.98 feet, to the proposed East right of way line of Ponderosa Parkway;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 765.00 feet and a central angle of 5°57'54", an arc distance of 79.64 feet (chord bearing North 21°22'04" East, chord distance 79.61 feet);

THENCE North 24°21'00" East along the proposed East right of way line of Ponderosa Parkway, 137.50;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 10°46'45", an arc distance of 166.45 feet (chord bearing North 18°57'37" East, chord distance 166.21 feet);

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 2°19'48", an arc distance of 35.98 feet (chord bearing North 12°24'20" East, chord distance 35.98 feet), to the **POINT OF BEGINNING** of this description, hereinafter referred to as **POINT "C"**;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 6°53'27", an arc distance of 106.41 feet (chord bearing North 07°47'43" East, chord distance 106.34 feet);

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 1648.76 feet and a central angle of 18°07'31", an arc distance of 521.57 feet (chord bearing North 04°42'46" West, chord distance 519.40 feet), to the North line of the parcel of land described in Instrument No. 3385837to a point of cusp;

Unofficial Copy

THENCE South 81°54'10" East along the North line of the parcel of land described in Instrument No. 3385837, 16.15 feet;

THENCE Southerly, parallel with and 15 feet East of the East right of way line of the proposed Ponderosa Parkway, along a curve to the right, having a radius of 1663.76 feet which bears South 76°25'54" West, and a central angle of 16°49'52", an arc distance of 488.74 feet (chord bearing South 05°09'10" East, chord distance 486.98 feet);

THENCE South 02°30'56" East, 180.73 feet;

THENCE North 41°18'42" West, 59.70 feet to the **POINT OF BEGINNING** of this description.

The above described drainage easement contains 0.26 Acres more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "D" – Drainage Easement:

A drainage easement is more particularly described by metes and bounds as follows:

BEGINNING at the above mentioned **POINT "C";**

THENCE South 41°18'42" East, 77.53 feet;

THENCE South 17°38'11" East, 41.60 feet;

THENCE South 24°46'55" East, 55.29 feet;

THENCE South 50°57'07" East, 87.77 feet;

THENCE South 41°07'05" East, 102.44 feet;

THENCE South 81°15'02" East, 92.59 feet;

THENCE North 72°10'13" East, 97.37 feet to the West line of the parcel of land described in Docket 1947, Page 830 and to the South line of the parcel of land described in Instrument No. 3385837;

THENCE South 18°30'41" East, along the West line of the parcel of land described in Docket 1947, Page 830 and along the South line of the parcel of land described in Instrument No. 3385837, 56.00 feet to the Northeast corner of the parcel of land described in Instrument No. 3340460, monumented with a 5/8" capped rebar marked "LS 26406";

THENCE South 71°32'55" West along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcel of land described in Instrument No. 3340460, 110.70 feet;

THENCE North 18°30'41" West, 31.28 feet;

THENCE North 81°15'02" West, 103.13 feet;

THENCE North 41°07'05" West, 110.54 feet;

THENCE North 50°57'07" West, 92.02 feet;

Unofficial Copy

THENCE North 24°46'55" West, 63.84 feet;

THENCE North 17°38'11" West, 37.33 feet;

THENCE North 41°18'42" West, 50.15 feet to the proposed East right of way of Ponderosa Parkway;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 2°19'48", an arc distance of 35.98 feet (chord bearing North 12°24'20" East, chord distance 35.98 feet) to the **POINT OF BEGINNING** of this description.

The above described drainage easement contains 0.44 Acres more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "E" – Slope Easement:

The slope easement is more particularly described by metes and bounds as follows:

BEGINNING at the above mentioned **POINT "D";**

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 765.00 feet and a central angle of 5°57'54", an arc distance of 79.64 feet (chord bearing North 21°22'04" East, chord distance 79.61 feet);

THENCE North 24°21'00" East along the proposed East right of way line of Ponderosa Parkway, 137.50;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 10°46'45", an arc distance of 166.45 feet (chord bearing North 18°57'37" East, chord distance 166.21 feet);

THENCE South 41°18'42" East, 36.38 feet;

THENCE Southerly, parallel with and 30' East of the East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 914.74 feet which bears North 75°07'06" West, and a central angle of 9°28'06", an arc distance of 151.16 feet (chord bearing South 19°36'57" West, chord distance 150.99 feet);

THENCE South 24°21'00" West, parallel with and 30' East of the East right of way line of Ponderosa Parkway, 137.50 feet;

THENCE Southerly, parallel with and 30' East of the East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 735.00 feet and a central angle of 9°14'27", an arc distance of 118.54 feet (chord bearing South 19°43'47" West, chord distance 118.41 feet) to the East line of Parcel 1 described in Docket 1827, Page 472 and to the West line of the parcel of land described in Instrument No. 3385837;

THENCE North 18°13'20" West along the East line of Parcel 1 described in Docket 1827, Page 472 and along the West line of the parcel of land described in Instrument No. 3385837, 52.32 feet to the **POINT OF BEGINNING** of this description.

Unofficial Copy

The above described slope easement contains 0.27 Acres more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "F" – 16' Wide Public Utility Easement:

A 16' wide strip of land which lies 8.0 feet on each side of the following described line:

COMMENCING at the above mentioned **POINT "B"**;

THENCE North 18°30'41" West along the South line of the parcel of land described in Instrument No. 3385837 and along the West line of the parcel of land described in Docket 1947, Page 830, 8.00 feet to the **POINT OF BEGINNING** of this description;

THENCE North 66°39'29" West, 284.53 feet;

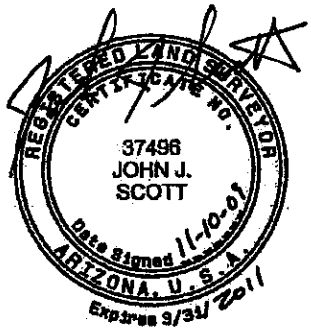
THENCE North 37°46'05" West, 259.88 feet to the proposed right of way of Ponderosa Parkway, the **POINT OF TERMINUS** of this description.

The sidelines to be lengthened or shortened to meet the South line of the parcel of land described in Instrument No. 3385837and to meet the proposed East right of way line of Ponderosa Parkway.

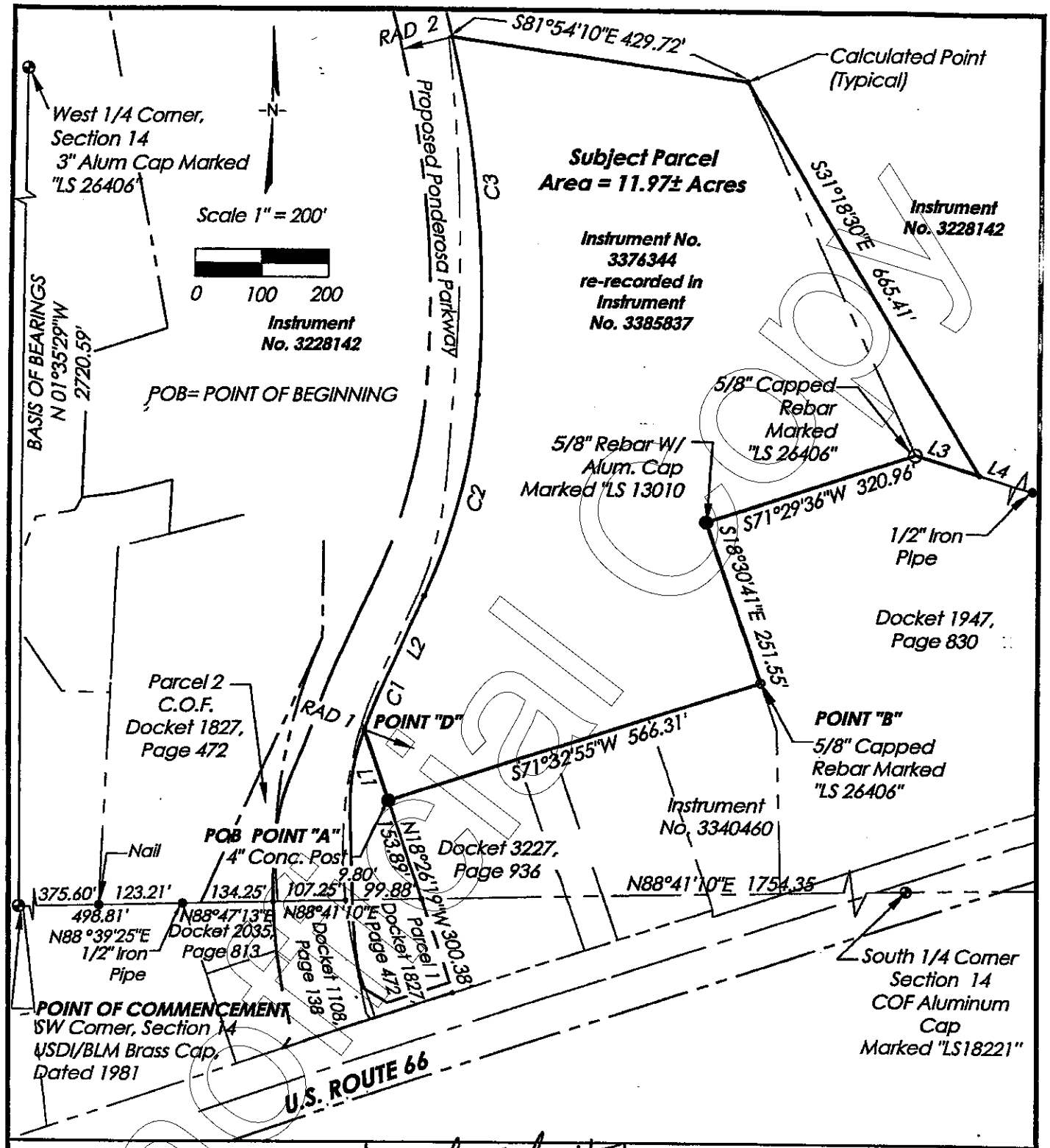
The above described 16' wide public utility easement contains 0.20 acres, more or less.

For a drawing of the parcel described above, see **Exhibit "A-3"**, which by this reference is made part of this description.

The **BASIS OF BEARINGS** for the above described parcels of land is the line from the Southwest corner of Section 14, a USDI/BLM brass cap dated 1981 to the West 1/4 corner of Section 14, a 3" aluminum cap marked "LS 26406', which bears South 01°35'29" East, according to the record of survey recorded in Book 21 of Surveys, Page 17.



Unofficial Copy



ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

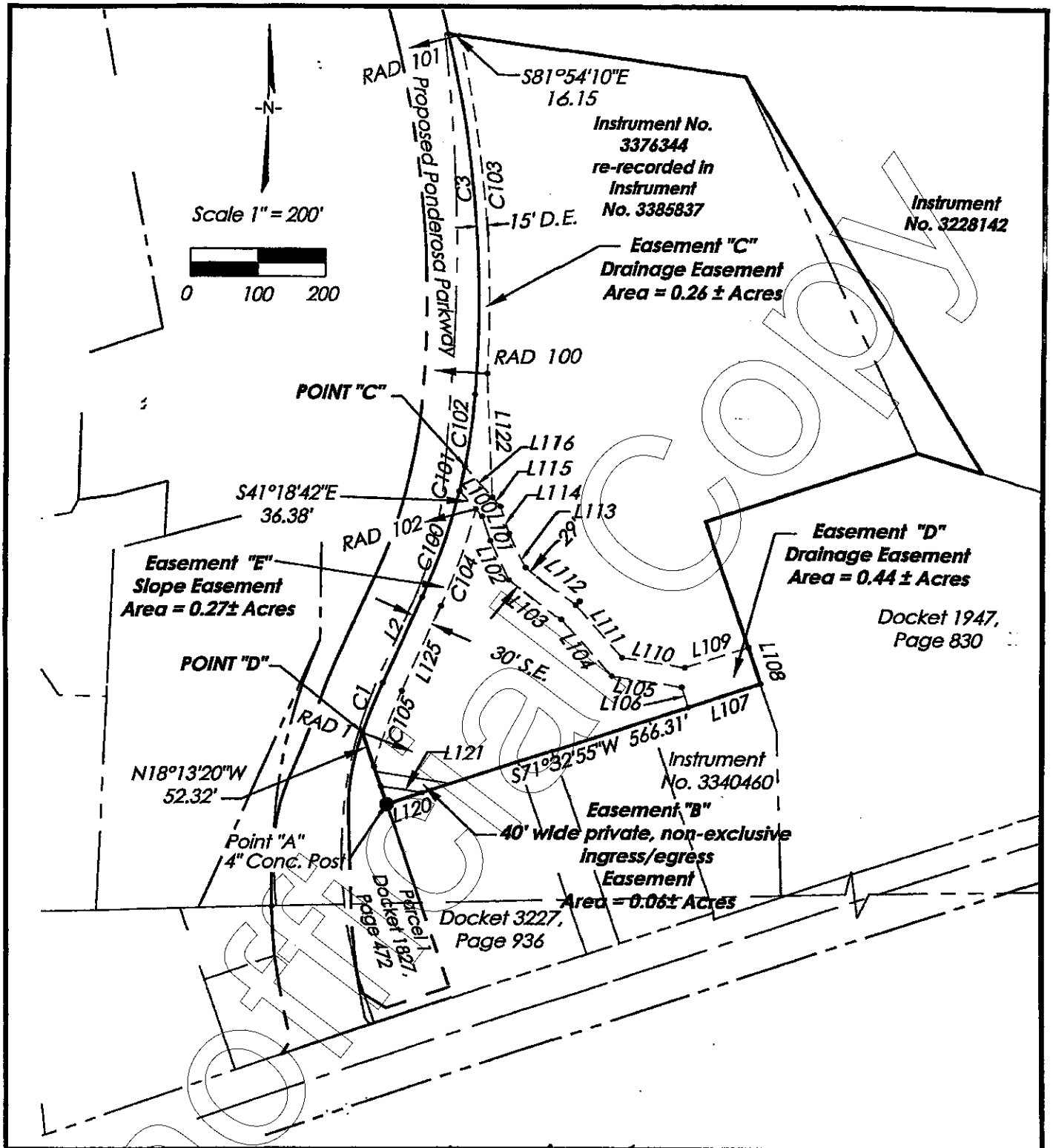
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J. SCOTT
Date Signed 7-15-09
ARIZONA, U.S.A.
Expires 3/31/2011

Exhibit "A-1"

A parcel of land located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 1 OF 4

Unofficial Copy



Unofficial Document

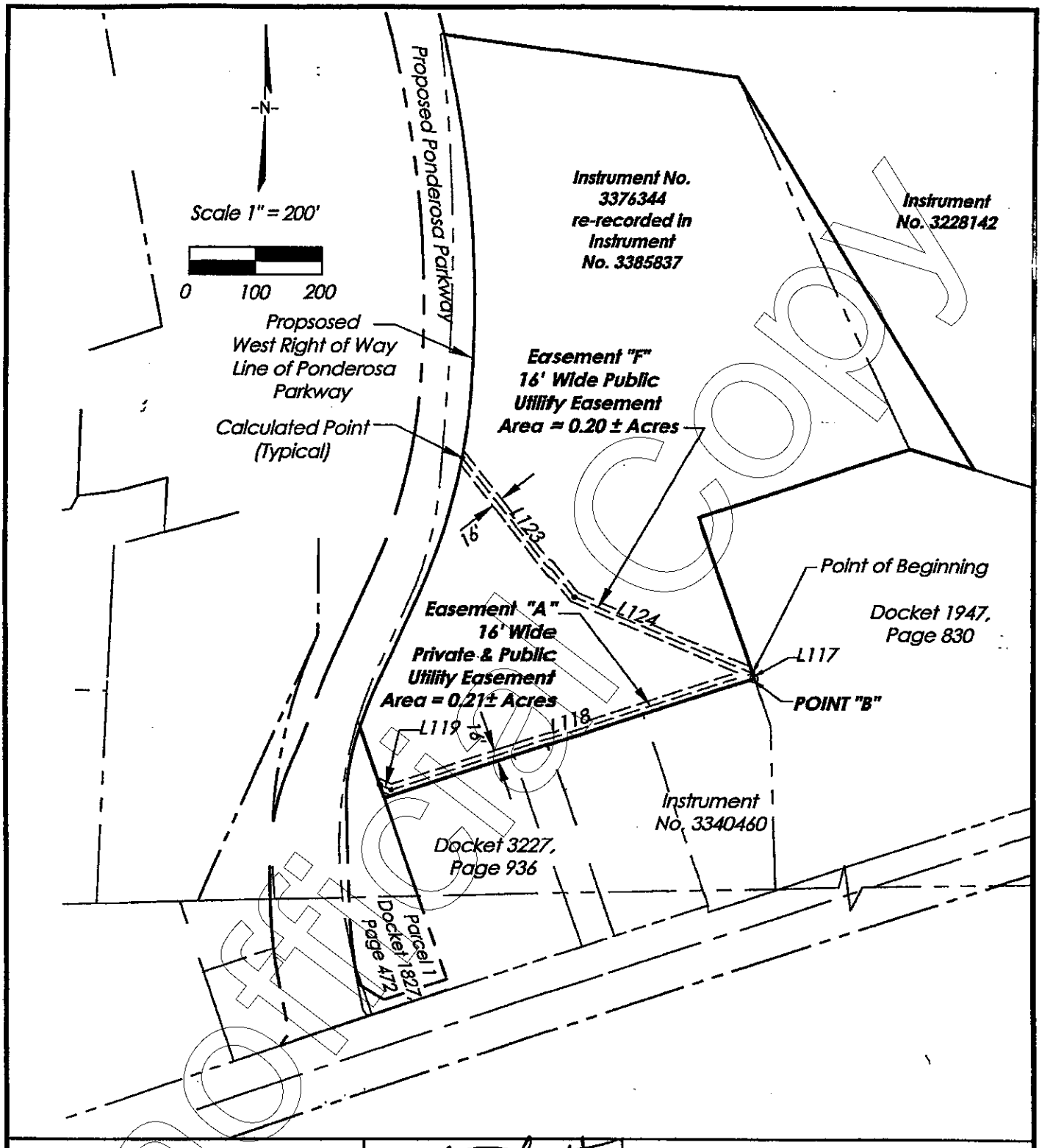
ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 7-25-08
ARIZONA, U.S.A.
Expires 3/31/2011

Exhibit "A-2"

Easements are located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 2 OF 4



Unofficial Copy

ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J. SCOTT
Date Signed 7-25-08
ARIZONA, U.S.A.
Expires 3/31/2011

Exhibit "A-3"

Easement are located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 3 OF 4

RADIAL BEARING TABLE

RAD 1	S71°36'53"E
RAD 2	S76°13'28"W

LINE TABLE

LINE	LENGTH	BEARING
L1	110.98'	N18°13'20"W
L2	137.50	N24°21'00"E
L3	98.22'	N73°06'23"W
L4	415.09'	N73°06'23"W

CURVE TABLE

CURVE	LENGTH	RADIUS	TANGENT	DELTA
C1	79.64	765.00	39.86	5°57'54"
C2	308.84	884.74	156.01	20°00'01"
C3	521.57	1648.76	262.98	18°07'31"

EASEMENT CURVE TABLE

CURVE	LENGTH	RADIUS	TANGENT	DELTA
C100	166.45	884.74	83.47	10°46'45"
C101	35.98	884.74	17.99	2°19'48"
C102	106.41	884.74	53.27	6°53'27"
C103	488.74	1663.76	246.14	16°49'52"
C104	151.16	914.74	75.75	9°28'06"
C105	118.54	735.00	59.40	9°14'27"

EASEMENT RADIAL BEARING TABLE

RAD 100	N86°44'14"W
RAD 101	S76°25'54"W
RAD 102	N75°07'06"W

EASEMENT LINE TABLE

LINE	LENGTH	BEARING
L100	50.15	N41°18'42"W
L101	37.33	N17°38'11"W
L102	63.84	N24°46'55"W
L103	92.02	N50°57'07"W
L104	110.54	N41°07'05"W
L105	103.13	N81°15'02"W
L106	31.28	N18°30'41"W
L107	110.70	S71°32'55"W
L108	56.00	S18°30'41"E
L109	97.37'	N72°10'13"E
L110	92.59	S81°15'02"E
L111	102.44'	S41°07'05"E
L112	87.77	S50°57'07"E
L113	55.29	S24°46'55"E
L114	41.60	S17°38'11"E
L115	17.83	S41°18'42"E
L116	59.70	S41°18'42"E
L117	8.00	N18°30'41"W
L118	553.09	S71°32'55"W
L119	18.17'	N64°41'32"W
L120	54.31	N71°32'55"E
L121	61.07	N81°00'52"W
L122	180.73	S02°30'56"E
L123	259.88	N37°46'05"W
L124	284.53	N66°39'29"W
L125	137.50	S24°21'00"W

ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 7-25-08
ARIZONA, U.S.A.
Expires 3/31/

Exhibit "A-4"

A parcel of land located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 4 OF 4

Unofficial Copy

Exhibit S

(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3385837, of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 1 in Docket 1827, Page 471, monumented with a scribed X in concrete;

Unofficial Document

THENCE North 71°20'15" East along the south line of Parcel 1(Docket 1872, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1872, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West, along the east line of Parcel 1(Docket 1872, Page 471) and along the west line of Parcel 3, 300.51 feet, to the northwest corner of Parcel 3 and to the south line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 18°16'17" West, along the east line of Parcel 1(Docket 1872, Page 471) and along the south line of the parcel of land described in Instrument No. 3385837, 9.33 feet;

THENCE South 64°40'25" East, 13.49 feet to the north line of Parcel 3 and to the south line of the parcel of land described in Instrument No. 3385837;

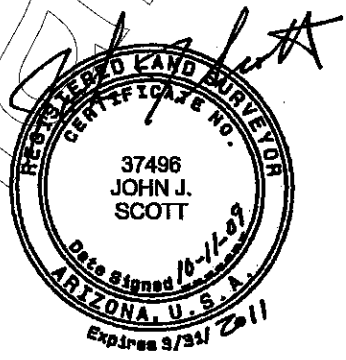
THENCE South 71°34'02" East along the north line of Parcel 3 and along the south line of the parcel of land described in Instrument No. 3385837, 9.77 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.001 acres (45.56 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit S (Drawing)**, which by this reference is made part of this description.

Sewer Easement
Descriptive Title

03-09012
City File No.



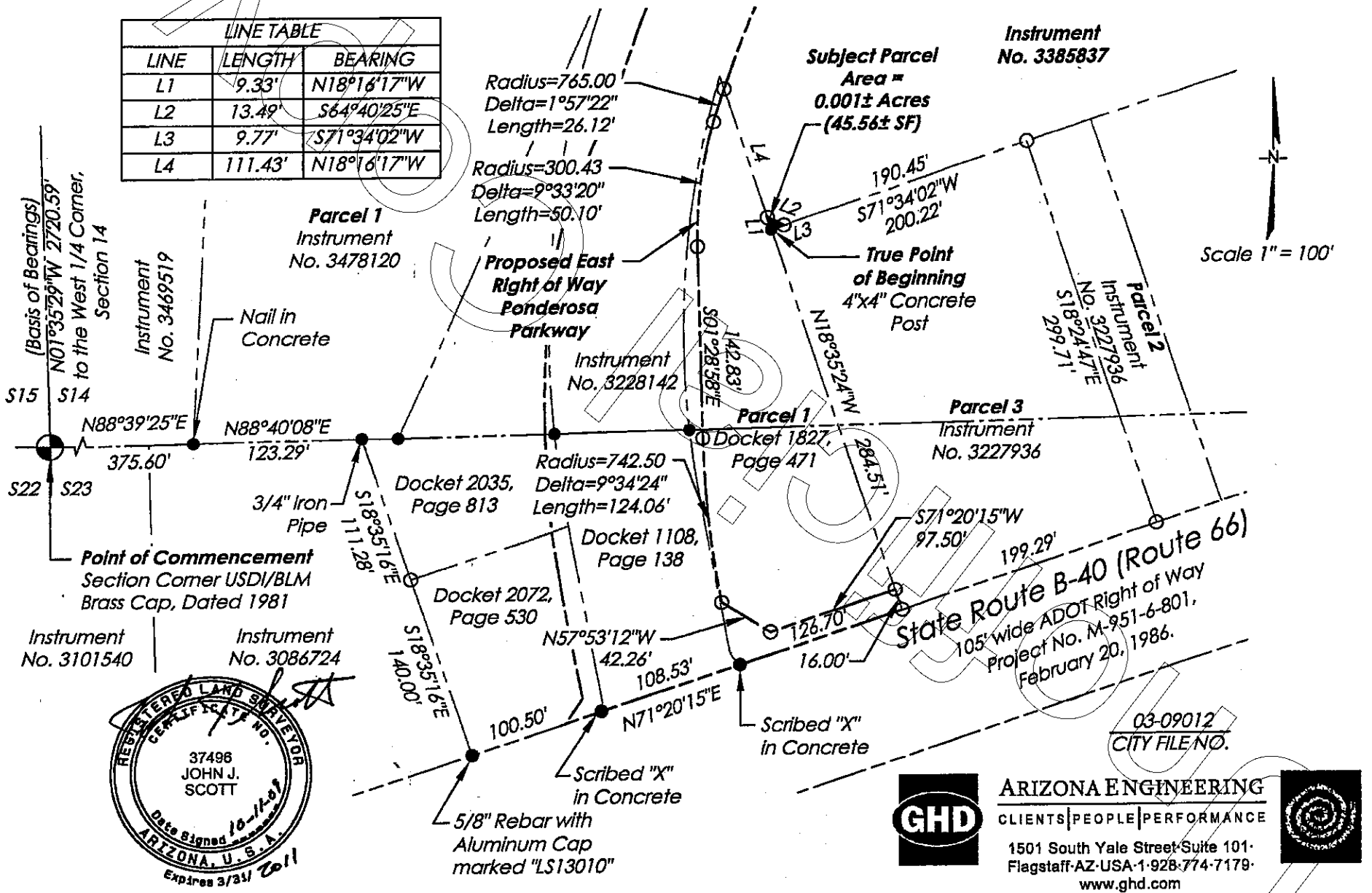
Unofficial Copy

3546724 Pages: 115 of 129 12/03/2009 03:22:47 PM

Exhibit S (Drawing)

A portion of the parcel of land described in instrument No. 338583. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

LINE TABLE		
LINE	LENGTH	BEARING
L1	9.33'	N18°16'17"W
L2	13.49'	S64°40'25"E
L3	9.77'	S71°34'02"W
L4	111.43'	N18°16'17"W



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-11-09
ARIZONA, U.S.A.
Expires 3/31/ 10

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Exhibit U

(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 2 in Docket 1827, Page 471 of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1, 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe.;

THENCE North 89°05'48" East, along the south line of the southwest 1/4 of Section 14, and along the south line of Parcel 1 and along the north line of the parcel of land described in Docket 2035, Page 813, 26.69 feet to the southeast corner of the parcel of Parcel 1 and to the southwest corner of Parcel 2 in Docket 1827, Page 471, monumented with a 3/8" rebar in concrete;

THENCE North 88°45'09" East along the south line of the southwest 1/4 of Section 14 and along the south line of Parcel 2 and along the north line of the parcel of land described in Docket 2035, Page 813, 107.52 feet to a non-tangent curve whose radius point bears North 88°18'26" East, the **TRUE POINT OF BEGINNING** of this description:

THENCE northerly along a curve to the right having a radius of 763.27 feet and a central angle of 7°12'20", an arc distance of 95.99 feet (chord bearing North 01°54'36" East, chord distance 95.93 feet) to the east line of Parcel 2 and to the west line of the parcel of land described in Instrument No. 3228142 and to a non-tangent curve whose radius point bears South 88°35'20" East;

THENCE southerly along the east line of Parcel 2 and along the west line of the parcel of land described in Instrument No. 3228142 and along a curve to the left having a radius of 766.20 feet and a central angle of 7°10'05", an arc distance of 95.86 feet.(chord bearing South 02°10'22"

Unofficial Copy

East, chord distance 95.79 feet) to the south line of the southwest 1/4 of Section 14, and to the southwest corner of the parcel of land described in Instrument No. 3228142 and to the northwest corner of the parcel of land described in Docket 1108, Page 138 and to the northeast corner of the parcel of land described in Docket 2035, Page 813 and to the southeast corner of Parcel 2, monumented with a rebar with plastic cap, RLS 26406;

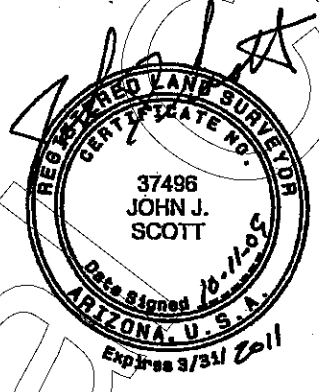
THENCE South 88°45'09" West along the south line of the southwest 1/4 of Section 14 and long the south line of Parcel 2 and along the north line of the parcel of land described in Docket 2035, Page 813, 6.83 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.01 acres (327.90 sq. ft.), more or less.

For a drawing of the parcel described above, see **Exhibit U (Drawing)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

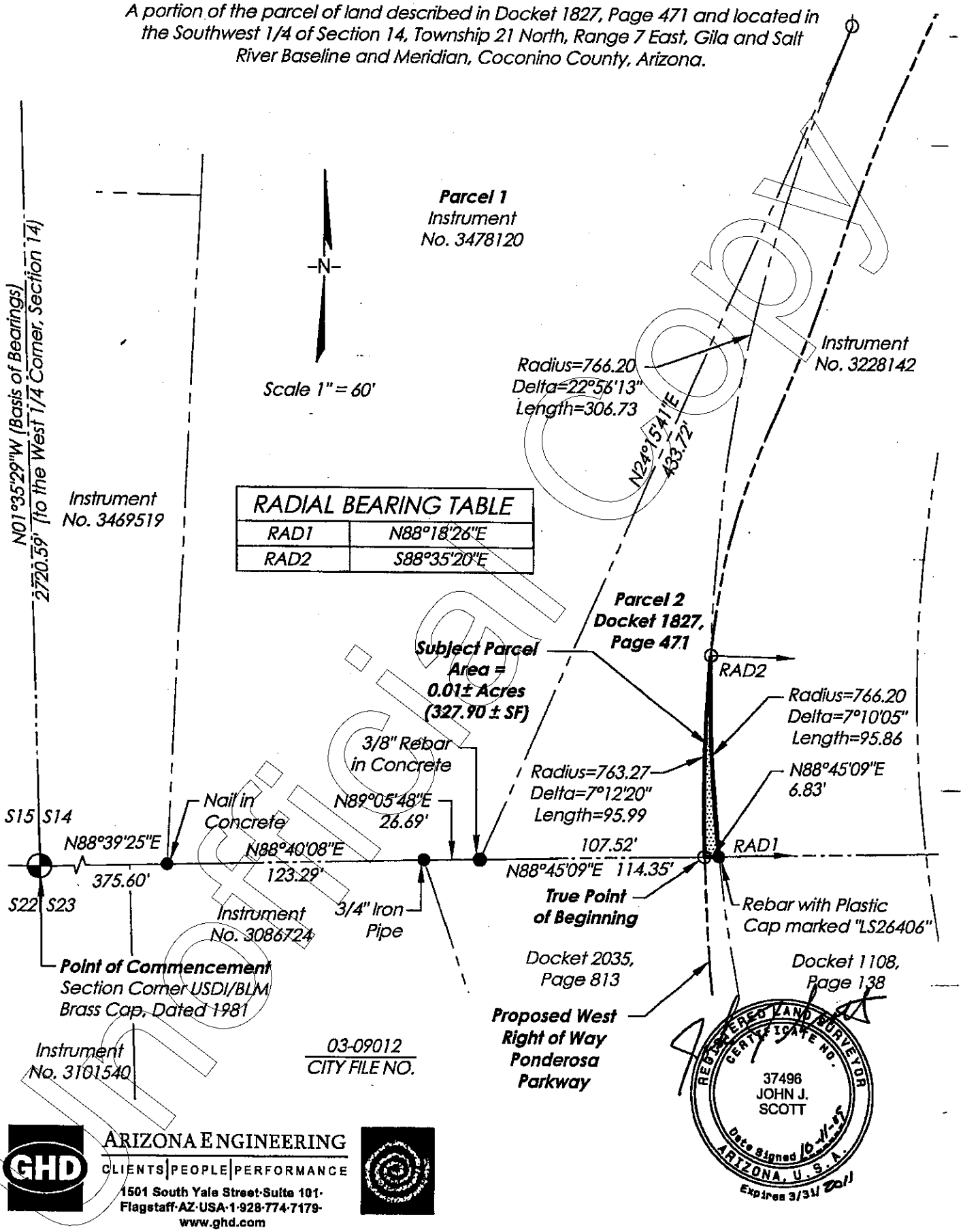
03-09012
City File No.



Unofficial Copy

Exhibit U (Drawing)

A portion of the parcel of land described in Docket 1827, Page 471 and located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



Unofficial Copy

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Exhibit V

(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 1 as described in Docket 1827, Page 471 of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23 and the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe.;

THENCE North 89°05'48" East, along the south line of the southwest 1/4 of Section 14, and along the south line of Parcel 1(Instrument No. 3478120) and along the north line of the parcel of land described in Docket 2035, Page 813 26.69 feet to the southeast corner of Parcel 1(Instrument No. 3478120) and to the southwest corner of the parcel of land described as Parcel 2 in Docket 1827, Page 471, monumented with a 3/8" rebar in concrete;

THENCE North 88°45'09" East along the south line of the southwest 1/4 of Section 14 and along the north line of the parcel of land described in Docket 2035, Page 813 and along the south line of Parcel 2, 114.35 feet to the southwest corner of the parcel of land described in Instrument No. 3228142 and to the northwest corner of the parcel of land described in Docket 1108, Page 138 and to the northeast corner of the parcel of land described in Docket 2035, Page 813 and to the southeast corner of Parcel 2, monumented with a rebar with plastic cap, RLS 26406;

THENCE North 88°41'21" East along the south line of the southwest 1/4 of Section 14 and along the north line of the parcel of land described in Docket 1108, Page 138 and along a portion of the south line of the parcel of land described in Instrument No.3228142, 100.36 feet to the northeast corner of the parcel of land described in Docket 1108, Page 138 and to an angle point in the south line of the parcel of land described in Instrument No. 3228142 and to the west line of the parcel of land described as Parcel 1 in Docket 1827, Page 471, to a non-tangent

UNOFFICIAL COPY

curve whose radius point bears North 83°34'26" East, the **TRUE POINT OF BEGINNING** of this description:

THENCE northerly along the a portion of the south line of the parcel of land described in Instrument No. 3228142 and along the west line of Parcel 1(Docket 1827, Page 471), along a curve to the right having a radius of 666.20 feet and a central angle of 22°54'25", an arc distance of 266.35 feet (chord bearing North 05°01'38" East, chord distance 264.58 feet) to the west line of the parcel of land described in Instrument No. 3385837 and to the most north corner of Parcel 1(Docket 1827, Page 471), monumented with a 5/8" rebar with aluminum cap, LS 13010;

THENCE South 18°16'17" East along the west line of the parcel of land described in Instrument No. 3385837 and along the east line of Parcel 1(Docket 1827, Page 471), 9.99 feet to a non-tangent curve whose radius point bears South 71°37'18" East;

THENCE southerly along a curve to the left having a radius of 765.00 feet and a central angle of 1°57'22", an arc distance of 26.12 feet (chord bearing South 17°24'01" West, chord distance 26.12 feet) to a point of compound curvature;

THENCE southerly along a curve to the left having a radius of 300.43 feet and a central angle of 17°54'18", an arc distance of 93.88 feet.(chord bearing South 07°28'11" West, chord distance 93.50 feet);

THENCE South 01°28'58" East, 142.83 feet;

THENCE southerly along a curve to the left having a radius of 742.50 feet and a central angle of 9°34'24", an arc distance of 124.06 feet.(chord bearing South 06°16'10" East, chord distance 123.92 feet);

THENCE South 55°11'08" West, 1.19 feet to the east line of the parcel of land described in Docket 1108, Page 138 and to the west line of Parcel 1(Docket 1827, Page 471);

THENCE North 10°37'17" West along the east line of the parcel of land described in Docket 1108, Page 138 and along the west line of Parcel 1(Docket 1827, Page 471), 83.39 feet;

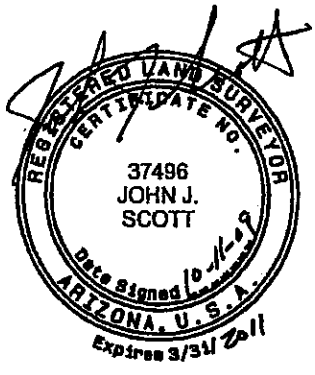
THENCE northerly along the east line of the parcel of land described in Docket 1108, Page 138 and along the west line of Parcel 1(Docket 1827, Page 471) along a curve to the right having a radius of 666.20 feet and a central angle of 4°11'43", an arc distance of 48.78 feet (chord bearing North 08°31'25" West, chord distance 48.77 feet) to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.06 acres (2665.54 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit V (Drawing)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

03-09012
City File No.

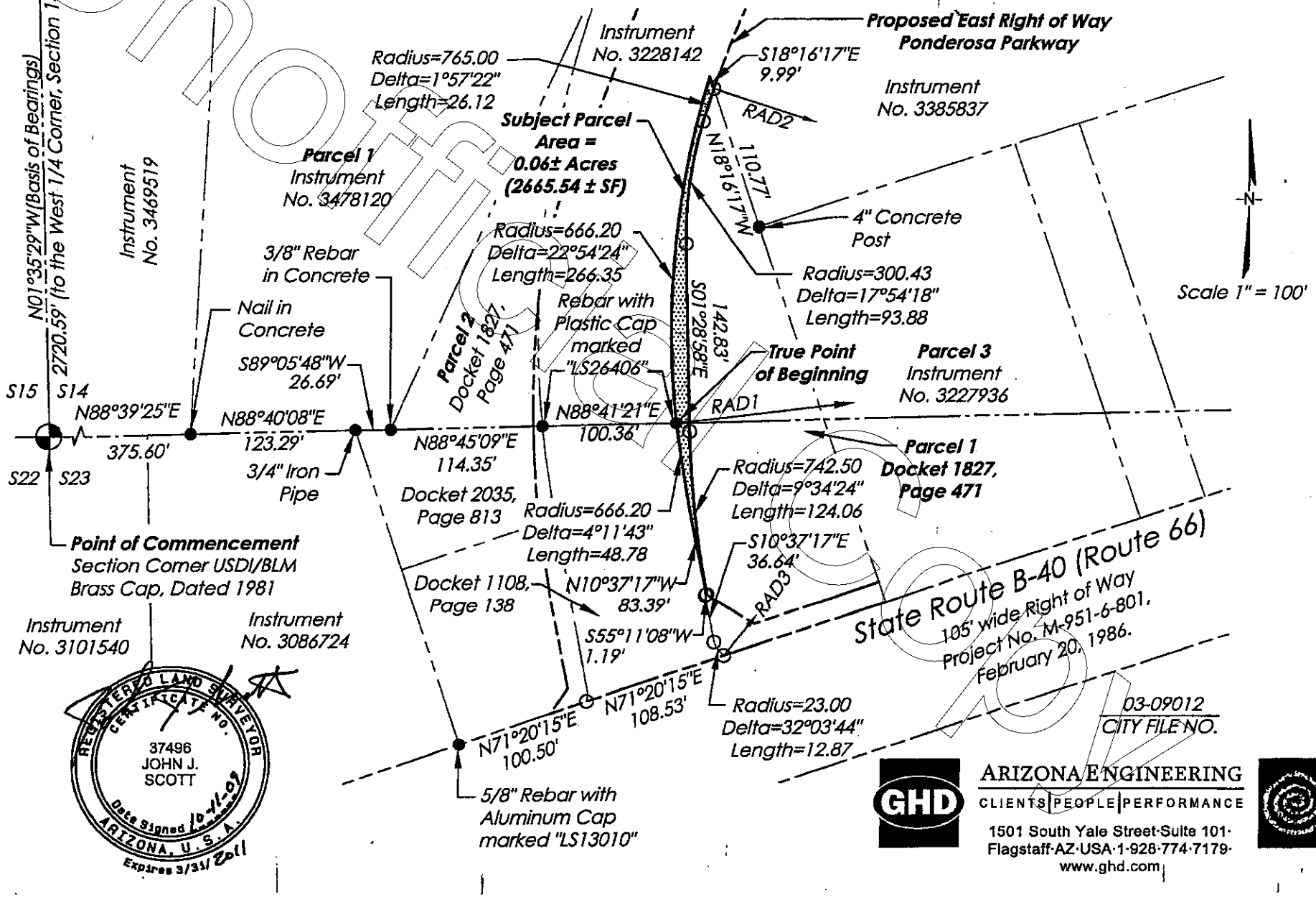


Unofficial Copy

Exhibit V (Drawing)

A portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471. Located in the Southwest 1/4 of Section 14 and the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

RADIAL BEARING TABLE	
RAD1	N83°34'26"E
RAD2	S71°37'18"E
RAD3	N38°01'28"E



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-1-09
ARIZONA, U.S.A.
Expires 3/31/2011

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street-Suite 101-
Flagstaff-AZ-USA-1-928-774-7179-
www.ghd.com

Unofficial Document

3546724 Pages: 121 of 129 12/03/2009 03:22:47 PM

Exhibit W

(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described in Docket 1108, Page 138 of the records of the Coconino County Recorder's Office. The parcel of land is located in the northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of Section 23, monumented with an USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, Township 21 North, Range 7 East, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the north line of the northwest 1/4 of Section 23, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138 and to a non-tangent curve whose radius point bears North 74°15'02" West, monumented with a scribed X in concrete, the **TRUE POINT OF BEGINNING** of this description:

THENCE northerly along the east line of the parcel of land described in Docket 2072, Page 530 and along the west line of the parcel of land described in Docket 1108, Page 138, along a curve to the left having a radius of 23.00 feet and a central angle of 16°09'27", an arc distance of 6.49

Unofficial Document

feet (chord bearing North 07°40'15" East, chord distance 6.46 feet), monumented with a scribed X in concrete;

THENCE North 10°37'17" West along the east line of the parcel of land described in Docket 2072, Page 530 and along the west line of the parcel of land described in Docket 1108, Page 138, 12.23 feet;

THENCE North 55°11'08" East, 109.63 feet to the east line of the parcel of land described n Docket 1108, Page 138 and to the west line of the parcel of land described as Parcel 1 in Docket 1827, Page 471 ;

THENCE South 10°37'17" East along the east line of the parcel of land described in Docket 1108, Page 138 and to the west line of Parcel 1(Docket 1827, Page 471), 36.64 feet to a non-tangent curve whose radius point bears North 70°05'11" East, monumented with a scribed X in concrete;

THENCE southeasterly along the east line of the parcel of land described in Docket 1108, Page 138 and along the west line of Parcel 1(Docket 1827, Page 471), along a curve to the left having a radius of 23.00 feet and a central angle of 32°03'44", an arc distance of 12.87 feet (chord bearing South 35°56'40" East, chord distance 12.70 feet) to the southwest corner of Parcel 1(Docket 1827, Page 471) and to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the north right of way line of Route 66, monumented with a scribed X in concrete;

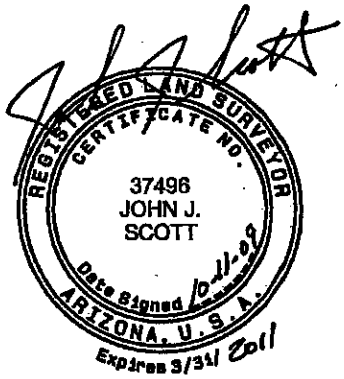
THENCE South 71°20'15" West along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.08 acres (3379.25 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit W (Drawing)**, which by this reference is made part of this description.

Right of Way
Descriptive Title

03-09012
City File No.

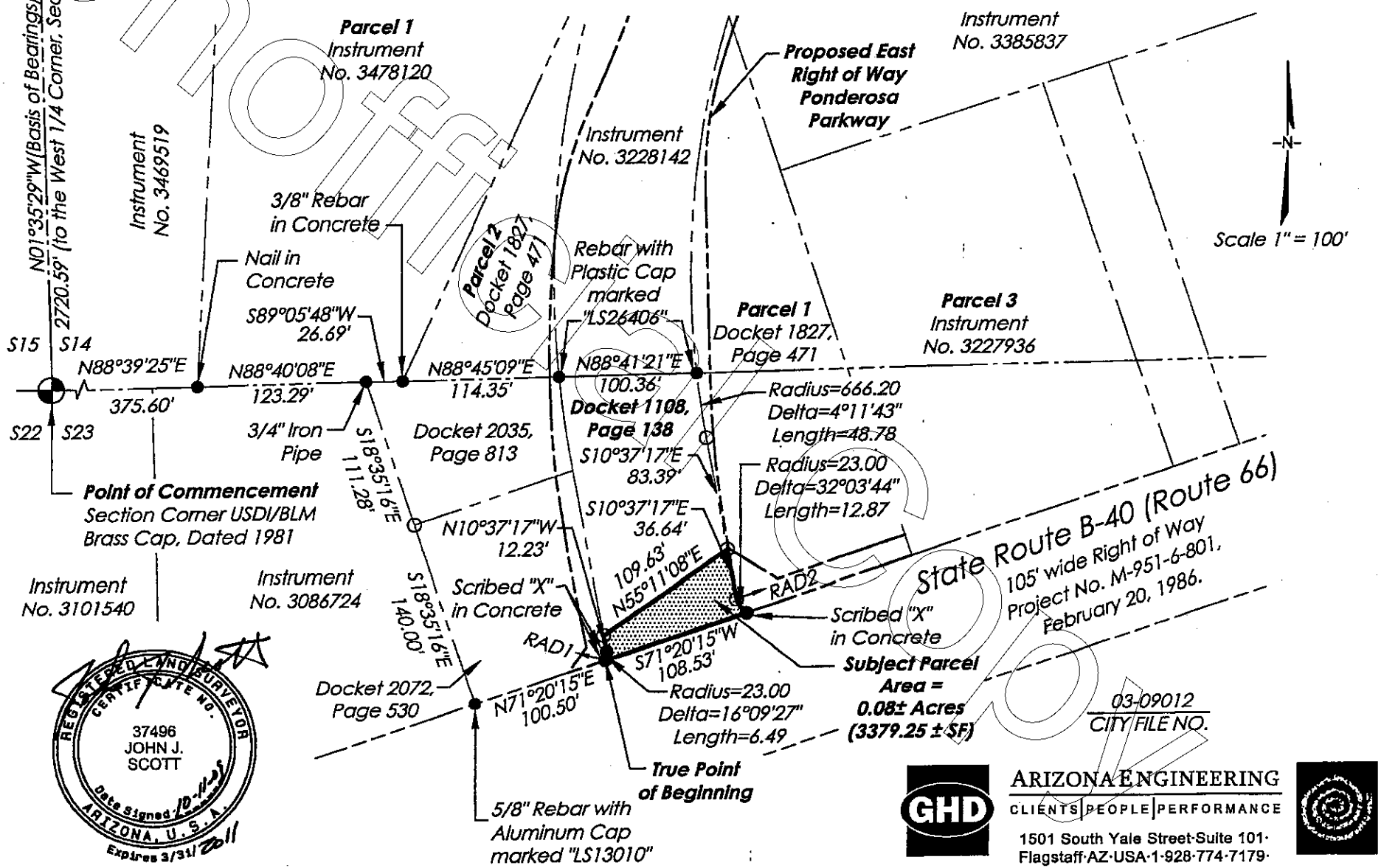


Unofficial Document

Exhibit W (Drawing)

A portion of the parcel of land described in Docket 1108, Page 138.
Located in the Northwest 1/4 of Section 23, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

RADIAL BEARING TABLE	
RAD1	N74°15'02"W
RAD2	N70°05'11"E



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed: 10-11-09
ARIZONA, U.S.A.
Expires 3/31/2011

03-09012
CITY FILE NO.

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Unofficial Document

3546724 Pages: 124 of 129 12/03/2009 03:22:47 PM

Exhibit X

(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471, of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references the recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of

Unofficial Document

the parcel of land described as Parcel 1 in Docket 1827, Page 471, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of Parcel 1(Docket 1872, Page 471) and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1872, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West, along the east line of Parcel 1(Docket 1872, Page 471) and along the west line of Parcel 3, 296.51feet, to the **TRUE POINT OF BEGINNING** of this description.

THENCE North 64°41'32" West, 60.70 feet to a non-tangent curve whose radius bears South 84°52'40" East;

THENCE northerly along a curve to the right having a radius of 300.43 feet and a central angle of 05°12'16", an arc distance of 27.29 feet (chord bearing North 07°43'28" East, chord distance 27.28 feet);

THENCE South 64°41'32" East, 44.16 feet to the east line of Parcel 1(Docket 1872, Page 471) and to the south line of the parcel of land described in Instrument No. 3385837;

THENCE South 18°16'17" East, along the east line of Parcel 1(Docket 1872, Page 471) and along the south line of the parcel of land described in Instrument No. 3385837, 31.92 feet to the northwest corner of Parcel 3, monumented with a 4 inch concrete post;

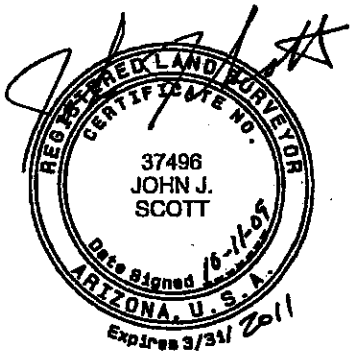
THENCE South 18°35'24" East, along the east line of Parcel 1(Docket 1872, Page 471) and along the west line of Parcel 3, 4.00 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.031 acres (1368.68 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit X (Drawing)**, which by this reference is made part of this description.

Sewer Easement
Descriptive Title

03-09012
City File No.



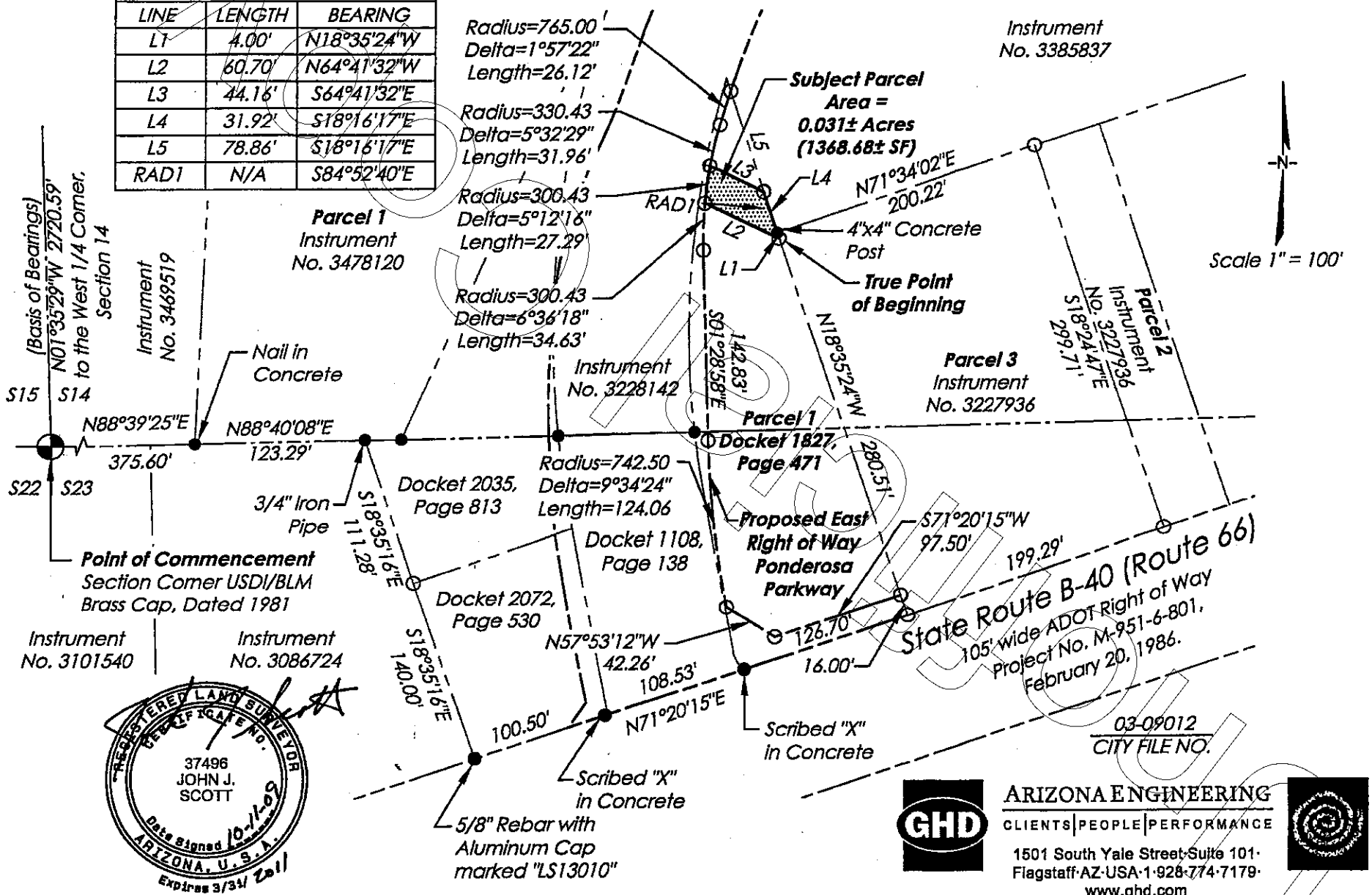
Unofficial Copy

3546724 Pages: 127 of 129 12/03/2009 03:22:47 PM

Exhibit X (Drawing)

A portion of the parcel of land described as Parcel 1 in Docket 1827, Page 471. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

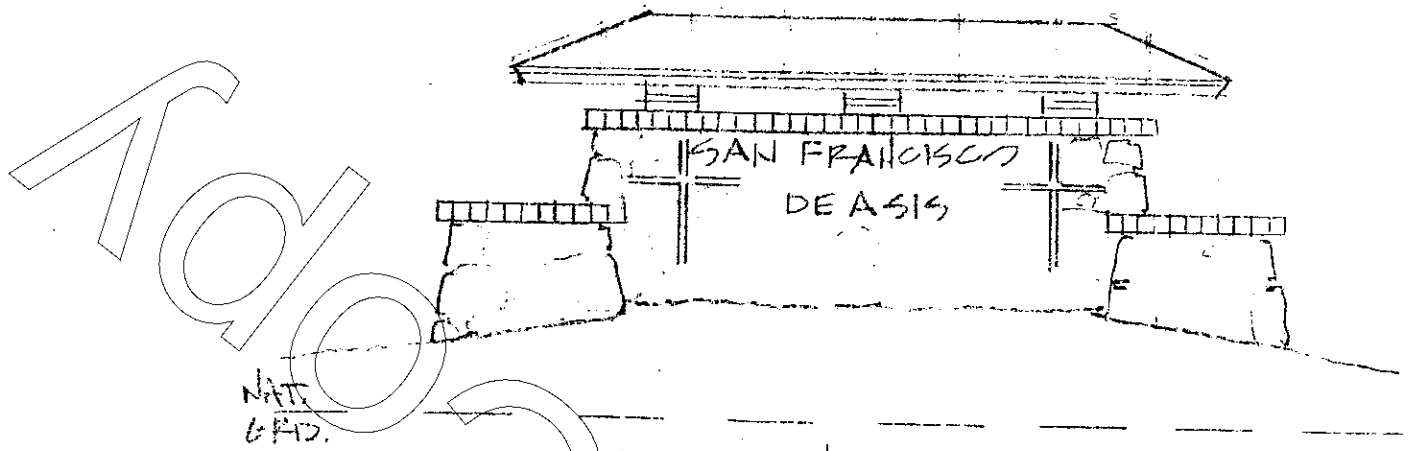
LINE TABLE		
LINE	LENGTH	BEARING
L1	4.00'	N18°35'24"W
L2	60.70'	N64°41'32"W
L3	44.16'	S64°41'32"E
L4	31.92'	S18°16'17"E
L5	78.86'	S18°16'17"E
RAD1	N/A	S84°52'40"E



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 10-1-09
ARIZONA, U.S.A.
Expires 3/31/ 2011

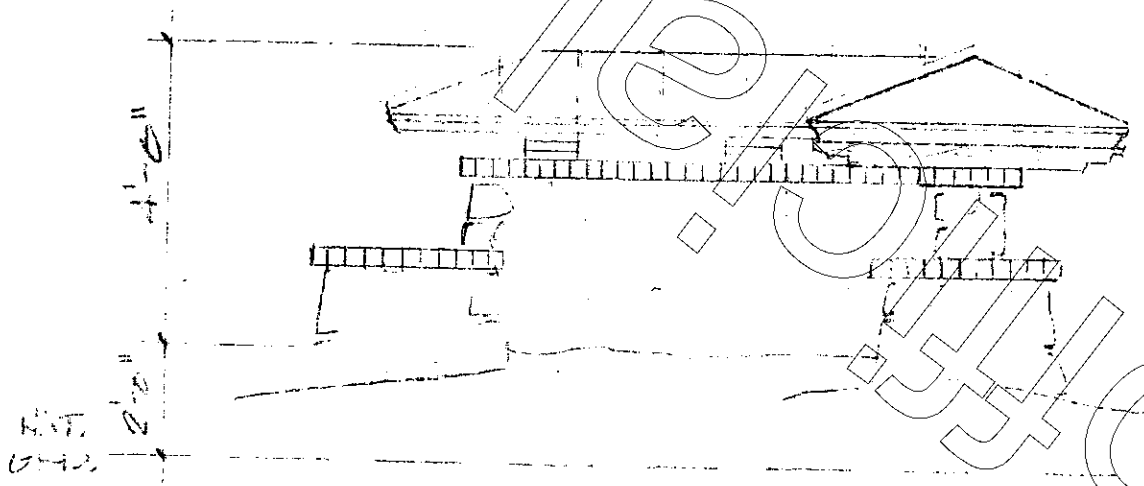
GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Exhibit Y



FRONT & RIGHT ELEVATION

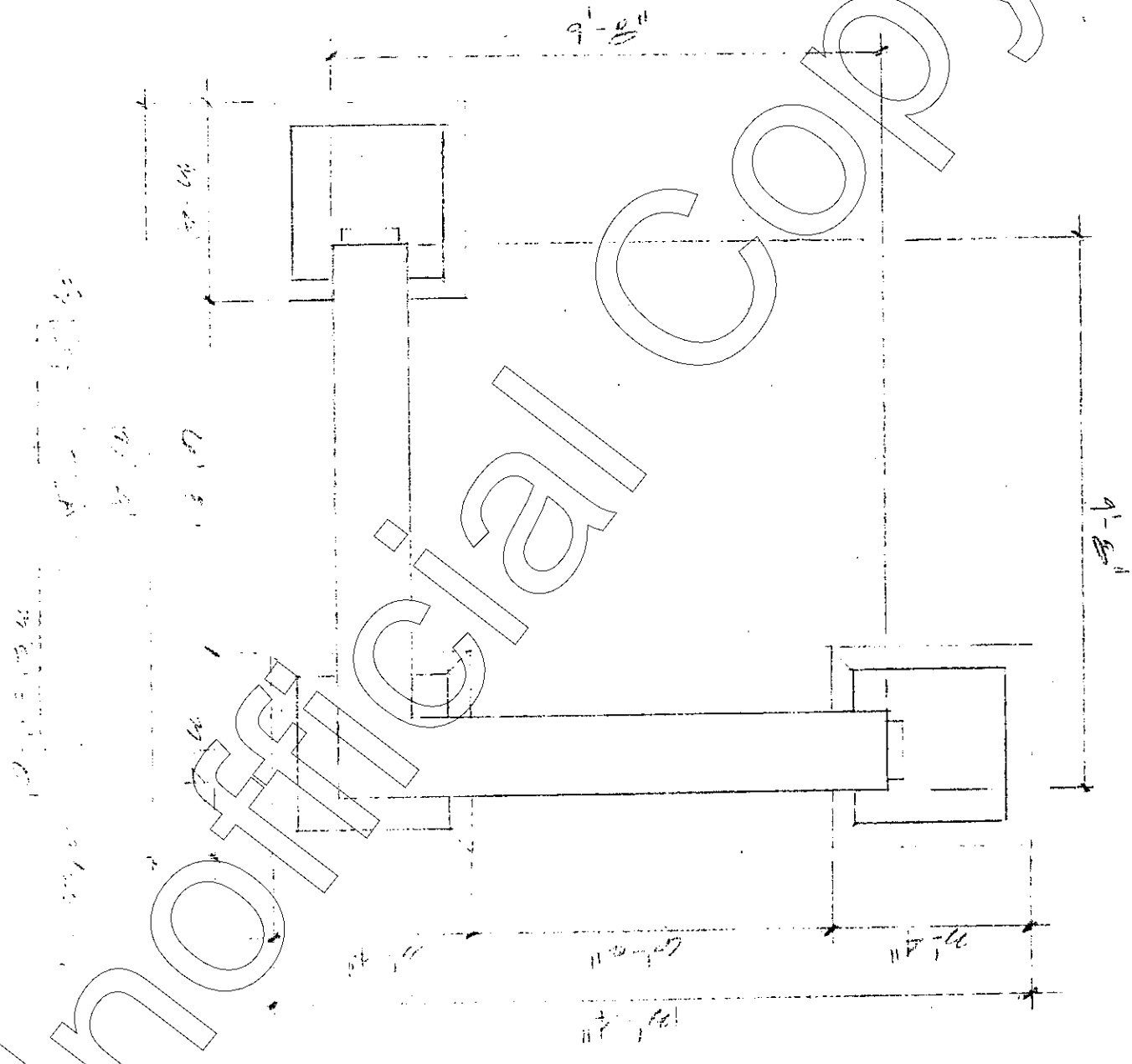
3/8" = 1'-0"



REAR & LEFT ELEVATION

3546724 Pages: 128 of 129 12/03/2009 03:22:47 PM

Do Not Circulate



Unofficial Copy

Official Records of Coconino County 3555011
Candace Owens - Recorder 03/01/2010 04:42 PM Pgs: 19
FIRST AMERICAN TITLE INS CO D $28.00

Recording Requested by:
First American Title Insurance Agency, Inc.

When recorded mail to:
City of Flagstaff,
Attn: City Manager, 211 Aspen Avenue
Flagstaff, AZ 86001

SPECIAL WARRANTY DEED

File No. **271-5270172 (mas)**

For the consideration of TEN AND NO/100 DOLLARS, and other valuable considerations, I or we,

Thomas J. Olmsted, Bishop of The Roman Catholic Church of the Diocese of Phoenix, a corporate sole, the GRANTOR does hereby convey to

City of Flagstaff, an Arizona municipal corporation, the GRANTEE

the following described property situate in **Coconino** County, **Arizona**:

See Exhibit "A " attached hereto and by reference made a part hereof.

This Deed is exempt from an Affidavit of Value pursuant to ARS #11-1134A-3.

Subject To: Existing taxes, assessments, liens, encumbrances, covenants, conditions, restrictions, rights of way and easements of record.

And the GRANTOR binds itself and its successors to warrant the title as against its acts and none other, subject to the matters set forth.

DATED: February 05, 2010

The Roman Catholic Church of the Diocese of Phoenix, a corporate sole

Thomas J. Olmsted

By: Thomas J. Olmsted, Bishop 2/12/10

Unofficial Copy

File No.: **271-5270172 (mas)** Warranty Deed - continued
A.P.N.: **107-07-002D**

STATE OF ARIZONA)
)ss.
County of MARICOPA)

On 2/22/10, before me, the undersigned Notary Public, personally appeared THOMAS T. OLMSTED, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Kay C. Gordon
Notary Public

My Commission Expires: 3/15/2013

KAY C. GORDON
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Comm. Exp.: March 15, 2013

Unofficial COPY

EXHIBIT "A"

REFERENCE TO THE VARIOUS EXHIBITS IS IN CONJUNCTION WITH THE DEVELOPMENT AND DISPOSITION AGREEMENT RECORDED DECEMBER 3, 2009 AS INSTRUMENT NO. 09-3546724.

Parcel No. 1:

(Exhibit "H")
Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3228142 of the records of the Coconino County Recorder's Office. The parcel of land is located in the Southwest quarter of Section 14, Township 21 North, Range 7 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona. (Note: All references to recorded instruments refer to the records of the Coconino County Recorder's Office.) The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west quarter corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01 degrees 35 minutes 29 seconds West, 2720.59 feet (Basis of Bearings for this description);

THENCE North 88 degrees 39 minutes 25 seconds East along the south line of the Southwest quarter of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88 degrees 40 minutes 08 seconds East along the south line of the Southwest quarter of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1, 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813 monumented with a ¾ inch iron pipe;

THENCE North 89 degrees 05 minutes 48 seconds East, along the south line of the Southwest quarter of Section 14, and along the south line of Parcel 1 and along the north line of the parcel of land described in Docket 2035, Page 813, 26.69 feet to the southeast corner of the parcel of Parcel 1 and to the southwest corner of Parcel 2 in Docket 1827, Page 471, monumented with a 3/8 inch rebar in concrete;

Thence North 88 degrees 45 minutes 09 seconds East along the south line of the Southwest quarter of Section 14 and along the south line of Parcel 2 and along the north line of the parcel of land described in Docket 2035 Page 813, 107.52 feet to a non-tangent curve whose radius point bears North 88 degrees 18 minutes 26 seconds East, the TRUE POINT OF BEGINNING, of this description:

Unofficial Document

THENCE northerly along a curve to the right having a radius of 763.27 feet and a central angle of 7 degrees 57 minutes 48 seconds, an arc distance of 106.08 feet (chord bearing North 02 degrees 17 minutes 19 seconds East, chord distance of 106.00 feet) to a non-tangent curve whose radius point bears South 83 degrees 57 minutes 12 second East;

THENCE northeasterly along a curve to the right having a radius of 304.56 feet and a central angle of 19 degrees 05 minutes 53 seconds, an arc distance of 101.52 feet (chord bearing North 15 degrees 35 minutes 45 seconds East, chord distance 101.05 feet);

THENCE North 25 degrees 08 minutes 41 seconds East, 1.60 feet to a non-tangent curve whose radius point bears North 65 degrees 03 minutes 40 seconds West;

THENCE northeasterly along a curve to the left having a radius of 745.65 feet and a central angel of 6 degrees 18 minutes 19 seconds, an arc distance of 82.06 feet (chord bearing North 21 degrees 47 minutes 10 seconds East, chord distance of 82.02 feet) to a non-tangent curve whose radius point bears South 71 degrees 34 minutes 21 seconds East;

THENCE northeasterly along a curve to the right having a radius of 840.00 feet and a central angel of 5 degrees 55 minutes 21 seconds, an arc distance of 86.83 feet (chord bearing North 21 degrees 23 minutes 20 seconds East, chord distance of 86.79 feet);

THENCE North 24 degrees 21 minutes 00 seconds East, 137.50 feet;

THENCE northeasterly along a curve to the left having a radius of 809.74 feet and a central angle of 6 degrees 51 minutes 54 seconds, an arc distance of 97.02 feet (chord bearing North 20 degrees 55 minutes 04 seconds East, chord distance of 96.96 feet);

THENCE South 72 degrees 30 minutes 53 seconds East, 75.00 feet to a non-tangent curve whose radius point bears North 72 degrees 30 minutes 53 seconds West;

THENCE southwesterly along a curve to the right having a radius of 884.74 feet and a central angle of 6 degrees 51 minutes 54 seconds, an arc distance of 106.00 feet (chord bearing South 20 degrees 55 minutes 04 seconds West, chord distance of 105.94 feet);

THENCE South 24 degrees 21 minutes 00 seconds West, 137.50 feet;

THENCE southwesterly along a curve to the left having a radius of 765.00 feet and a central angle of 7 degrees 55 minutes 40 seconds, an arc distance of 105.85 feet (chord bearing South 20 degrees 23 minutes 10 seconds West, chord distance of 105.77 feet) to a point of compound curvature;

THENCE southwesterly along a curve to the left having a radius of 300.43 feet and a central angle of 17 degrees 54 minutes 18 seconds, an arc distance of 93.88 feet (chord bearings South 07 degrees 28 minutes 11 seconds West, chord distance of 93.50 feet);

THENCE South 01 degrees 28 minutes 58 seconds East, 136.26 feet to the south line of the Southwest quarter of Section 14;

THENCE South 88 degrees 41 minutes 33 seconds West along the south line of the Southwest

Unofficial Copy

quarter of Section 14, 117.06 feet to the TRUE POINT OF BEGINNING.

Parcel No. 2:

(Exhibit "I")
Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3228142 of the records of the Coconino County Recorder's Office. The parcel of land is located in the Southwest quarter of Section 14, Township 21 North, Range 7 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona. (Note: All references to recorded instruments refer to the records of the Coconino County Recorder's Office.) The parcel of land is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west quarter corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01 degrees 35 minutes 29 seconds West, 2720.59 feet (Basis of Bearings for this description);

THENCE North 88 degrees 39 minutes 25 seconds East along the south line of the Southwest quarter of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88 degrees 40 minutes 08 seconds East along the south line of the Southwest quarter of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1, 123.29 feet to the northeast corner of Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813 monumented with a ¾ inch iron pipe;

THENCE North 89 degrees 05 minutes 48 seconds East, along the south line of the Southwest quarter of Section 14, and along the south line of Parcel 1 and along the north line of the parcel of land described in Docket 2035, Page 813, 26.69 feet to the southeast corner of the parcel of Parcel 1 and to the southwest corner of the parcel of land described as Parcel 2 in Docket 1827, Page 471, monumented with a 3/8 inch rebar in concrete;

THENCE North 24 degrees 15 minutes 41 seconds East along the east line of Parcel 1 and along the west line of Parcel 2, 433.72 feet to the most northwest corner of Parcel 2 and to the west line of the parcel of land described in Instrument No. 3228142;

THENCE South 65 degrees 39 minutes 07 seconds East along the north line of Parcel 2 and along a portion of the west line of the parcel of land described in Instrument No. 3228142, 0.43 feet to the northeast corner of Parcel 2 the TRUE POINT OF BEGINNING of this description:

THENCE South 65 degrees 39 minutes 00 seconds East, 33.89 feet;

Thence South 24 degrees 21 minutes 00 seconds West, 18.95 feet;

THENCE southwesterly along a curve to the left having a radius of 840.00 feet and a central

Unofficial Document

angle of 5 degrees 55 minutes 21 seconds, an arc distance of 86.83 feet (chord bearing South 21 degrees 23 minutes 20 seconds West, chord distance of 86.79 feet) to a non-tangent curve whose radius point bears North 71 degrees 21 minutes 59 seconds West;

THENCE southwesterly along a curve to the right having a radius of 745.65 feet and a central angle of 6 degrees 18 minutes 19 seconds, an arc distance of 82.06 feet (chord bearing South 21 degrees 47 minutes 10 seconds West, chord distance 82.02 feet) to a non-tangent line;

THENCE South 25 degrees 08 minutes 41 seconds West, 1.60 feet, to a non-tangent curve whose radius bears South 64 degrees 51 minutes 19 seconds East;

THENCE southerly along a curve to the left having a radius of 304.56 feet and a central angle of 19 degrees 05 minutes 53 seconds, an arc distance of 101.52 feet (chord bearing South 15 degrees 35 minutes 45 seconds East, chord distance of 101.05 feet) to a non-tangent curve whose radius point bears South 83 degrees 43 minutes 12 seconds East;

THENCE southerly along a curve to the left having a radius of 763.27 feet and a central angle of 0 degrees 45 minutes 27 seconds, an arc distance of 10.09 feet (chord bearing South 05 degrees 53 minutes 30 seconds West, chord distance of 10.09 feet) to a non-tangent curve whose radius point bears South 88 degrees 35 minutes 20 seconds East and to the east line of Parcel 2 and to the west line of the parcel of land described in Instrument No. 3228142;

THENCE northeasterly along the east line of Parcel 2 and along the west line of the parcel of land described in Instrument No. 3228142 along a curve to the right having a radius of 766.20 feet and a central angle of 22 degrees 56 minutes 13 seconds, an arc distance of 306.73 feet (chord bearing North 12 degrees 51 minutes 21 seconds East, chord distance of 305.30 feet) to the TRUE POINT OF BEGINNING.

Parcel No. 3:

(Easement "A")
A 16 foot wide private and public utility easement as created by Instrument recorded 3-1-10 as Instrument No. 3555010.

Parcel No. 4:

(Easement "B")
Deleted Intentionally

Parcel No. 5:

(Easement "C")
A drainage easement created by Instrument recorded 3-1-10 as Instrument No. 3555010.

Unofficial Copy

Parcel No. 6:

(Easement "D")
A drainage easement created by Instrument recorded 3-1-10 as Instrument No. 3555010

Parcel No. 7:

(Easement "E")
A slope easement created by Instrument recorded 3-1-10 as Instrument No. 3555010

Parcel No. 8:

(Easement "F")
A 16 foot wide public utility easement created by Instrument recorded 3-1-10 as Instrument No. 3555010.

Parcel No. 9:

(Exhibit "L-2")
A Private non-exclusive ingress and egress easement more particularly described as follows:

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3385837, of the records of the Coconino County Recorder's Office. The parcel of land is located in the Southwest quarter of Section 14, Township 21 North, Range 7 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona. (Note: All references to recorded instruments refer to the records of the Coconino County Recorder's Office.) The parcel is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west quarter corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01 degrees 35 minutes 29 seconds West, 2720.59 feet (Basis of Bearings for this description);

THENCE North 88 degrees 39 minutes 25 seconds East along the south line of the Southwest quarter of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88 degrees 40 minutes 08 seconds East along the south line of the Southwest quarter of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1 (Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813 monumented with a ¾ inch iron

Unofficial Copy

pipe;

THENCE South 18 degrees 35 minutes 16 seconds East along the east line of the parcel of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18 degrees 35 minutes 16 seconds East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCEO LS13010;

THENCE North 71 degrees 20 minutes 15 seconds East along the south line of the parcel of land described in Docket 2072, page 530, and along the north right of way line of Route 66, 100.50 feet to the southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 128, monumented with a scribed X in concrete;

THENCE North 71 degrees 20 minutes 15 seconds East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 3 in Docket 1827, Page 471, monumented with a scribed X in concrete;

THENCE North 71 degrees 20 minutes 15 seconds East, along the south line of Parcel 3 (Docket 1827, Page 471) and along the south line of the parcel of land described as Parcel 1 in Docket 1827, Page 471 and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1827, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18 degrees 35 minutes 24 seconds West along the east line of Parcel 1 (Docket 1827, Page 471) and along the west line of Parcel 3 (Instrument No. 3227936), 300.51 feet, to the northwest corner of Parcel 3 (Instrument No. 3227936) and to the south line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post, the TRUE POINT OF BEGINNING of this description:

THENCE North 18 degrees 16 minutes 17 seconds West along the east line of Parcel 1 (Docket 1827, page 471) and along the south line of the parcel of land described in Instrument No. 3385837, 56.75 feet;

THENCE South 80 degrees 01 minutes 56 seconds East, 119.33 feet to the north line of Parcel 3 (Instrument No. 3227936) and to the south line of the parcel of land described in Instrument No. 3385837;

THENCE South 71 degrees 34 minutes 02 seconds West along the north line of Parcel 3 (Instrument No. 3227936) and along the south line of the parcel of land described in Instrument No. 3385837, 105.12 feet to the TRUE POINT OF BEGINNING.

Unofficial Document

Parcel No. 10:

(Exhibit "S")
A sewer easement more particularly described as follows:

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3385837, of the records of the Coconino County Recorder's Office. The parcel of land is located in the Southwest quarter of Section 14, Township 21 North, Range 7 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona. (Note: All references to recorded instruments refer to the records of the Coconino County Recorder's Office.) The parcel is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west quarter corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01 degrees 35 minutes 29 seconds West, 2720.59 feet (Basis of Bearings for this description);

THENCE North 88 degrees 39 minutes 25 seconds East along the south line of the Southwest quarter of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88 degrees 40 minutes 08 seconds East along the south line of the Southwest quarter of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1 (Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813 monumented with a ¾ inch iron pipe;

THENCE South 18 degrees 35 minutes 16 seconds East along the east line of the parcel of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18 degrees 35 minutes 16 seconds East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCEO LS13010;

THENCE North 71 degrees 20 minutes 15 seconds East along the south line of the parcel of land described in Docket 2072, page 530, and along the north right of way line of Route 66, 100.50 feet to the southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 128, monumented with a scribed X in concrete;

THENCE North 71 degrees 20 minutes 15 seconds East, along the south line of the parcel of

land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 3 in Docket 1827, Page 471, monumented with a scribed X in concrete;

THENCE North 71 degrees 20 minutes 15 seconds East, along the south line of Parcel 3 (Docket 1827, Page 471) and along the south line of the parcel of land described as Parcel 1 in Docket 1827, Page 471 and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1837, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18 degrees 35 minutes 24 seconds West along the east line of Parcel 1 (Docket 1827, Page 471) and along the west line of Parcel 3 (Instrument No. 3227936), 300.51 feet, to the northwest corner of Parcel 3 (Instrument No. 3227936) and to the south line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post, the TRUE POINT OF BEGINNING of this description:

THENCE North 18 degrees 16 minutes 17 seconds West, along the east line of Parcel 1 (Docket 1827, Page 471) and along the south line of the parcel of land described in Instrument No. 3385837, 9.33 feet;

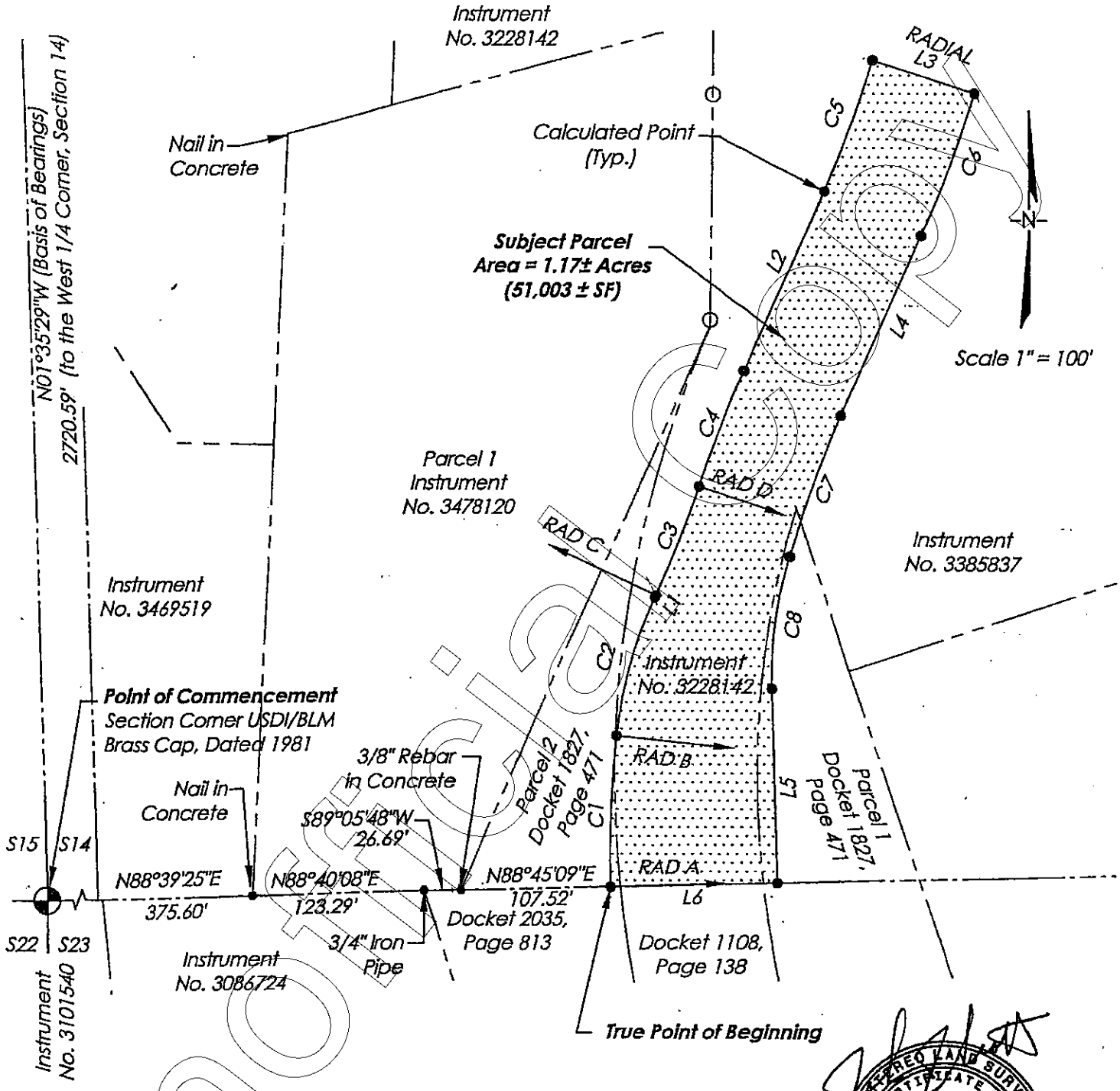
THENCE South 64 degrees 40 minutes 25 seconds East, 13.49 feet to the north line of Parcel 3 (Instrument No. 3227936) and to the south line of the parcel of land described in Instrument No. 3385837;

THENCE South 71 degrees 34 minutes 02 seconds East along the north line of Parcel 3 (Instrument No. 3227936) and along the south line of the parcel of land described in Instrument No. 3385837, 9.77 feet to the TRUE POINT OF BEGINNING.

Unofficial Copy

Exhibit H (Drawing)

A portion of the parcel of land described as in Instrument No. 3228142 and located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



03-09012
CITY FILE NO.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J. SCOTT
Date Signed 1-10-11
ARIZONA, U.S.A.
Expires 3/31/2011

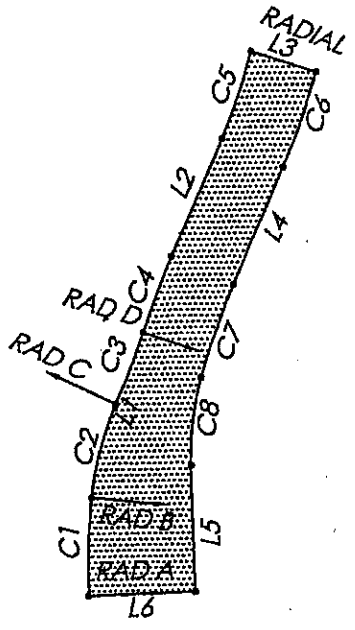
GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street-Suite 101-
Flagstaff-AZ-USA-1-928-774-7179-
www.ghd.com

SHEET 1 OF 2

Unofficial Document

Exhibit H (Drawing)

SHEET 2 OF 2



Scale 1" = 200'

CURVE TABLE				
CURVE	LENGTH	RADIUS	DELTA	TANGENT
C1	106.08	763.27	7°57'48"	53.13
C2	101.52	304.56	19°05'53"	51.23
C3	82.06	745.65	6°18'19"	41.07
C4	86.83	840.00	5°55'21"	43.45
C5	97.02	809.74	6°51'54"	48.57
C6	106.00	884.74	6°51'54"	53.07
C7	105.85	765.00	7°55'40"	53.01
C8	93.88	300.43	17°54'18"	47.33

RADIAL BEARING TABLE	
RAD A	N88°18'26"E
RAD B	S83°57'12"E
RAD C	N65°03'40"W
RAD D	S71°34'21"E

LINE TABLE		
LINE	LENGTH	BEARING
L1	1.60	N25°08'41"E
L2	137.50	N24°21'00"E
L3	75.00	S72°30'53"E
L4	137.50	S24°21'00"W
L5	136.26	S01°28'58"E
L6	117.06	S88°41'33"W

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 11-10-09
ARIZONA, U.S.A.
Expires 3/31/2011

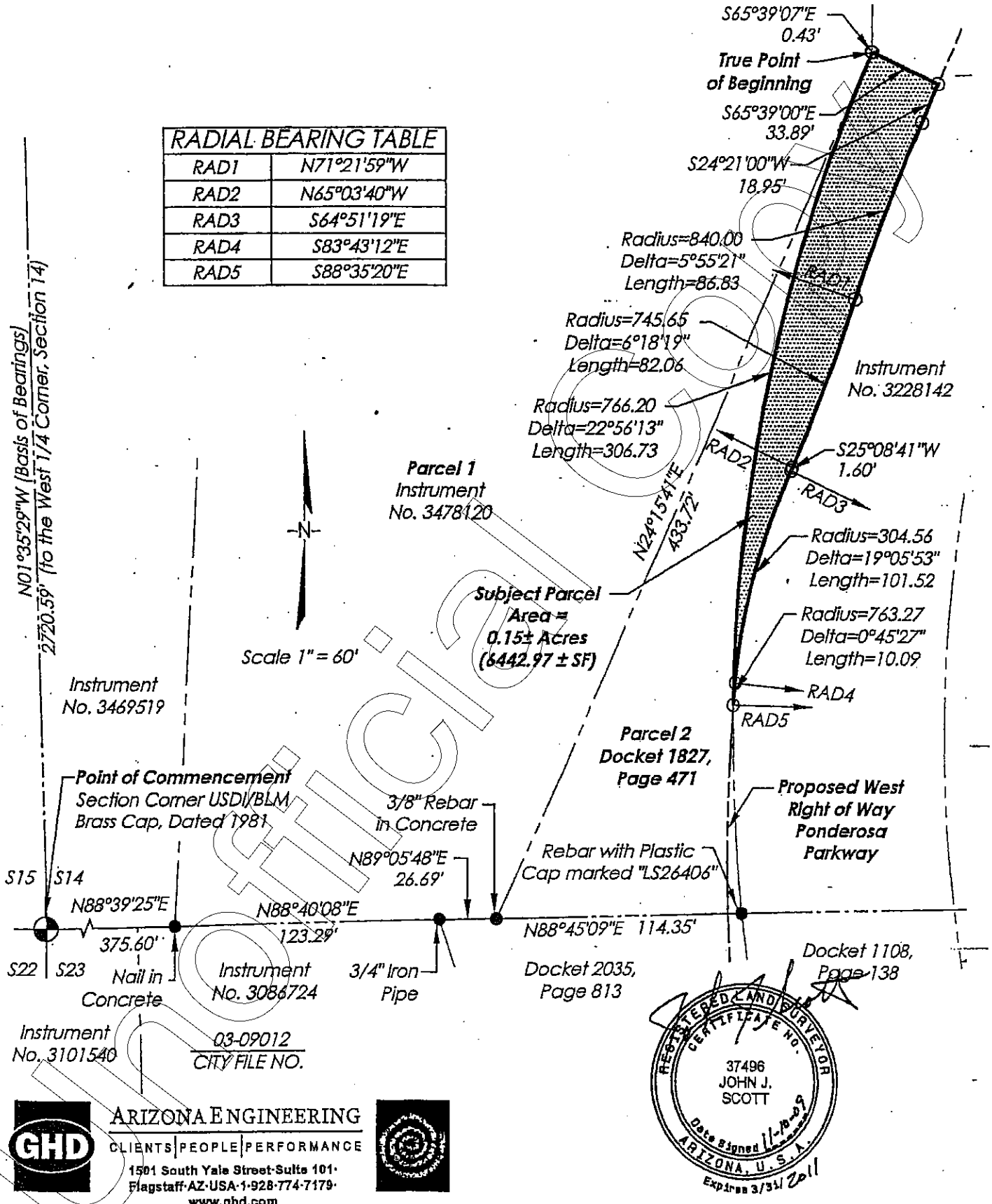
GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street-Suite 101-
Flagstaff-AZ-USA-1-928-774-7179-
www.ghd.com

Unofficial Document

Exhibit I (Drawing)

A portion of the parcel of land described in Instrument No. 3228142 and located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

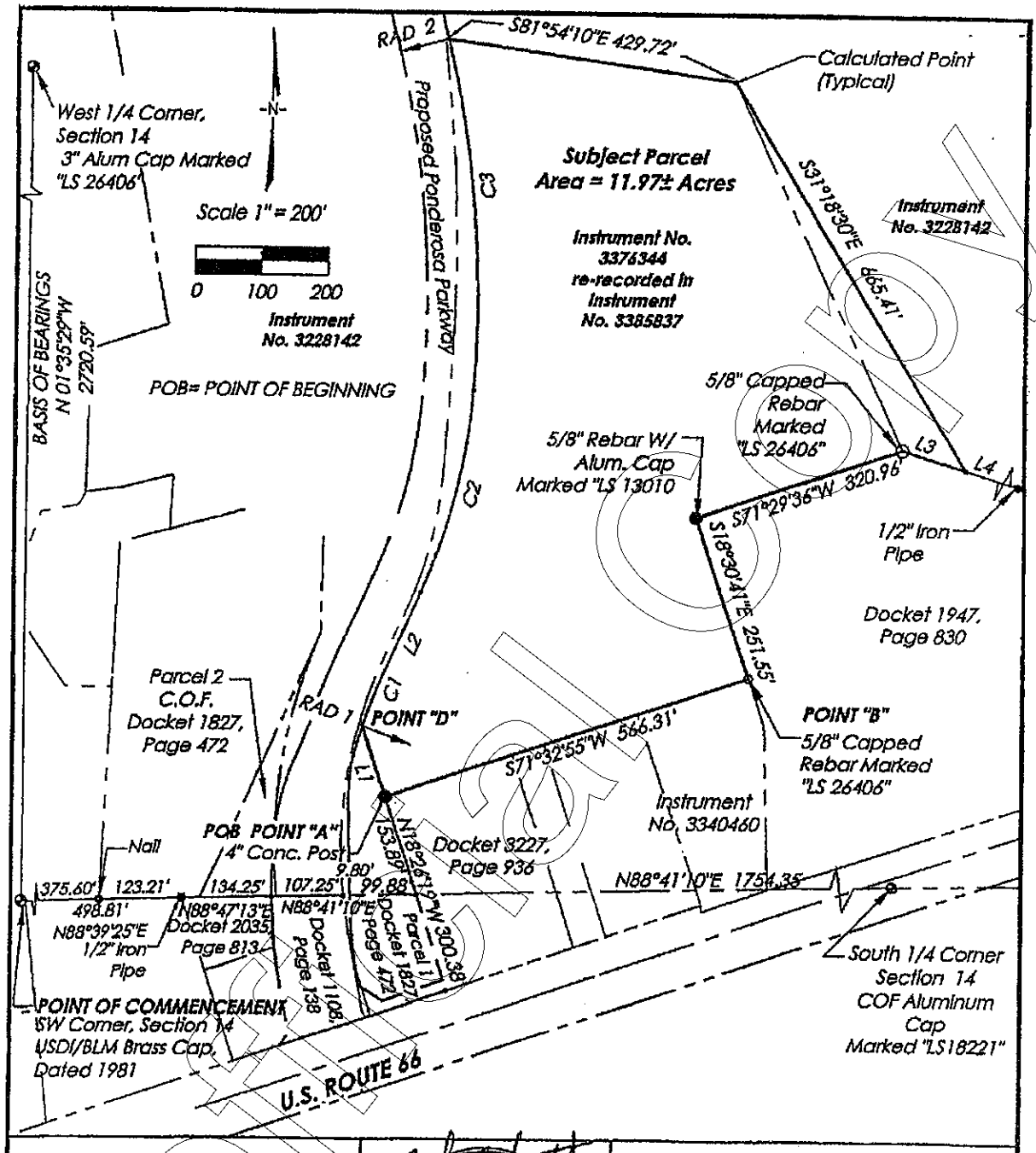
RADIAL BEARING TABLE	
RAD1	N71°21'59"W
RAD2	N65°03'40"W
RAD3	S64°51'19"E
RAD4	S83°43'12"E
RAD5	S88°35'20"E



ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 11-19-09
ARIZONA, U.S.A.
Expires 3/31/2011

Unofficial Document



ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

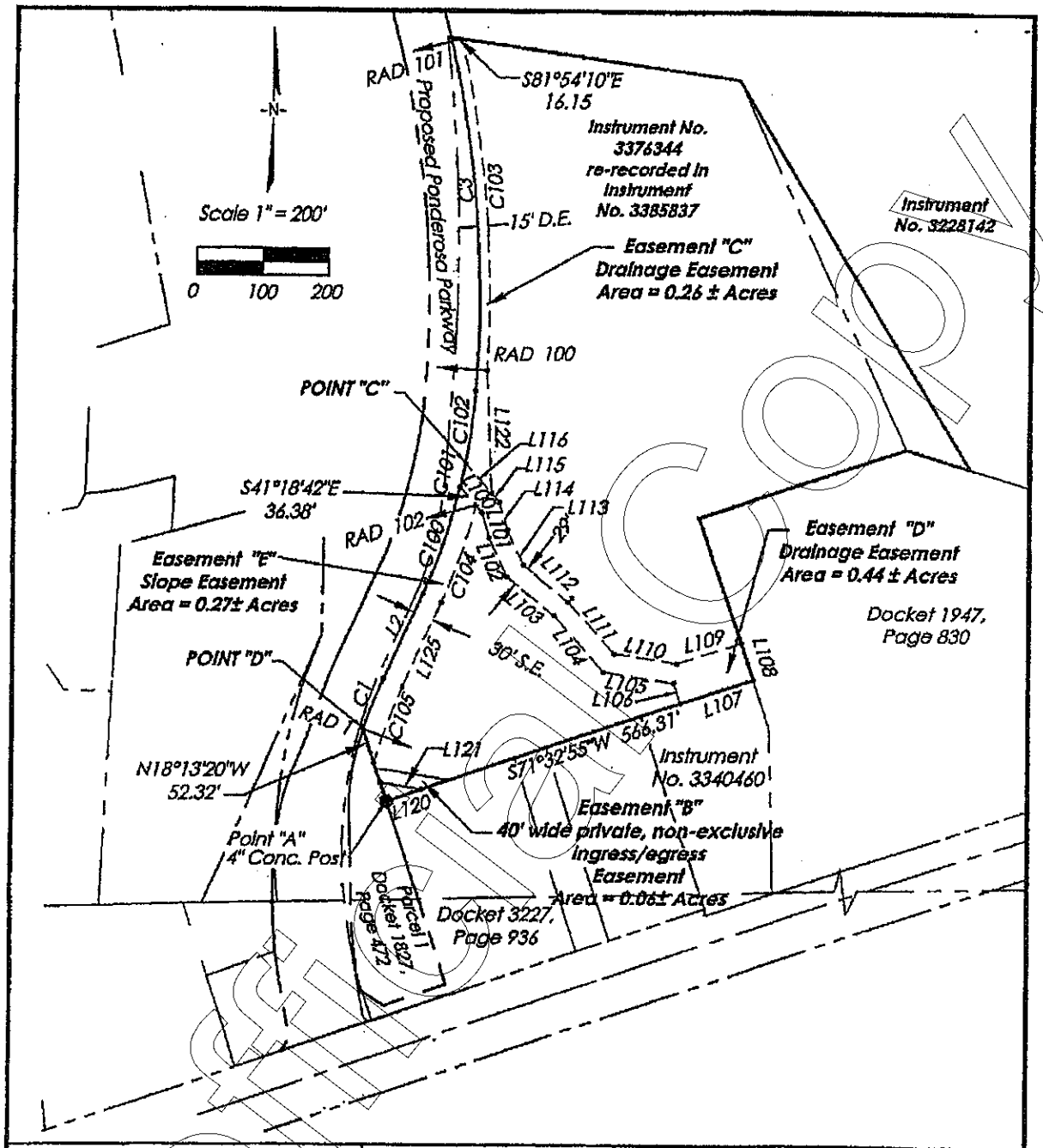
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J. SCOTT
Date Signed 9-16-09
ARIZONA, U.S.A.
Expires 3/31/ 2011

Exhibit "A-1"

A parcel of land located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 1 OF 4

Unofficial Document



ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

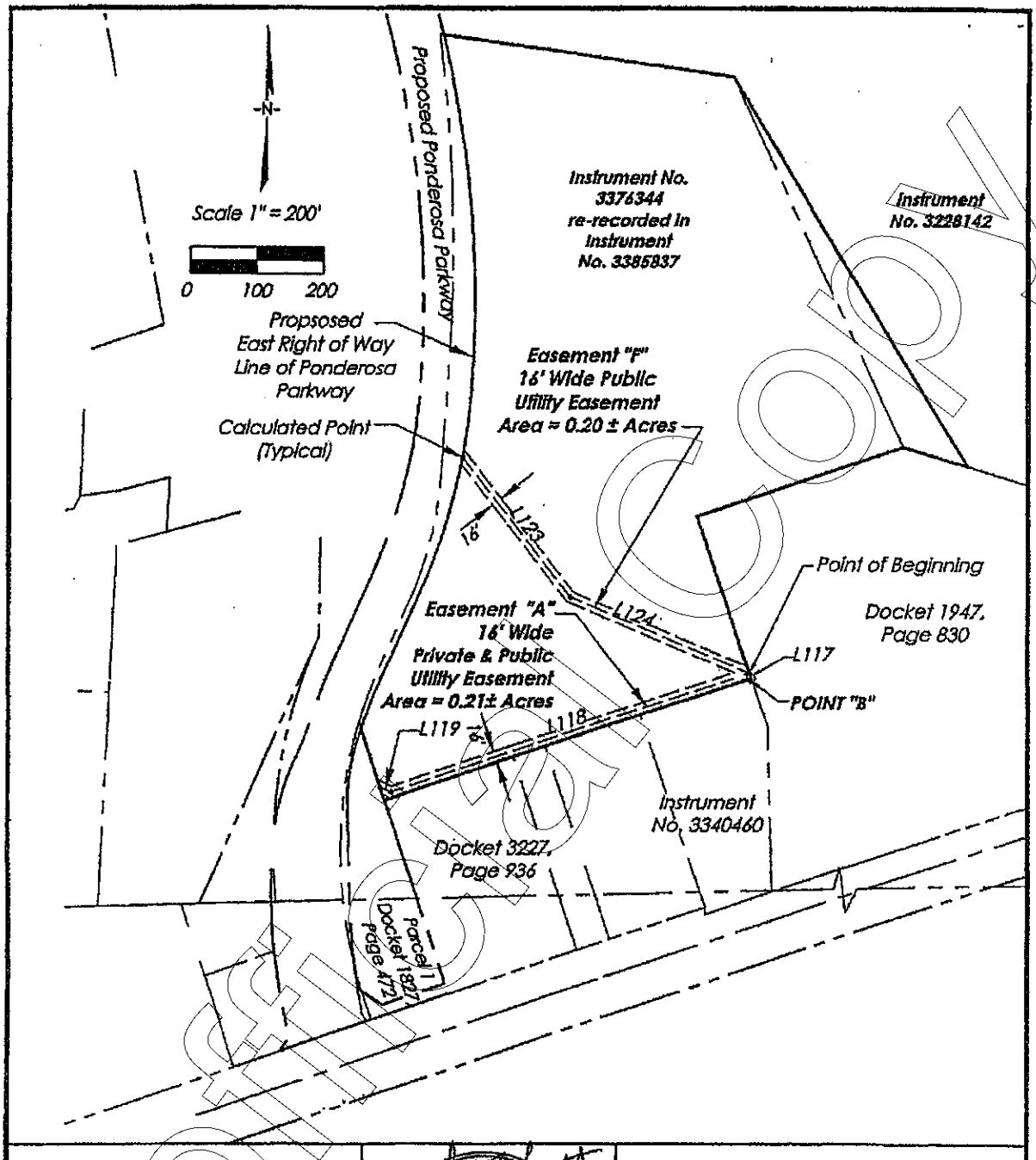
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 2-24-09
ARIZONA, U.S.A.
Expires 9/31/2011

Exhibit "A-2"

Easements are located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 2 OF 4

Unofficial Copy



ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J. SCOTT
Date Signed 12-10-09
ARIZONA U.S.A.
Expires 3/31/2011

Exhibit "A-3"

Easement are located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 3 OF 4

Unofficial Document

RADIAL BEARING TABLE

RAD 1	S71°36'53"E
RAD 2	S76°13'28"W

LINE TABLE

LINE	LENGTH	BEARING
L1	110.98'	N18°13'20"W
L2	137.50	N24°21'00"E
L3	98.22'	N73°06'23"W
L4	415.09'	N73°06'23"W

CURVE TABLE

CURVE	LENGTH	RADIUS	TANGENT	DELTA
C1	79.64	765.00	39.86	5°57'54"
C2	308.84	884.74	156.01	20°00'01"
C3	521.57	1648.76	262.98	18°07'31"

EASEMENT CURVE TABLE

CURVE	LENGTH	RADIUS	TANGENT	DELTA
C100	166.45	884.74	83.47	10°46'45"
C101	35.98	884.74	17.99	2°19'48"
C102	106.41	884.74	53.27	6°53'27"
C103	488.74	1663.76	246.14	16°49'52"
C104	151.16	914.74	75.75	9°28'06"
C105	118.54	735.00	59.40	9°14'27"

EASEMENT RADIAL BEARING TABLE

RAD 100	N86°44'14"W
RAD 101	S76°25'54"W
RAD 102	N75°07'06"W

EASEMENT LINE TABLE

LINE	LENGTH	BEARING
L100	50.15	N41°18'42"W
L101	37.33	N17°38'11"W
L102	63.84	N24°46'55"W
L103	92.02	N50°57'07"W
L104	110.54	N41°07'05"W
L105	103.13	N81°15'02"W
L106	31.28	N18°30'41"W
L107	110.70	S71°32'55"W
L108	56.00	S18°30'41"E
L109	97.37'	N72°10'13"E
L110	92.59	S81°15'02"E
L111	102.44'	S41°07'05"E
L112	87.77	S50°57'07"E
L113	55.29	S24°46'55"E
L114	41.60	S17°38'11"E
L115	17.83	S41°18'42"E
L116	59.70	S41°18'42"E
L117	8.00	N18°30'41"W
L118	553.09	S71°32'55"W
L119	18.17'	N64°41'32"W
L120	54.31	N71°32'55"E
L121	61.07	N81°00'52"W
L122	180.73	S02°30'56"E
L123	259.88	N37°46'05"W
L124	284.53	N66°59'29"W
L125	137.50	S24°21'00"W

ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 8-28-09
ARIZONA, U.S.A.
Expires 3/31/2011

Exhibit "A-4"

A parcel of land located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

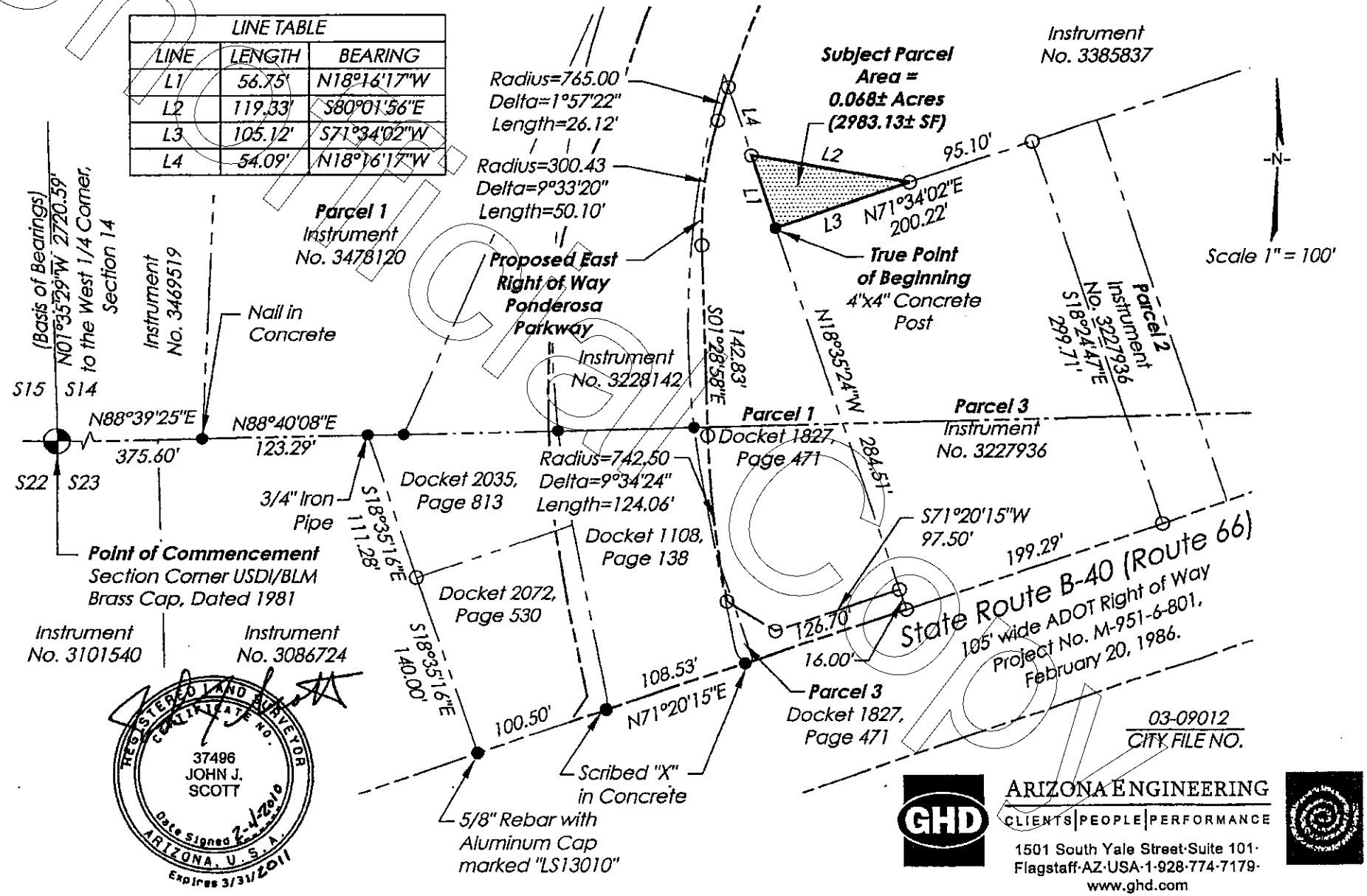
SHEET 4 OF 4

Unofficial copy

Exhibit L (Drawing 2)

A portion of the parcel of land described in instrument No. 3385837. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

LINE TABLE		
LINE	LENGTH	BEARING
L1	56.75'	N18°16'17"W
L2	119.33'	S80°01'56"E
L3	105.12'	S71°34'02"W
L4	54.09'	N18°16'17"W



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 2-4-2010
ARIZONA, U.S.A.
Expires 3/31/2011

03-09012
CITY FILE NO.

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Unofficial Document

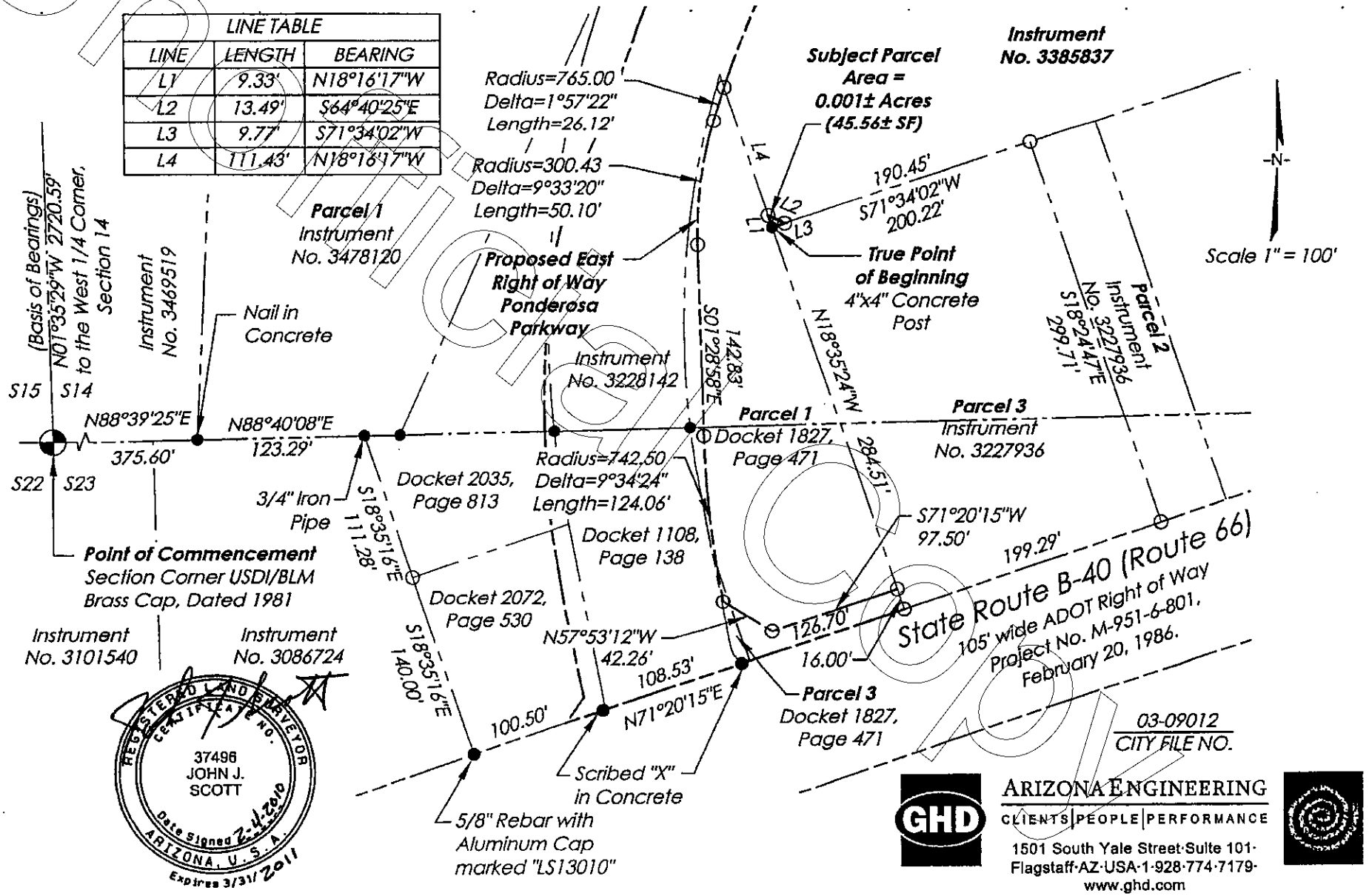
3555011 Pages: 18 of 19 03/01/2010 04:42:41 PM

Exhibit S (Drawing)

A portion of the parcel of land described in instrument No. 338583. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.

Unofficial Document

LINE TABLE		
LINE	LENGTH	BEARING
L1	9.33'	N18°16'17"W
L2	13.49'	S64°40'25"E
L3	9.77'	S71°34'02"W
L4	111.43'	N18°16'17"W



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 2-4-2010
ARIZONA, U.S.A.
Expires 3/31/2011

03-09012
CITY FILE NO.

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

3555011 Pages: 19 of 19 03/01/2010 04:42:41 PM

Official Records of Coconino County 3555010
Candace Owens - Recorder 03/01/2010 04:42 PM Pgs: 23
FIRST AMERICAN TITLE INS CO D $32.00

WHEN RECORDED MAIL TO:
Michael E .J .Mongini, Esq.
Hufford, Horstman, Mongini,
Parnell & Tucker
120 N Beaver Street
Flagstaff, Az 86001

271-52701 72

SPECIAL WARRANTY DEED

This Special Warranty deed is being recorded to correct the legal description in documents recorded in Instrument Numbers 3376344 and 3385837.

Unofficial Copy

SPECIAL WARRANTY DEED

Effective Date: October 1, 2003	County and State where property is located: Coconino County, Arizona
GRANTOR (Name, Address and Zip): Thomas J. Olmsted, Bishop of the Roman Catholic Church of the Diocese of Phoenix, a corporation sole 400 East Monroe Phoenix, Arizona 85004	**GRANTEE** (Name, Address and Zip): Gemini Flagstaff, L.L.C., an Arizona limited liability company 7802 E. Gray Road, Ste. 600 Scottsdale, AZ 85260

Subject Real Property (Legal Description): See Attached Exhibit " A"

This Special Warranty Deed is a re-recording of the Special Warranty Deed wherein the Grantor was Michael Jarboe Sheehan, Apostolic Administrator of the Roman Catholic Church of the Diocese of Phoenix, a corporation sole, and Grantee was Gemini Flagstaff, L.L.C., an Arizona limited liability company, recorded in the Official Records of Coconino County, Arizona, as Instrument Numbers 3376344, 3385837 and 3228142.

AFFIDAVIT EXEMPT PURSUANT TO: A.R.S. § 11-1134(B)(2)

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor, Michael Jarboe Sheehan, Apostolic Administrator of the Roman

Unofficial Copy

Catholic Church of the Diocese of Phoenix, a corporation sole, by and through its corporate sole successor Thomas J. Olmsted, Bishop of the Roman Catholic Church of the Diocese of Phoenix, a corporation sole, does hereby convey to Grantee, Gemini Flagstaff, L.L.C, an Arizona limited liability company, all right, title and interest of Grantor in the Real Property described in Exhibit A hereto, together with all rights and privileges appurtenant or to become appurtenant to Subject Real Property on the effective date, subject to current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities that may appear of record. and warrants the title against acts of the Grantor and none other, subject to existing liens and encumbrances of record.

The Grantor hereby binds itself and its successors to warrant and defend the title against all acts of Grantor herein and all claims of third parties claiming by, through or under Grantor, but none other.

The Easements herein described in Exhibits A-1. A-2, A-3, and A-4, are reserved by and Exhibits L-2 and Exhibit S
Grantor and may be conveyed by Grantor to its successors and/or assigns, by Deed and Grantor, or Grantee may, without the consent of the other, plat the easement for the benefit of the City of Flagstaff, and/or other third parties.

The Grantor, its successors and assigns, reserves for its employees, contractor(s), a construction license across Grantee' s property for the purposes of ingress and egress to the Easement Areas, for the construction of the improvements within the Easement Areas. Grantor' s construction license shall not unreasonably interfere with Grantees, its successors and assigns use

Unofficial Copy

of Grantee' s property. This construction license shall not be deemed to be a public dedication.

Dated this 16th day of November, 2009.

Grantee
Gemini Flagstaff, L.L.C., an
Arizona limited liability company

By: F.R. Lupton, Jr., Its Member

By: Barry Werner, Its Member

Grantor
Thomas J. Olmsted, Bishop of the Diocese
Of Phoenix, a corporation sole, successor
to Michael Jarboe Sheehan, Apostolic
Administrator of the Roman Catholic Church
of the Diocese of Phoenix, a corporation sole

Thomas J. Olmsted / Rodrica G. Cedeno Agent
Thomas J. Olmsted, Bishop

STATE OF ARIZONA)
) ss.
County of MARICOPA)

On this 16 day of NOVEMBER, 2009, before me personally appeared F.R. Lupton, Jr, Member of Gemini Flagstaff, L.L.C., an Arizona limited liability company, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.

OFFICIAL SEAL
PAUL SCHLENKER
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires May 16, 2011

Notary Public

STATE OF ARIZONA)
) ss.
County of MARICOPA)

On this 16 day of NOVEMBER, 2009, before me personally appeared Barry Werner, Member of Gemini Flagstaff, L.L.C., an Arizona limited liability company, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.

OFFICIAL SEAL
PAUL SCHLENKER
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires May 16, 2011

Notary Public

STATE OF ARIZONA)

Unofficial Copy

County of Maricopa) ss.
)

On this 16th day of November, 2009, before me personally appeared Bishop Thomas J. Olmsted of the Roman Catholic Church, Diocese of Phoenix, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.

Loretta Garcia
Notary Public

LORETTA GARCIA
NOTARY PUBLIC
MARICOPA COUNTY, ARIZONA
MY COMM. EXPIRES 07-09-2011

Unofficial Copy

Exhibit A

Following is a description of a parcel of land which is a portion of the parcels of land described in Instrument No. 3376344 and re-recorded in Instrument No. 3385837 and Instrument No. 3228142 of the records of the Coconino County Recorders Office. (Note: All references to recorded instruments refer to the records of the Coconino County Recorders Office).

The parcel of land is located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

The **GRANTOR** may reference the following parcel as Lot 7 (Exhibit A fee title) and the attached Easements by dedication in the San Francisco De Asis Church and School Development Final Plat (developed by Arizona Engineering Company)containing 11.97 acres more or less, pursuant to the requirements of the City of Flagstaff.

The parcel is more particularly described by metes and bounds as follows:

COMMENCING at the Southwest corner of Section 14, monumented with a USDI/BLM Brass Cap dated 1981 from which point the West 1/4 corner of Section 14, monumented with a 3" aluminum cap marked "LS 26406", bears North 01°35'29" West, 2720.59 feet;

THENCE North 88°39'25" East along the South line of the Southwest 1/4 of Section 14 and along the North lines of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724, 498.81 feet to the Northwest corner of the parcel of land described in Docket 2035, Page 813 and to the Northeast corner of the parcel of land described in Instrument No. 3086724, monumented with a 1/2" iron pipe;

THENCE North 88°47'13" East along the South line of the Southwest 1/4 of Section 14 and along the North line of the parcel of land described in Docket 2035, Page 813, 134.25 feet to the proposed West right of way line of Ponderosa Parkway;

THENCE North 88°41'10" East along the South line of the Southwest 1/4 of Section 14 and along the North line the parcel of land described in Docket 1108, Page 138, 107.25 feet to the West line of Parcel 1 as described in Docket 1827, Page 472;

THENCE North 88°41'10" East along the South line of the Southwest 1/4 of Section 14, 9.80 feet to the proposed East right of way line of Ponderosa Parkway;

THENCE North 88°41'10" East along the South line of the Southwest 1/4 of Section 14, 99.88 feet to the East line of Parcel 1 as described in Docket 1827, Page 472 and to the West line of the parcel of land described in Docket 3227, Page 936;

Unofficial Copy

THENCE North 18°26'19" West along the East line of Parcel 1 described in Docket 1827, Page 472 and along the West line of the parcel of land described in Docket 3227, Page 936, 153.89 feet to the Southwest corner of the parcel of land described in Instrument No. 3385837, monumented with a 4" concrete post, the **POINT OF BEGINNING** of this description, hereinafter referred to as **POINT "A"**;

THENCE North 18°13'20" West along the East line of Parcel 1 and along the West line of the parcel of land described in Instrument No. 3385837, 110.98 feet, to the proposed East right of way line of Ponderosa Parkway, hereinafter referred to as **POINT "D"**;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 765.00 feet and a central angle of 5°57'54", an arc distance of 79.64 feet (chord bearing North 21°22'04" East, chord distance 79.61 feet);

THENCE North 24°21'00" East along the proposed East right of way line of Ponderosa Parkway, 137.50 feet;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 20°00'01", an arc distance of 308.84 feet (chord bearing North 14°21'00" East, chord distance 307.27 feet);

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 1648.76 feet and a central angle of 18°07'31", an arc distance of 521.57 feet (chord bearing North 04°42'46" West, chord distance 519.40 feet), to the North line of the parcel of land described in Instrument No. 3385837;

THENCE South 81°54'10" East along the North line of the parcel of land described in Instrument No. 3385837, 429.72 feet to the Northeast corner of the parcel of land described in Instrument No. 3385837;

THENCE South 31°18'30" East, 665.41 feet to the South line of the parcel of land described in Instrument No. 3228142 and to the North line of the parcel of land described in Docket 1947, Page 830;

THENCE North 73°06'23" West along the South line of the parcel of land described in Instrument No. 3228142 and along the North line of the parcel of land described in Docket 1947, Page 830, 98.22 feet to the Southeast corner of the parcel of land described in Instrument No. 3385837, monumented with a 5/8" capped rebar marked "LS 26406";

THENCE South 71°29'36" West along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcel of land described in Docket 1947, Page 830, 320.96 feet to the Northwest corner of the parcel of land described in Docket 1947, Page 830, monumented with a 5/8" capped rebar marked "LS 13010";

Unofficial Copy

THENCE South 18°30'41" East along the South line of the parcel of land described in Instrument No. 3385837 and along the West line of the parcel of land described in Docket 1947, Page 830, 251.55 feet to the Northeast corner of the parcel of land described in Instrument No. 3340460, monumented with a 5/8" capped rebar marked "LS 26406", hereinafter referred to as **POINT "B"**;

THENCE South 71°32'55" West along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcels of land described in Instrument No. 3340460 and Docket 3227, Page 936, 566.31 feet to the **POINT OF BEGINNING** of this description;

The above described parcel of land contains 11.97 acres, more or less.

For a drawing of the parcel described above, see **Exhibit "A-1"**, which by this reference is made part of this description.

The above described parcel is subject to the reservation by the grantor, of the following described easements which may be referenced on a Final Plat of Dedication to the City of Flagstaff, pursuant to the requirements of the City of Flagstaff:

EASEMENT "A" – 16' Wide Private and Public Utility Easement:

A 16' wide strip of land which lies 8.0 feet on each side of the following described line:

COMMENCING at the above mentioned **POINT "B"**, a 5/8" capped rebar marked "LS 26406;

THENCE North 18°30'41" West along the South line of the parcel of land described in Instrument No. 3385837 and along the West line of the parcel of land described in Docket 1947, Page 830, 8.00 feet to the **POINT OF BEGINNING** of the this description;

THENCE South 71°32'55" West, parallel with and 8.0 feet North of the South line of the parcel of land described in Instrument No. 3385837, 553.09 feet;

THENCE North 64°41'32" West, 18.17 feet to the East line of Parcel 1 and to the West line of the parcel of land described in Instrument No. 3385837, the **POINT OF TERMINUS** of this description.

The sidelines to be lengthened or shortened to meet the South and West lines of the parcel of land described in Instrument No. 3385837.

The above described 16' wide private and public utility easement contains 0.21 acres, more or less.

For a drawing of the parcel described above, see **Exhibit "A-3"**, which by this reference is made part of this description.

Unofficial Copy

/Deleted and replaced with Exhibit L-2 Easement

EASEMENT "B" - 40' Wide Private Non-Exclusive Ingress/Egress Easement

The following is a description of a 40' wide private non-exclusive ingress/egress easement to provide access to and from the property described in Docket 3227, Page 936 and Parcel 1 of Docket 1827, Page 472. The 40' wide strip of land lies 20.0 feet on each side of the following described line and is more particularly described as follows:

COMMENCING at the above mentioned **POINT "A"**, a 4" concrete post;

THENCE North 71°32'55" East along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcel of land described in Docket 3227, Page 936, 54.31 feet to the **POINT OF BEGINNING** of this description;

THENCE North 81°00'52" West, 61.07 feet to the East line of Parcel 1 as described in Docket 1827, Page 472 and to the West line of the parcel of land described in Instrument No. 3385837, the **POINT OF TERMINUS** of this description.

The sidelines to be lengthened or shortened to meet the South and West lines of the parcel of land described in Instrument No. 3385837.

The above described 40' wide private non-exclusive ingress/egress easement contains 0.06 acres, more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "C" – Drainage Easement:

A drainage easement is more particularly described by metes and bounds as follows:

COMMENCING at **POINT "A"**, a 4" concrete post;

THENCE North 18°13'20" West along the East line of Parcel 1 described in Docket 1827, Page 472 and along the West line of the parcel of land described in Instrument No. 3385837, 110.98 feet, to the proposed East right of way line of Ponderosa Parkway;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 765.00 feet and a central angle of 5°57'54", an arc distance of 79.64 feet (chord bearing North 21°22'04" East, chord distance 79.61 feet);

THENCE North 24°21'00" East along the proposed East right of way line of Ponderosa Parkway, 137.50;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central

Unofficial Copy

angle of 10°46'45", an arc distance of 166.45 feet (chord bearing North 18°57'37" East, chord distance 166.21 feet);

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 2°19'48", an arc distance of 35.98 feet (chord bearing North 12°24'20" East, chord distance 35.98 feet), to the **POINT OF BEGINNING** of this description, hereinafter referred to as **POINT "C"**;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 6°53'27", an arc distance of 106.41 feet (chord bearing North 07°47'43" East, chord distance 106.34 feet);

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 1648.76 feet and a central angle of 18°07'31", an arc distance of 521.57 feet (chord bearing North 04°42'46" West, chord distance 519.40 feet), to the North line of the parcel of land described in Instrument No. 3385837to a point of cusp;

THENCE South 81°54'10" East along the North line of the parcel of land described in Instrument No. 3385837, 16.15 feet;

THENCE Southerly, parallel with and 15 feet East of the East right of way line of the proposed Ponderosa Parkway, along a curve to the right, having a radius of 1663.76 feet which bears South 76°25'54" West, and a central angle of 16°49'52", an arc distance of 488.74 feet (chord bearing South 05°09'10" East, chord distance 486.98 feet);

THENCE South 02°30'56" East, 180.73 feet;

THENCE North 41°18'42" West, 59.70 feet to the **POINT OF BEGINNING** of this description.

The above described drainage easement contains 0.26 Acres more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "D" – Drainage Easement:

A drainage easement is more particularly described by metes and bounds as follows:

BEGINNING at the above mentioned **POINT "C"**;

THENCE South 41°18'42" East, 77.53 feet;

THENCE South 17°38'11" East, 41.60 feet;

THENCE South 24°46'55" East, 55.29 feet;

Unofficial Copy

THENCE South 50°57'07" East, 87.77 feet;

THENCE South 41°07'05" East, 102.44 feet;

THENCE South 81°15'02" East, 92.59 feet;

THENCE North 72°10'13" East, 97.37 feet to the West line of the parcel of land described in Docket 1947, Page 830 and to the South line of the parcel of land described in Instrument No. 3385837;

THENCE South 18°30'41" East, along the West line of the parcel of land described in Docket 1947, Page 830 and along the South line of the parcel of land described in Instrument No. 3385837, 56.00 feet to the Northeast corner of the parcel of land described in Instrument No. 3340460, monumented with a 5/8" capped rebar marked "LS 26406";

THENCE South 71°32'55" West along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcel of land described in Instrument No. 3340460, 110.70 feet;

THENCE North 18°30'41" West, 31.28 feet;

THENCE North 81°15'02" West, 103.13 feet;

THENCE North 41°07'05" West, 110.54 feet;

THENCE North 50°57'07" West, 92.02 feet;

THENCE North 24°46'55" West, 63.84 feet;

THENCE North 17°38'11" West, 37.33 feet;

THENCE North 41°18'42" West, 50.15 feet to the proposed East right of way of Ponderosa Parkway;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 2°19'48", an arc distance of 35.98 feet (chord bearing North 12°24'20" East, chord distance 35.98 feet) to the **POINT OF BEGINNING** of this description.

The above described drainage easement contains 0.44 Acres more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "E" – Slope Easement:

The slope easement is more particularly described by metes and bounds as follows:

BEGINNING at the above mentioned **POINT "D"**;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 765.00 feet and a central

Unofficial Copy

angle of 5°57'54", an arc distance of 79.64 feet (chord bearing North 21°22'04" East, chord distance 79.61 feet);

THENCE North 24°21'00" East along the proposed East right of way line of Ponderosa Parkway, 137.50;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 10°46'45", an arc distance of 166.45 feet (chord bearing North 18°57'37" East, chord distance 166.21 feet);

THENCE South 41°18'42" East, 36.38 feet;

THENCE Southerly, parallel with and 30' East of the East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 914.74 feet which bears North 75°07'06" West, and a central angle of 9°28'06", an arc distance of 151.16 feet (chord bearing South 19°36'57" West, chord distance 150.99 feet);

THENCE South 24°21'00" West, parallel with and 30' East of the East right of way line of Ponderosa Parkway, 137.50 feet;

THENCE Southerly, parallel with and 30' East of the East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 735.00 feet and a central angle of 9°14'27", an arc distance of 118.54 feet (chord bearing South 19°43'47" West, chord distance 118.41 feet) to the East line of Parcel 1 described in Docket 1827, Page 472 and to the West line of the parcel of land described in Instrument No. 3385837;

THENCE North 18°13'20" West along the East line of Parcel 1 described in Docket 1827, Page 472 and along the West line of the parcel of land described in Instrument No. 3385837, 52.32 feet to the **POINT OF BEGINNING** of this description.

The above described slope easement contains 0.27 Acres more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "F" – 16' Wide Public Utility Easement:

A 16' wide strip of land which lies 8.0 feet on each side of the following described line:

COMMENCING at the above mentioned **POINT "B"**;

THENCE North 18°30'41" West along the South line of the parcel of land described in Instrument No. 3385837 and along the West line of the parcel of land described in Docket 1947, Page 830, 8.00 feet to the **POINT OF BEGINNING** of this description;

THENCE North 66°39'29" West, 284.53 feet;

Unofficial Copy

THENCE North 37°46'05" West, 259.88 feet to the proposed right of way of Ponderosa Parkway, the **POINT OF TERMINUS** of this description.

The sidelines to be lengthened or shortened to meet the South line of the parcel of land described in Instrument No. 3385837and to meet the proposed East right of way line of Ponderosa Parkway.

The above described 16' wide public utility easement contains 0.20 acres, more or less.

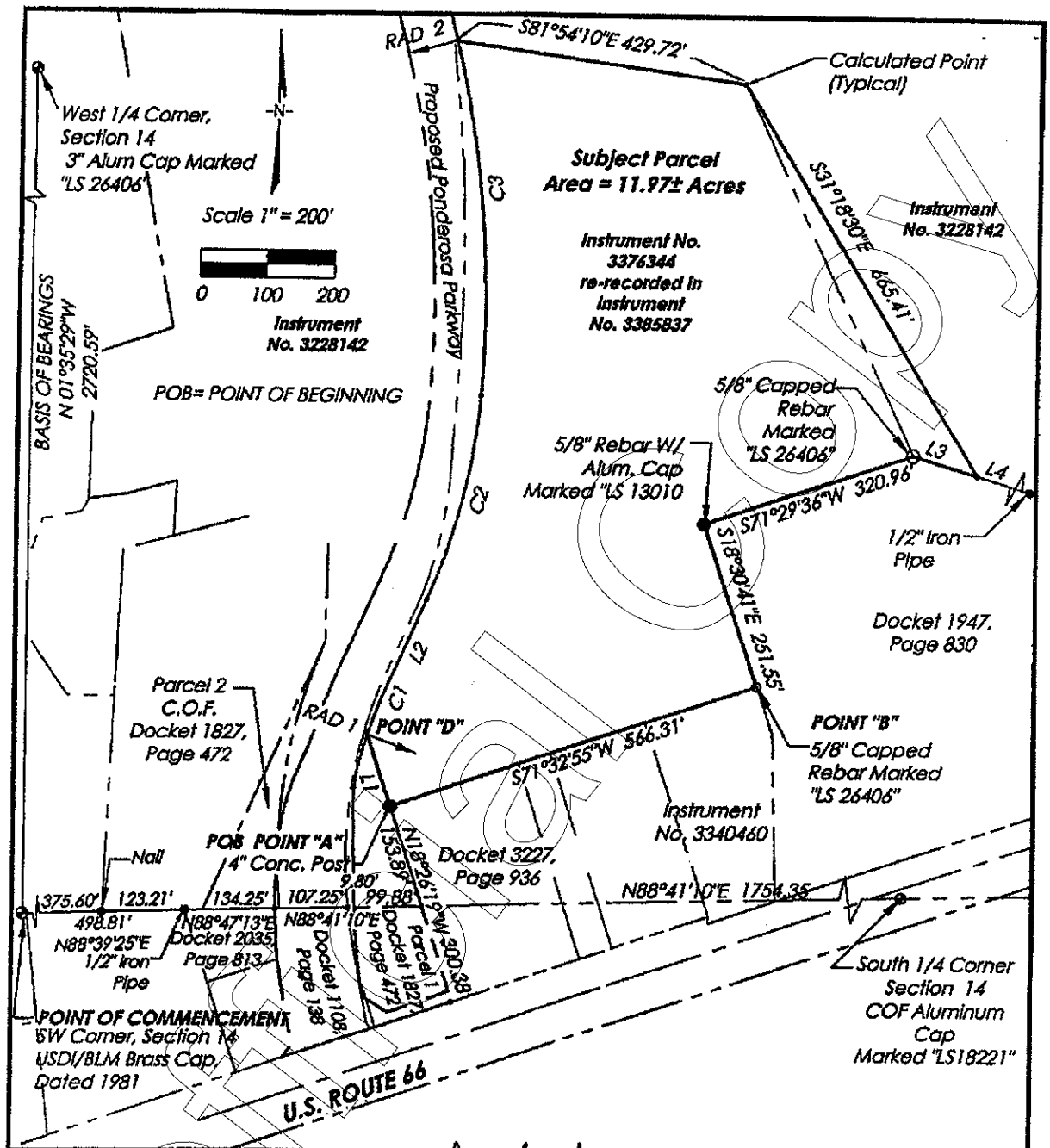
For a drawing of the parcel described above, see **Exhibit "A-3"**, which by this reference is made part of this description.

The **BASIS OF BEARINGS** for the above described parcels of land is the line from the Southwest corner of Section 14, a USDI/BLM brass cap dated 1981 to the West 1/4 corner of Section 14, a 3" aluminum cap marked "LS 26406', which bears South 01°35'29" East, according to the record of survey recorded in Book 21 of Surveys, Page 17.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37498
JOHN J.
SCOTT
Date Signed 8-4-09
ARIZONA U.S.A.

Expires 8/31/2011

Unofficial Copy



ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

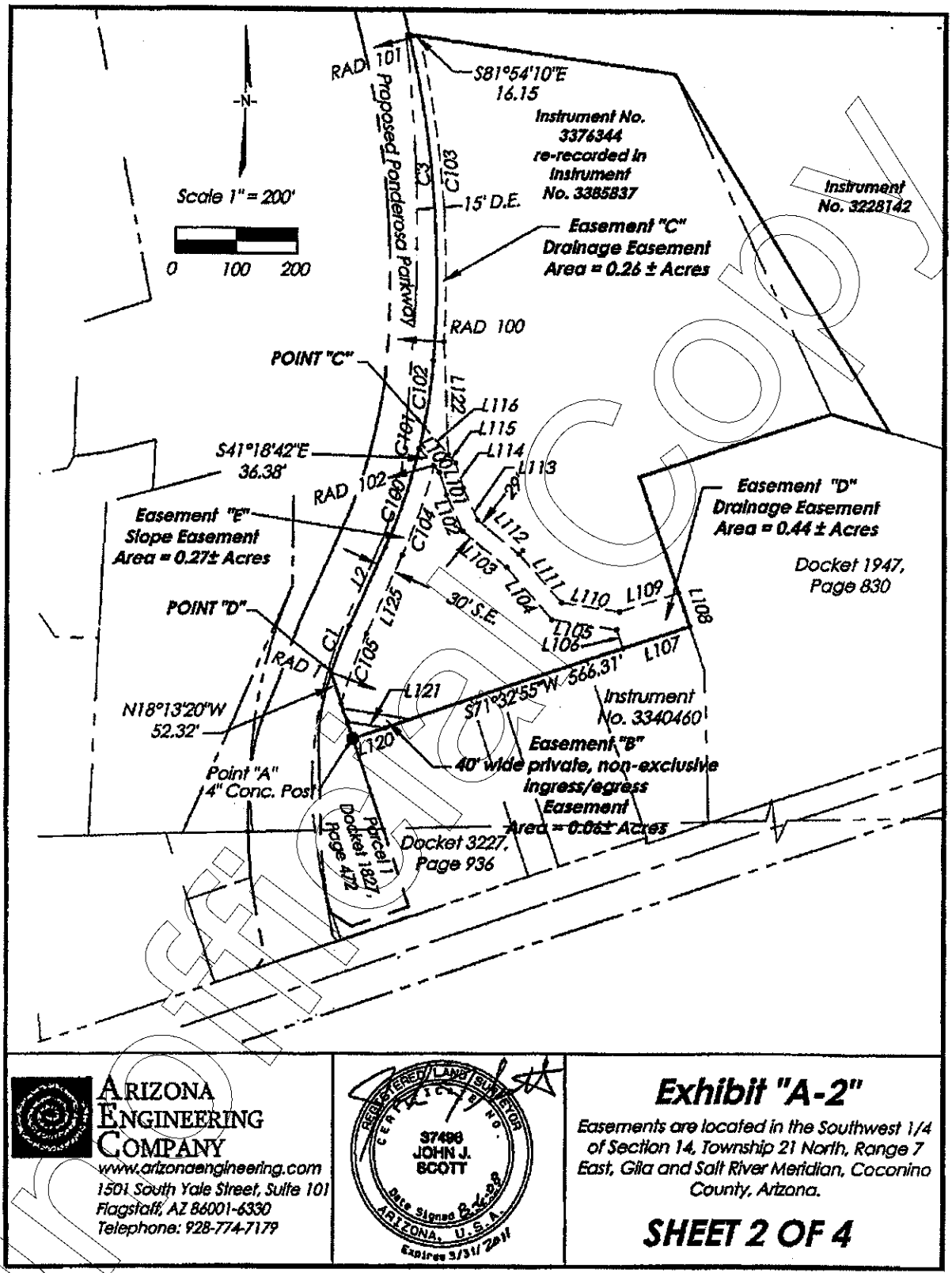
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J. SCOTT
Date Signed 8-18-09
ARIZONA, U.S.A.
Expires 3/31/ 2011

Exhibit "A-1"

A parcel of land located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 1 OF 4

Unofficial Document



ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

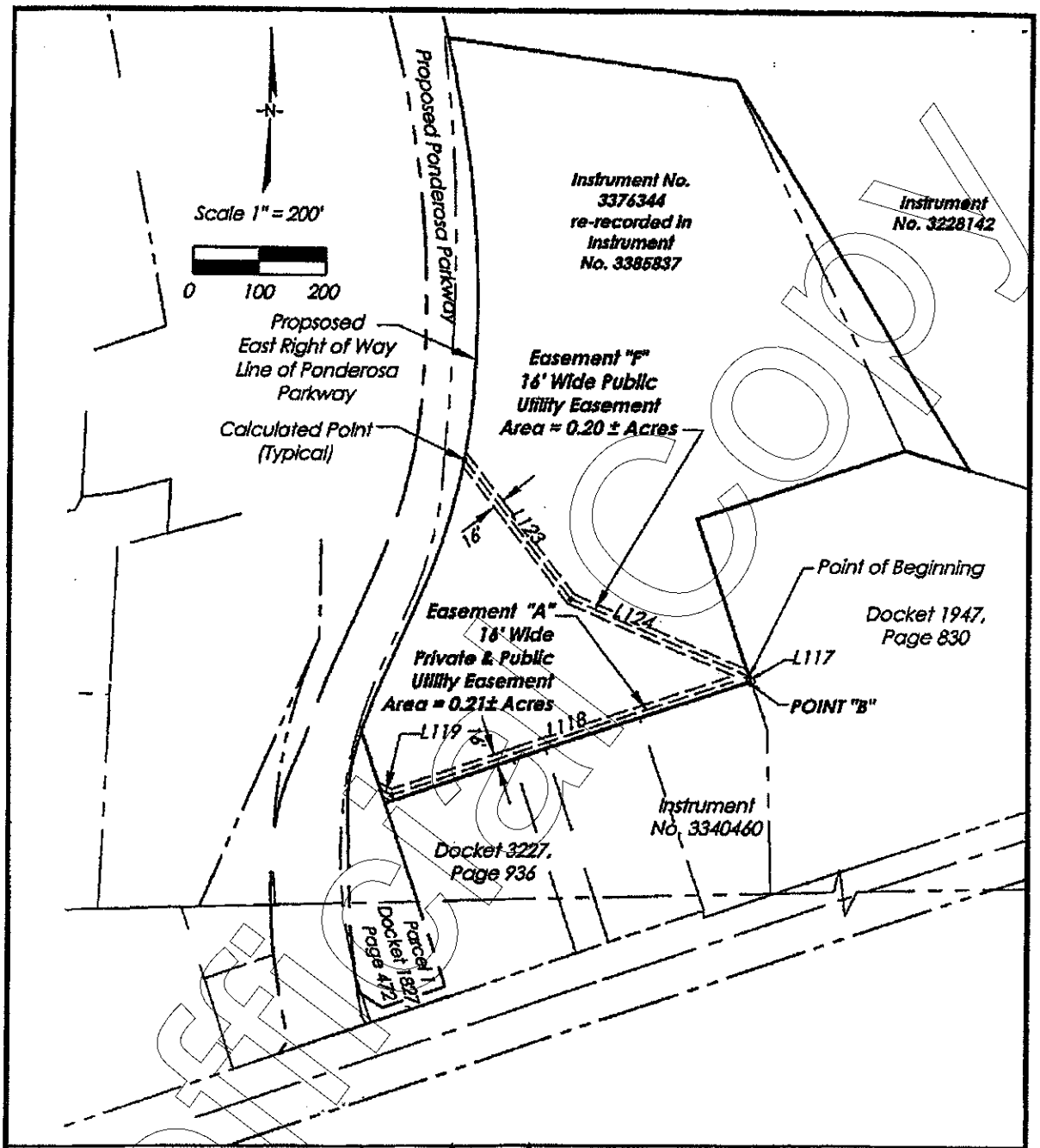
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 2-24-09
ARIZONA, U.S.A.
Expires 3/31/2011

Exhibit "A-2"

Easements are located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 2 OF 4

Unofficial Copy



ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 12-6-08
ARIZONA, U.S.A.
Expires 3/31/2011

Exhibit "A-3"

Easement are located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 3 OF 4

Unofficial Copy

RADIAL BEARING TABLE

RAD 1	S71°36'53"E
RAD 2	S76°13'28"W

LINE TABLE

LINE	LENGTH	BEARING
L1	110.98'	N18°13'20"W
L2	137.50	N24°21'00"E
L3	98.22'	N73°06'23"W
L4	415.09'	N73°06'23"W

CURVE TABLE

CURVE	LENGTH	RADIUS	TANGENT	DELTA
C1	79.64	765.00	39.86	5°57'54"
C2	308.84	884.74	156.01	20°00'01"
C3	521.57	1648.76	262.98	18°07'31"

EASEMENT CURVE TABLE

CURVE	LENGTH	RADIUS	TANGENT	DELTA
C100	166.45	884.74	83.47	10°46'45"
C101	35.98	884.74	17.99	2°19'48"
C102	106.41	884.74	53.27	6°53'27"
C103	488.74	1663.76	246.14	16°49'52"
C104	151.16	914.74	75.75	9°28'06"
C105	118.54	735.00	59.40	9°14'27"

EASEMENT RADIAL BEARING TABLE

RAD 100	N86°44'14"W
RAD 101	S76°25'54"W
RAD 102	N75°07'06"W

EASEMENT LINE TABLE

LINE	LENGTH	BEARING
L100	50.15	N41°18'42"W
L101	37.33	N17°38'11"W
L102	63.84	N24°46'55"W
L103	92.02	N50°57'07"W
L104	110.54	N41°07'05"W
L105	103.13	N81°15'02"W
L106	31.28	N18°30'41"W
L107	110.70	S71°32'55"W
L108	56.00	S18°30'41"E
L109	97.37'	N72°10'13"E
L110	92.59	S81°15'02"E
L111	102.44'	S41°07'05"E
L112	87.77	S50°57'07"E
L113	55.29	S24°46'55"E
L114	41.60	S17°38'11"E
L115	17.83	S41°18'42"E
L116	59.70	S41°18'42"E
L117	8.00	N18°30'41"W
L118	553.09	S71°32'55"W
L119	18.17'	N64°41'32"W
L120	54.31	N71°32'55"E
L121	61.07	N81°00'52"W
L122	180.73	S02°30'56"E
L123	259.88	N37°46'05"W
L124	284.53	N66°39'29"W
L125	137.50	S24°21'00"W

ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37486
JOHN J.
SCOTT
Date Signed 12-2-09
ARIZONA, U.S.A.
Expires 3/31/ 2011

Exhibit "A-4"

A parcel of land located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 4 OF 4

Unofficial Copy

A NON-EXCLUSIVE INGRESS AND EGRESS EASEMENT MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Exhibit L

(Description 2)

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3385837, of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references to recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East, along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 3 in Docket 1827, Page 471, monumented with a scribed X in concrete;

UNOFFICIAL DOCUMENT

THENCE North 71°20'15" East, along the south line of Parcel 3 (Docket 1827, Page 471) and along the south line of the parcel of land described as Parcel 1 in Docket 1827, Page 471 and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1827, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West along the east line of Parcel 1(Docket 1827, Page 471) and along the west line of Parcel 3 (Instrument No. 3227936), 300.51 feet, to the northwest corner of Parcel 3 (Instrument No. 3227936) and to the south line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 18°16'17" West along the east line of Parcel 1(Docket 1827, Page 471) and along the south line of the parcel of land described in Instrument No. 3385837, 56.75 feet;

THENCE South 80°01'56" East 119.33 feet to the north line of Parcel 3 (Instrument No. 3227936) and to the south line of the parcel of land described in Instrument No. 3385837;

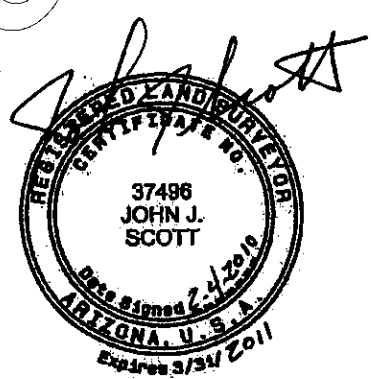
THENCE South 71°34'02" West along the north line of Parcel 3 (Instrument No. 3227936) and along the south line of the parcel of land described in Instrument No. 3385837, 105.12 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.068 acres (2938.13 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit L (Drawing 2)**, which by this reference is made part of this description.

Access Easement
Descriptive Title

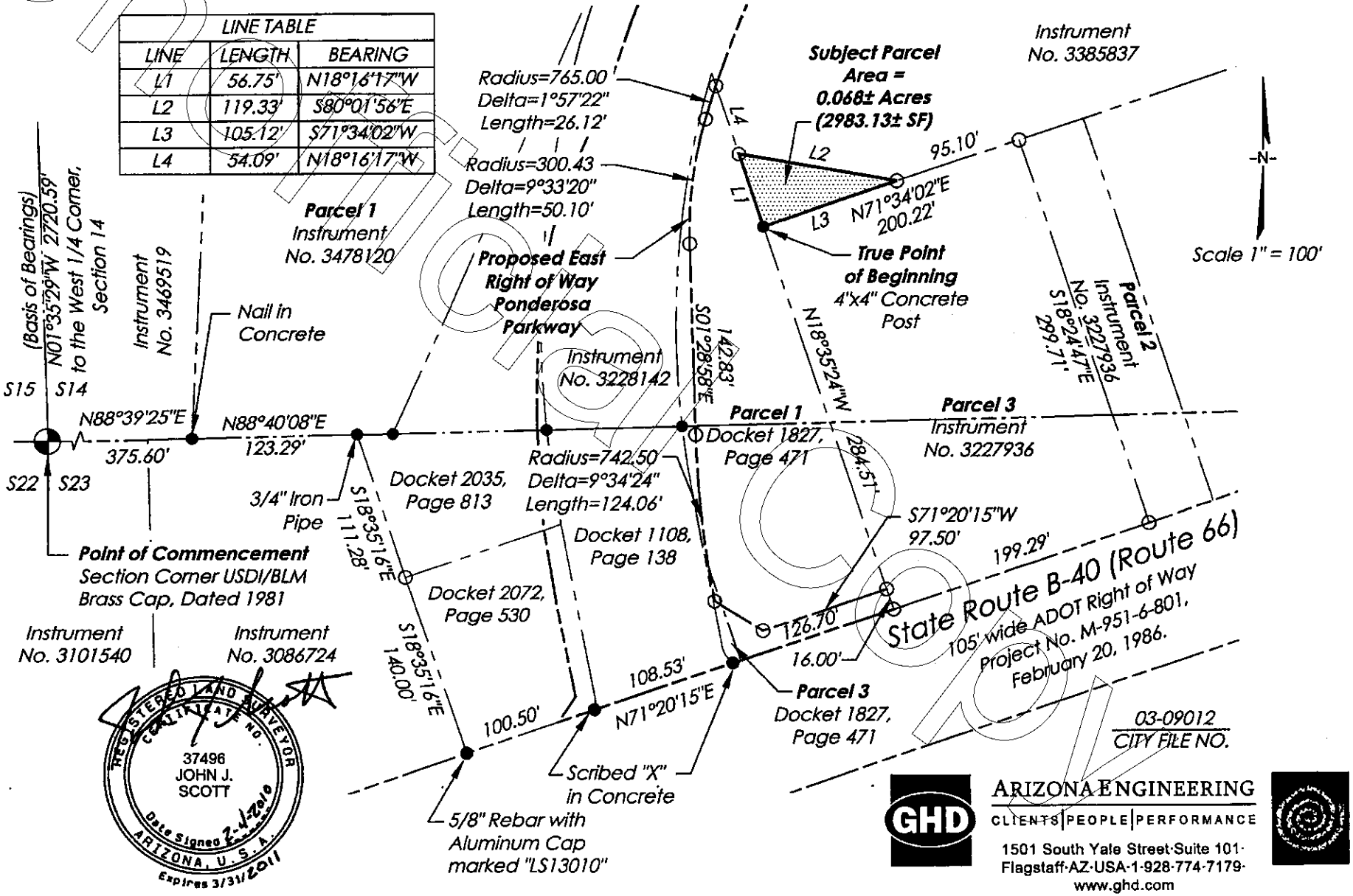
03-09012
City File No.



Unofficial Copy

Exhibit L (Drawing 2)

A portion of the parcel of land described in instrument No. 3385837. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Unofficial Document

A SEWER EASEMENT MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Exhibit S
(Description)

Following is a description of a parcel of land which is a portion of the parcel of land described in Instrument No. 3385837, of the records of the Coconino County Recorder's Office. The parcel of land is located in the southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona. (Note: All references to recorded instruments refer to the records of the Coconino County Recorder's Office.)

The parcel is more particularly described by metes and bounds as follows:

COMMENCING at the southwest corner of Section 14, monumented with a USDI/BLM brass cap, dated 1981. From which point the west 1/4 corner of Section 14, monumented with a 3 inch aluminum cap, LS 26406, bears North 01°35'29" West, 2720.59 feet (Basis of Bearings for this description):

THENCE North 88°39'25" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcels of land described in Instrument No. 3101540 and Instrument No. 3086724 and along the south line of the parcel of land described in Instrument No. 3469519, 375.60 feet to the southeast corner of the parcel of land described in Instrument No. 3469519 and to the southwest corner of the parcel of land described as Parcel 1 in Instrument No. 3478120, monumented with a nail in concrete;

THENCE North 88°40'08" East along the south line of the southwest 1/4 of Section 14, and along the north line of the parcel of land described in Instrument No. 3086724 and along the south line of Parcel 1(Instrument No. 3478120), 123.29 feet to the northeast corner of the parcel of land described in Instrument No. 3086724 and to the northwest corner of the parcel of land described in Docket 2035, Page 813, monumented with a 3/4 inch iron pipe;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No.3086724 and along the west line of the parcel of land described in Docket 2035, Page 813, 111.28 feet to the southwest corner of the parcel of land described in Docket 2035, Page 813 and to the northwest corner of the parcel of land described in Docket 2072, Page 530;

THENCE South 18°35'16" East along the east line of the parcel of land described in Instrument No. 3086724 and along the west line of the parcel of land described in Docket 2072, Page 530, 140.00 feet to the north line of the 105 foot wide right of way for Route 66, monumented with a 5/8 inch rebar with aluminum cap marked ARENCO LS13010;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 2072, Page 530, and along the north right of way line of Route 66, 100.50 feet to southeast corner of the parcel of land described in Docket 2072, Page 530 and to the southwest corner of the parcel of land described in Docket 1108, Page 138, monumented with a scribed X in concrete;

THENCE North 71°20'15" East along the south line of the parcel of land described in Docket 1108, Page 138 and along the north right of way line of Route 66, 108.53 feet to the southeast corner of the parcel of land described in Docket 1108, Page 138 and to the southwest corner of the parcel of land described as Parcel 3 in Docket 1827, Page 471, monumented with a scribed X in concrete;

Unofficial Document

THENCE North 71°20'15" East, along the south line of Parcel 3 (Docket 1827, Page 471) and along the south line of the parcel of land described as Parcel 1 in Docket 1827, Page 471 and along the north right of way line of Route 66, 126.70 feet to the southeast corner of Parcel 1 (Docket 1827, Page 471) and to the southwest corner of the parcel of land described as Parcel 3 in Instrument No. 3227936;

THENCE North 18°35'24" West, along the east line of Parcel 1(Docket 1827, Page 471) and along the west line of Parcel 3 (Instrument No. 3227936), 300.51 feet, to the northwest corner of Parcel 3 (Instrument No. 3227936) and to the south line of the parcel of land described in Instrument No. 3385837, monumented with a 4 inch by 4 inch concrete post, the **TRUE POINT OF BEGINNING** of this description.

THENCE North 18°16'17" West, along the east line of Parcel 1(Docket 1827, Page 471) and along the south line of the parcel of land described in Instrument No. 3385837, 9.33 feet;

THENCE South 64°40'25" East, 13.49 feet to the north line of Parcel 3 (Instrument No. 3227936) and to the south line of the parcel of land described in Instrument No. 3385837;

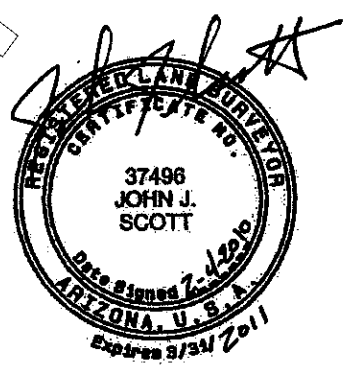
THENCE South 71°34'02" East along the north line of Parcel 3 (Instrument No. 3227936) and along the south line of the parcel of land described in Instrument No. 3385837, 9.77 feet to the **TRUE POINT OF BEGINNING** of this description.

The above described parcel of land contains 0.001 acres (45.56 sq ft), more or less.

For a drawing of the parcel described above, see **Exhibit S (Drawing)**, which by this reference is made part of this description.

Sewer Easement
Descriptive Title

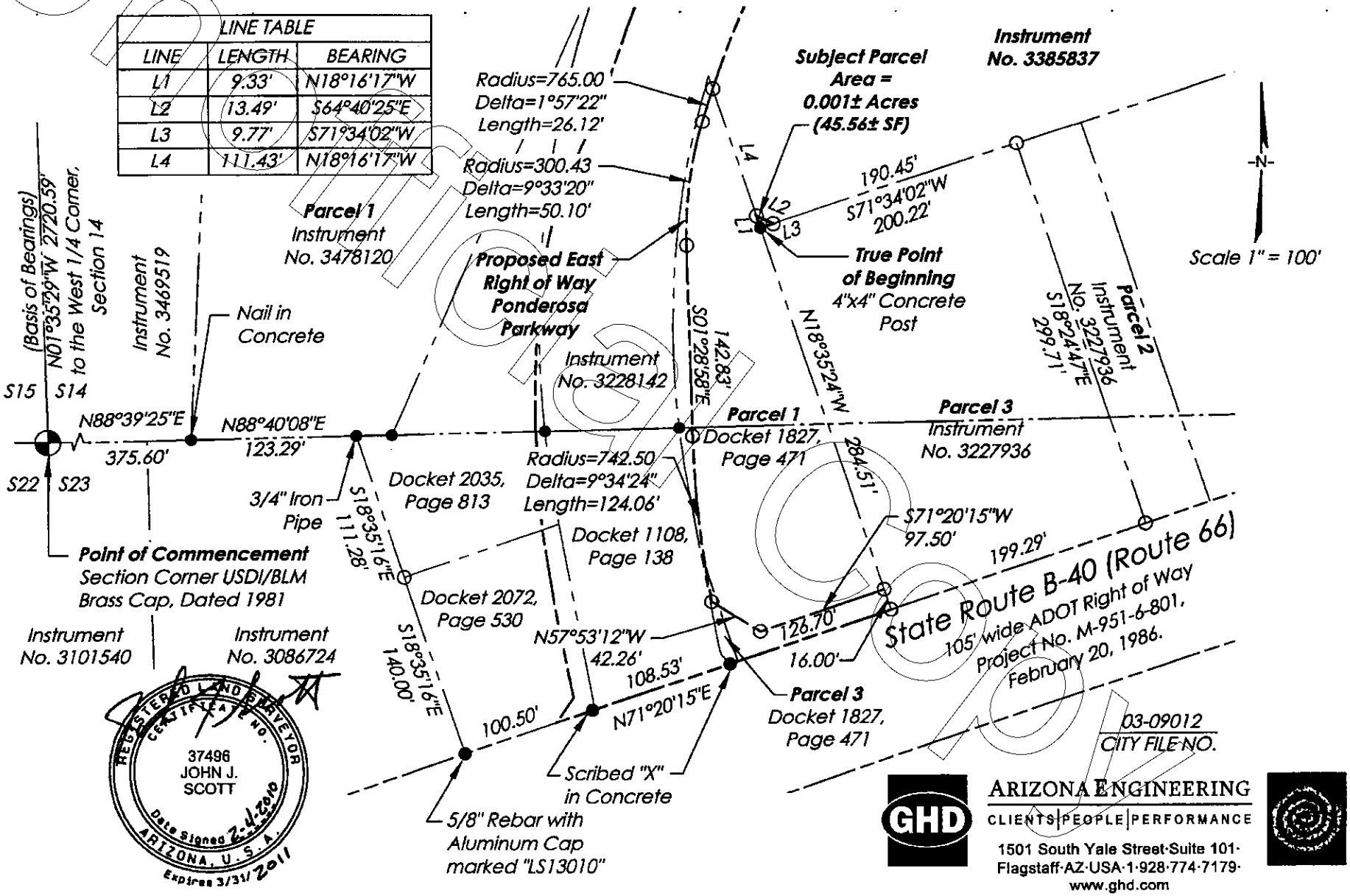
03-09012
City File No.



Unofficial Copy

Exhibit S (Drawing)

A portion of the parcel of land described in instrument No. 338583. Located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Baseline and Meridian, Coconino County, Arizona.



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37496
JOHN J.
SCOTT
Date Signed 6-4-2010
ARIZONA, U.S.A.
Expires 3/31/2011

03-09012
CITY FILE NO.

GHD
ARIZONA ENGINEERING
CLIENTS | PEOPLE | PERFORMANCE
1501 South Yale Street·Suite 101·
Flagstaff·AZ·USA·1·928·774·7179·
www.ghd.com

Unofficial Document

3555010 Pages: 23 of 23 03/01/2010 04:42:41 PM

When recorded, mail to
City Clerk
211 West Aspen Avenue
Flagstaff, Arizona 86001

PUBLIC SLOPE EASEMENT

For Valuable Consideration, the sufficiency and receipt of which are hereby acknowledged, _____("Grantor"), hereby grants and conveys to the City of Flagstaff, an Arizona municipal corporation ("Grantee"), an irrevocable, perpetual easement ("Easement") for slope, embankment, fill, drainage and other similar public purposes under, over and across the real property of Grantor situated in Coconino County, Arizona, Assessor Parcel Number_____, and described in and depicted in the attached **Exhibit A** ("easement"), subject to the following terms and conditions:

1. Grantee shall have the right to survey, clear, excavate, grade, cut, fill, construct, repair, replace, alter and maintain the area within the Easement to provide lateral support to roadway improvements.

2. Grantee shall have the right of ingress and egress across adjacent property owned or controlled by the Grantor to the extent reasonably required to gain access to the property subject to the Easement.

3. Grantee shall have the right to remove or alter vegetation, improvements, or obstructions within the limits of the Easement that conflict with or hinder the Grantee's use of the Easement. Upon completion of any such removal or alteration, the Grantee shall restore the property disturbed by any such removal or alteration to as near the pre-disturbance condition, or a Grantor approved changed condition, as the physical characteristics of the facility reasonably permit. Subject to the Grantee's obligation set forth herein regarding restoration of the attributes of the disturbed property, the Grantor shall be responsible for the surface appearance of the property subject to this Easement.

4. To the extent permitted by Arizona law, the Grantee hereby covenants to indemnify and save Grantor harmless from any liabilities for injuries or damages to persons or property arising out of the use of the Easement by the Grantee, its officers, agents, employees and invitees.

5. Grantor shall have the right to use and enjoy the property subject to the Easement, provided that such use and enjoyment does not interfere with the Grantee's use of the Easement, unless Grantee gives prior written consent. Grantor shall not construct or permit erection of any structure or improvement thereon that would interfere with the maintenance of the facilities within the Easement, unless Grantee gives prior written consent.

6. This Easement shall run with the land and be binding upon Grantor, its successors, heirs and assigns.

IN WITNESS WHEREOF, Grantor has caused this document to be executed in its name by the undersigned this ___ day of _____, 2019.

Flagstaff Unified School District #1

By: _____

Title: _____

STATE OF ARIZONA)
)ss.
County of _____)

ACKNOWLEDGEMENT. On this ___ day of _____, 2019, before me, a Notary Public, personally appeared _____, known to be and satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that (s)he executed the same on behalf of _____, for the purposes therein contained.

_____
Notary Public

031303

THENCE South 50°57'07" East, 87.77 feet;

THENCE South 41°07'05" East, 102.44 feet;

THENCE South 81°15'02" East, 92.59 feet;

THENCE North 72°10'13" East, 97.37 feet to the West line of the parcel of land described in Docket 1947, Page 830 and to the South line of the parcel of land described in Instrument No. 3385837;

THENCE South 18°30'41" East, along the West line of the parcel of land described in Docket 1947, Page 830 and along the South line of the parcel of land described in Instrument No. 3385837, 56.00 feet to the Northeast corner of the parcel of land described in Instrument No. 3340460, monumented with a 5/8" capped rebar marked "LS 26406";

THENCE South 71°32'55" West along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcel of land described in Instrument No. 3340460, 110.70 feet;

THENCE North 18°30'41" West, 31.28 feet;

THENCE North 81°15'02" West, 103.13 feet;

THENCE North 41°07'05" West, 110.54 feet;

THENCE North 50°57'07" West, 92.02 feet;

THENCE North 24°46'55" West, 63.84 feet;

THENCE North 17°38'11" West, 37.38 feet;

THENCE North 41°18'42" West, 50.15 feet to the proposed East right of way of Ponderosa Parkway;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 2°19'48", an arc distance of 35.98 feet (chord bearing North 12°24'20" East, chord distance 35.98 feet) to the **POINT OF BEGINNING** of this description.

The above described drainage easement contains 0.44 Acres more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "E" – Slope Easement:

The slope easement is more particularly described by metes and bounds as follows:

BEGINNING at the above mentioned **POINT "D"**;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 765.00 feet and a central

Unofficial Copy

angle of 5°57'54", an arc distance of 79.64 feet (chord bearing North 21°22'04" East, chord distance 79.61 feet);

THENCE North 24°21'00" East along the proposed East right of way line of Ponderosa Parkway, 137.50;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 10°46'45", an arc distance of 166.45 feet (chord bearing North 18°57'37" East, chord distance 166.21 feet);

THENCE South 41°18'42" East, 36.38 feet;

THENCE Southerly, parallel with and 30' East of the East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 914.74 feet which bears North 75°07'06" West, and a central angle of 9°28'06", an arc distance of 151.16 feet (chord bearing South 19°36'57" West, chord distance 150.99 feet);

THENCE South 24°21'00" West, parallel with and 30' East of the East right of way line of Ponderosa Parkway, 137.50 feet;

THENCE Southerly, parallel with and 30' East of the East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 735.00 feet and a central angle of 9°14'27", an arc distance of 118.54 feet (chord bearing South 19°43'47" West, chord distance 118.41 feet) to the East line of Parcel 1 described in Docket 1827, Page 472 and to the West line of the parcel of land described in Instrument No. 3385837;

THENCE North 18°13'20" West along the East line of Parcel 1 described in Docket 1827, Page 472 and along the West line of the parcel of land described in Instrument No. 3385837, 52.32 feet to the **POINT OF BEGINNING** of this description.

The above described slope easement contains 0.27 Acres more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "F" – 16' Wide Public Utility Easement:

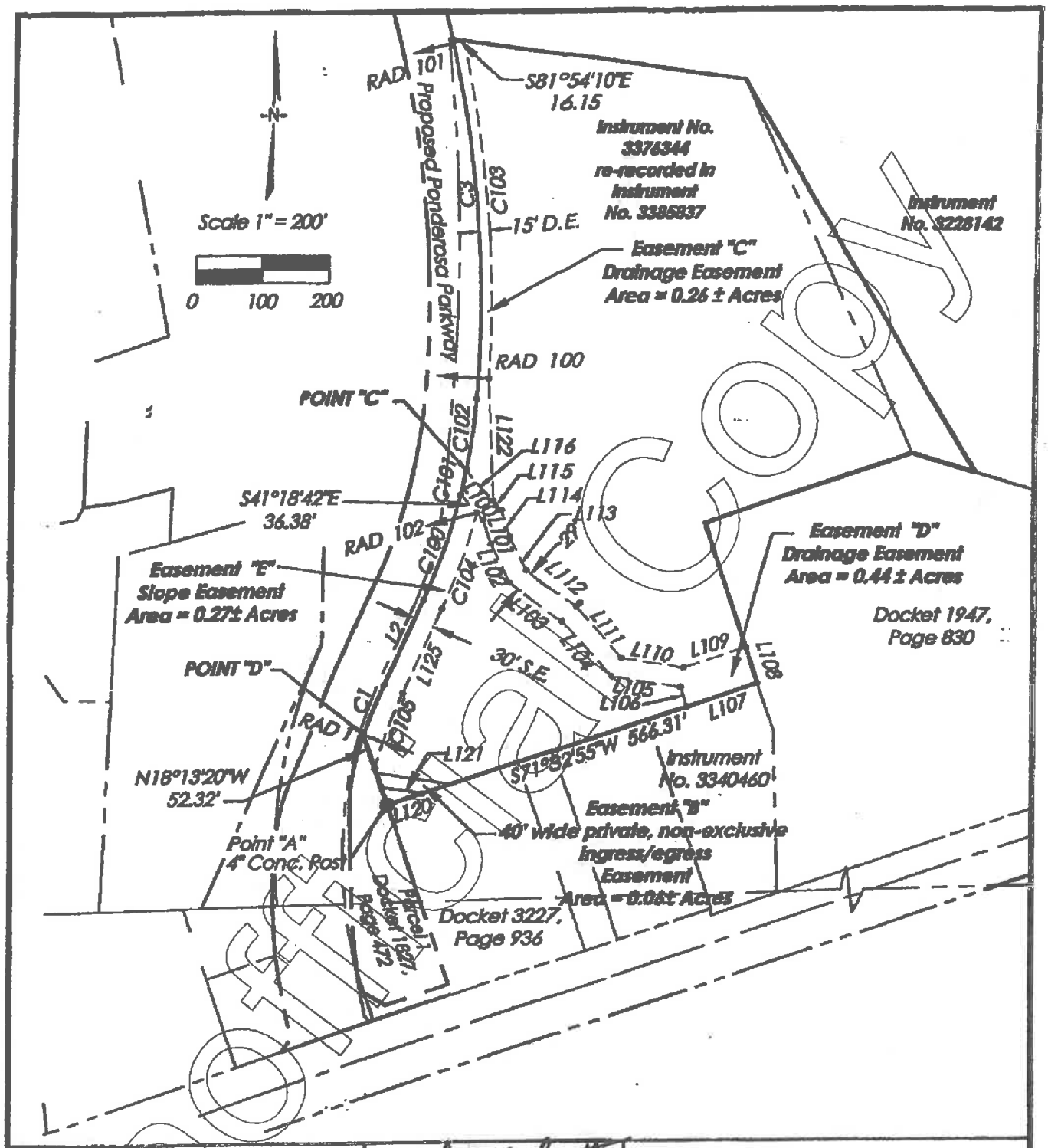
A 16' wide strip of land which lies 8.0 feet on each side of the following described line:

COMMENCING at the above mentioned **POINT "B"**;

THENCE North 18°30'41" West along the South line of the parcel of land described in Instrument No. 3385837 and along the West line of the parcel of land described in Docket 1947, Page 830, 8.00 feet to the **POINT OF BEGINNING** of this description;

THENCE North 66°39'29" West, 284.53 feet;

Unofficial Copy



ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37488
JOHN J. SCOTT
Date Signed 7-25-08
ARIZONA, U.S.A.
Expires 3/31/2011

Exhibit "A-2"

Easements are located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 2 OF 4

UNOFFICIAL COPY

When recorded, mail to
City Clerk
211 West Aspen Avenue
Flagstaff, Arizona 86001

EASEMENT FOR DRAINAGE

For valuable consideration, the sufficiency and receipt of which is hereby acknowledged, _____("Grantor"), hereby grants and conveys unto the CITY OF FLAGSTAFF, a municipal corporation organized and existing under and by virtue of the laws of the State of Arizona ("Grantee"), an easement for drainage purposes under, over and across the real property of Grantor situated in Coconino County, Arizona, Assessor Parcel Number _____and described in and depicted in the attached **Exhibit A** ("easement"), subject to the following terms and conditions:

1. Grantee shall have the right to locate, operate, repair, replace, alter and maintain a drainage system and drainage structures in the easement. Drainage structures include any and all facilities and appurtenances which facilitate drainage, including but not limited to swales, culverts, pipes, vents, manholes, earthen and concrete dykes.

2. Grantee shall have the rights of ingress and egress across adjacent property owned or controlled by the Grantor where reasonably required to gain access to this easement.

3. This easement is granted on a non-exclusive basis to Grantee.

4. Grantee shall have the right to use the easement for drainage from other real properties that are part of an overall drainage system.

5. Grantee may remove, alter or maintain vegetation, improvements, or obstructions within the limits of the easement that conflict with legitimate drainage uses.

6. Upon completion of any work by Grantee, its employees, contractors or licensees in the easement, Grantee shall restore the real property surrounding the drainage system and drainage structures to its prior condition. Following such restoration Grantor shall remain responsible for any ongoing maintenance of the real property subject to this easement.

7. To the extent permitted by law, Grantee hereby covenants to indemnify and hold Grantor harmless from any liability for injuries or damages to persons or property arising out of the use of this easement by Grantee, its employees, contractors or licensees.

8. Grantor shall have the right to use and enjoy the real property subject to this easement provided such use and enjoyment does not interfere with Grantee's ability to use the easement granted herein, and further provided that, the Grantor shall not construct or allow any structure,

improvement or vegetation that would interfere with Grantee's drainage system or drainage structures without Grantee's written consent.

9. Grantee will have sole discretion to determine whether Grantor's proposed structure, improvement or vegetation interferes with the drainage system or drainage structures within the easement.

IN WITNESS WHEREOF, Grantor has caused this Easement for Drainage to be executed in its name by the undersigned this ___ day of _____, 2019.

By: _____

STATE OF _____)
)ss.
County of _____)

On this _____ day of _____, 2019, before me, a Notary Public, personally appeared _____, whose identify was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be, and who acknowledged that he or she signed this Easement for Drainage.

_____
Notary Public

(Seal)

/Deleted and replaced with Exhibit L-2 Easement

EASEMENT "B" - 40' Wide Private Non-Exclusive Ingress/Egress Easement

The following is a description of a 40' wide private non-exclusive ingress/egress easement to provide access to and from the property described in Docket 3227, Page 936 and Parcel 1 of Docket 1827, Page 472. The 40' wide strip of land lies 20.0 feet on each side of the following described line and is more particularly described as follows:

COMMENCING at the above mentioned **POINT "A"**, a 4" concrete post;

THENCE North 71°32'55" East along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcel of land described in Docket 3227, Page 936, 54.31 feet to the **POINT OF BEGINNING** of this description;

THENCE North 81°00'52" West, 61.07 feet to the East line of Parcel 1 as described in Docket 1827, Page 472 and to the West line of the parcel of land described in Instrument No. 3385837, the **POINT OF TERMINUS** of this description.

The sidelines to be lengthened or shortened to meet the South and West lines of the parcel of land described in Instrument No. 3385837.

The above described 40' wide private non-exclusive ingress/egress easement contains 0.06 acres, more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "C" – Drainage Easement:

A drainage easement is more particularly described by metes and bounds as follows:

COMMENCING at **POINT "A"**, a 4" concrete post;

THENCE North 18°13'20" West along the East line of Parcel 1 described in Docket 1827, Page 472 and along the West line of the parcel of land described in Instrument No. 3385837, 110.98 feet, to the proposed East right of way line of Ponderosa Parkway;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 765.00 feet and a central angle of 5°57'54", an arc distance of 79.64 feet (chord bearing North 21°22'04" East, chord distance 79.61 feet);

THENCE North 24°21'06" East along the proposed East right of way line of Ponderosa Parkway, 137.50;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central

Unofficial Copy

angle of 10°46'45", an arc distance of 166.45 feet (chord bearing North 18°57'37" East, chord distance 166.21 feet);

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 2°19'48", an arc distance of 35.98 feet (chord bearing North 12°24'20" East, chord distance 35.98 feet), to the **POINT OF BEGINNING** of this description, hereinafter referred to as **POINT "C"**;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 6°53'27", an arc distance of 106.41 feet (chord bearing North 07°47'43" East, chord distance 106.34 feet);

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 1648.76 feet and a central angle of 18°07'31", an arc distance of 521.57 feet (chord bearing North 04°42'46" West, chord distance 519.40 feet), to the North line of the parcel of land described in Instrument No. 3385837to a point of cusp;

THENCE South 81°54'10" East along the North line of the parcel of land described in Instrument No. 3385837, 16.15 feet;

THENCE Southerly, parallel with and 15 feet East of the East right of way line of the proposed Ponderosa Parkway, along a curve to the right, having a radius of 1663.76 feet which bears South 76°25'54" West, and a central angle of 16°49'52", an arc distance of 488.74 feet (chord bearing South 05°09'10" East, chord distance 486.98 feet);

THENCE South 02°30'56" East, 180.73 feet;

THENCE North 41°18'42" West, 59.70 feet to the **POINT OF BEGINNING** of this description.

The above described drainage easement contains 0.26 Acres more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

EASEMENT "D" – Drainage Easement:

A drainage easement is more particularly described by metes and bounds as follows:

BEGINNING at the above mentioned **POINT "C"**;

THENCE South 41°18'42" East, 77.53 feet;

THENCE South 17°38'11" East, 41.60 feet;

THENCE South 24°46'55" East, 55.29 feet;

Unofficial Copy

THENCE South 50°57'07" East, 87.77 feet;

THENCE South 41°07'05" East, 102.44 feet;

THENCE South 81°15'02" East, 92.59 feet;

THENCE North 72°10'13" East, 97.37 feet to the West line of the parcel of land described in Docket 1947, Page 830 and to the South line of the parcel of land described in Instrument No. 3385837;

THENCE South 18°30'41" East, along the West line of the parcel of land described in Docket 1947, Page 830 and along the South line of the parcel of land described in Instrument No. 3385837, 56.00 feet to the Northeast corner of the parcel of land described in Instrument No. 3340460, monumented with a 5/8" capped rebar marked "LS 26406";

THENCE South 71°32'55" West along the South line of the parcel of land described in Instrument No. 3385837 and along the North line of the parcel of land described in Instrument No. 3340460, 110.70 feet;

THENCE North 18°30'41" West, 31.28 feet;

THENCE North 81°15'02" West, 103.13 feet;

THENCE North 41°07'05" West, 110.54 feet;

THENCE North 50°57'07" West, 92.02 feet;

THENCE North 24°46'55" West, 63.84 feet;

THENCE North 17°38'11" West, 37.38 feet;

THENCE North 41°18'42" West, 50.15 feet to the proposed East right of way of Ponderosa Parkway;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the left, having a radius of 884.74 feet and a central angle of 2°19'48", an arc distance of 35.98 feet (chord bearing North 12°24'20" East, chord distance 35.98 feet) to the **POINT OF BEGINNING** of this description.

The above described drainage easement contains 0.44 Acres more or less.

For a drawing of the parcel described above, see **Exhibit "A-2"**, which by this reference is made part of this description.

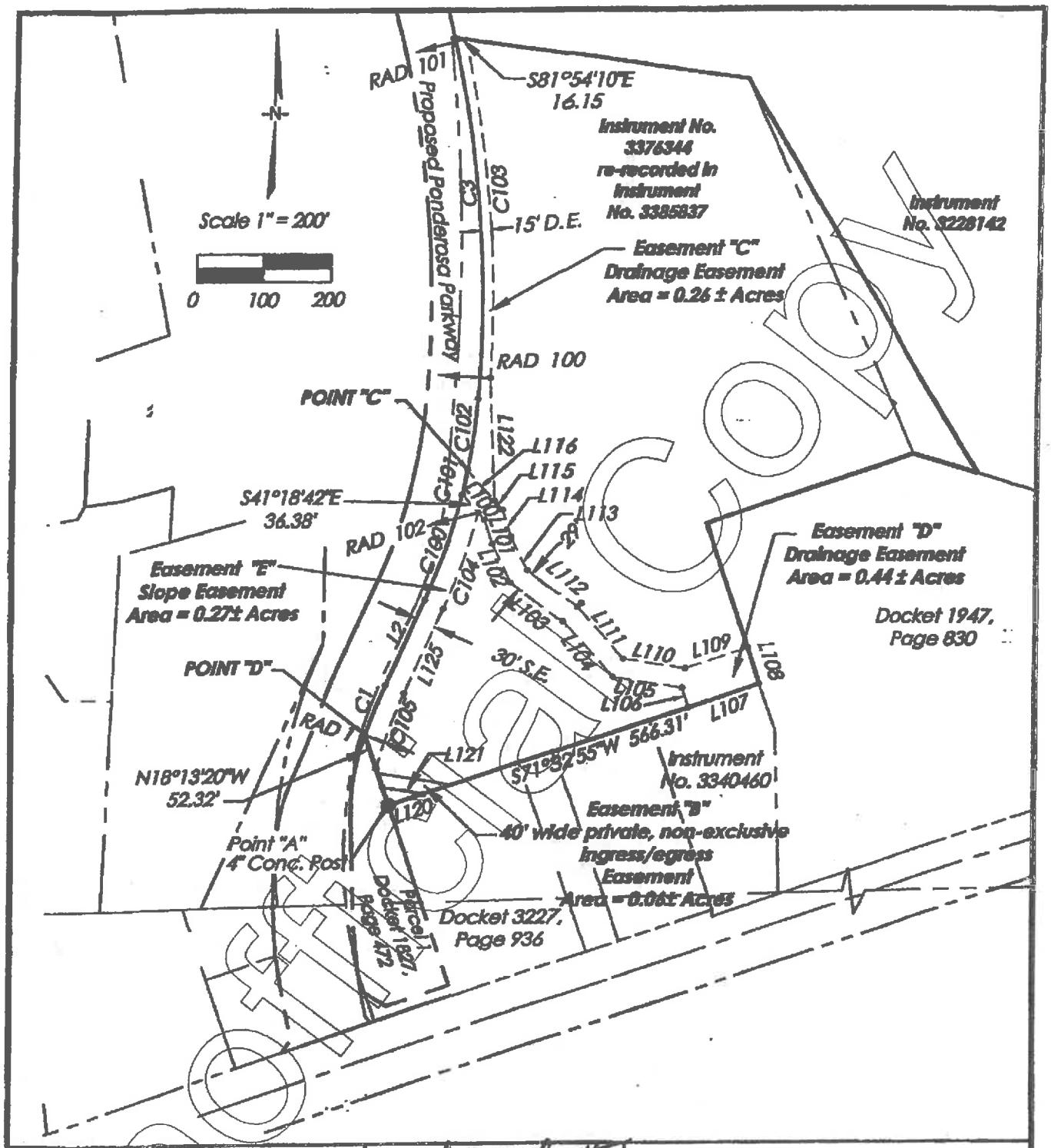
EASEMENT "E" – Slope Easement:

The slope easement is more particularly described by metes and bounds as follows:

BEGINNING at the above mentioned **POINT "D"**;

THENCE Northerly along the proposed East right of way line of Ponderosa Parkway, along a curve to the right, having a radius of 765.00 feet and a central

Unofficial Copy



ARIZONA ENGINEERING COMPANY
www.arizonaengineering.com
1501 South Yale Street, Suite 101
Flagstaff, AZ 86001-6330
Telephone: 928-774-7179

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
57496
JOHN J.
SCOTT
Date Signed 7-25-08
ARIZONA, U.S.A.
Expires 3/31/2011

Exhibit "A-2"

Easements are located in the Southwest 1/4 of Section 14, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

SHEET 2 OF 4

UNOFFICIAL COPY

ORDINANCE NO. 2019-28

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL ACCEPTING DRAINAGE AND SLOPE EASEMENTS ALONG PONDEROSA PARKWAY; DELEGATING AUTHORITY; AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, on March 1, 2010 the City of Flagstaff ("City") was deeded certain drainage and slope easements along Ponderosa Parkway; and

WHEREAS, the City desires to accept drainage and slope easements along Ponderosa Parkway from the current property owner to clarify legal rights and obligations of the City;

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1: In General.

That the City hereby formally accepts the drainage and slope easements, deeded to the City by Special Warranty Deed dated March 1, 2010, as recorded in the records of the Coconino County, instrument number 3555011, and which incorporates the legal descriptions set forth in instrument number 3555010;

That the City hereby accepts the drainage and slope easements granted to the City, attached hereto.

SECTION 2: Delegation of Authority.

That the City Manager, the City Attorney, the City Clerk, the Finance Director, the City Real Estate Manager, or other employees or agents as deemed necessary, are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this ordinance.

That the drainage and slope easements attached hereto shall be promptly recorded by the City Clerk following the effective date of this ordinance.

SECTION 3: 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 17th day of September, 2019.

_____

MAYOR

ATTEST:

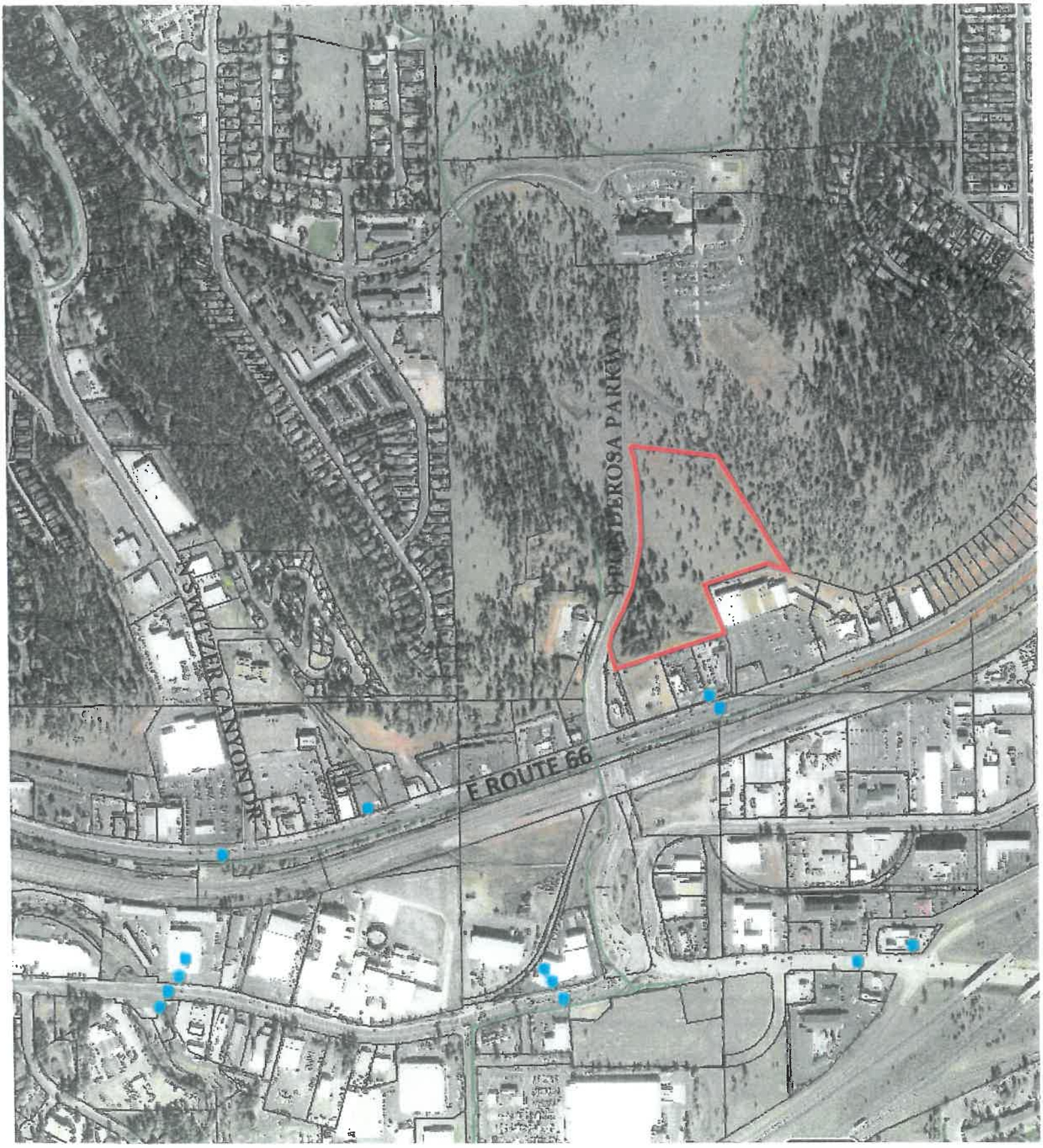
_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Attachments:
Drainage and Slope Easements

S:\Legal\Forms\Real Estate Forms\ORD2019.XX.AcceptEasement.docx


E ROUTE 66
N SWITZER CANYON DR

14. D.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Rick Tadder, Management Services Director
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Adoption of Resolution No. 2019-42: A resolution of the Flagstaff City Council, declaring, for the purposes of Section 1.150-2 of the Federal Treasury Regulations, official intent to be reimbursed in connection with certain capital expenditures relating to the Municipal Court Facilities Project, Water Projects, Wastewater Projects and Stormwater Projects, and establishing an effective date.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-42 by title only
2) City Clerk reads Resolution No. 2019-42 by title only (if approved above)
3) Adopt Resolution No. 2019-42

Executive Summary:

This resolution will allow the City to reimburse itself for expenditures made on voter-approved projects and water, wastewater, and stormwater projects that are currently being planned or under construction in advance of issuing the debt (bonds) for the projects. Federal regulations provide that the City may reimburse itself for expenditures incurred prior to the issuing of debt so long as this type of resolution is adopted. Without the resolution, only City expenditures incurred after the issuance of debt would be allowed.

Financial Impact:

City expenditures to be reimbursed with debt obligation are budgeted in FY 2020 for the Municipal Court project (408-09-426-varies), Water projects (202-08-370-varies), Wastewater projects (203-08-375-varies) and Stormwater projects (206-08-385-varies). There is no cost to approving this resolution.

Policy Impact:

None

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

Council Goals:

Environmental and Natural Resources: Actively manage and protect all environmental and natural resources.

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

Regional Plan:

Goal E&C.3. Strengthen community and natural environment resiliency through climate adaptation efforts.

Goal WR.2. Manage a coordinated system of water, wastewater, and reclaimed water utility service facilities and resources at the City level and identify funding to pay for new resources.

Goal WR.4. Logically enhance and extend the City's public water, wastewater, and reclaimed water services including their treatment, distribution, and collection systems in both urbanized and newly developed areas of the City to provide efficient delivery of services.

Goal E&C.3. Strengthen community and natural environment resiliency through climate adaptation efforts.

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.

Has There Been Previous Council Decision on This:

Yes. The City Council approves annual budgets and awards contracts for the expenditures being reimbursed by debt financing. Voters approved the Municipal Court Facilities Project. Council approved water, wastewater and stormwater rates which included debt financing for capital projects.

Options and Alternatives:

1. Approve the Reimbursement Resolution: This is the best option to allow the City the greatest flexibility to issue debt when it is most advantageous while allowing construction expenditures to occur; or
2. Do not approve the Reimbursement Resolution: If not approved, staff will need to quickly bring back a debt issuing ordinance for Council and would issue debt at the earliest possible time or projects would need to be delayed.

Background/History:

Municipal Court Facilities Project

On November 8, 2016, a general election was held by the City of Flagstaff whereby the citizens authorized the Municipal Court Facilities ballot measure. This was for the purpose of design and construction of new facilities for the Flagstaff Municipal Court. Voters authorized the issuance of $12,000,000 in general obligation debt. The City has not issued any debt. We are planning on issuing the $12,000,000 in debt during Fiscal Year 2020. These debt service payments will be made from secondary property taxes. In addition, as part of the financial planning for the new court facilities, an additional $4,000,000 will be necessary to complete the project. This debt will be issues as a separate revenue obligation or certificate of participation and will be paid back with fees collected by the Flagstaff Municipal Court.

Water and Wastewater Projects Financing

On April 19, 2016, Council adopted new rates for water and wastewater. The rates were based on a formal rate analysis completed by a consultant. The rate study included issuance of debt to finance water and wastewater capital projects. Both water and wastewater rate studies estimated that the City would issue debt as early as the Fiscal Year 2016. Both the Water Fund and Wastewater Funds were able to maintain adequate fund balance without financing projects until Fiscal Year 2019. We recently issued $5,000,000 for water projects and $4,500,000 for wastewater projects in Fiscal Year 2019. We are planning on issuing up to $3,000,000 for water projects and up to $4,000,000 for wastewater projects in Fiscal Year 2020 or 2021. The debt service payments will be made from water and wastewater revenues.

Stormwater Projects Financing

On December 4, 2018, Council adopted new service charges for stormwater. The service charges were based on a formal rate analysis completed by a staff. The service charge analysis included issuance of debt to finance major stormwater capital projects. We have not issued any debt to date. We are preparing to issue up to $18,000,000 for stormwater projects in Fiscal Year 2020. The debt service payments will be made from stormwater revenues.

Key Considerations:

IRS regulations are very specific as to what capital expenditures are eligible for reimbursement. These expenditures must be any cost of a type that is properly chargeable to a capital account (or would be or chargeable with a proper election) under general federal income tax guidelines.

Community Involvement:

Inform: This resolution informs the community of its intent to reimburse construction projects with future debt issuances.
Empower: The Citizens of Flagstaff approved the Municipal Court Facilities project at the November 2016 election.

Attachments: Res. 2019-42

RESOLUTION NO. 2019-42

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, DECLARING, FOR PURPOSES OF SECTION 1.150 2 OF THE FEDERAL TREASURY REGULATIONS, OFFICIAL INTENT TO BE REIMBURSED IN CONNECTION WITH CERTAIN CAPITAL EXPENDITURES RELATING TO THE MUNICIPAL COURT FACILITIES PROJECT, WATER PROJECTS, WASTEWATER PROJECTS, AND STORMWATER PROJECTS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff, Arizona, a political subdivision of the State of Arizona (hereinafter referred to as the "City"), is authorized and empowered to finance the costs of various capital facilities and equipment owned or to be owned by the City; and

WHEREAS, it is contemplated that certain expenditures made by the City with regard to capital facilities and equipment owned or to be owned by the City will be reimbursed from the financing proceeds in the future by or on behalf of the City.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. Definitions. The following terms shall have the meanings assigned thereto as follows:

> "Official intent" means a declaration of intent of the City to reimburse an original expenditure with proceeds of an obligation.
>
> "Original expenditure" means an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond.
>
> "Reimbursement bond" means the portion of an issue of obligations allocated to reimburse an original expenditure that was paid before the issue date of such issue.

SECTION 2. Official Intent. This Resolution is official intent relating to reimbursement for the original expenditures indicated in Exhibit A attached hereto which are capital expenditures [being any cost of a type that is properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles].

SECTION 3. Project Descriptions. The projects for which such original expenditures are to be paid are for those described on the Exhibit A attached hereto and the maximum principal amount of obligations (including the reimbursement bonds for such purposes) to be issued for such projects will not exceed $41,000,000.

SECTION 4. Reasonableness of Official Intent. On the date of this Resolution, the Council of

the City has a reasonable expectation (being that a prudent person in the same circumstances would have based on all the objective facts and circumstances) that it will reimburse such original expenditures with proceeds of such obligations. [Official intents have not been declared by the Council of the City as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for such projects. Moreover, the Council of the City does not have a pattern (other than in extraordinary circumstances) of failure to reimburse actual original expenditures covered by official intents.]

SECTION 5. Reimbursement Period. With certain exceptions, an allocation in writing that evidences use of proceeds of the reimbursement bonds to reimburse the original expenditures shall be made not later than 18 months after the later of the date that the original expenditure is paid or the date the project is "placed in service," but in no event more than 3 years after the original expenditure is paid. The City is allowed to reimburse for expenditures up to 60 days prior to the date of the resolution adoption.

SECTION 6. Public Record. This Resolution shall be included as of the date hereof in the publicly available official records of the City, such records being maintained and supervised by the Clerk of the City, being the main administrative office of the City, and shall remain available for public inspection on a reasonable basis.

SECTION 7. Effective Date. This resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of September 2019.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
Exhibit A – Original Expenditures Intended to be Reimbursed as of July 5, 2019

EXHIBIT A

ORIGINAL EXPENDITURES INTENDED TO BE REIMBURSED
AS OF JULY 5, 2019

Description of Original Expenditures	Amount of Expenditures
Municipal Court Facilities	$ 16,000,000
Water Projects	$ 3,000,000
Wastewater Projects	$ 4,000,000
Stormwater Projects	$ 18,000,000

14. E.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Amy Palmer, Building Official
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Adoption of Resolution No. 2019-40: A resolution approving an Intergovernmental Agreement (IGA) with Coconino County for shared building inspection and plan review services.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-40 by title only
2) City Clerk reads Resolution No. 2019-40 by title only (if approved above)
3) Adopt Resolution No. 2019-40

Executive Summary:

Staff is recommending the City of Flagstaff enter an IGA with Coconino County for building plan review and inspection services to continue to maintain high-quality customer service by providing timely plan review and inspections during peak times. This would serve as an excellent partnership due to Coconino County's familiarity with the Flagstaff area. The proposed IGA governs the responsibilities, terms, and conditions related to providing and sharing building plan review and inspection resources between the City of Flagstaff and Coconino County.

Financial Impact:

There is no financial impact. Coconino County and the City of Flagstaff wish to share common resources, such as Plan Review and Inspection Staff, to supplement their resources during manpower shortages resulting from vacancy, extended absences, and high-volume events. This program shall serve as a cross-training opportunity and provide predictability and consistency for the customers working in both jurisdictions.

Policy Impact:

None

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

Council Goals
Code Compliance - Achieve comprehensive and equitable code compliance through plan review and inspection services

Regional Plan
City-County Coordination - Provide consistency and predictability the customers working in both jurisdictions

Flagstaff Strategic Plan
Priority 1 - Serve the public through quality internal and external customer service
Priority 3 - Enhance the organization's fiscal stability and resourcefulness
Priority 3 - Deliver outstanding services through a healthy environment, resources and infrastructure
Priority 4 - Foster a safe, healthy, equitable and accessible community
Priority 4 - Promote high-quality life through consistent standards, rules and regulation

Has There Been Previous Council Decision on This:

None

Options and Alternatives:

None

Background/History:

The City of Flagstaff and Coconino County have experienced challenges in recruiting and retention for qualified Plan Review and Inspection staff, due to retirement, turnover, and lack of qualified candidates. Both entities have spent a significant amount of time in the recruitment and training process.

The City of Flagstaff is experiencing a high volume of permits for both commercial and residential projects that result in longer plan review turn-around times and potentially delayed inspections for its customers. Coconino County is experiencing a high volume of residential projects; however, current staff levels are adequate to accommodate the workload. Coconino County experiences challenges during scheduled and unscheduled reductions in staffing levels, with similar results.

Key Considerations:

Staff is required to meet state-mandated timelines for building plan review. Building Safety has historically used on-call 3rd party consulting services for plan review and inspection in order to maintain required permit review timeframes and timely inspection services, however, this requires a portion of permit fees to be paid to 3rd party consultants. The IGA could potentially reduce plan review and inspection costs associated with current 3rd party on-call plan review and inspection services. The IGA would provide an additional resource so that Building Safety can adequately serve the public need for building permit review and inspections while meeting state-mandated timelines.

Expanded Financial Considerations:

None

Community Benefits and Considerations:

The community benefits from consistent plan review and inspection services in times of heavy workloads and emergencies. Working together with Coconino County will also provide consistency among both jurisdictions which will greatly help the building and design community. Coconino County and the City of Flagstaff adopted and implemented the new Suite of Codes on the same day.

Community Involvement:

None

Attachments: Res. 2019-40
City/County IGA
Building Plan Review and Inspection Process

RESOLUTION NO. 2019-40

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN COCONINO COUNTY AND THE CITY OF FLAGSTAFF FOR SHARED BUILDING INSPECTION AND PLAN REVIEW SERVICES.

RECITALS:

WHEREAS, the City of Flagstaff and Coconino County desire to enter into an intergovernmental agreement for shared building inspection and plan review services, on an as-needed basis, for development that occurs within corporate limits of the City of Flagstaff and in unincorporated areas of Coconino County; and

WHEREAS**,** the City of Flagstaff and Coconino County find it necessary and vital that a Shared Service Agreement be implemented to be used during disasters or other extreme events that will task individual departments; and

WHEREAS, the City of Flagstaff and Coconino County desire to participate jointly in activities that involve inspection and plan review services based on a need by either entity due to disaster, extreme workload experiences, lack of manpower experiences, or other; and

WHEREAS, the City Council has read and considered the staff summary report and proposed IGA attached thereto, and finds that it is in the best interests of the City to enter into the Agreement.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Council hereby authorizes the Mayor to execute the Intergovernmental Agreement between Coconino County and the City of Flagstaff, Arizona, attached hereto as Exhibit A, which shall become effective upon the date first executed by both parties ("Effective Date").

SECTION 2. Effective Date.

This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of September, 2019.

_____

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
IGA
Plan Review and Inspection Process

INTERGOVERNMENTAL AGREEMENT BETWEEN
Coconino County and City of Flagstaff
for Shared Building Plan Review and Inspection Services

This Intergovernmental Agreement ("Agreement") is made this ____day of _____ 2019, by and between COCONINO COUNTY, a political subdivision of the State of Arizona, with offices at 219 East Cherry Avenue Flagstaff, Arizona ("County") and the CITY OF FLAGSTAFF, an Arizona Municipal Corporation, with offices at 211 West Aspen Avenue Flagstaff, Arizona ("City") to authorize the City Community Development Division and the County's Community Development Department to assist in Shared Building Plan Review and Inspection Services in partnership with one another.

WHEREAS, the County is interested in entering into a shared services agreement with the City to conduct building plan review and inspection services, on an as-needed basis, for development that occurs within the corporate limits of the City; and

WHEREAS, the City is interested in entering into a shared services agreement with the County to conduct building plan review and inspection services, on an as-needed basis, for development that occurs in the unincorporated areas of Coconino County; and

WHEREAS, The City and the County are finding it difficult to recruit and retain qualified Building Plan Review and Inspection staff, due to retirement, turnover, and lack of qualified candidates; and

WHEREAS, both the County and the City think it necessary and vital that a Shared Service Agreement be implemented to be used during disasters or other extreme events that will task individual departments; and

WHEREAS, the City and the County desire to participate jointly in activities that involve building plan review and inspection services based on a need by either entity due to: disaster, extreme work load experiences, lack of manpower experiences, or other.

NOW THEREFORE, pursuant to A.R.S. §11-952, authorizing contracts between public agencies for services or the joint exercise of powers common to both, and A.R.S. §11-863 which allows cities and counties to cooperate with each other for enforcement of such codes or rules and regulations adopted pursuant thereto to protect the health and welfare of its constituents, for and in consideration of the mutual obligations and covenants set forth herein, the parties agree as follows:

I. DURATION; TERMINATION

1. This Agreement shall be effective on the date first set forth above and shall continue in force and effect for a period of five (5) years and upon mutual consent of the parties. The Community Development Directors of the City of Flagstaff and Coconino County

may consent on behalf of the respective parties for extending this Agreement consistent with the language above.

2. This Agreement may be terminated be either party upon thirty (30) days written notice of termination delivered to the other party. This Agreement does not contemplate creation of any requirement of mandatory coverage for either party because of manpower shortages or workloads. It is agreed by both parties that there must be adequate coverage in the jurisdiction called upon for resources. If resources are not available to be shared at the time of the request by either party, there is no obligation to provide such resources on the part of either party.

II. SCOPE OF WORK

1. The City of Flagstaff Community Development Division and the Coconino County Community Development Department provide Building Plan Review and Inspection Services to their respective constituents and use the International Code Council (ICC) Codes as their regulatory documents. The City and County recently adopted the latest versions of these documents.
2. The City is experiencing a high volume of building permits for both commercial and residential projects and is burdened by staff shortages, which results in longer plan review turn-around times. The County is also experiencing a high volume of residential projects, and experiences challenges during scheduled and unscheduled reductions in staffing levels.
3. The County and City wish to share common resources, such as Building Plan Review and Inspection Staff, to supplement their resources during staffing shortages resulting from vacancy, extended absences, and high-volume events. This program shall serve as a cross-training opportunity and provide predictability and consistency for the customers working in both jurisdictions.
4. Coconino County will:
    a. Provide Building Plan Review services for projects submitted to the City of Flagstaff during manpower shortages due to conditions stated above.
    b. Provide Building Inspection services for both commercial and residential projects during manpower shortages due to conditions stated above.
    c. Provide other resources necessary for cross-training of staff and consistent application of the Codes.
    d. Work collaboratively with the City of Flagstaff during future code adoptions.
    e. Assist the City of Flagstaff with the implementation of similar County processes.
    f. Communicate regularly regarding Program quality assurances.
    g. Provide support during natural disasters or other emergencies that jointly affect the City and the County.
5. City of Flagstaff will:
    a. Provide Building Plan Review services for projects submitted to the County during manpower shortages due to conditions stated above.
    b. Provide Building Inspection services for both commercial and residential projects during manpower shortages due to conditions stated above.

c. Provide other resources necessary for cross-training of staff and consistent application of the Codes.
d. Work collaboratively with the County during future code adoptions.
e. Assist the County with the implementation of similar City of Flagstaff processes.
f. Communicate regularly regarding Program quality assurances.
g. Provide support during natural disasters or other emergencies that jointly affect the City and the County.

6. The process by which the City and County will share common resources to complete building plan review and inspection services is described in more detail in Exhibit 1, attached hereto (*Building Plan Review and Inspection Processes*).

III. RECORD KEEPING

1. Both Parties agree to prepare, document and share all building plan review and inspection records that are applicable to each Party's respective record keeping processes.
2. Both parties agree to fully document any case that involves a job site conflict, stop work order, or other event that may result in a customer complaint and immediately notify the Building Official of the applicable jurisdiction.
3. The Building Official of the applicable jurisdiction shall issue all notices, correspondences, certificates of occupancy and other material that pertains to their jurisdiction.

IV. NO JOINT EMPLOYMENT

It is understood and agreed by both Parties that no employee of either Party shall be deemed to be an employee of the other party due to this Agreement. Moreover, this Agreement shall not be construed as creating any joint employment between the City and County.

V. CANCELLATION FOR CONFLICT OF INTEREST

Pursuant to A.R.S. § 38-511, the City or the County may cancel this Agreement without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of a Party is, at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of another Party of the Agreement in any capacity or as a consultant to the other Party of the Agreement with respect to the subject matter of this Agreement.

VII. INSURANCE

The County and the City shall each maintain sufficient liability insurance to cover each party's respective activities associated with this Agreement.

VIII. INDEMNIFICATION

Each party (as "Indemnitor") agrees to indemnify, defend and hold harmless the other party (as "Indemnity") for, from and against any claims, losses, liability, costs or expenses, including reasonable attorney fees, (hereinafter collectively referred to as ("Claims") arising out of this

Agreement, but only to the extent that such Claims which result in vicarious or derivative liability to the Indemnity are caused by act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees or volunteers.

IX. NOTICES

Any notice or other communication required or permitted to be given under this Agreement shall be in writing and sent to the address given below for the party to be notified, or to such other address, notice of which is given in accordance with this Section:

COUNTY:
Community Development
Attn: Coconino County Building official
2500 N. Fort Valley Rd. Bldg. 1
Flagstaff, AZ 86001

CITY:
Community Development
Attn: Amy Palmer
211 W. Aspen Ave.
Flagstaff, AZ 86001

X. AUTHORITY TO CONTRACT

Each party represents and warrants that it has full power and authority to enter into this Agreement and perform its obligations hereunder and has taken all required acts or actions necessary to authorize the same.

XI. GOVERNING LAW

This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Arizona.

XII. DISPUTE RESOLUTION

Either party shall have the right to litigate any disputes which arise under this Agreement. In the event any action at law or in equity is instituted between the parties relating to 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.

XIII. INTEGRATION; MODIFICATION

Each Party acknowledges and agrees that it has not relied upon any statements, representations, agreements or warranties, except as expressed in this Agreement, and that this Agreement constitutes the Parties' entire agreement with respect to the matters addressed in this document. All prior or contemporaneous agreements and understandings, oral or written, with respect to such matters are superseded and merged in this Agreement. This Agreement may be modified or amended only by written agreement signed by or for both Parties and recorded by the County Recorder, and any modification or amendment will become

effective on the date so specified, but no earlier than the date of the recording by the County Recorder.

XIV. SEVERABILITY

If a court of competent jurisdiction shall hold any part or provision of this Agreement void or if no effect, the remaining provisions of this Agreement shall remain in full force and effect.

XV. WAIVER

No failure to enforce any condition or covenant of this Agreement shall imply or constitute a waiver of the right to insist upon performance of such condition or covenant, or of any other hereof, nor shall any waiver by either party of any breach of any one or more conditions or covenants of this Agreement constitute a waiver of any succeeding or other breach of this Agreement.

XVI. HEADINGS

The headings used in this Agreement are for convenience only and are not intended to alter or affect the meaning of any provision of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

City of Flagstaff	**Coconino County**
Coral Evans, Mayor	Lena Fowler, Chair Board of Supervisors
Attest:	Attest:
City Clerk	Clerk of the Board
Approved as to form:	Approved as to form:
City Attorney	County Attorney

COCONINO COUNTY ARIZONA
COMMUNITY DEVELOPMENT

Building Plan Review and Inspection Processes

A. Plan Review Process

1. Training in each jurisdiction's plan review process shall be conducted before any plan review commences.
2. All City staff performing plan review shall be added to Coconino County Smart Gov for record-keeping purposes. All County staff performing plan review shall be added to City of Flagstaff Innoprise for record-keeping purposes.
3. Intake of building permit submittals shall be handled by the Authority Having Jurisdiction (AHJ).
4. The Administrative Review of the building permit application shall be completed by the AHJ.
5. Project types transmitted for review are limited to:
    a. Residential - County to City/City to County:
        i. Small Residential[1,2]
        ii. Single-Family Dwelling[2]
    b. Commercial - City to County Only:
        i. Tenant Improvement/Remodel[2]
        ii. Small Commercial Building[2,3]
6. Once Administrative Review has been completed, the review shall be transmitted via Bluebeam Session Invite (email) for Substantive Review. A copy of the building permit application and all required materials (construction document drawings, calculations, material specifications, etc.) submitted for review shall be transmitted.
7. Substantive Review times are as follows:
    a. Residential
        i. Small Residential: Not to exceed 25 working days total
        ii. Single-Family Dwelling: Not to exceed 35 working days total
    b. Commercial
        i. Tenant Improvement/Remodel: Not to exceed 35 working days total
        ii. Small Commercial Building: Not to exceed 50 working days total
8. Each AHJ shall be notified of any issues in completing a review within the stated review times.
9. The following applies to Substantive Reviews which are not approved:
    a. County plan review "Request for Additional Information" (RFAI): Staff shall use the Bluebeam Session, and any redlines on the plan set as the correction list. A written comment letter is necessary. The Bluebeam Session shall be transmitted to County staff.
    b. City plan review "Return for Corrections": Staff shall compose a written comment letter on City letterhead (to be provided) and drawing redlines in the Bluebeam session for transmittal back to City staff.

10. Each AHJ shall transmit Building Safety comments (along with any other AHJ reviewing department comments) and drawing redlines to the applicant.
11. Upon receipt of a Substantive Review resubmittal, the AHJ shall transmit the resubmittal materials to the reviewing staff via Bluebeam Invite (email).
12. A reviewer shall remain the reviewer until the building permit application is approved or denied.
13. Upon approval, conditional approval[4,5], or denial[6] of a building permit application, staff shall email the AHJ with notification of the building permit status, including any information pertaining to reason(s) for conditional approval or denial.
14. Upon approval of all required reviews, the AHJ shall calculate fees and complete the necessary processing (inspection record card, plan stamps, and approval steps.) to ready the permit for issuance.

1 These plans include but are not limited to additions, garages, decks, remodels (interior/exterior) repairs, carports, storage sheds greater than 200 SF, ramadas, greenhouses, sunrooms.

2 Each AHJ will perform fire sprinkler plan review, when applicable.

3 These plans include restaurants, gas stations, mini-storage facilities, and the like.

4 For County review, staff may "conditionally approve" building permits by redlining minor items on the construction documents. City Staff will receive the level 1 and level 2 correction list document. Level one (1) items will always constitute a Request for Additional Information (RFAI). The level two (2) items are what the County considers minor and may be redlined on the plan set. However, in some cases, the number of level 2 corrections may require an RFAI from the customer. City staff shall include these items in the email confirmation sent to County staff to record redlines to the Smart Gov permit tracking system.

5 For City review, staff may "conditionally approve" building permits by redlining minor items on the construction documents. An example of a minor item is a redline on the sheet index indicating a sheet included in the drawing set but not listed on the sheet index. Another example is the receipt of a completed Certificate of Special Inspections. County staff shall include these items in the email confirmation sent to City staff for City staff to record redlines to paper drawing sets or to request missing items indicated by the reviewer.

6 Each AHJ shall determine if the building permit application is denied.

B. Building Inspection Process

All Coconino County Building Division Inspectors will participate in a City of Flagstaff sponsored training. During this training, County staff will be introduced to and learn the City of Flagstaff's web based computerized inspection software. Information about how inspections are to be conducted within the City of Flagstaff will be delivered by the City's Building Official/Lead Building Inspector.

All City of Flagstaff Building Inspectors will participate in a Coconino County sponsored training. During this training, City of Flagstaff will be introduced to and learn Coconino County's web based computerized inspection software. Information about how inspections are to be conducted within unincorporated Coconino County will be delivered by the County's Building Official/Lead Building Inspector.

Training days for process familiarization, Code knowledge, and experience can be scheduled by the Building Official of either jurisdiction, with time and workloads permitting.

COCONINO COUNTY ARIZONA
COMMUNITY DEVELOPMENT

In the event the City of Flagstaff experiences a workload not able to be handled by their current staffing, the Building Official for the City of Flagstaff will contact the Building Official for Coconino County. A non-formal request for assistance with inspections will be made. If Coconino County's inspection staff can assist, without detriment to the Coconino County inspection schedule, inspection personnel will be dispatched.

In the event of a declared emergency or natural disaster, the City of Flagstaff will make a formal request for assistance from the Coconino County Building Official. Coconino County Inspectors will be dispatched as necessary.

In the event Coconino County experiences a workload not able to be handled by their current staffing, the Building Official for Coconino County will contact the Building Official for the City of Flagstaff. A non-formal request for assistance with the inspections will be made. If the City of Flagstaff's inspection staff can assist, without detriment to the City of Flagstaff's inspection schedule, inspection personnel will be dispatched. City of Flagstaff inspection staff responding will not be required to travel more than 30 miles from incorporated Coconino County for any inspections.

In the event of a declared emergency or natural disaster, Coconino County will make a formal request for assistance from the City of Flagstaff's Building Official. City of Flagstaff Building Inspectors will be dispatched as necessary.

Each employee responding to a call for assistance will use their own jurisdictions issued equipment. Coconino County employees will only use their issued vehicles, computers, and cell phones during IGA responses. City of Flagstaff employees will only use their issued vehicles, computers, and cell phones during IGA responses.

All written documentation of inspections completed, correction notices, deficiency reports, and/or utility authorizations, will be completed by the inspector conducting the inspection. Any documentation collected from contractors, homeowners, and/or third-party firms, will be delivered by the inspector to the jurisdiction issuing that permit. All pertinent information, documentation, and inspection results will be entered into the jurisdictions permit tracking program by the end of shift.

At no time will a Coconino County employee identify themselves as City of Flagstaff employees. And no City of Flagstaff employee may identify themselves as Coconino County employees.

All policies and procedures governing the jurisdictional employee will remain in place while performing work under the IGA.

14. F.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Shannon Anderson, Deputy City Manager

Co-Submitter: Cliff Bryson

Date: 08/28/2019

Meeting Date: 09/03/2019

TITLE:

Consideration and Adoption of Resolution No. 2019-41: A resolution urging the Arizona Legislature to hear and ratify an amendment to the Constitution of the United States relative to equal rights for men and women.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-41 by title only
2) City Clerk reads Resolution No. 2019-41 by title only (if approved above)
3) Adopt Resolution No. 2019-41

Executive Summary:

This resolution is urging the Arizona Legislature to ratify equal rights for men and women and become the 38th and final state needed for ratification of the Equal Rights Amendment (ERA) of the Constitution on the United States.

Financial Impact:

There are no financial impacts upon adopting this resolution.

Policy Impact:

There are no policy impacts to the City upon adopting this resolution.

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

This resolution supports the Council's goal of social justice.

Has There Been Previous Council Decision on This:

No.

Options and Alternatives:

The Council may choose to adopt the resolution as written or suggest other language prior to adoption.

Community Involvement:

Inform.

Attachments: Res. 2019-41

RESOLUTION NO. 2019-41

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, URGING THE ARIZONA LEGISLATURE TO HEAR AND RATIFY AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN.

RECITALS:

WHEREAS, on March 22, 1972, the Congress of the Unites States, in both houses by a constitutional majority of two-thirds in both houses, adopted a proposition to amend the Constitution of the United States relative to equal rights to men and women referred to as the Equal Rights Amendment (ERA); and

WHEREAS, Congress originally set a deadline of March 22, 1979 for ratification, as provided in Article V of the U.S. Constitution; and

WHEREAS, through 1977, the amendment received 35 of the necessary state ratifications; and

WHEREAS, in 1978, Congress passed a joint resolution with the intent of extending the ratification deadline to June 30, 1982; and

WHEREAS, on March 22, 2017, the 45th anniversary of Congress' submission of the ERA to state legislatures, the Nevada Legislature became the first to ratify the ERA after the expiration of the established deadlines; and

WHEREAS, on May 30, 2018 the Illinois General Assembly ratified the ERA; and

WHEREAS, 37 of the required 38 states have now ratified the ERA.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. City of Flagstaff hereby supports an amendment to the Constitution of the United States relative to the equal rights for men and women.

SECTION 2. City of Flagstaff urges the Arizona Legislature to hear and ratify equal rights for men and women so that Arizona may become the 38th and final state needed for ratification of the ERA to the Constitution of the United States.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 3rd day of September, 2019.

_____

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

14. G.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Nicole Antonopoulos, Sustainability Manager
Co-Submitter:	Matthew Luhman
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Approval of a Contract: With Gotcha Mobility, LLC ("Gotcha") for Bike Share Systems.

STAFF RECOMMENDED ACTION:

Approve award of contract with Gotcha, a bike share system company, to provide an innovative and cost-effective bike share system that will advance multi-modal transportation options for Flagstaff and Northern Arizona University.

Executive Summary:

The City of Flagstaff and Northern Arizona University ("NAU") issued a joint solicitation for a bike share company that can provide an innovative bike share system that supports the City's Climate Action and Adaptation Plan goals, ensures that services are accessible and available to traditionally underserved members of the community, conducts community education on cycling safety, and provides the best overall value to the Flagstaff community and NAU.

Financial Impact:

Gotcha offers a flexible pricing plan to ensure a viable and sustainable program. There are various pricing plans including a subscription plan at $9.99 a month for residents and $6.99 a month for students at NAU. Gotcha also offers "pay as you go" rates, which will be of interest to Flagstaff visitors. Those rates are structured as such: $1.00 to unlock a pedal bike and $0.15 per minute to ride and $2.00 to unlock an electric bike and $0.15 per minute to ride. Bike share users can choose between the subscription or pay as you go options. With a subscription, the use will get some period of free time each day and does not have to pay the unlock fee. Gotcha also offers low income plans to those who can demonstrate financial need. An example of their program in another community is a $5.00 annual membership for those in financial need.

The financial structure that Gotcha proposes utilizes minimal advertising and rental fees as the foundation of their business model. City funds are not necessary to support Gotcha's model. However, funding is available if needed. Sustainability was approved for $15,000 in the FY20 budget process to contribute to a long-term community bike share system (account number

214-06-170-0661-0-4349).

Policy Impact:

The awarded bidder will work with City staff to ensure that the bike share system adheres to all City Code. Gotcha offers in-app messaging, a website, and education at various community events:

- Safety tutorials, including rules of the road, and reinforcing good rider behavior;
- Promotion of helmet usage, minimum age for rental will mirror the City's helmet law; and
- Georeferenced areas where bikes should be returned and no park/ride zones

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

This effort supports the City Council goals to take meaningful climate action. Additionally, it supports the goal set forth in the Climate Action and Adaptation Plan. Specifically, the Transportation and Land Use focus area, which highlights goals to reduce greenhouse gas emissions from vehicle use and to prioritize transportation modes and infrastructure. Priority actions in this focus area include:

TLU-2-A: Expand infrastructure and amenities for pedestrians and bikes by drafting, adopting, funding, and implementing the Active Transportation Master Plan, prioritizing measures that can be shown to directly reduce greenhouse gas emissions;
TLU-2-F: Secure additional funding to support biking, walking, and transit;
TLU-2-L: Increase access to bikes, including electric bikes, through bikeshare, expanded bike parking, electric bike rebates, and other opportunities.

This initiative supports the following Regional Plan goals:

Goal E&C 1: Proactively improve and maintain the region's air quality.
Goal E&C 2: Reduce greenhouse gas emissions.
Goal T.1: Improve mobility and access throughout the region.

Has There Been Previous Council Decision on This:

Yes, City Council received a presentation on the outcomes of the six-month bike share pilot on 9/25/18. City Council adopted the Climate Action and Adaptation Plan on 11/20/2019.

Key Considerations:

Gotcha proposes a three to six-month launch period. The following phased time-line outlines the proposed schedule:

PHASE ONE: INITIAL PLANNING
Execution of legal agreement
Introductory/kickoff call with team
Schedule in-person meeting with team
Initiate site planning
Confirm assets and order equipment
Begin sourcing in-market staff
Establish launch date and event
Provide system area and hub locations for approval

PHASE TWO: RECOMMENDATIONS
Provide branding and design of all assets for approval
Provide user pricing for approval
Submit required site permits/ground leases
Provide marketing materials for approval
Hire and onboard in-market staff – introduce to key stakeholders
Conduct in-person meeting with team
Finalize launch event plan

PHASE THREE: DECISION MAKING
Finalize branding and design of all assets
Finalize user pricing/memberships
Finalize system area and hub locations
Finalize marketing materials
Schedule asset delivery and install
Begin software testing (finalized branding and content)
Conduct in-market tutorials for device use and maintenance
Begin marketing system on social media

Attachments: Presentation
Final Permit Agreement
Exhibits

Bike Share Solicitation

Nicole Antonopoulos

August 27, 2019

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

Background

The City launched a pilot bike share program April 2018 – October 2018

- On average 199 bikes in circulation
- 14,000 miles rode in six months
- Lessons learned and input from community, transportation partners, and City commissions informed scope of work for solicitation

Joint solicitation with NAU issued in April 2019

Bike Share Solicitation

Solicitation requested a bike share company that:

- Provides an innovative bike share system that supports the City's Climate Action and Adaptation Plan goals
- Ensures that services are accessible and available to traditionally underserved members of the community
- Conducts community education on cycling safety
- Provides the best overall value to the Flagstaff community and NAU
- NAU will be awarding their own contract with Gotcha Mobility

Gotcha Mobility

The evaluation committee was made up of Flagstaff transportation partners including NAU, NAIPTA, FMPO, Bicycle Advisory Committee, and various City staff

Gotcha Mobility was the top scoring bidder based on their:

1. Financial model
2. Comprehensive rate plan
3. Social inclusion strategy
4. Community engagement plan
5. Reinforcement of rider behavior

Gotcha Mobility

Gotcha only offers a **hybrid bike fleet**

- Therefore all 250 bikes are a hybrid pedal/ class 1 electric
- This leaves it up to the consumer on which type of bike they would like to rent



Thank you.

Nicole Antonopoulos

Sustainability Manager

nantonopoulos@flagstaffaz.gov

928.213.2149

gotcha

PERMIT AGREEMENT

THIS PERMIT AGREEMENT (this "**Agreement**"), dated as of the ____ day of _____, 2019 (the "**Effective Date**"), is made by and between Gotcha Mobility, LLC, a Delaware limited liability company ("**Gotcha**"), and the city of Flagstaff, a political subdivision of the State of Arizona ("**City**"). Both Gotcha and City are sometimes hereinafter referred to individually as a "**Party**" and, collectively, as the "**Parties**".

WHEREAS, Gotcha is in the business of constructing and providing pedal assist bicycles ("**Assets**") and services for municipalities, colleges, and universities throughout the United States, and has developed a proprietary shared mobility platform with access to related proprietary software, ongoing maintenance services, and expansion assistance (the "**Business**"); and

WHEREAS, City desires to retain Gotcha to establish and maintain a shared mobility platform using Gotcha Assets ("**Services**") on City right-of-way, as defined by the Flagstaff City Code, (the "**Premises**"), and Gotcha is willing to perform and maintain the Services on the Premises, under the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing premises, and the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Services.

1.1 Services. In exchange for the User Fees as contemplated in section 3.1 below and other consideration as set forth in this Agreement, Gotcha agrees to provide, and City agrees to allow Gotcha to provide the Services as more particularly described in the Scope of Work attached hereto as Exhibit A. If there are any conflicts between the Scope of Work and the terms of this Agreement, the terms of the Agreement will control.

1.2 Use of Premises. City hereby grants Gotcha a non-exclusive, worldwide, fully paid-up and royalty-free license to access and use the Premises during the Term (as defined in Section 4.1), for purposes of performing the Services including the potential installation of Asset mobility hubs ("**Mobility Hubs**") on the Premises, for operation and maintenance of the Assets. The installation of Mobility Hubs are subject to the approval of the City Engineer and may require the posting of an assurance by Gotcha. Gotcha shall remove all Mobility Hubs upon termination of this Agreement and restore the Premises to its original condition.

1.3 Relationship of the Parties. The relationship between the Parties under this Agreement is that of independent contractors, and nothing in this Agreement will be construed to create an agency, partnership, joint venture, strategic alliance, employment or other relationship similar to any of the foregoing between the Parties. Each Party, as an independent contractor, will have complete charge of and control over the details of the means, methods and manner of performing its obligations under this Agreement, including equipment, supplies and materials used in connection therewith, to the extent that the foregoing are consistent with the performance of such Party's obligations under this Agreement. Unless specifically authorized to do so under this Agreement or otherwise in writing, no Party will have power to act on behalf of another Party or to bind such other Party by any representation, promise or commitment, and will make no representation to the contrary to any Person. No Party shall have any responsibility for or control over any employees or contractors of another Party, and under no circumstances shall any such employees or contractors of a Party be considered an employee or agent of another Party.

2. Obligations of the Parties.

2.1 Gotcha.

(a) Equipment. Gotcha agrees to provide the following as of the Launch Date, as specified in the Scope of Work: (i) To supply and maintain 250 Assets for the initial deployment that can be placed on the Premises; (ii) To install and maintain Mobility Hubs, subject to the approval of the City Engineer; (iii) To establish and permit a user of the Assets ("**User**") access to the propriety software and technology that includes a downloadable proprietary mobile application (the "**App**") available to Users (collectively, the "**Technology**"), as set forth in Scope of Work (Assets, Mobility Hubs and Technology are referred to collectively as the "**Gotcha Equipment**"); (iv) To monitor Gotcha Equipment usage by Users and make adjustments to quantities of Assets at particular Mobility Hubs, where applicable; (v) To make the App available for download in Apple iOS or Android form for Users of the Assets to download to their mobile devices and register for an account, subject to their acceptance of the end user license agreement and other legal notices related to the App, for use in connection with their use of the Assets including unlocking an Asset from a Station, where applicable; (vi) To maintain Gotcha Equipment in good working order and provide routine maintenance in accordance with manufacturer specifications, and to keep records of such maintenance; and (vii) To assist City in assessing developmental goals and plans for expanding the Services during the Term.

(b) Personnel. Gotcha shall have a primary contact to act as its authorized representative with City in respect of all matters pertaining to this Agreement (the "**Gotcha Contract Manager**"), and designate those employees, contractors or vendors in number and skill that it determines, in its sole discretion, to be capable of assisting it to perform the Services.

(c) Permits. During the Term, Gotcha shall obtain and maintain in good standing all required federal, state, county and local licenses and permits necessary to perform the Services. In the event that any governmental restrictions are imposed on Gotcha that would necessitate alteration of the performance of the Services offered by Gotcha under this Agreement, Gotcha shall immediately notify City, indicating the specific regulation that requires such alteration, and the Parties shall cooperate in good faith to modify the Services in a way to comply with such restriction but also maintains the essence of the Parties' bargain. During the Term, Gotcha shall be in good standing as a recognized business entity authorized to transact business pursuant to the laws of the state where the Premises is located and the Services are performed.

(d) Equal Opportunity Requirements. Gotcha acknowledges and agrees that it is bound by the following in contracting with City: "This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), (or for construction contractors, 41 CFR § 60-4.3(a)), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability."

2.2 City.

(a) City Contract Manager. City agrees to designate one of its employees or authorized representatives to serve as its primary contact with Gotcha and its Affiliates with respect to this Agreement, and to act as its authorized representative with respect to matters pertaining to this Agreement (the "**City Contract Manager**"), with such designation to remain in force unless and until a successor City Contract Manager is appointed. The City Contract Manager shall respond promptly to any reasonable requests from Gotcha for instructions, information or approvals required by Gotcha to provide the Services.

(b) Access. Gotcha will have access to the Premises and City amenities (i.e., City parks and FUTS trails), as reasonably necessary, in connection with Gotcha's performance of the Services, including, the installation and maintenance of Assets and Mobility Hubs. It is understood that certain portions of the Premises may be inaccessible from time-to-time due to City-approved activities being conducted within the Premises, such as construction, maintenance, and special events. It is also understood that weather events may cause certain portions of the Premises to be inaccessible from time-to-time.

(c) Other Asset Share Business. During the Term, City shall not: (i) engage or participate, directly or indirectly, in any business that is in competition with the Business; or (ii) enter into any agreement with any other party for services similar to the Services on the Premises, without first entering into good faith negotiations with Gotcha with respect to such opportunity. City represents and warrants that, as of the Effective Date, it is not party to any such agreement contemplated in subparagraph (c), other than this Agreement.

(d) Ownership; No Liens. All Gotcha Equipment used in connection with the Services, unless otherwise expressly set forth in this Agreement, shall remain the property of Gotcha, and shall at no time be deemed a fixture or property belonging to City or any other party. All Additional Equipment purchased by the City used in connection with the Services, unless otherwise expressly set forth in this Agreement, shall remain the property of City.

(e) Additional Equipment. Gotcha will make available to City, at its option, to purchase certain racks, signage panels, and other related equipment ("**Additional Equipment**") that could be use on the Premises in conjunction with the Assets. If the City wishes to purchase any such Additional Equipment at any time, the Parties shall enter into another agreement.

3. Fees and Expenses.

3.1 User Fees. In consideration of the provision of the Services by Gotcha, City shall permit Gotcha to directly bill and collect from Users various fees to utilize the Services, including but not limited to, monthly and annual membership fees, pay as you go fees and penalty fees ("**User Fees**"). The City shall not be entitled to any User Fees collected due to the Services provided under this Agreement.

3.2 Taxes. Each Party shall be solely responsible for any and all income taxes, and related interest or penalties, incurred by such Party in respect of this Agreement including, without limitation, any federal, state, or local income tax, and any withholding or employment taxes imposed upon such Party, including in respect of any advertising revenue to such Party.

gotcha

4. Term and Termination.

4.1 Term, Renewals and Fee Changes.

(a) Term and Renewals. This Agreement shall commence upon the Effective Date and continue for a period of two (2) years from the Launch Date (the "**Initial Term**"). Upon expiration of the Initial Term, this Agreement shall be renewed for four (4) additional one (1)-year periods (the "**Renewal Term**") unless either Party provides written notice to the other Party no later than one hundred and twenty (120) days prior to such expiration of its election not to extend. Upon expiration of the Renewal Term, unless the Parties agree otherwise, this Agreement shall continue on a month-to-month until terminated by either Party upon thirty (30) days' written notice to the other Party (the "**Extended Term**"); *provided*, *however*, that the Extended Term shall automatically expire after twelve (12) months. The Initial Term, the Renewal Term and the Extended Term, if any, are referred to collectively as the "**Term**".

4.2 Termination for Cause. Either Party may terminate this Agreement, effective upon written notice to the other Party (the "**Defaulting Party**"), if the Defaulting Party: (a) materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within sixty (60) days after receipt of written notice of such breach; (b) becomes insolvent or admits its inability to pay its debts generally as they become due; (c) becomes subject, voluntarily or involuntarily, to any proceeding under any bankruptcy or insolvency law, which is not fully stayed within ten (10) days or is not dismissed or vacated within sixty (60) days after filing; (d) is dissolved or liquidated or takes any corporate action for such purpose; (e) makes a general assignment for the benefit of creditors; or (f) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

4.3 Termination.

(a) Voluntary. Gotcha or the City may terminate this Agreement at any time prior to the expiration of the Term, for any reason whatsoever, by providing the other Party with thirty (30) days' prior written notice of its decision to terminate.

4.4 Effect of Termination.

(a) Equipment Removal. Upon any termination or expiration of this Agreement, for any reason, the License granted hereunder shall automatically terminate after a period of sixty (60) days following such date, and Gotcha shall be permitted reasonable access to the Premises for such post-termination period, or longer if otherwise extended by the Parties, for purposes of removing Gotcha Equipment on the Premises. The Parties will cooperate in good faith in respect of such removal, and coordinate appropriate times and procedures for such access and removal. Upon removal of all Gotcha Equipment, City shall have no obligation to permit Gotcha or its personnel on the Premises for purposes of the Business.

(b) Survival. The rights and obligations of the Parties set forth in this Section and in Sections 5, 6, 9, 10 and 11, and any right or obligation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

4.5 Force Majeure. Neither Party will be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by any: (a) acts of God; (b) flood, fire, or explosion; (c) war, terrorism, invasion, riot, or other civil unrest; (d) embargoes or blockades in effect on or after the date of this Agreement; (e) national or regional emergency; (f) strikes, lock-outs, labor stoppages, disputes or slowdowns, failures of subcontractors or suppliers, or other industrial disturbances; (g) passage of law or governmental order, rule, regulation, or direction, or any action taken by a governmental or public authority, including but not limited to imposing an embargo, export or import restriction, quota, or other restriction or prohibition; or (h) national or regional shortage of adequate power, telecommunications, or transportation facilities (each of the foregoing, a "**Force Majeure**"); in each case, provided that such event is outside the reasonable control of the affected Party.

5. Confidentiality. The Parties agree that the specific terms and conditions of this Agreement including, without limitation, the Fees shall be confidential and only disclosed by City as set forth in this Section, unless otherwise required under applicable law. City shall not, without the prior written consent of Gotcha, use or disclose any Confidential Information of Gotcha during the Term and for a period of two (2) years following the expiration or termination of this Agreement. Notwithstanding the generality of the foregoing, City may disclose Confidential Information to any personnel, consultants, contractors and counsel who have a need to know in connection with this Agreement and have agreed to be bound by the provisions of this Section, or as otherwise required under applicable law, but only to the extent to ensure City's compliance therewith. "**Confidential Information**" means any non-public information of Gotcha relating to the Business, the Services and Gotcha's activities, financial affairs, technology, marketing, client lists and sales plans and pricing, or that is otherwise marked as "confidential", that is disclosed to or obtained by City in connection with this Agreement. Confidential Information does not include information which (a) is or becomes public knowledge through no breach of this Agreement by City, (b) is received by City from another party that is not under a duty of confidentiality, or (c) is already known or is independently developed by City without use of the Confidential Information. If City is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify Gotcha of such requirements to afford Gotcha the opportunity to seek, at Gotcha's sole cost and expense, a protective order or other remedy.

6. Public Records. This Agreement 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 Gotcha has clearly marked its proprietary information as "confidential," the City will endeavor to notify Gotcha prior to release of such information.

7. Intellectual Property.

7.1 Rights. All intellectual property rights of Gotcha related to the Business and the Services, including Gotcha Equipment, and all materials prepared by Gotcha or its Affiliates in connection therewith and hereunder including, without limitation, (a) copyrights, software, patents, patent applications and patent disclosures and inventions (whether patentable or not), (b) trademarks, service marks, trade secrets, trade dress, trade names, logos, taglines, corporate names and domain names, insignia, symbols or decorative signs (collectively, "**Marks**"), (c) know-how, show-how and Confidential Information related to any of the foregoing, and (iv) together with all of the moral rights in and goodwill associated therewith, derivative works, corrections, enhancements, updates, modifications, tangible or intangible proprietary information, rights to apply for registration, and all other rights therein and thereto (collectively, "**Intellectual Property Rights**"), except for any Confidential Information of City (to the extent not prepared by Gotcha), are and shall be owned by Gotcha (or, in certain instances, by its Affiliates), and not by City. Gotcha hereby grants City a limited license to use all such Intellectual Property Rights solely in connection with the Services

during the Term, free of additional charge and on a non-exclusive, worldwide, non-transferable, non-sublicenseable, fully paid-up and royalty-free basis, to the extent necessary to enable City to make reasonable use of the Services. City acknowledges and agrees that other than as expressly provided in this Section, nothing herein shall be construed as Gotcha of, directly or indirectly, selling, leasing, licensing, pledging, sublicensing, lending, encumbering or otherwise transferring any of the foregoing Intellectual Property Rights other than in connection with the Services, and agrees, to the extent permitted under applicable law, to indemnify and hold Gotcha harmless from and against any claim otherwise.

7.2 Marks. No Party grants to the other Party any right in or license to use such Party's Marks, other than as expressly set forth in this Agreement. Each Party grants the other Party (including as to their Affiliates) a limited license to use the other Party's Marks during the Term, free of additional charge and on a non-exclusive, worldwide, non-transferable, non-sublicenseable, fully paid-up and royalty-free basis, to the extent necessary for the performance of obligations under this Agreement, which right shall include a right to advertise or make other public announcements in general about the existence of the relationship between City and Gotcha and the Services, in all cases subject to Section 5.

8. General Representations and Warranties. City represents and warrants to Gotcha that: (a) it is a duly authorized to do business by the State of Arizona; (b) it has the lawful power to engage in the business it presently conducts and contemplates conducting, and is not party to any investigation, proceeding or action by any governmental authority which may materially affect its ability to effectuate its obligations under this Agreement and, in the event that it becomes such a party, shall immediately notify Gotcha of such investigation, proceeding or action; (c) it has the authority to execute and carry out this Agreement and to perform its obligations hereunder, and has obtained all necessary authorizations in connection therewith; (d) it has obtained and shall obtain from time to time any and all licenses, permits or other approvals required under applicable law, which license, permits or other approvals shall be kept current at all times throughout the Term; (e) the execution, delivery and performance of under this Agreement shall not conflict with, result in the breach of, constitute a default under or accelerate performance required by its constituent documents or internal regulations, any applicable law or any material covenant, agreement, understanding, decree, judgment, indenture, instrument or order to which it is a party or by which it or any of its properties or assets is bound or affected; and (f) it will comply with all applicable law related to this Agreement and will cooperate fully with Gotcha in complying with such applicable law.

9. Insurance. During the Term, Gotcha shall, at its own expense, maintain and carry insurance with a carrier with an AM best rating of A + category VIII or better, in full force and effect, to cover its business operations and the indemnity obligations under this Agreement. As defined in the City's Insurance Requirements attached hereto as Exhibit B. Gotcha shall provide City with a copy of its certificate of insurance from its insurer evidencing the insurance coverage required under this Agreement. The certificate of insurance shall name City as an additional insured and City approved broad form non-restrictive endorsement. Gotcha shall promptly provide City with written notice in the event of a cancellation or material change in Gotcha's insurance coverage as required hereunder. Unless otherwise approved by City, Gotcha shall not commence work under this Agreement until it has obtained all the insurance required hereunder and delivered to the City evidence satisfactory, in the City's sole discretion, of the existence of all insurance required under this Agreement.

10. Indemnification. Gotcha agrees to indemnify, defend, save, and hold harmless the City, and its departments, officers, officials, agents, and employees from and against any and all claims, demands, actions, liabilities, damages, losses, or expenses, including court costs, attorneys' fees, and costs of claim processing, investigation and litigation (hereinafter collectively referred to as "Claims") that arise out of any actual or alleged bodily injury to any person (including death) or loss or damage to tangible or intangible property caused or alleged to have been caused, in whole or in part, by the negligent or willful acts, errors, omissions, of Gotcha or any of Gotcha's

owners, directors, officers, agents, employees, or subcontractors in connection with or incident to this Agreement. This indemnity includes any claim or amount arising out of, or alleged to be caused by, the operations of Gotcha under this Agreement. This indemnity provision shall survive the termination, cancellation, or revocation, whether in whole or in part, of this Agreement. If the City seeks indemnification under this Agreement, it shall give written notice thereof to Gotcha as required by law where applicable or promptly following discovery of the fact or circumstance giving rise thereto; provided, however, that any delay in providing such notice shall not impact the City's right to be indemnified, except to the extent that the Gotchas is actually prejudiced thereby. The City shall not settle or compromise any Claim without the prior written consent of Gotcha, which consent shall not be unreasonably withheld.

11. Limitation of Liability; Assumption of Risk; Disclaimer. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, AND TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN THE EVENT OF DEFAULT, NO PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, MORAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER, OR FOR ANY LOSS OF USE, LOSS OF PRODUCTION, LOSS OF REVENUE OR PROFITS, COST OF CAPITAL, LOSS OF GOODWILL, LOSS OF OPPORTUNITY, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. THE PARTIES FURTHER AGREE THAT THE LIABILITY OF A PARTY UNDER THIS AGREEMENT IN THE EVENT OF DEFAULT OR OTHERWISE FOR ALL EVENTS, ACTS OR OMISSIONS UNDER THIS AGREEMENT, SHALL NOT EXCEED $10,000. THE LIMITATIONS ON LIABILITY IN THIS SECTION SHALL NOT: (A) APPLY TO A PARTY'S CRIMINAL OR FRAUDULENT CONDUCT; (B) APPLY TO GOTCHA'S OBLIGATIONS OF INDEMNIFICATION IN THIS AGREEMENT; OR (C) LIMIT IN ANY WAY THE EXTENT OF APPLICABLE INSURANCE PROCEEDS.

12. Miscellaneous.

12.1 Notice. Any notice or approval required or permitted under this Agreement must be in writing and shall be given to the other Parties at their addresses set forth in this Section. Each such notice, request or other communication shall be effective (a) if given facsimile, the date on which it is transmitted to the number provided by a Party in writing to the other Party, and the appropriate confirmation is received, (b) if given by U.S. Mail, five (5) calendar days after such communication is deposited in the mail with first class, return receipt requested postage prepaid, addressed as aforesaid, and (c) if given by overnight courier, forty-eight (48) hours after the date on which such communication is received by such courier. E-mail shall be a permitted means of providing notice to a Party under this Agreement as long as receipt can be verified, and provided that notice through e-mail shall be effective forty-eight (48) hours after the date on which the e-mail notice can be verified as received. Unless otherwise notified by a Party in writing, a Party shall submit any notice hereunder as follows:

If to Gotcha:	Gotcha, LLC, 7 Radcliff St., Suite 200 Charleston, SC 29403 Attn: Brett Vigrass, General Counsel brett@thegotchagroup.com *With a copy to*: Ryan Leach, CFO ryan@thegotchagroup.com

If to City:	City of Flagstaff, 211 W. Aspen Ave. Flagstaff, AZ 86001 Attn: Matt Luhman, Senior Procurement Specialist mluhman@flagstaffaz.gov *With a copy to:* Nicole P. Antonopoulos, Sustainability Manager nantonopoulos@flagstaffaz.gov

Any such notices, demands and requests shall be deemed to be delivered (a) if delivered in person, on the date so delivered, and (b) if sent by overnight delivery service, on the delivery date as evidenced by the courier's confirmation. The addresses set forth herein may be changed by written notice to the other Party.

Except as otherwise specifically set forth in this Agreement, all notices, extensions, modifications, consents, requests and approvals to be given by either Party under any section of this Agreement shall be in writing and not be unreasonably withheld by the other Party.

12.2 Governing Law. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Arizona, without regard to applicable conflicts of law principles, and this Agreement shall for all purposes be deemed to have been executed, delivered and agreed to by and between the Parties entirely within the State of Arizona.

12.3 Cancellation for Conflict of Interest (A.R.S. § 38-511). The City may cancel this Agreement within three (3) years after its execution, without penalty or further liability to Gotcha.

12.4 Dispute Resolution; Jury Waiver. Any dispute arising out of or related hereto, which cannot be resolved amicably among the Parties after good faith efforts of not less than sixty (60) days, shall be exclusively resolved by the courts of Coconino County, Arizona, and the Parties irrevocably submit to the exclusive jurisdiction of such courts for purposes thereof, and waive all objections to the laying of venue therein. Each Party shall be responsible for its own attorney's fees and costs in respect of any dispute related to this Agreement, including the costs of any investigations and appeals. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY DISPUTE, AND AGREES THAT SUCH WAIVER IS A MATERIAL INDUCEMENT FOR EACH PARTY TO ENTER INTO THIS AGREEMENT AND TO PERFORM THEREUNDER.

12.5 Assignment. Except as expressly set forth otherwise in this Agreement, no Party may assign its rights under this Agreement, in whole or in part, without the prior written consent of the other Party. Notwithstanding the foregoing, Gotcha may assign this Agreement and its rights and obligations hereunder to a successor entity, in whole or in part, upon written notice to City. Nothing herein shall be construed to prevent Gotcha from delegating its duties hereunder to its Affiliates, provided that Gotcha in any event shall remain responsible for its obligations hereunder irrespective of any such delegation.

gotcha

12.6 Approval of Sub-Providers.

a. If after the start of this Agreement, the Gotcha wishes to use sub-providers, at no additional costs to the City, then Gotcha shall submit a written request to the City Manager or his/her designee for consent to add sub-providers, including the names of the sub-providers and the reasons for the request at least five (5) days in advance from when Gotcha wishes to use the sub-providers. The City Manager or his/her designee may consent or reject such requests in his/her sole and absolute discretion.

b. Each sub-provider shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general and automobile insurance in conformity to the insurance required to be carried by Gotcha as defined in Exhibit C. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement.

c. The requirement of this Section shall not apply to persons who are merely providing materials, supplies, data or information which Gotcha then analyzes and incorporates into its work product.

12.7 Binding Effect; Survival. This Agreement shall be binding upon, and will inure to the benefit of, the Parties and their successors and valid assigns. The obligations of the Parties and the provisions of this Agreement that by their nature survive the termination hereof, including those obligations as expressly stated in this Agreement, shall survive and inure to the benefit of the Parties, their successors and valid assigns.

12.8 No Third Party Beneficiaries. Except as expressly set forth otherwise in this Agreement, this Agreement is intended solely for the benefit of the Parties and their respective successors and valid assigns, and is not intended to confer any benefits upon, or create any rights in favor of, any other party other than the Parties.

12.9 Cumulative Remedies. All rights and remedies of a Party set forth in this Agreement shall be in addition to all other rights and remedies available at law or in equity including, without limitation, a right to specific performance, and temporary and permanent injunctive relief, to the extent permitted under applicable law.

12.10 No Waiver. No waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed by the Party making such waiver, and any such waiver shall apply only to the specific occasion which is the subject of such waiver or consent and shall not apply to the occurrence of the same or any similar event on any future occasion. No delay express waiver of any provision of this Agreement shall be deemed to be or shall constitute a waiver of any other provision whether or not similar, and no waiver shall constitute a continuing waiver. Any delay in enforcement of any provision hereof shall not constitute a waiver thereof.

12.11 Entire Agreement; Construction. This Agreement, including its preamble, recitals, the Scope of Work, and any and all exhibits, appendices and valid amendments, constitutes the entire agreement and understanding of the Parties and supersedes all prior or contemporaneous agreements, understandings or representations, written or oral, by the Parties. The headings in this Agreement are provided for convenience of reference only and shall not affect the construction of any text. Any reference to the singular shall also include a reference to the plural, and vice versa, as the context requires. This Agreement shall be construed as drafted by all of the Parties, and no provision of this Agreement shall be interpreted for or against any Party on the basis that a Party, its Affiliates or counsel drafted such

provision. In the event of any conflict between any term or provision of this Agreement and any term or provision of any exhibit hereto, the term or provision of this main document shall prevail.

12.12 Amendment. This Agreement may not be modified or amended unless done so in a writing signed by the Parties.

12.13 Severability. If any term or provision of this Agreement is held by a court of competent jurisdiction to be void, voidable, illegal, invalid or otherwise unenforceable under Applicable Law, such provision shall be severed from this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect.

12.14 Counterparts. This Agreement may be executed in one or more counterparts, each of which, including counterparts executed electronically through verifiable means, shall be deemed to be an original for all purposes.

12.15 Independent Counsel; Costs. The Parties acknowledge and agree that the terms and conditions of this Agreement have been freely and fairly negotiated. Each Party acknowledges that in executing this Agreement it has relied solely on its own judgment, belief and knowledge, and such advice as it may have received from its own counsel, and that it has not been influenced by any representation or statement made by the other Party or such Party's Affiliates, including its counsel. Each Party shall pay its own fees and expenses incurred in connection with the negotiation, drafting and execution of this Agreement, and in respect of the transactions contemplated by this Agreement (including, without limitation, attorney's fees and costs).

12.16 Further Assurances. From time to time, as and when reasonably requested by a Party or its successors or assigns, the other Parties shall execute and deliver, or cause to be executed and delivered, such documents and instruments, and shall take, or cause to be taken, such further or other actions as may be reasonably necessary, to carry out the purposes set forth in this Agreement.

[Remainder of Page Intentional Blank; Signatures Appear on Following Page]

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

GOTCHA	City of Flagstaff
By: _____	By: _____
Name:	Name: Greg Clifton
Title:	Title: City Manager
Date:	Date: _____

[Signature Page to Agreement]

EXHIBIT A

SCOPE OF WORK

SEE ATTACHED

SCOPE OF WORK

I. GENERAL INFORMATION

The City of Flagstaff ("City"), in cooperation with Northern Arizona University ("NAU"), is seeking Proposals from qualified and reputable firms to establish a term contract for a bike share system.

The City is seeking to award a term contract for a bike share system to the Proposer that can best provide an innovative bike share system that supports the City's Climate Action and Adaptation goals, ensures that services are accessible and available to traditionally underserved members of the community, and provides the best overall value to the Flagstaff community and NAU.

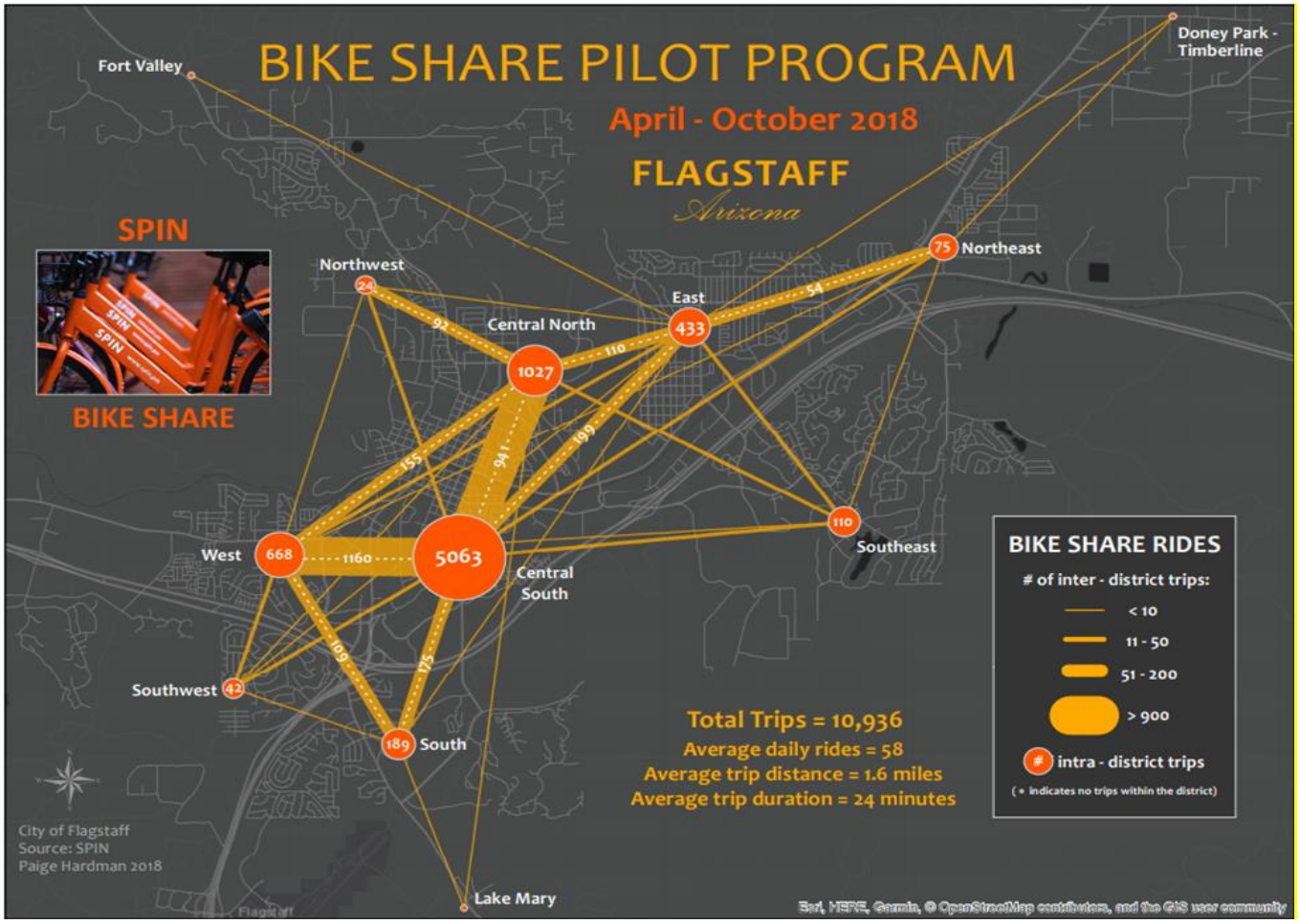
The initial term of the contract will be for a two (2)-year period, with the ability to renew for up to four (4) additional one (1)-year terms based on the successful performance of the Contractor(s) and the needs of the City.

II. SCOPE OF WORK

A. Introduction

The City, in cooperation with NAU, is seeking proposals from interested and qualified Proposers to provide and operate a multi-year bike share program. The system shall be designed to serve both the Flagstaff community at large and the NAU campus. The proposals should be innovative, proposing a hybrid bike system that incorporates dockless and designated parking areas. Designated parking areas will be determined by the City, NAU, and transportation partners, including the Northern Arizona Intergovernmental Public Transportation Authority ("NAIPTA") and the Downtown Business Alliance ("DBA"). The system shall include at least 250 bicycles for the initial deployment and must be flexible and scalable for expansion to include more bikes and/or additional technologies (such as scooters) once the bike share system is well established.

The City and NAU conducted a six-month pilot dockless bike share program, the results of which were promising for a successful long-term bike share system. The pilot program confirmed the community's interest in multi-modal transit and the potential for capturing future riders. Pilot data is represented on the following page:



Month	Rides	Average Trip Distance (miles)	Total Miles Traveled	Average Trip Time (minutes)	Average of Deployed vs Rentable Bikes*	CO_2 Savings (pounds)
April (11th – 30th)	775	1.77	1,380	22.28	237 / 212	1,518
May	2,288	1.04	2,375	23.28	260 / 173	2,612
June	2,715	0.86	2,340	24.41	227 / 184	2,574
July	2,218	1.09	2,418	26.79	186 / 180	2,660
August	1,553	1.55	2,406	24.72	154 / 140	2,647
September	1,128	2.00	2,206	20.37	95 / 83	2,427
October (1st – 12th)	254	2.74	706	17.99	61 / 54	776
TOTALS:	10,931	1.58	13,831	23.96	174 / 147	15,214

Preference will be given to Proposers who can demonstrate the ability to incorporate class 1 or 2 electric pedal assist or "e-bikes" into their initial deployment and provide goals for "e-bike" expansions. Proposals shall include all equipment as well as operation services, including but not limited to; program data, system rebalancing, 24-hour customer support, equipment maintenance, redeployment management, webpage management, mobile app management, engagement in the community and establishing a trusted presence. Proposals shall include a complete back-end management system with real-time location tracking of individual bicycles through on-board monitoring technology.

Additionally, proposals may be contingent on the applicants' ability to secure sponsorships to meet funding requirements in order to meet minimum system size requirements and future expansion needs. It is preferred that the bike share system be self-financed, with the user fees and ad revenues where permitted by City Code (for example, City sign code does not allow for advertising on stations) and NAU approval, covering any compensation and system costs.

B. Scope of Goods and Services

Proposers are encouraged to submit proposals for a system that meets these requirements:

1. Bicycles:
    a. Shall be durable all-weather and corrosion resistant for year-round outdoor use and storage
    b. Shall be in new condition upon delivery
    c. Shall be specifically designed for bike share use
    d. Shall include front and rear lights, preferably self-powered and automatic
    e. Shall include a storage basket capable of supporting loads of up to 20 pounds
    f. Shall provide effective gearing ratio appropriate for steep local terrain (preferably a range equivalent to 7 or more gears)
    g. Shall have fenders
    h. Shall have a bell
    i. Shall have puncture resistant tires
    j. Shall have a reliable intuitive braking system
    k. Shall be uniform and consistently branded (all branding and advertising must be approved by the City and NAU to ensure that it does not conflict with existing codes, marketing, advertising, and branding contracts)
    l. Shall be one-size-fits-all with step-trough frame and adjustable seat
    m. Shall be warrantied for mechanical defects
    n. Shall be equipped with tracking system, i.e. GPS or RFID
    o. Shall include a minimum of 10% electric assist bicycles at launch date with an operational goal of 25% or more electric assist bicycles
    p. Based on outreach to community partners, including the City of Flagstaff Disability Awareness Commission, allocate a percentage of the fleet to ADA compliant bicycles

2. Designated parking locations, hubs, and dockless:
    a. Will include designated parking locations identified by the City, NAU and community partners
    b. May incorporate/use existing public bike parking
    c. May be new locations that are approved and identified for public bike parking (must be in line with City and NAU policies)

d. Shall have distinct identifying signage or other markings to identify the locations as part of the system.
e. Describe how the Proposer will manage bicycles parked in prohibited locations or in an improper manner.
f. Describe how will communication be managed through the app and website

3. Software:
   a. Shall be an iOS and Android compatible mobile app for users to check real time bike availability at any parking location and to perform bike rental transactions
   b. Shall be a website and/or app for membership sign up, system map with station location information and details on renting and using the docking stations and bicycles, detailed bicycle safety precautions, etc.
   c. Shall offer variably priced membership options for short term, long term, one-time use, member organizations, etc.
   d. Shall offer pricing and membership promotions including the ability to accept discount codes
   e. Shall provide multi-lingual instructions capability
   f. Proposer shall provide an equity plan for users without cell phones to access system.

4. Community Engagement Plan:
   a. Shall provide a preliminary plan that outlines efforts to get involved with the community.

5. Equity Plan
   a. Shall provide a preliminary plan that outlines how equity considerations will be built into the system.

C. Technology and Reporting Capabilities

System should provide users with real time system information including station status and bike locations through web and mobile technology. System can primarily depend on smartphone or web-based customer interface. However, the system would preferably have a strategy to facilitate users who do not own a smartphone.

Customer safety agreement must include:

1. Riders under eighteen (18) shall wear helmets whiles riding a bicycle

2. Bicycles shall be parked in appropriate parking zones

System should provide regular and on-demand customizable reports for the City, NAU, and transportation partners. Data related to such areas as system utilization, distribution, maintenance reports, financial reports and general system performance shall be made available to City and NAU account managers with monthly reports available upon request with the following information:

1. Ridership data/statistics (frequency, duration, distance by day, time, and location)

2. Total calories burned by riders

3. Estimated greenhouse gas emission reduction

4. Revenue and membership data

5. Crash/accident/damage/incident data

6. Bicycle and kiosk maintenance data

7. Station rebalancing data

8. Customer complaints

9. Total miles covered by riders

D. System Maintenance Rebalancing and Repair

Successful Proposer will be responsible for providing all maintenance for system and bicycles. Successful Proposer should provide comprehensive maintenance protocols for system equipment, bicycles and software upgrades. Existing municipal or public bike racks used as part of the system may still be maintained by the appropriate local authority. Successful Proposer will ensure that bicycles will be distributed effectively across the system. Successful Proposer shall ensure that at least 90 percent of bicycles are available and safely operable at all times. Bicycles needing maintenance should be immediately blocked from use and the repair process should be initiated within 48 hours. The successful Proposer shall detail a bicycle maintenance program that ensures that broken bicycles are removed from service and repaired within a 48-hour timeframe. Bicycle maintenance and storage locations shall be provided by the vendor. During periods of extended severe winter weather, a portion of system bicycles may be taken off line and stored indoors with approval from the City and NAU.

1. At a minimum, the following tasks shall be performed at least once every four (4) week period:
    a. Inspect drive train for proper functioning and lubrication
    b. Inspect handlebar for proper centering and tightness
    c. Inspect tires for proper inflation
    d. Inspect brakes for excessive wear and ensure proper working order
    e. Inspect saddle for proper tightness
    f. Inspect shifters for proper functioning
    g. Inspect lights for proper functioning
    h. Ensure components such as the basket, bell, and advertising components are properly attached
    i. Clean bicycle and bicycle components

2. At a minimum, the following work shall be performed annually, and on an as-needed basis:
    a. Clean entire drive train
    b. Inspect spoke tension and true wheels
    c. Inspect tires for excessive wear and replace, if necessary

3. Successful Proposer assumes all responsibility for costs, repair, and replacement for damage(s) to bicycles and their service vehicles

E. Customer Service

1. Successful Proposer shall provide all customer service and support. Customer service should be available 24/7 with U.S.-based on-call support services with a phone wait/call back time not to exceed 3 minutes. On-call maintenance/repair staff should be capable of responding to maintenance calls within 48 hours. Customer complaints received by the City or NAU will be forwarded to customer service provided by the successful Proposer. Emergency calls such as bicycles improperly parked or blocking building/street access shall be responded to within 1 hour.

2. Select member(s) of the City and NAU would have the ability to relocate improperly parked bicycles if immediate assistance was needed.

F. Marketing and Sponsor Relations

1. Successful Proposer will be expected to provide support in securing and managing system sponsorships.

2. Successful Proposer shall have the ability to make presentations to prospective sponsors.

3. Successful Proposer should able to manage finances associated with sponsorships and direct associated revenue back into the system or offset funding from the City and NAU.

4. Preference will be given to Proposers partnering with local organizations and businesses.

III. PROPOSAL REQUIREMENTS

The bike share system would preferably be self-financed, with the user fees and advertising revenues covering any compensation and system costs. Advertising must be pre-approved by the City and NAU and not in conflict with any existing City and or NAU contracts. Proposer shall describe their pricing model for bicycle rentals and any proposed revenue sharing as part of their proposal.

A. Infrastructure and Technology of the System

1. Describe the scope of the initial implementation, including number of bicycles and recommended placement and number of hubs or kiosks (if applicable).

2. Provide a detailed description of the bicycles and any equipment to be used, including manufacturing origin. Include information on any related hardware needed to operate and/or maintain the bicycles. Description should include all mechanical specifications, including information regarding the gearing, suspension, seat, branding, any onboard technology, and all other amenities (i.e. basket, bell, locks).

3. Describe the system modularity and expansion capability for hubs or kiosks (if applicable), bicycles, and technology.

4. Describe any safety features that would be included in this system.

5. Describe all reporting features available to the City and NAU (i.e. system utilization, bike distribution, customer feedback, membership levels).

6. Describe all power requirements including any proposed use of solar power, if applicable.

7. Describe how the system will be compliant with the Americans with Disabilities Act and provide ADA bicycles.

8. Describe any information (i.e. safety, way finding) to be placed on bicycle and equipment (if applicable). Describe all mobile applications available for the system, on what platforms they are available, and who is responsible for maintenance and upgrades.

9. Information on the warranty associated with the product the firm is proposing and any extended warranty (include the price) that might be available.

B. Operations and Maintenance

1. Provide recommendations on what equipment and level of staffing would be required to sustain the system.

2. Provide maintenance manual/protocol for the bicycles and any other needed infrastructure or equipment including but not limited to any batteries used by bicycles or station/kiosks. Provide a proposed timeline for replacement.

3. Describe software maintenance protocols and procedures for implementing software upgrades at the request of the City and NAU.

4. Describe any bicycle balancing and redistribution protocols.

5. Describe any established troubleshooting protocol for system outages.

6. Describe the realistic timeline for deployment after a system has been selected.

7. Describe how to handle abandoned bicycles, bicycles improperly parked, those blocking ADA ramps or those blocking entrances to buildings, etc.

C. Membership

1. Provide a description of proposed membership categories and payment options, including recommended membership pricing based on the system size, demographics, population, and discounts for specific groups, etc.

2. Provide a detailed description (including photos/illustrations) of how the system will function from a user's perspective. This should include both annual and short-term memberships.

3. Detail how your firm's proposed system can be integrated into existing forms of identification (i.e. the use of the existing NAU/City identification card or e-mail address).

4. Detail how your firm will protect the identity data of members.

D. Proposer Information

1. Provide a brief history of the firm and its experience, qualifications and success in providing the type of product requested.

2. Provide at least three references where similar goods and/or services have been provided. Include the name of the firm/organization, the complete mailing address, and the name of the contact person, email address and telephone number.

E. Marketing and Customer Service

1. Describe the marketing assistance that will be provided, if any.

2. Describe the potential for advertising, including a list of locations on bicycles and equipment that can accommodate customized messaging provided by the City and NAU.

3. Describe the type of customer service support that will be provided to users as well as to the City and NAU. A system that provides 24/7 customer service is preferred.

4. Describe the website that will be provided, if any. Include the services and information that will be provided on the website (i.e. membership sign-ups, safety recommendations, system map, etc.).

EXHIBIT B
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

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: Matt Luhman, Senior Procurement Specialist
   Contract No. 2019-60
   Purchasing Department
   City of Flagstaff
   211 W. Aspen Ave.
   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.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Adoption of Resolution No. 2019-38: A resolution of the Flagstaff City Council, repealing Resolution No. 2016-33 which adopted the *2016 Board and Commission Members' Rules and Operations Manual*, and adopting the *2019 Board and Commission Members' Rules and Operations Manual* and the *2019 Board and Commission Staff Liaison Resource Guide.*

RECOMMENDED ACTION:

1) Read Resolution No. 2019-38 by tittle only
2) City Clerk reads Resolution No. 2019-38 by title only (if approved above)
3) Adopt Resolution No. 2019-38

Executive Summary:

Attached is a copy of the current Board and Commission Members' Rules and Operations Manual which was approved by the City Council in October 2016. Based on prior discussions, changes have been made to reflect Council's direction for improved communications as well as better defined roles and responsibilities for board and commission members. Additionally, significant editing, re-formatting, and re-organizing have been done to make the Manual easier to navigate, understand, and more visually appealing.

The proposed changes include:

- Significant editing, re-formatting, and re-organizing.
- The Roles and Responsibilities Section has been updated.
- Guidance on how boards and commissions interact with the City Council.
- Clarification of how recommendations are to be submitted to the City Council.
- Parking information for board and commission members has been added.
- The City Council Rules of Procedure have been incorporated into the Manual instead of it being a separate attachment.

Also attached is a copy of the proposed Board and Commission Staff Liaison Resource Guide. Over the last few years, board and commission staff liaisons have been expressing a need for a separate manual or guide to assist them in how they support and interact with their respective boards or commissions as well as what the expectations are in how they perform their duties. The City Clerk's Office has developed a Guide that incorporates more detailed information about the staff liaison role as well as defined processes to bring consistency and clear expectations to

all board and commission operations. The manual includes many of the same elements as the Board and Commission Member Manual, but it is tailored specifically to the staff liaison.

Some highlights of the guide include:

- Clarification on the authority of boards and commissions.
- Roles and Responsibilities for the staff liaison, board and commission members, the City Clerk's Office, and City Council.
- Communication expectations with City Council and how to submit recommendations.
- Information on how to prepare agendas.
- Guidance on how meetings are to be conducted.
- Records retention requirements and expectations.

Comments and suggestions were provided by Councilmember McCarthy and after review, clarifying revisions were made to the documents. I have attached a summary of those changes for reference.

Financial Impact:

None

Connection to Council Goal and/or Regional Plan:

There is no Council goal that specifically addresses 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:

Several work session meetings and Council discussions have been had over the last year to specifically discuss communication between boards and commissions and the City Council. The proposed updates to the manual and the new Staff Liaison guide capture the direction given by Council at those times.

Options and Alternatives:

1) Adopt the resolution as presented
2) Amend the resolution by making further changes to the manual and/or guide
3) Not adopt the resolution

Community Involvement:

Inform

Attachments: Res. 2019-38
Board and Commission Member Manual
Staff Liaison Guide
Recap of Edits

RESOLUTION NO. 2019-38

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, REPEALING RESOLUTION NO. 2016-33 WHICH ADOPTED THE 2016 BOARD AND COMMISSION MEMBERS' RULES AND OPERATIONS MANUAL, AND ADOPTING THE *2019 BOARD AND COMMISSION MEMBERS' RULES AND OPERATIONS MANUAL* AND *THE 2019 BOARD AND COMMISSION STAFF LIAISON RESOURCE GUIDE*

RECITALS:

WHEREAS, the Flagstaff City Charter, Article 5, Section 1, authorizes the Flagstaff City Council to create boards or commissions and to grant them duties and powers consistent with the Charter; and

WHEREAS, a vital and healthy boards and commissions program is essential to the successful function of City government; and

WHEREAS, those who serve on Flagstaff's boards and commissions dedicate invaluable time and energy to the Flagstaff community and provide valuable advice to the City Council; and

WHEREAS, board and commission recommendations have a direct impact on the quality and level of services the City of Flagstaff offers its citizens; and

WHEREAS, on October 4, 2016, the Flagstaff City Council adopted Resolution No. 2016-33 adopting the 2016 Board and Commission Members' Rules and Operations Manual; and

WHEREAS, it has been determined that changes were needed to the Manual to provide for better clarity in the duties and obligations of boards and commission under state and local laws; and

WHEREAS, it has been determined that a Board and Commission Staff Liaison Resource Guide is needed to define the various roles and responsibilities of the staff liaison and assist in their oversight of Boards and Commissions.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. Resolution No. 2016-33, adopted on October 4, 2016, is hereby repealed.

SECTION 2: The 2019 Board and Commission Members' Rules and Operations Manual and 2019 Board and Commission Staff Liaison Resource Guide, attached hereto, is hereby adopted.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 27th day of August, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Attachments:

2019 Board and Commission Members' Rules and Operations Manual
2019 Board and Commission Staff Liaison Resource Guide



CITY OF FLAGSTAFF

Board and Commission Members'

Rules and Operations Manual

City Clerk's Office
(928) 213-2077

07/02/2019
Adopted by Resolution No. 2019-XX

Message

Good government is not just the responsibility of city officials and employees, residents also play an important role. Through its boards, commissions, and committees, the city offers numerous opportunities for residents to get involved. Board and commission members provide input to the City Council, City Manager, and Departments on a variety of issues affecting the city. As a board, commission, or committee member, you are an important part of the city process, and the city appreciates your devotion, energy, time, and expertise spent in making Flagstaff a better place for everyone.

This manual is designed to provide you with an easily accessible reference to various issues and questions related to serving on a board or commission. The guide is divided into six parts: 1) Providing information on city government; 2) Understanding the board and commission process; 3) Explaining the roles and responsibilities of members and staff; (4) Guidance on recommendations and public statements; (5) Explaining the Board and Commission process; and (6) Providing information on the laws and regulations associated with boards and commissions. I hope this manual will help to answer any questions you may have about boards, commissions, committees, and their subcommittees.

The City Clerk's Office has been designated by the City Manager to coordinate the city's boards and commissions. The City Clerk is responsible for serving as the central contact for staff liaisons and as the secondary contact for board, commission, and committee members.

Training and resource guides for both staff liaisons and board members are expected to lead to greater effectiveness and more consistency among our city's boards, commissions, and committees.

There are several items to note about this resource guide:

- The term "commission" refers to all boards, commission, or committees which have been established by the City Council.
- There are several "additional resources" mentioned throughout the guide, copies of these policies are included as appendices to this manual. This information is also available on the city's website at https://www.flagstaff.az.gov/994/Boards-Commissions
- "A.R.S." stands for Arizona Revised Statutes, which is a collection of all state laws.

Please keep in mind that this manual will be revised as needed. Your feedback will be important in improving the resource. Please contact the City Clerk's Office to let us know what works well, what needs improvement, or if you need additional information.

Thank you.

Stacy Saltzburg, MMC
City Clerk

Table of Contents

PART ONE – City Government 1

Flagstaff City Government 1
- *How the City of Flagstaff Operates* 1
- *City Council* 1
- *City Manager* 2
- *City Attorney* 2
- *City Clerk* 2
- *City Divisions* 2

City Council Meetings 2
- *Overview of City Council Meetings* 2
- *Regular Meetings* 2
- *Work Sessions* 3

PART TWO – The Board and Commission Process 4

Background Information 4
- *The Importance of the City's Boards, Commissions and Committees* 4

Creation 4
- *How Boards, Commissions and Committees are Formed* 4

Types of Boards and Commissions 4
- *Advisory* 4
- *Ad hoc* 5
- *Decision-making* 5
- *Quasi-Judicial* 5
- *Subcommittees* 5
- *Informal Working Groups* 6

Appointment Process 6
- *First Step – Apply* 6
- *Second Step – Review* 6
- *Third Step – Appointment* 6
- *Fourth Step – After Appointments are Made* 7

Oaths of Office and Training Affirmations 7
- *What is the Oath of Office?* 7
- *Why Do Board and Commission Members Need to Sign These Forms?* 7
- *Orientation* 7

PART THREE – Roles and Responsibilities 8

Scope of Authority 8

Board and Commission Members 8
- *Term of Office* 8
- *Residency* 9
- *Attendance* 9
- *Code of Conduct* 9

Removal from Public Office *10*

Staff Liaisons *11*

City Council *11*

City Clerk *11*

PART FOUR – Recommendations & Official Statements **12**

Recommendations to City Council *12*

Statements Made to Other Public or Private Bodies *12*
Official versus Personal Capacity *12*
Media Requests *12*

PART FIVE – Board and Commission Meetings **14**

Board and Commission Member Parking *14*

Quorum *14*
What is a Quorum? *14*
What happens if there is no Quorum? *14*
Meeting Agenda Process *14*
Types of Agendas *14*

Discussion and Voting *15*
Who Runs the Meeting? *15*
Decorum *15*
Who Can Vote? *16*
Can I send a Designee or Proxy in my Place? *16*
Can I Abstain from Voting? *16*

Robert's Rules of Order *17*
What are Robert's Rules of Order? *17*

Rules Governing Common Motions *17*
Motion to be Stated by the Chair - Withdrawal *17*
Motion to Postpone *17*
Motion to Table *17*
Motion to Divide the Question *18*
Motion to Amend *18*
Motion to Amend an Amendment *18*
Motion to Reconsider *18*

Public Comment *18*
What is Public Comment? *18*
What Can the Public Say and How Can Board and Commission Members Respond? *19*

Minutes *19*
Minutes *19*
Approving the Minutes *20*

Executive Sessions *20*
What is an Executive Session? *20*
Subjects that Can be Discussed in an Executive Session *20*

PART SIX – Law, Regulations and Policies **21**

Open Meeting Law (A.R.S. §38-431.09) *21*
What is the Open Meeting Law? *21*
Allowed and Prohibited Communication Methods *21*
Open Meeting Law Violations *22*
Bottom Line *22*
Avoiding Open Meeting Law Violations *23*
Additional Resources *23*

Conflict of Interest Law (A.R.S. §38-503) *23*
Purpose *23*
What is a Conflict of Interest? *23*
Remote and Substantial Interest *23*
Remote Interest *24*
Substantial Interest *24*
Determining if a Conflict Exists *25*
What if I have a Conflict of Interest? *25*
Examples of a Conflict of Interest *26*

Public Records Law (ARS §39-121) *26*
E-mail *27*
Public Records Requests *27*

Conclusion *27*

APPENDICES

APPENDIX A – Board and Commission Descriptions and Enabling Legislation *A-1*

APPENDIX B – Conflict of Interest Law *A-4*

APPENDIX C – Open Meeting Law *A-15*

PART ONE – City Government

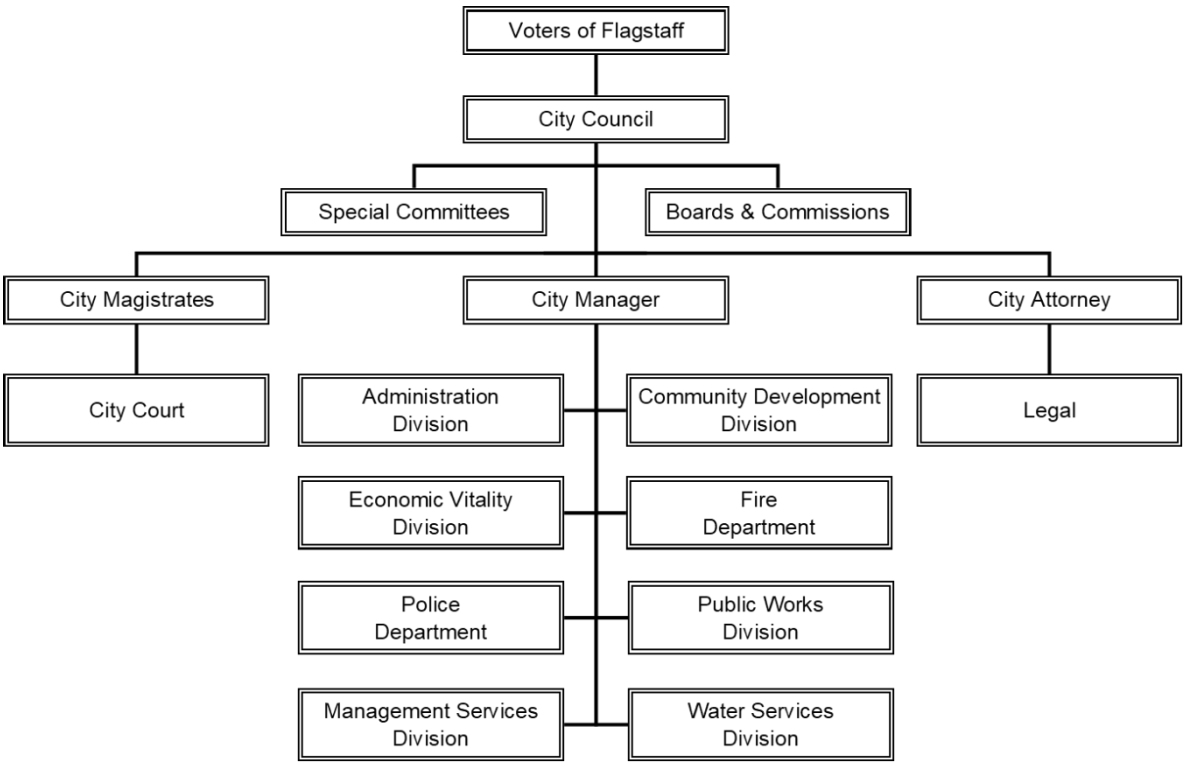
Flagstaff City Government

How the City of Flagstaff Operates

The Flagstaff City Charter was adopted by the voters in 1958 and is the basic governing authority of the City. The City Charter establishes a Council-Manager form of government. The City Council provides leadership and sets policy for the City, which means making decisions about what is and is not allowed in Flagstaff, what services need to be provided to residents and how to solve problems and concerns. The City Manager is hired by the City Council to manage the day-to-day operations of the City and to advise them about these operations as they set policy. With the assistance of the Department and Division Directors, the City Manager directs City divisions and functions. Overseeing more than 900 employees, the City Manager is responsible for the efficient, ongoing operation of all City services as set forth by the City Council.

City Council

The Flagstaff City Council is comprised of a mayor and six councilmembers elected at-large by the people on a nonpartisan ballot. The Mayor is elected every two years and acts as chairperson of the City Council presiding over Council meetings. Councilmembers hold staggered, four-year terms, with three seats decided every two years. Shortly after every City General Election, the City Council chooses a Vice-Mayor to serve in the absence of the Mayor. The Mayor and Councilmembers have equal voting power.



City Manager
The City Manager is the City's administrative head and is appointed by the City Council. The City Charter grants the City Manager a non-voting seat on the City Council. This allows the City Manager to take part in City Council discussions. The City Manager implements City Council policies and directives and makes recommendations to the City Council on measures necessary for the efficient and effective operation of municipal services. It is the City Manager's responsibility to direct the preparation of the City's annual budget and submit it to the City Council for approval. In addition, the City Manager oversees the day-to-day operation of the city and directs the activities of city employees.

City Attorney
The City Council also appoints the City Attorney. The City Attorney's Office represents the city's legal interests and rights, providing legal advice and prosecuting criminal complaints. Among other things, the City Attorney's Office drafts and reviews the city's legal documents and issues legal opinions.

City Clerk
The City Clerk is appointed by the City Manager. The City Clerk conducts City elections, ensures compliance with the Open Meeting Law, and maintains the official records of the City. The City Clerk's Office administers the Board and Commission Program and conducts commission member training.

City Divisions
The primary City Divisions are: Administration, Community Development, Economic Vitality, Fire, Management Services, Police, Public Works, Water Service, the City Attorney's Office, and Municipal Court. You will find that your board or commission works very closely with at least one City Division, if not more.

City Council Meetings

Overview of City Council Meetings
Unless posted differently, all City Council meetings are held in the Council Chambers at Flagstaff City Hall, which is located at 211 W. Aspen Avenue. The public is invited to attend these meetings and to participate. There are several types of meetings which are discussed in more detail further in this guide. Agendas can be obtained online at https://www.flagstaff.az.gov/991/Agendas-Minutes

Regular Meetings
Regular meetings of the City Council are held on the first and third Tuesdays of the month at 4:30 p.m. and 6:00 p.m. At these meetings the City Council takes official action, including enacting or rejecting ordinances, resolutions, and formal actions such as contract awards, property zoning and equipment or property purchases, among other things. The 4:30 p.m. portion of the meeting will include routine, non-controversial matters such as the approval of minutes, appointments, liquor license hearings, and consideration of routine contracts.

At the beginning of the regular Council meeting, under "Public Participation", the public may speak out on issues or concerns that are not listed on the regular meeting agenda. Due to the Open Meeting Law (which is discussed in PART FOUR), Councilmembers may not discuss the issues raised, but may ask staff to follow up or place the issue on a future agenda.

Work Sessions

Work Sessions are held on the second and fourth Tuesdays of the month at 6:00 p.m. Work sessions are public meetings held for the following purposes: (1) briefing Councilmembers on items included on the City Council's regular meeting agenda; (2) discussion of long range plans and programs for which no immediate action is required; (3) detailed discussion of matters which may soon be placed on a regular meeting agenda; and (4) exchange of information between the staff and City Council. No formal vote shall be taken on any matter under discussion.

All City Council meetings are live streamed to the city webpage:
https://www.flagstaff.az.gov/1461/Streaming-City-Council-Meetings

Part Two – The Board and Commission Process

Background Information

The Importance of the City's Boards, Commissions and Committees

Good government is not just the responsibility of city officials and employees, residents also play an important role. Through its boards and commissions, the City offers numerous opportunities for residents to get involved. Commission members provide input to the City Council, City Manager and Departments on a variety of issues affecting the city.

Close to 150 volunteers serve on 24 different boards, commissions, and committees, some of which make direct recommendations to the City Council. Members examine a variety of issues from art projects to rezone requests. You are an important part of the City process, and the City appreciates your devotion, energy, time, and expertise spent in making Flagstaff a better place for everyone.

Creation

How Boards, Commissions and Committees are Formed

The City relies on its citizens to voice their opinions and to provide their expertise to better our government. Commissions provide excellent formats for this expression. As our city grows and develops, these opportunities are expected to increase for our citizenry.

The Flagstaff City Charter, Article 5, Section 1, authorizes the City Council to create commissions and to grant to them duties and powers consistent with the City Charter. Commission members are appointed by and serve solely at the discretion of the City Council. When established, commissions are given specific guidelines surrounding its purpose and authority. The purpose and authority of a commission can be found in its establishing legislation (ordinance or resolution).

Currently, the City has 24 active boards and commissions. APPENDIX A describes each board and commission and references their enabling legislation.

Types of Boards and Commissions

All boards, commissions, and committees of the city are classified as advisory, *ad hoc*, quasi-judicial, or decision-making.

Advisory

Most commissions fall into this category. Advisory commissions have the primary responsibility of advising and making recommendations to the City Council. It is the City Council's role to absorb the advice and recommendations offered by numerous sources and then make a decision. Because the recommendations of commissions are advisory, the City Council may not always follow the recommendations offered. An example of an advisory commission is the Parks and Recreation Commission, which was formed to make recommendations to the City Council regarding City parks and recreation programs, the annual budget, and capital improvements for the Parks and Recreation Divisions.

Ad hoc

Ad hoc committees are typically advisory in nature and are created to study, review, and make recommendations regarding specific issues designated by City Council. The major difference between *ad hoc* committees and other advisory bodies is that *ad hoc* committees are established only for a limited, clearly-defined period of time. At the end of the designated time, they are automatically allowed to sunset (or end), unless the term is extended by the City Council. An example of an *ad hoc* committee was the Citizen's Transportation Tax Commission, which was created in August 2017 and disbanded in June 2018. The goal of the committee was to provide input and recommendations regarding the city's future transportation needs.

Decision-making

A decision-making board is a public body that possesses the power to select a course of action from multiple alternatives without having to seek the approval of a higher body, such as the City Council. Examples of decision-making boards are the Planning and Zoning Commission, the Board of Adjustment, and the Building and Fire Code Board of Appeals.

Quasi-Judicial

The Open Meeting Law defines a quasi-judicial body as "a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public agency and to make decisions in the general manner of a court regarding such disputed claims." Contested proceedings or quasi-judicial or adjudicatory proceedings conducted by public bodies are subject to all the requirements of the Open Meeting Law, as well as several additional due process requirements. These due process requirements include: no ex-parte communication (outside communication with the involved parties) and an opportunity for the person to present their case through witnesses, cross-examination and argument. Robert's Rules are difficult to apply to quasi-judicial hearings and separate rules for such hearings may be necessary. The following boards are considered quasi-judicial:

- Board of Adjustment
- Building and Fire Code Board of Appeals

Subcommittees

A commission may appoint subcommittees and charge these bodies with their powers, duties, and responsibilities. Normally, a subcommittee is charged with a specific duty or role. The commission may refer matters to the subcommittees for the purpose of providing analysis and making recommendations to the commission. An example of a sub-committee is the Bicycle Advisory Committee which has been established by the Transportation Commission to investigate, consider, and make recommendations to the Transportation Commission on items assigned to them by the Commission regarding their respective areas of interest.

The commission appoints and removes the members and chair for each subcommittee. Subcommittees should have a consistent body of members. The number of members should be set by the commission, and a quorum would be a majority of the total membership; which includes any vacant seats. It is recommended that at least one member of the commission serve on the subcommittee (this member possibly could chair the subcommittee). Other commission members should refrain from attending and participating in subcommittee meetings to avoid potential violations of Open Meeting Law (which is discussed in more detail in its own Section).

Commissions often use subcommittees as a way to involve individuals who want to serve on the commission but cannot due to a lack of vacancies. The City strives to have a diverse makeup of

its commissions. Likewise, commissions should look for diversity when filling their subcommittee rosters.

Informal Working Groups

Informal working groups may be created to research, gather information, and provide recommendations back to the commission on various matters. **No official appointments are made to a working group by the commission.** Working groups may consist of members of the public and/or less than a quorum of commission members. Unlike subcommittees, working groups are not required to have formal agendas or minutes.

All information and recommendations from the work group must be provided and presented to the commission in an open meeting for public discussion. Informal working groups do not have any powers, duties, or responsibilities of the parent commission. No actions, statements, or recommendations can be made or provided by the working group on behalf of the commission.

Appointment Process

First Step – Apply

With a few exceptions, commission membership appointments are made by the City Council. To apply to an open commission, individuals fill out an application (available online at https://www.flagstaff.az.gov/994/Boards-Commissions). By default, applications go to the City Clerk's Office and are entered into a database. Typically, appointments are brought forward for consideration when there is at least one more application than available seats.

With a few exceptions, it is the City Council's policy that you may serve on only one commission at any given time, unless you serve as a liaison to another commission. You may apply to serve on a different commission during the last six months of your term if you do not intend to apply for reappointment to your current commission. If the City Council appoints you to a new commission, overlapping service is permitted to finish the current term and begin the new term.

Under most circumstances, you are eligible to serve two full terms and a partial term if you are filling the remaining term of a vacancy. If you would like to be considered for reappointment and you are eligible to serve another term, you must submit an application to the City Clerk's Office in accordance with applicable deadlines. Commission members seeking another term are considered along with all other applicants for the vacant seat on the commission. **There is no preference given to current commission members and it is possible that you may not be selected for reappointment.**

Second Step – Review

To give each councilmember the opportunity to appoint members of their choosing, a randomly rotating list of councilmembers has been developed for each commission to assign councilmembers when vacancies arise. Using the list for the appropriate commission, one councilmember is assigned to a single vacancy or appointment. If there is more than one appointment for that particular commission the next councilmember on the list will be assigned to the next appointment and so on. The assigned councilmember(s) will review the submitted applications for consideration of appointment.

Third Step – Appointment

The assigned councilmember(s) will make a motion to appoint their selected individual for the City Council to vote upon for possible approval. Should the motion not pass, the assigned

councilmember may select another applicant for possible approval. This process may continue until an applicant is successfully approved. If the assigned councilmember chooses not to make another motion, the next councilmember on the rotating list may make a motion to appoint. In the event that the list of applicants is exhausted, the appointment will be postponed until additional applications are received.

Fourth Step – After Appointments are Made

The appointee will receive a new member packet in the mail that includes basic information about serving on a commission along with a certificate of appointment, a current commission roster, information about parking, new commissioner training, Open Meeting Law, and a copy of the Board and Commission Member Manual.

Oaths of Office and Training Affirmations

What is the Oath of Office?

The Oath of Office is a written affirmation in which you promise to faithfully and impartially discharge the duties of your commission. The Training and Open Meeting Law affirmations are an acknowledgement that you have reviewed the Open Meeting Law and watched the online training video. The Oath of Office and affirmations are included in the new member packet that is sent to you following appointment.

Why Do Board and Commission Members Need to Sign These Forms?

Commission members are required by State law (A.R.S. Title 38, Chapter 2, Article 4) to sign Oaths of Office. State law requires that you sign and file (with the Office of the City Clerk) the Oath prior to participating in a meeting or otherwise exercising the powers of the office you were appointed to hold. Oaths of Office must be signed upon appointment for each commission you serve on.

Orientation

You are required to participate in at least one session of the City's commission training within your first three months in office. Because this training occurs only once or twice a year, the City Clerk's Office has made the training available online at http://www.flagstaff.az.gov/index.aspx?nid=994 under “Member Training.” You can view the training upon appointment rather than waiting until the next in-person training. Signing the affirmations indicates that you have viewed the training and reviewed the Open Meeting Law information and are prepared to perform your duties as a commission member.

PART THREE – ROLES AND RESPONSIBILITIES

Scope of Authority

The strength of commissions lies in their ability to provide detailed review of specific issues and to increase public input and citizen participation in the determination of city policies and procedures. This process provides an opportunity for further public discussion and gives the City Council a broader base of information on which to formulate decisions.

Commissions are established by the City Council and they are given specific guidelines surrounding its purpose and authority. With few exceptions, commissions are advisory to the City Council. The purpose and authority along with duties and responsibilities of each commission are described in its enabling legislation, which could be an ordinance, resolution, or formal action of the City Council. Upon the request of the City Council, a commission shall advise the City Council on a matter. A commission may also submit to the City Council recommendations on matters that fall only within their purpose and authority as established by the City Council.

Only the City Council or a person acting pursuant to the direction of the City Council, may issue a communication (verbal or written) which represents an official position of the city. This includes, but is not limited to, statements of support or opposition to an issue, resolutions on any matter, directives or requests of any kind to external agencies or entities, or anything that remotely purports to be of official city import.

Commissions shall not take independent action to represent a position or opinion, whether or not related to its responsibility pursuant to city ordinance, except by submitting an advisory recommendation to the City Council. In addition, commissions may not make recommendations for elective candidates or take a position on an election issue. Furthermore, you may not use your official title or make any statement as a representative or member of your commission unless authorized to do so by a formal action of your commission.

Board and Commission Members

The opportunity for residents to participate in the decision-making process is crucial to an open and responsive government. The primary role of most commissions is to advise and make recommendations to the City Council.

Except for certain specifically identified exceptions, which are discussed in a later section, all matters to be considered and actions to be taken by a commission must be done in an open meeting. Staff liaisons will provide you with an agenda in advance of the meeting date. Agendas will often include a packet of information related to agenda items. It is vital to review this information before the meeting. Analyzing this information ahead of time allows you to make an informed evaluation of the item, participate actively in the discussion, and aids in preparing questions that you may have for the presenter.

Term of Office

Your term of office can be found on the commission roster. Generally, the terms of each member are staggered to ensure continuity on the commission, with a third of the member terms expiring each year. Most appointments to Flagstaff's commissions are for three-year terms, unless an

appointment is made for the balance of a member's term due to resignation, disqualification, or removal from office.

Important to note: You serve as an active commission member until reappointed, removed, or replaced, even if your term has expired. **In other words, if your membership term has expired, please consider yourself an active member and continue to serve on your commission until notified of your replacement.**

Residency

The City Charter requires all commission members to be residents of the City of Flagstaff at the time of your appointment and for the full duration of your term in office. This means that your primary physical residence must be located within city limits and that you reside at that location. If you move out of the city limits during your term of office, you are no longer eligible to serve on the commission and must resign. The only exception to this rule is the joint City/County Library Board where the Coconino County Board of Supervisors appoints two individuals who are county residents but who may or may not be residents of the city.

Attendance

You are expected to attend all regularly scheduled meetings. If you know you will not be able to attend a meeting, please let your staff liaison know as soon as possible. The sooner the liaison knows that a quorum will not be present, the sooner the meeting can be cancelled and rescheduled.

Having all members in attendance at a meeting, rather than a minimum quorum, is always preferable. You are appointed because of your experience, background, and/or perspective in a particular policy area, and those factors are vital to the commission making a well-reasoned and informed decision. Having more members in attendance generates a healthy discussion because of the diversity of thoughts and opinions among the members.

Although a meeting can be held if a quorum is present, there is a greater possibility of a meeting being cancelled at the last minute because of lack of attendance, members declaring a conflict of interest, or members having to leave early. This can delay the commission’s work, is disappointing to the members and staff who did attend, and sends a negative message to any members of the public who may have wished to speak and believe their time was wasted.

As a general rule, a commission may recommend to the City Council the dismissal of any member who is absent for more than two consecutive regular meetings without prior notification. This same rule applies if a member is absent for more than thirty percent (30%) of all meetings during a twelve-month period.

Code of Conduct

Your conduct as a commission member is very important. It can strengthen or undermine the credibility of your commission and the decisions or recommendations that it makes. Your statements and actions assume special significance and, if not responsibly discharged, could be detrimental to the city's best interests. In addition, improprieties of a commission member can have a legal impact on the city. As an official member of the City of Flagstaff team, City policies apply to you.

You may not use your official title or make any statement as a representative or member of a commission to influence an election, further a personal position, or for personal benefit. Under City policy, you are not allowed to make statements as a representative of a commission unless

authorized to do so by a formal action of your commission.

A process has been established for commission recommendations and decisions to be presented to the City Council. You should not meet jointly or separately with members of the City Council on matters of commission business. However, this provision is not meant to deprive you, as a citizen, of the right to meet with any member of the City Council on any other matter. Private meetings with City Councilmembers can be interpreted as attempting to influence the outcome of a vote of the City Council prior to a matter coming before them at an open meeting. Discussing commission business outside a public meeting with City Councilmembers could lead to serial communications potentially causing City Councilmembers to violate Open Meeting Law if the item is forthcoming on a City Council meeting agenda, particularly if you convey information from one Councilmember to another.

Along the way, you may find yourself facing ethical dilemmas. Matters of ethics are often difficult to detect. It is important to preserve the public perception of the ethics and values of the City. Gift giving is one of the most common ethical situations that can come into play with public officials. If you are presented with a gift, it may be helpful to ask the following questions to determine whether or not you should accept the gift:

1. Is the giver associated with an individual or organization involved with a past, present, or future matter that has been considered or will be considered by the commission?
2. Does the giver expect something in return?
3. Is the gift of more than nominal value?
4. Would someone question your integrity and values if they knew about the gift?

If the answer is “yes” to any of these questions, the gift should not be accepted regardless of whether or not it is innocent in intent.

Removal from Public Office

You serve at the discretion of the City Council and, like any other City Council-appointed position, may be removed from office by an official vote of the City Council. The following are examples of activities that can precipitate admonishment or removal from office:

- Violation of the Open Meeting Law.
- Refusal to sign the official Oath of Office.
- More than two consecutive unexcused absences from regularly scheduled meetings.
- A 30% absenteeism rate or more from regularly scheduled meetings.
- Persistent or willful violation of the Conflict of Interest Law.
- Conduct jeopardizing the City’s and community’s best interests.
- Rude, abusive, slanderous, and/or disrespectful behavior directed at the public, staff, or members of the City Council.
- Failure or refusal to participate in commission member training within a year of appointment or when directed by the City Council, City Manager, or City Attorney.
- Violation of City policies.
- Unethical behavior.
- Using your status as a City official (commission member) for personal purposes, to influence the outcome of an election or other unsanctioned activities not related to official commission business.
- Willful non-compliance with the provisions of this guide.
- Fraud, collusion or coercion.
- Inefficiency, neglect of duty or malfeasance in office.

Staff Liaisons

The role of your staff liaison is to facilitate and enhance the commission's operation and effectiveness. Your liaison is responsible for providing technical expertise and research assistance, ensuring that the commission complies with the Open Meeting Law, answering questions related to the city policies and procedures, and coordinating the involvement of other departments or commissions as needed.

The staff liaison role is critical to the commission process; the liaison is the link between the commission and the City Council. The liaison is a neutral third-party who advises your commission and ensures that discussions are focused on the properly-posted agenda items. If you ever have any questions or concerns, feel free to contact your staff liaison or the City Clerk's Office.

In addition to the primary role of serving as the contact and advisor to the commission, the staff liaison has a variety of other duties, including advising the commission, preparing the agenda, reserving and setting up the meeting room, taking minutes (or ensuring minutes are taken), and keeping track of attendance, among other things. A commission may request staff's assistance on various projects; however, their Division Director must approve all requests which create a substantial demand for a work product.

Staff liaisons are responsible for reporting commission recommendations and concerns to their Division Director for proper follow up with the City Manager and/or City Council.

City Council

A Council Representative may be assigned to your commission. The role of the Council Representative will be to gather information from their assigned commission regarding their current work program, projects, and other activities and share that information with the City Council. The Council Representative may also convey information from the City Council to the commission or provide feedback on City Council decisions or direction that may be relevant to the commission's duties and work. The Council Representative may attend meetings in person, stream meetings on the City website, review agendas and minutes, and/or reach out to meet with the chairperson and staff liaison. Information that is collected will be shared with the rest of the City Council during the Council Liaison Reports portion of the Council Meetings.

The City Council will hold quarterly Work Session meetings to hear and discuss updates from commissions on their work over the past year. This is another opportunity for the Commission to share information and recommendations with the Council.

City Clerk

The City Clerk helps oversee the City's commissions by serving as the central contact for staff liaisons and as a secondary contact for commission members on all public body related issues. The City Clerk also conducts training for staff liaisons and commission members on the overall commission process, Open Meeting Law requirements, and Conflict of Interest Law. The City Clerk retains all commission agendas and minutes permanently and tracks meeting agendas and minutes for proper online archiving.

The City Clerk also maintains membership rosters for all the City's official commissions. If your contact information changes, be sure to notify your staff liaison as quickly as possible.

PART FOUR – RECOMMENDATIONS & OFFICIAL STATEMENTS

Recommendations to City Council

Except as specified by state law or city ordinance, commission recommendations must be presented to the City Manager through your staff liaison. Your commission should prepare a detailed report that includes information on how and why they decided to present the recommendation. The City Manager will determine how that recommendation gets delivered to the City Council whether through a formal City Council meeting presentation or a more informal manner. If it is to be presented at a City Council meeting, the staff liaison will prepare a staff summary report that includes information regarding the recommendation and present the recommendation to the City Council. In addition to providing a formal recommendation to the City Manager, if a Council Representative is assigned to your commission, they are able to provide information about the recommendation during their report at a Council Meeting.

Commission recommendations are important to the City Council and they are taken under consideration for possible action. The City Council has several options and may:

- Accept the recommendation and give further direction.
- Change the provisions of a recommendation before giving further direction.
- Send a matter back for further consideration.
- Not accept the recommendation.

Statements Made to Other Public or Private Bodies

Official versus Personal Capacity

It is important to differentiate between your official and personal capacities. As a commission member, you have certain official capacities, which may include hearing presentations, obtaining public input, and making recommendations to a higher body. If you have not been charged with providing input to a higher body, you should not do so.

You cannot attend another commission meeting and provide input in an official capacity unless you have specifically been given that responsibility by your commission. However, you can attend other commission meetings in your personal capacity as a resident. Please keep in mind when attending another public or private body meeting in your personal capacity that it is best to clarify that you do not speak on behalf of your commission (unless you have been authorized to do so), rather that you are speaking in your personal capacity as a resident. This disclosure is even more important when your personal position conflicts with a position or decision of your commission.

Should you ever have any questions about your official or personal capacities, please contact your staff liaison or the City Clerk's Office.

Media Requests

At some point in your commission tenure, you may be contacted by the media to give your thoughts on a recent decision made by your commission or by the City Council. It is essential to follow the advice given in the previous section. It is best if you contact your staff liaison before speaking with the media.

Commissions and their members shall not take independent action to make a statement on behalf of, or as a representative of, the commission unless authorized to do so by a formal action. You may speak as an individual, but it is important that you stress to the reporter that you are speaking on your own behalf, not on behalf of the commission.

Most importantly, only the City Council or a person acting pursuant to the direction of the City Council, may issue a communication (verbal or written) which represents an official position of the city. This includes, but is not limited to, statements of support or opposition to an issue; resolutions on any matter; directives or requests of any kind to external agencies or entities; or anything that remotely purports to be of official city import.

Part Five – Board and Commission Meetings

Board and Commission Member Parking

You are permitted to park free of charge through Park Flag in one of the seven designated spaces on the west side of the Wheeler Park parking lot during commission meetings. The City Clerk's Office will notify Park Flag of your appointment and Park Flag will contact you directly with instructions on how to obtain the appropriate permit. If you do not hear from Park Flag prior to your first meeting, please contact your staff liaison or the City Clerk's Office.

Should you need to conduct commission business outside your normal commission meeting time please contact your staff liaison for temporary parking information.

***If you have outstanding parking violations you will not be issued a permit until the matter is resolved.**

Quorum

What is a Quorum?

A quorum is the number of members of the public body required to be in attendance at meetings in order for the meeting to be held. A quorum consists of a majority of the members of a commission (Ariz. Rev. Stat. § 1-216(B)). For purposes of computing whether a quorum is present, vacancies must be included unless otherwise provided for by law. Most commissions consist of seven members with a quorum requirement of a minimum of four members in attendance.

What happens if there is no Quorum?

If there is no quorum, the meeting must be cancelled and discussions or deliberations cannot occur per Arizona's Open Meeting Law (discussed in the next section). If you know in advance that you cannot attend a meeting you should inform your staff liaison as soon as possible. This will give the staff liaison the opportunity to cancel or reschedule the meeting. However, if members and staff arrive at a meeting and discover that a quorum is not present, it is vital for commission members to refrain from speaking or discussing commission business to avoid violating Arizona's Open Meeting Law.

If a meeting is started with a quorum and the quorum is lost because a member leaves the meeting, declares a conflict of interest (see the Conflict of Interest Section) or is lost for some other reason, items cannot be discussed or acted on until the quorum is regained. If it is not possible to regain the quorum, the meeting should end with any remaining items considered at the next meeting.

Meeting Agenda Process

Types of Agendas

The meeting agenda is normally set by the commission chair, with input from members and the staff liaison. Items can be placed on agendas in a variety of ways and commissions may establish

their own process for setting their agenda. The following are examples of how agenda items may be placed on agendas:

- In response to direction from the City Council or City Manager.
- As requested by any commission member at a public meeting.
- In response to a request from the chairperson.
- As deemed necessary by the staff liaison.
- As requested by other commissions.

The agenda should be specific enough to allow members of the public to have a general idea of what will be discussed and may be voted on (if the item is set for action). The public is entitled to know what could potentially take place.

A commission agenda may include a "Call to the Public" to designate a part of the meeting for the public to address the commission on items that are not on the agenda. Neither discussion nor action may occur on items raised during public participation because they are not on the agenda. See Public Comment Section for additional information.

In addition to regular meeting agendas, there are also notices for events, retreats/workshops, and tours. At these types of events, a quorum of the commission may be present. While these events are not meetings and commission business will not be discussed, it is helpful to notify the public that they may see commission members together, but no commission business will be discussed or acted upon If you are aware of a social gathering in which a quorum of the commission may be in attendance, if possible, notify your staff liaison so they can post a Notice of Possible Quorum.

Discussion and Voting

Who Runs the Meeting?

The chair is the presiding officer in all commission proceedings. During the absence of the chair, the vice-chair acts as chair. If neither the chair nor vice-chair can attend the meeting there is no formal order of who would take over and the members in attendance can choose a presiding officer for the meeting.

Chairs and vice-chairs normally serve for a predetermined period of time (for example, one or two years). Commissions elect their own chair and vice-chair by having a member make a motion to select another member as chair. If seconded by another member, the nomination is voted on by the commission. This process can be repeated for the vice-chair position. When it comes time to elect the leadership, the nomination process must be an agenda item.

Decorum

Members may speak after recognition by the chair and the chair shall not unreasonably withhold such recognition. However, the chair may not recognize similar repetitive discussions or motions which would delay the meeting.

When two or more members wish to speak, the chair shall determine the order of speaking and recognize the first speaker.

While a member is speaking, no other member shall interrupt except to make a point of order or a point of personal privilege. A point of order is made when a member notes an infraction of the rules or improper decorum in speaking. The point of order must be raised immediately after the

error is made. A point of personal privilege pertains to noise, personal comfort, or related items.

The general procedure for discussing and voting on a posted agenda item is:

1. The chair will explain the item is up for discussion and voting (if applicable as certain agenda items are for information or discussion only).
2. A presentation will be made by either staff or possibly an outside group that is making a presentation before the commission.
3. Following the presentation, and if public comments are allowed (see Public Comment Section), the chair may invite comments from the public on the item being considered.
4. If there is no discussion, or after discussion ends and the item is posted for action, the chair will ask for a motion.
    - A motion is a formal proposal that certain action be taken or that a certain statement express the opinion, desire, or will of the commission.
    - Motions must be made by members, not by guests or the public.
5. In order to vote, all motions require a second to put the issue before the commission. A member does not need to be recognized to second a motion.
    - A member who seconds a motion does not have to vote in favor of that motion.
    - Seconding a motion does not endorse the motion; it simply indicates a desire to have the motion considered.
6. After the motion and second the chair will call for discussion before the item is voted on.
7. Any member, at any time, may request a roll call vote. A roll call vote is a vote where each member notes their position (yes/yea or no/nay) when called by the individual taking minutes or the staff liaison.
8. A motion will pass or fail based on a majority vote.
    - The chair should announce whether the motion passed or failed.
    - For voice votes of ayes and nays that are not unanimous, the chair shall indicate the individual votes.
    - The chair may ask that a member's vote be clarified.
    - Printed or secret ballots are not permitted.
9. In the case of a tie in the vote on any motion, the motion fails.
10. If a motion fails, an alternative motion can be made.

Who Can Vote?
All commission members may vote, including the chair, on all commission proceedings.

Can I send a Designee or Proxy in my Place?
No, this is not allowed. At times, you may be unable to attend a meeting and ask your staff liaison if a representative (also known as a designee, delegate, or proxy) can be sent in your place. Although proxy voting is permitted under Robert's Rules of Order, members of public bodies, which include commissions established by the City Council, may **NOT** vote by proxy. Proxy voting is inconsistent with provisions of Arizona's Open Meeting Law. Proxy voting is also inconsistent with the requirement that members of public bodies be appointed by the City Council and take an Oath of Office before assuming the duties of the office.

Can I Abstain from Voting?
The failure to vote on matters before you is inconsistent with your official responsibilities. The City Charter provides that, in the absence of a conflict of interest (see the Conflict of Interest Section), an abstention vote is counted as an affirmative vote. When a refusal to vote occurs, it is entered in the minutes as an affirmative vote with no explanation. The abstention clause is intended to

provide an incentive to vote. The provision also protects the public process and ensures that, at a minimum, a majority of members present at a meeting vote on an issue.

Absent a statutory conflict of interest, you are expected to vote on agenda items presented to them. You are excused from voting only when a statutory conflict of interest exists.

Robert's Rules of Order

What are Robert's Rules of Order?

Robert's Rules of Order are a guide for conducting meetings. Robert's Rules of Order may be used for procedural matters not addressed by this handbook.

It is important to remember that Robert's Rules of Order are only a guide for conducting the business of a meeting and it is not the law. The only required actions to make an item legal are a motion, a second, and a vote. Within the motion, intent must be clear and those who vote on the matter must clearly understand the intent. Robert's Rules of Order provide formulas for the sequencing of different kinds of motions and an orderly rule for conducting a meeting. However, if a motion is plainly made, a second to the motion is placed on the record, and the voting participants understand the effect of their vote and support the outcome of the motion, it will stand up on its own even if it does not follow the letter of Robert's Rules of Order.

Rules Governing Common Motions

Motions are formal proposals that certain actions be taken, or certain statements expressing the opinion, recommendations or will of the commission be adopted. Motions and seconds must be made by a member of the commission. By making a motion or seconding a motion, a member is not necessarily endorsing the motion but instead is opening the floor for discussion so that the motion can be considered by the commission. If there is no motion and second to consider an agenda item, the commission shall not consider or discuss the item.

Motion to be Stated by the Chair - Withdrawal

When a motion is made and seconded, it shall be so stated by the chair before debate commences. A motion may not be withdrawn by the mover without the consent of the member seconding it.

Motion to Postpone

A motion to postpone is in order when an item is rescheduled to a time certain, when it is delayed with conditions, or when the matter is intended to be disposed of without action. If the motion prevails, the item shall return for action at the meeting specified or in accordance with the conditions established in the postponement. A motion to postpone may be debated prior to vote, but no other motion, including a motion to amend, may be offered until the vote is taken and only if the motion to postpone fails. A motion to postpone indefinitely, if it receives a majority vote, effectively extinguishes an item.

Motion to Table

A motion to table is used to delay discussion on an item until later in the meeting or until the next meeting. Neither the motion to table nor other business can be discussed, until a vote has been taken on the motion. If the motion is successful, no further discussion can be had without a motion to take off the table. To take a motion off the table at the same or immediately succeeding meeting, a motion and second must be made to take the item off the table, and it must pass by majority vote.

If not revived by the adjournment of the immediately succeeding meeting, the matter is considered to be dead.

Motion to Divide the Question
If the question contains two or more divisionable propositions, the chair may, and upon request of a member shall, divide the same.

Motion to Amend
On a motion to amend or "strike out and insert," the motion shall be made so that the intent of the amendment is clear to the members, the public and for the record.

Motion to Amend an Amendment
A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be introduced. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order.

Motion to Reconsider
After the decision on any question, any member who voted with the majority may move for a reconsideration of any action at the same meeting or at the next regular meeting that occurs at least one week after the date the action was taken. In the event of a tie vote on a motion, any commission member may move for reconsideration at the next regular meeting. To ensure that the matter will be included on the posted agenda in conformance with the Open Meeting Law, any member who wishes to have a decision reconsidered must alert the staff liaison in writing at least five days prior to the meeting at which the motion to reconsider will be made, unless the motion to reconsider was made and seconded at the meeting.

A motion to reconsider shall require the affirmative vote of the majority of the members present at the time of reconsideration. After a motion for reconsideration has once been acted on, no other motion for reconsideration of the same subject shall be made without unanimous consent of all commission members.

After the reconsideration time period has expired, the same matter may be placed on a later meeting agenda as requested according to proper protocols.

Public Comment

What is Public Comment?
Public comment provides members of the public the opportunity to address the commission in two ways – on a **published agenda item** or on other issues that are not on the agenda during the **public participation period**. The public participation period is normally its own agenda item and the commission cannot discuss, make any decisions, or take any action on any of the issues raised during this comment period.

The Open Meeting Law does not grant citizens the right to speak at public meetings, and therefore, a public comment period is not legally required. However, it is the policy and practice of the City of Flagstaff to allow individuals to appear before public bodies to express their views on published agenda items and during the public comment period.

Individuals may speak only when recognized by the chair. It is a good idea to have individuals wishing to speak fill out Speaker Comment Cards.

There are several benefits to having individuals fill out Speaker Cards:

- The chair is made aware of how many people wish to speak on a particular item and can implement reasonable time-limit restrictions.
- The chair can call up the speakers in order by name.
- The staff liaison has a record to refer to when drafting minutes.
- Confirmation for those individuals not wishing to speak but wanting to have something on the record (e.g. that they supported or opposed a particular item).

If speaker cards are used, the liaison should get all cards from the chair after the meeting for use in composing the minutes and proper records retention.

What Can the Public Say and How Can Board and Commission Members Respond?

The chair can place reasonable limits on the amount of time for each individual to speak on an agenda item or during the public participation period. For example, the City Council limits each speaker to three minutes to talk. It is important that the chair announces the limits prior to the start of public comment and all speakers be given the same amount of time for comment.

If an individual is commenting on a posted agenda item, the speaker should confine their statements to the agenda item. You can respond to the comments or questions during this time.

The public can comment during public participation on any item that is not on the agenda. There are special restrictions on what you can respond to during public participation. You can respond to statements made during public participation in three ways:

1. You can respond to personal attacks (someone questions your qualifications, suggests you have a conflict of interest that was not disclosed, etc.).
2. The commission can instruct staff to follow up.
3. The commission can instruct staff to place the item brought up (by the member of the public) on a future agenda.

This is all that can be said during public participation. You cannot express agreement or disagreement with a person's comment, discuss it, or take action. The reasoning behind this rule is that items brought up during public participation were not posted in accordance with the Open Meeting Law. The public is not aware of these items and did not have a chance to respond. Therefore, discussion or action cannot take place and the item can be discussed only at a future meeting with a properly-posted agenda.

Minutes

Minutes

Minutes are the official, formal record of what occurred in a meeting and are essential for continuity and information for future commissions. Minutes summarize action taken, action planned, responsibilities, and deadlines.

All commissions, and their subcommittees, are required to take minutes under the Open Meeting Law. Additionally, minutes are public records and draft minutes, or an audio/visual recording, of a public meeting must be posted online for public viewing within three working days after the meeting. All commission meetings are streamed live, recorded, and posted to the City's website which eliminates this three-day requirement.

Approving the Minutes

Minutes generally are sent with the agenda of the next meeting to be reviewed and considered for approval by all members. Any member may make a motion to approve the minutes. Even a member not present during the meeting for which minutes are being approved may make the motion.

If a correction to the minutes is requested and no other commission members object, the minutes are considered approved as corrected when the members vote. Any disputed corrections would need to be formally voted on by the group. Once approved, minutes become official government documents and any changes to approved minutes can only be made by a vote of the body that approved those minutes.

Executive Sessions

What is an Executive Session?

On a rare occasion, a commission may need to convene for an executive session. An executive session is a gathering of a quorum of members of a public body from which the public is excluded for one or more of the subjects prescribed in A.R.S. Section 38-431.03. In addition to the members of the commission, only individuals whose presence is reasonably necessary in order for the commission to carry out its executive session responsibilities may attend the executive session. **Executive sessions may not be held without the prior consent of the City Attorney.**

Subjects that Can be Discussed in an Executive Session

Bodies are allowed to convene in executive session for only seven reasons. The most likely topic of an executive session involving a commission would be for legal advice, property negotiations, or personnel related issues. **A commission may not go into executive session without a City Attorney present**. Executive sessions are not open to the public and no formal action is taken. Legal action involving a final vote or decision **shall not** be taken at an executive session. Rather, a vote on executive session topics must be taken at a publicly posted meeting. It is important to advise those who are present that the information discussed is confidential and may not be discussed with anyone. Additionally, the item(s) to be discussed in executive session must be listed on the agenda. For questions about a possible executive session agenda please contact your Staff Liaison or the City Clerk's Office.

Part Six – Law, Regulations and Policies

Public agencies and public officials are bound by stricter standards than the private sector. Preparation for meetings, meeting decisions, discussion items, agendas and commissioner conduct are all strictly regulated by state law. These statutes require compliance and they affect all government agencies. Non-compliance or willful disregard of these laws can result in painful consequences.

The two most important laws that you will face as a commissioner are Arizona's Open Meeting Law (Arizona Revised Statutes Title 38, Chapter 3, Article 3.1) and the Conflict of Interest Law (Arizona Revised Statutes, Title 38, Chapter 3, Article 8). Protecting the public and safeguarding the public process is at the core of these laws. Because they have a direct bearing on your commission's activities and your behavior as a commissioner, it is important for you to become familiar with them.

Open Meeting Law (A.R.S. §38-431.09)

What is the Open Meeting Law?

The Open Meeting Law is a state law (A.R.S. Title 38, Chapter 3, Article 3.1) that requires all public bodies (which includes all types of commissions, committees and their subcommittees) to conduct their business in a public environment. With very limited exceptions (see "Executive Sessions" Section), as a means of promoting public awareness and participation, Arizona's Open Meeting Law requires commissions to provide advanced notice to the public of discussions and actions that will be considered at a meeting. Proper posting means that an agenda must be made available to the public at least 24 hours before the meeting with the meeting's time, date, location, and items for discussion and/or action indicated on the agenda. To comply with the state's requirements, meeting agendas must be placed on the posting board at City Hall and online.

The Open Meeting Law promotes openness in government and ensures the general public has access to government processes. Arizona's Open Meeting Law applies anytime a quorum of a public body gathers and discusses any matter that may come before the public body for a formal vote, whether the gathering occurs at a meeting, retreat, workshop, tour, or social function.

Allowed and Prohibited Communication Methods

The Open Meeting Law opens government to public review and prevents commissions from making decisions in secret. Communications, such as telephone calls, e-mails, and other electronic methods used to bypass the Open Meeting Law and its purposes exposes you to possible sanctions. (Arizona Attorney General Opinion No. 105-004 (R05-010), available online at: http://www.azag.gov/opinions/2005/I05-004.pdf.

Communications can occur among commission members in a variety of ways other than a public setting: face-to-face, in writing, over the telephone, and through the use of e-mail, text messages or social media. These types of communications can constitute a "meeting". The public does not have access to these communication formats, so when members of a public body begin having discussions by these means, it can result in Open Meeting Law violations.

For example, even if the first e-mail does not violate the Open Meeting Law, there is a chance that subsequent responses could. Commission member #1 could be talking with commission

member #2 about an item, not realizing that commission member #3 and commission member #4 are also talking about the same item. This exchange of e-mails might result in a discussion or deliberation that could violate the Open Meeting Law. To avoid the risk of inadvertently violating the Open Meeting Law, it is best that commission members communicate at public meetings about commission business and not by telephone or e-mail.

Some examples of prohibited and allowed communication methods under the Open Meeting Law:

Prohibited: Commission members cannot circumvent public discussion by splintering the quorum and having separate or serial (one after another) discussions. For example, one commission member cannot communicate with another commission member and then pass on the results of that discussion to a third commission member.

Prohibited: An e-mail from a commission member to the entire commission or to a quorum of the commission that proposes action would be considered a meeting and subject to the Open Meeting Law, **even if** no commission member responds to the e-mail. For example, an e-mail sent from a commission member to the commission which states "We should approve the grant to the elementary school" would be considered an action and would violate the Open Meeting Law.

Allowed: An e-mail request by a commission member to the staff liaison for specific information does not violate the Open Meeting Law. The staff liaison may send e-mails and replies to all the commission members without violating the Open Meeting Law as long as the response does not communicate the opinions of the other commission members. However, if further clarification is needed, you should only respond to the staff liaison and not copy the other commission members as this would constitute a discussion or deliberation, which violates the Open Meeting Law.

Allowed: An e-mail, phone call, text message, etc. between commission members about an upcoming social function.

Open Meeting Law Violations

Actions taken at a meeting held in violation of the Open Meeting Law are null and void unless ratified within 30 days of discovery and notice and a detailed description is given at least 72 hours prior to the meeting to ratify the non-complying action(s).

Arizona's Open Meeting Law includes penalty provisions for violations. Anyone affected by an "illegal action" can file suit in Superior Court. If the Court finds that the Open Meeting Law has been violated, it may levy a fine of up to $500 against the you for each violation. You as an individual, and not the municipality, must pay the fine. You are also subject to removal from office.

Bottom Line

Once a you commit to a written form communication related to commission business, that record no longer belongs to you as an individual but becomes part of the public domain. Anyone involved in sending messages back and forth which even discuss possible action or propose a formal action could be considered serial communications which potentially violates Open Meeting Law; it is the same as if the you had met together in a private meeting. Therefore, based on these reasons, **it is best that commission members communicate at public meetings about business and not through other means.** If you have any questions about Open Meeting Law or any of the provisions above, please contact your staff liaison or the City Clerk's Office.

Avoiding Open Meeting Law Violations
To avoid pitfalls associated with Arizona's Open Meeting Law the City of Flagstaff recommends the following:

- Limit discussions regarding commission business to public sessions.
- Avoid communication through e-mail, text messages, and social media posts regarding commission business.
- Do not poll other commission members on commission business prior to meetings.
- Disband meetings when a quorum is not present.
- Provide information and materials to your staff liaison for distribution to the entire commission or bring sufficient copies and distribute at a public meeting.

Additional Resources
For more information on the Open Meeting Law, please refer to the Arizona Open Meeting Law Handbook found at https://www.azoca.gov/wp-content/uploads/Open-Meeting-Law-Booklet-September2018.pdf. Additionally, the City Clerk's Office in partnership with the City Attorney's Office can provide a presentation to commissions on the Open Meeting Law. To schedule a presentation, please contact your staff liaison.

Conflict of Interest Law (A.R.S. §38-503)

The Conflict of Interest Law applies to all public officers, including commission members. Because there are severe penalties for violating the Conflict of Interest Law, you should understand your obligations, liabilities, and rights.

Purpose
The Arizona legislature has enacted conflict of interest laws governing the conduct of public officers who, in their official capacities, become involved in decisions that could affect their personal interests or the interests of their relatives (Ariz. Rev. Stat. § 38-501 et seq.). The purpose of these laws is to remove or limit the possibility of personal influence that might otherwise affect a public officer's decisions. One cannot serve two masters with conflicting interests, and the state's conflict of interest laws are intended to prevent situations in which a public officer's professional or financial concerns conflict with the unbiased performance of the public officer's duties.

What is a Conflict of Interest?
A conflict of interest refers to a situation when someone, such as a commission member, has competing professional or personal obligations or personal or financial interests that would make it difficult to fulfill their duties fairly. It is a conflict between an individual's personal interest and their public duty. This can exist whether or not money is involved, and whether the conflict is actual or only perceived. Public perception is not a sufficient basis alone upon which to determine whether or not a conflict of interest occurs.

Remote and Substantial Interest
The Conflict of Interest Law distinguishes between interests that are "remote" and those that are "substantial". Remote interests are considered so minor that they do not constitute legitimate conflicts of interest. Any pecuniary or proprietary interest that is not remote is a "substantial" interest and does constitute a conflict of interest.

Remote Interest

If you have a remote interest in a matter, then you can still vote and participate in the discussion of your commission. A remote interest is:

1. A non-salaried officer of a non-profit corporation doing business with or requesting money from the City.
2. The landlord or tenant of a contracting party. (For example, you may lease office space to a party with a private interest in a public matter without it resulting in a conflict of interest.)
3. An attorney whose client is a contracting party.
4. A member of a non-profit cooperative marketing association doing business with the City.
5. The owner of less than three percent of the shares of a corporation doing business with the City, provided that:
    a. the total annual income from dividends, including the value of stock dividends, does not exceed five percent of the officer's or employee's total annual income; and
    b. any other payments made to the officer or employee by the corporation do not exceed five percent of the officer's or employee's total annual income.
6. Being reimbursed for actual and necessary expenses incurred in performance of official duties.
7. Receiving municipal services on the same terms and conditions as if you were not an officer or employee of the municipality. (For example, when a commissioner who owns a business within the City votes for or against an increase in the business license tax, a conflict would not exist because this action would apply to all businesses in the corporate limits.)
8. An officer of a public agency voting on a contract or decision which would not confer a direct economic benefit or detriment upon the officer. Thus, a commissioner who is a schoolteacher may vote to enter into an intergovernmental agreement with the school district, unless such agreement would confer some direct economic benefit, such as a salary increase to the commissioner or their family.
9. A member of a trade, business, occupation, profession, or class of persons who has no greater interest than the other members of similar trades, businesses, occupations, professions, or classes of persons. (For example, a plumber who serves on the commission may vote to increase or decrease plumbing inspection fees since the effect of this decision will be equal on all plumbers within the City.)

Substantial Interest

When a substantial conflict of interest exists, you must remove yourself from the commission discussion and decision on the item. A substantial conflict generally involves a monetary or ownership relationship with a private entity doing business with the city. This kind of conflict of interest requires you to identify a conflict of interest publicly on the record and to refrain from discussion, vote, or any attempt to influence the decision.

A substantial conflict of interest is defined as any pecuniary (monetary) or proprietary (ownership) interest that is not remote. In general, a conflict of interest exists when an officer of the City is involved in substantial ownership or salaried employment with a private corporation doing business with the City. For example, if a commission member owns or is employed by a lumberyard selling lumber to the City, a conflict may exist. On the other hand, if the commission member is the lawyer of the lumberyard, or if the commissioner leased land to the lumberyard, a conflict may not exist.

A public officer may sell equipment, material, supplies, or services to the municipality in which

the officer serves if this is done through an award or contract let after public competitive bidding. However, the City officer would not be able to influence the bidding process in any way and must make known such interest in the official records of the City.

The Conflict of Interest Law also contains the following restrictions on the activities of public officers:

- When a public officer has exercised "administrative discretion" in an issue, that officer cannot receive compensation if representing another person before an agency of the City on the same issue. This restriction extends to twelve months after termination of office with the city.
- A public officer cannot use confidential information obtained during the term of office for personal gain.
- A public officer cannot receive any compensation for performance of services in any case, special proceeding, application, or other matter pending before any agency of the City. This does not apply, however, to ministerial functions such as filing or amending tax forms, applying for permits, licenses, or other documents.
- A public officer cannot use their position to obtain anything of value that would normally not be received in the performance of official duties. Something is considered of "value" when it exerts a "substantial and improper" influence on the duties of the public official.

A substantial conflict of interest also occurs when a public officer has the opportunity to perform some act or participate in making a decision in an official capacity that might affect an economic interest of either themselves or their relatives.

Determining if a Conflict Exists

It is your responsibility to be aware of and to identify the circumstances in which the commission's actions might affect you or a relative and to avoid any situation in which a conflict of interest exists or appears to exist. You should review meeting agendas before each meeting to determine if there may be any potential conflict of interest with an item.

To help you decide if you have a conflict, ask yourself three questions:

- Will my decision have a positive or negative impact on an interest of my relative's or mine?
- Do I have a monetary or ownership interest in the matter?
- Is my interest other than one of the designated remote interests?

If you are unsure if you have a conflict of interest, let your staff liaison know as soon as possible and they can address the matter with the City Attorney's Office for disposition about whether an actual conflict exists. If there is any doubt about whether a conflict exists, you should opt not to participate in the discussion, deliberation, and voting process on that item. This is better than taking the risk of inadvertently violating the law.

What if I have a Conflict of Interest?

If you find that you have a conflict of interest, you must:

1. Before discussion on the item begins, make the conflict of interest known in the official records of the City by declaring at the commission meeting that a conflict of

interest exists so that the declaration can be officially entered into the minutes.
2. Refrain from voting or in any way influencing the decision.
3. Leave the table or the room until the item is discussed and acted upon.
4. File a conflict of interest disclosure statement with the City Clerk's Office that describes the nature of the conflict.

If you are the chairperson and you declare a conflict of interest, you must hand the conduct of the meeting over to your vice-chair and leave the podium. It is inappropriate for the chairperson to preside over a matter when they have declared a conflict of interest.

During this time, you are not required to leave the meeting but can "step outside" if you so choose. Once the item is over, the staff liaison should bring you back in before discussion begins on the next item.

As previously discussed in the Quorum Section, any commission member that declares a conflict of interest and does not participate cannot be counted toward the quorum requirement on that particular item.

Examples of a Conflict of Interest

The following examples provide a general understanding of how Arizona's Conflict of Interest Laws would be applied. One thing to keep in mind is that each situation is unique and depends on the specific facts presented. For this reason, it is a good idea to consult with your staff liaison to determine if an actual conflict exists.

NOTE: The situations below assume that the commission on which the you are sitting is deciding the matter in question.

- You own a property close to another property that is the subject of a zoning or license application. The granting or denial of the application could affect the value of the your property.
- A proposed amendment to the City Code seeks to regulate a specific type of business activity. You or a relative has an exclusive franchise or right to conduct the activity in the city.
- Your relative (for example, a sister) has done work in the past for a firm seeking a city contract. She anticipates doing further work for this firm in the future. A potential conflict exists whether or not she is involved in the work that is the subject of the contract.
    - A conflict only exists if the relative has a continuing business relationship with the company under consideration or anticipates a continuing business relationship in the future with this company. A past association does not constitute a conflict of interest. The statute defines "relative" as a "spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse."

Public Records Law (ARS §39-121)

As a commission member, you are required to maintain records that pertain your official activities and of any government-funded activities as prescribed in A.R.S. § 39-121.01. Moreover, these public records are, with limited exceptions, available to the public upon request.

The Arizona legislature has defined records to mean all books, papers, maps or other

documentary materials, regardless of form, made or received by public bodies in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation as evidence of the public bodies functions, policies, decisions, procedures, operations or other activities (See Ariz. Rev. Stat. § 41-151.18).

Arizona courts have interpreted the term public records very broadly. Generally speaking, any documents or materials that are related to or reflect the official duties of the public official or the city are going to be considered public records. Each public official has a statutory duty to preserve public records from deterioration, mutilation, or destruction and may destroy such records only pursuant to statutorily prescribed procedures.

When your term expires or you resign from the commission, all your materials should be given to your staff liaison for proper retention. If you have any questions about what should or should not be kept contact your staff liaison or the City Clerk's Office.

E-mail

E-mail sent to and among commission members are subject to the Public Records Law, as well as the Open Meeting Law. E-mails that members or staff generate pertaining to the business of the commission are public records. Therefore, e-mails must be preserved according to the City's approved records retention schedule and generally must be made available for public inspection if a public records request is made. It is a good idea to maintain a file containing any e-mails sent to and from members.

Public Records Requests

With limited exceptions, Arizona's Public Records Law makes public records and other matters in the custody of a public body open to inspection during office hours by any person. Although there are exceptions, as a general rule, you should always assume that your records will be subject to inspection by the public.

Conclusion

Democratic government can function properly only when the citizenry has confidence in how its government is run. Public trust is built largely upon the perceptions that citizens have regarding their Mayor and City Council, city employees, and members of commissions. Once destroyed, it is hard to reestablish public confidence. The statutes, rules, and policies discussed in this resource book were established to reinforce the public's trust in the commission process, by ensuring that the business of city's commissions and committees is conducted in an open atmosphere where the public can provide input and feedback.

The City of Flagstaff truly appreciates your service. If you have any questions, please contact your staff liaison or the City Clerk. Thank you for making Flagstaff a better place to live.

APPENDICES

APPENDIX A – Board and Commission Descriptions and Enabling Legislation

APPENDIX B – Conflict of Interest Law

APPENDIX C – Open Meeting Law

APPENDIX A

NAME	TERMS	APP'D BY	AUTHORITY	STAFF LIAISON	# OF SEATS
Airport Responsible for reporting to the Council on the development of the Airpark and matters affecting the operation and efficiency of the airport.	3 yrs	Council	City Code: Title 2, Chapter 2-11	Barney Helmick	7
Audit Committee Meets at least once a year, to review the Annual Financial and Single Audit reports.	Indef.	Council	Res Nos. 1320, 2029, 2002-59	Rick Tadder	6
Beautification and Public Art Recommends expenditures from the BBB, community beautification projects, the purchase and installation of public art projects.	3 yrs	Council	City Code: Title 2, Chapter 2-14	Mark DiLucido	7
Bicycle Advisory Committee Report to the City's Transportation Commission on issues related to planning for and accommodation of bicycles.	3 yrs	Transport Comm.	City Code: Title 2, Chapter 2-12	Martin Ince	7
Board of Adjustment Holds hearings on request for variances and appeals of decision by the Zoning Code Administrator.	3 yrs	Council	ARS § 9-462.06, City Code: Title 2, Chapter 2-10	Daniel Symer	7
Building and Fire Code Board of Appeals Holds hearings on appeals related to the application and interpretation of City building and fire codes.	5 yrs	Council	Res. 1565, 2001-42	Amy Palmer	7
Diversity Awareness Fosters mutual understanding, tolerance, respect, and awareness among all citizens; recognizing the different economic, cultural, social, religious, and ethnic groups within the City; cooperating in the development of educational programs dedicated to improving community relations and enlisting support of various groups to foster diversity awareness.	3 yrs	Council	City Code: Title 2, Chapter 2-08	Shannon Anderson	7
Flagstaff Housing Authority Oversees the functions of the Housing Authority. The Authority implements the public housing programs.	4 yrs	Mayor	ARS § 36-1404.B City Code: Title 1, Chapter 1-13	Sarah Darr	7
Flagstaff Metropolitan Planning Organization Federally mandated organization responsible for planning and programming federal transportation funds in the region	2 yrs	Council	Intergovernmental Agreement	Jeff Meilbeck	6

NAME	TERMS	APP'D BY	AUTHORITY	STAFF LIAISON	# OF SEATS
Housing Commission Makes recommendations with respect to housing policies, needs, and programs in Flagstaff.	3 yrs	Council	City Code: Title 2, Chapter 2-25		
Heritage Preservation Advises the City Council on all matters relating to historic preservation, and reviews development projects in designated historic districts.	3 yrs	Council	City Code: Title 2, Chapter 2-19	Tiffany Antol	7
Inclusion and Adaptive Living Expand educational opportunities; improve access to housing, buildings, and transportation; have greater participation in recreational, social, and cultural activities; encourage greater opportunity for employment and expand/strengthen rehabilitative programs and facilities	3 yrs	Council	City Code: Title 2, Chapter 2-18	Denise Thompson	7
Industrial Development Authority Independent authority established by State law. Issue revenue bonds to projects eligible for financing under State statute.	6 yrs	Council	Resolution No. 1636	Brandon Kavanagh	9
Library Board Serves as a citizen's advisory board to the Library Director.	3 yrs	Council	Intergovernmental Agreement	Mark Cesare	8
Open Spaces Advises the Council on the acquisition, management, use, restoration, enhancement, protection, and conservation of open space land within the City of Flagstaff.	3 yrs	Council	City Code: Title 2, Chapter 2-20	Robert Wallace	7
Parks and Recreation Makes recommendations to the Council regarding City parks and recreational programs, the annual budget and capital improvements for the Parks and Recreation Divisions.	3 yrs	Council	City Code: Title 2, Chapter 2-03	Rebecca Sayers	7
Pedestrian Advisory Committee Report to the City's Transportation Commission on issues related to planning for and accommodation of pedestrians.	3 yrs	Transport Comm.	Code, Title 2, Chapter 2-12	Martin Ince	7
Personnel Board Conducts hearing to ensure due process for regular, classified employees who are dismissed, demoted, or suspended without pay.	4 yrs	Council	Ord. No. 971, 1041, 1116, 1146, 1198	Shannon Anderson	7

NAME	TERMS	APP'D BY	AUTHORITY	STAFF LIAISON	# OF SEATS
Planning and Zoning Serves as an advisory board to the Council on matters relating to the growth and physical development of the City. Conduct hearings on amendments to the Zoning Map, tentative subdivision plats, Conditional Use Permits.	3 yrs	Council	ARS § 9-461.02 City Code: Title 2, Chapter 2-01	Tiffany Antol	7
PSPRS Board Processes membership and retirement applications from the Flagstaff police officers and firefighters.	4 yrs	Mayor	ARS § 38-847	Vivian Fennema Allison Hughes	7
Self-Insurance Trust Fund Board Administers the self-insurance program of the City.	2 yrs	Council	City Code: Title 1, Chapter 1-24	Dean Coughenour	5
Sustainability Recommend and coordinates activities in concert with the Flagstaff Sustainability Program. Promotes sustainable practices in all spheres of life and educating Flagstaff citizens	3 yrs	Council	City Code: Title 2, Chapter 2-17	Nicole Antonopoulos	7
Tourism Develops, promotes, and maintains Flagstaff as a year-round destination with professional visitor services that will benefit the community economically, environmentally, and socially.	3 yrs	Council	City Code: Title 2, Chapter 2-13	Trace Ward	7
Transportation Reviews requests for changes in traffic regulations and recommends traffic-related policies to the Council.	3 yrs	Council	City Code: Title 2, Chapter 2-12	Jeffrey Bauman	7
Water Reviews extensions of the water and sewer collection systems, treatment and use of water furnished by the City, treatment and disposal of the City's sewage system effluent, and water/sewer rates.	3 yrs	Council	City Code: Title 2, Chapter 2-04	Brad Hill	7

APPENDIX B

Title 38. Public Officers and Employees
Chapter 3. Conduct of Office
Article 3.1. Public Meetings and Proceedings

§ 38-431. Definitions

In this article, unless the context otherwise requires:

1. "Advisory committee" or "subcommittee" means any entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body.

2. "Executive session" means a gathering of a quorum of members of a public body from which the public is excluded for one or more of the reasons prescribed in section 38-431.03. In addition to the members of the public body, officers, appointees and employees as provided in section 38-431.03 and the auditor general as provided in section 41-1279.04, only individuals whose presence is reasonably necessary in order for the public body to carry out its executive session responsibilities may attend the executive session.

3. "Legal action" means a collective decision, commitment or promise made by a public body pursuant to the constitution, the public body's charter, bylaws or specified scope of appointment and the laws of this state.

4. "Meeting":

   (a) Means the gathering, in person or through technological devices, of a quorum of the members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to such that action.
   (b) Includes:

      (i) A one-way electronic communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action.

      (ii) An exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter likely to come before the public body for action. "Political subdivision" means all political subdivisions of this state, including without limitation all counties, cities and towns, school districts and special districts.

5. "Public body" means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of this state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by this state or political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. Public body includes all commissions and other public entities established by the Arizona constitution or by way of ballot initiative, including the independent redistricting commission,

and this article applies except and only to the extent that specific constitutional provisions supersede this article.

6. "Quasi-judicial body" means a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public agency and to make decisions in the general manner of a court regarding such disputed claims.

§ 38-431.01. Meetings shall be open to the public

A. All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting.

B. All public bodies shall provide for the taking of written minutes or a recording of all their meetings, including executive sessions. For meetings other than executive sessions, the minutes or recording shall include:

   1. The date, time and place of the meeting.

   2. The members of the public body recorded as either present or absent.

   3. A general description of the matters considered.

   4. An accurate description of all legal actions proposed, discussed or taken, including a record of how each member voted. The minutes shall also include the names of the members who propose each motion and the names of the persons, as given, who make statements or present material to the public body and a reference to the legal action about which they made statements or presented material.

C. Minutes of executive sessions shall include items set forth in subsection B, paragraphs 1, 2 and 3 of this section, an accurate description of all instructions given pursuant to section 38-431.03, subsection A, paragraphs 4, 5 and 7 and such other matters as may be deemed appropriate by the public body.

D. The minutes or a recording of a meeting shall be available for public inspection three working days after the meeting except as otherwise specifically provided by this article.

E. A public body of a city or town with a population of more than two thousand five hundred persons shall:

   1. Within three working days after a meeting, except for subcommittees and advisory committees, post on its website, if applicable, either:

      (a) A statement describing the legal actions taken by the public body of the city or town during the meeting.

      (b) Any recording of the meeting.

   2. Within two working days following approval of the minutes, post approved minutes of city or town council meetings on its website, if applicable, except as otherwise specifically provided by this article.

3. Within ten working days after a subcommittee or advisory committee meeting, post on its website, if applicable, either:

   (a) A statement describing legal action, if any.

   (b) A recording of the meeting.

F. All or any part of a public meeting of a public body may be recorded by any person in attendance by means of a tape recorder or camera or any other means of sonic reproduction, provided that there is no active interference with the conduct of the meeting.

G. The secretary of state for state public bodies, the city or town clerk for municipal public bodies and the county clerk for all other local public bodies shall conspicuously post open meeting law materials prepared and approved by the attorney general on their website. A person elected or appointed to a public body shall review the open meeting law materials at least one day before the day that person takes office.

H. A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

I. A member of a public body shall not knowingly direct any staff member to communicate in violation of this article.

J. Any posting required by subsection E of this section must remain on the applicable website for at least one year after the date of the posting.

§ 38-431.02. Notice of meetings

A. Public notice of all meetings of public bodies shall be given as follows:

   1. The public bodies of this state, including governing bodies of charter schools, shall:

      (a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

      (b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

2. The public bodies of the counties and school districts shall:

   (a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

   (b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

3. Special districts that are formed pursuant to title 48:

   (a) May conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

   (b) May post all public meeting notices on their website and shall give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

   (c) If a statement or notice is not posted pursuant to subdivision (a) or (b) of this paragraph, shall file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give additional public notice as is reasonable and practicable as to all meetings.

4. The public bodies of the cities and towns shall:

   (a) Conspicuously post a statement on their website or on a website of an association of cities and towns stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

   (b) Post all public meeting notices on their website or on a website of an association of cities and towns and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

B. If an executive session is scheduled, a notice of the executive session shall state the provision of law authorizing the executive session, and the notice shall be provided to the:

1. Members of the public body.

2. General public.

C. Except as provided in subsections D and E of this section, meetings shall not be held without at least twenty-four hours' notice to the members of the public body and to the general public. The twenty-four hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays prescribed in § 1-301.

D. In case of an actual emergency, a meeting, including an executive session, may be held on such notice as is appropriate to the circumstances. If this subsection is utilized for conduct of an emergency session or the consideration of an emergency measure at a previously scheduled meeting the public body must post a public notice within twenty-four hours declaring that an emergency session has been held and setting forth the information required in subsections H and I of this section.

E. A meeting may be recessed and resumed with less than twenty-four hours' notice if public notice of the initial session of the meeting is given as required in subsection A of this section, and if, before recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given.

F. A public body that intends to meet for a specified calendar period, on a regular day, date or event during the calendar period, and at a regular place and time, may post public notice of the meetings at the beginning of the period. The notice shall specify the period for which notice is applicable.

G. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such an agenda. The agenda must be available to the public at least twenty-four hours before the meeting, except in the case of an actual emergency under subsection D of this section. The twenty-four hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays prescribed in § 1-301.

H. Agendas required under this section shall list the specific matters to be discussed, considered or decided at the meeting. The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.

I. Notwithstanding the other provisions of this section, notice of executive sessions shall be required to include only a general description of the matters to be considered. The agenda shall provide more than just a recital of the statutory provisions authorizing the executive session, but need not contain information that would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee or compromise the attorney-client privilege.

J. Notwithstanding subsections H and I of this section, in the case of an actual emergency a matter may be discussed and considered and, at public meetings, decided, if the matter was not listed on the agenda and a statement setting forth the reasons necessitating the discussion, consideration or decision is placed in the minutes of the meeting and is publicly announced at the public meeting. In the case of an executive session, the reason for consideration of the emergency measure shall be announced publicly immediately before the executive session.

K. Notwithstanding subsection H of this section, the chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:

1. The summary is listed on the agenda.

2. The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

§ 38-431.03. Executive sessions

A. Upon a public majority vote of the members constituting a quorum, a public body may hold an executive session but only for the following purposes:

1. Discussion or consideration of employment, assignment, appointment, pro-motion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.

2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.

3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.

4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.

5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.

6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.

7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

B. Minutes of and discussions made at executive sessions shall be kept confidential except from:

1. Members of the public body which met in executive session.

2. Officers, appointees or employees who were the subject of discussion or consideration pursuant to subsection A, paragraph 1 of this section.

3. The auditor general on a request made in connection with an audit authorized as provided by law.

4. A county attorney or the attorney general when investigating alleged violations of this article.

C. The public body shall instruct persons who are present at the executive session regarding the confidentiality requirements of this article.

D. Legal action involving a final vote or decision shall not be taken at an executive session, except that the public body may instruct its attorneys or representatives as provided in subsection A, paragraphs 4, 5 and 7 of this section. A public vote shall be taken before any legal action binds the public body.

E. Except as provided in section 38-431.02, subsections I and J, a public body shall not discuss any matter in an executive session which is not described in the notice of the executive session.

F. Disclosure of executive session information pursuant to this section or section 38-431.06 does not constitute a waiver of any privilege, including the attorney-client privilege. Any person receiving executive session information pursuant to this section or section 38-431.06 shall not disclose that information except to the attorney general or county attorney, by agreement with the public body or to a court in camera for purposes of enforcing this article. Any court that reviews executive session information shall take appropriate action to protect privileged information.

§ 38-431.04. Writ of mandamus

Where the provisions of this article are not complied with, a court of competent jurisdiction may issue a writ of mandamus requiring that a meeting be open to the public.

§ 38-431.05. Meeting held in violation of article; business transacted null and void; ratification

A. All legal action transacted by any public body during a meeting held in violation of any provision of this article is null and void except as provided in subsection B.

B. A public body may ratify legal action taken in violation of this article in accordance with the following requirements:

1. Ratification shall take place at a public meeting within thirty days after discovery of the violation or after such discovery should have been made by the exercise of reasonable diligence.

2. The notice for the meeting shall include a description of the action to be ratified, a clear statement that the public body proposes to ratify a prior action and information on how the public may obtain a detailed written description of the action to be ratified.

3. The public body shall make available to the public a detailed written description of the action to be ratified and all deliberations, consultations and decisions by members of the public body that preceded and related to such action. The written description shall also be included as part of the minutes of the meeting at which ratification is taken. The public body shall make available to the public the notice and detailed written description required by this section at least seventy-two hours

in advance of the public meeting at which the ratification is taken.

§ 38-431.06. Investigations; written investigative demands

A. On receipt of a written complaint signed by a complainant alleging a violation of this article or on their own initiative, the attorney general or the county attorney for the county in which the alleged violation occurred may begin an investigation.

B. In addition to other powers conferred by this article, in order to carry out the duties prescribed in this article, the attorney general or the county attorney for the county in which the alleged violation occurred, or their designees, may:

1. Issue written investigative demands to any person.

2. Administer an oath or affirmation to any person for testimony.

3. Examine under oath any person in connection with the investigation of the alleged violation of this article.

4. Examine by means of inspecting, studying or copying any account, book, computer, document, minutes, paper, recording or record.

5. Require any person to file on prescribed forms a statement or report in writing and under oath of all the facts and circumstances requested by the attorney general or county attorney.

C. The written investigative demand shall:

1. Be served on the person in the manner required for service of process in this state or by certified mail, return receipt requested.

2. Describe the class or classes of documents or objects with sufficient definiteness to permit them to be fairly identified.

3. Prescribe a reasonable time at which the person shall appear to testify and within which the document or object shall be produced and advise the person that objections to or reasons for not complying with the demand may be filed with the attorney general or county attorney on or before that time.

4. Specify a place for the taking of testimony or for production of a document or object and designate a person who shall be the custodian of the document or object.

D. If a person objects to or otherwise fails to comply with the written investigation demand served on the person pursuant to subsection C, the attorney general or county attorney may file an action in the superior court for an order to enforce the demand. Venue for the action to enforce the demand shall be in Maricopa county or in the county in which the alleged violation occurred. Notice of hearing the action to enforce the demand and a copy of the action shall be served on the person in the same manner as that prescribed in the Arizona rules of civil procedure. If a court finds that the demand is proper, including that the compliance will not violate a privilege and that there is not a conflict of interest on the part of the attorney general or county attorney, that there is reasonable cause to believe there may have been

a violation of this article and that the information sought or document or object demanded is relevant to the violation, the court shall order the person to comply with the demand, subject to modifications the court may prescribe. If the person fails to comply with the court's order, the court may issue any of the following orders until the person complies with the order:

1. Adjudging the person in contempt of court.

2. Granting injunctive relief against the person to whom the demand is issued to restrain the conduct that is the subject of the investigation.

3. Granting other relief the court deems proper.

§ 38-431.07. Violations; enforcement; removal from office; in camera review

A. Any person affected by an alleged violation of this article, the attorney general or the county attorney for the county in which an alleged violation of this article occurred may commence a suit in the superior court in the county in which the public body ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of, this article, by the public body as a whole, or to determine the applicability of this article to matters or legal actions of the public body. The attorney general may also commence a suit in the superior court in the county in which the public body ordinarily meets against an individual member of a public body for a knowing violation of this article, and in such a suit the court may impose a civil penalty against each person who knowingly violates this article or who knowingly aids, agrees to aid or attempts to aid in violating this article and order equitable relief as the court deems appropriate in the circumstances. The court may impose a civil penalty not to exceed five hundred dollars for the second offense and not to exceed two thousand five hundred dollars for the third and subsequent offenses. If the court imposes a civil penalty against an individual member of the public body who knowingly violates this article, the public body may not pay the civil penalty on behalf of, or otherwise reimburse, the individual against whom the civil penalty has been imposed. If the court finds that a person who might otherwise be liable under this subsection objected to the action of the public body and the objection is noted on a public record, the court may choose not to impose a civil penalty on that person. The civil penalties awarded pursuant to this section shall be deposited into the general fund of the public body concerned. The court may also order payment to a successful plaintiff in a suit brought under this section of the plaintiff's reasonable attorney fees, by the defendant state, the political subdivision of the state or the incorporated city or town of which the public body is a part or to which it reports. If the court determines that a public officer with intent to deprive the public of information knowingly violated any provision of this article, the court may remove the public officer from office and shall assess the public officer or a person who knowingly aided, agreed to aid or attempted to aid the public officer in violating this article, or both, with all of the costs and attorney fees awarded to the plaintiff pursuant to this section.

B. A public body shall not expend public monies to employ or retain legal counsel to provide legal services or representation to the public body or any of its officers in any legal action commenced pursuant to any provisions of this article, unless the public body has authority to make the expenditure pursuant to other provisions of law and takes a legal action at a properly noticed open meeting approving the expenditure before incurring any obligation or indebtedness.
C. In any action brought pursuant to this section challenging the validity of an executive session, the court may review in camera the minutes of the executive session, and if the court in its discretion determines that the minutes are relevant and that justice so demands, the court may disclose to the parties or admit in evidence part or all of the minutes.

§ 38-431.08. Exceptions; limitation

A. This article does not apply to:

1. Any judicial proceeding of any court or any political caucus of the legislature.

2. Any conference committee of the legislature, except that all such meetings shall be open to the public.

3. The commissions on appellate and trial court appointments and the commission on judicial qualifications.

4. Good cause exception and central registry exception determinations and hearings conducted by the board of fingerprinting pursuant to sections 41-619.55 and 41-619.57.

B. A hearing held within a prison facility by the board of executive clemency is subject to this article, except that the director of the state department of corrections may:

1. Prohibit, on written findings that are made public within five days of so finding, any person from attending a hearing whose attendance would constitute a serious threat to the life or physical safety of any person or to the safe, secure and orderly operation of the prison.

2. Require a person who attends a hearing to sign an attendance log. If the person is over sixteen years of age, the person shall produce photographic identification that verifies the person's signature.

3. Prevent and prohibit any articles from being taken into a hearing except recording devices, and if the person who attends a hearing is a member of the media, cameras.

4. Require that a person who attends a hearing submit to a reasonable search on entering the facility.

C. The exclusive remedies available to any person who is denied attendance at or removed from a hearing by the director of the state department of corrections in violation of this section shall be those remedies available in section 38-431.07, as against the director only.

D. Either house of the legislature may adopt a rule or procedure pursuant to article IV, part 2, section 8, Constitution of Arizona, to provide an exemption to the notice and agenda requirements of this article or to allow standing or conference committees to meet through technological devices rather than only in person.

§ 38-431.09. Declaration of public policy

A. It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Toward this end, any person or entity charged with the interpretations of this article shall construe this article in favor of open and public meetings.

B. Notwithstanding subsection A, it is not a violation of this article if a member of a public body expresses an opinion or discusses an issue with the public either at a venue other than at a meeting that is subject

to this article, personally, through the media or other form of public broadcast communication or through technological means if:

1. The opinion or discussion is not principally directed at or directly given to another member of the public body.

2. There is no concerted plan to engage in collective deliberation to take legal action.

APPENDIX C

Title 38. Public Officers and Employees

Chapter 3. Conduct of Office

Article 8. Conflict of Interest of Officers and Employees

§ 38-501. Application of article

A. This article shall apply to all public officers and employees of incorporated cities or towns, of political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.

B. Notwithstanding the provisions of any other law, or the provisions of any charter or ordinance of any incorporated city or town to the contrary, the provisions of this article shall be exclusively applicable to all officers and employees of every incorporated city or town or political subdivision or the state and any of its departments, commissions, agencies, bodies or boards and shall supersede the provisions of any other such law, charter provision or ordinance.

C. Other prohibitions in the state statutes against any specific conflict of interests shall be in addition to this article if consistent with the intent and provisions of this article.

§ 38-502. Definitions

In this article, unless the context otherwise requires:

1. "Compensation" means money, a tangible thing of value or a financial benefit.

2. "Employee" means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration.

3. "Make known" means the filing of a paper which is signed by a public officer or employee and which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to section 38-509.

4. "Official records" means the minutes or papers, records and documents maintained by a public agency for the specific purpose of receiving disclosures of substantial interests required to be made known by this article.

5. "Political subdivision" means all political subdivisions of the state and county, including all school districts.

6. "Public agency" means:

   (a) All courts.

   (b) Any department, agency, board, commission, institution, instrumentality or legislative or

administrative body of the state, a county, an incorporated town or city and any other political subdivision.

(c) The state, county and incorporated cities or towns and any other political subdivisions.

7. "Public competitive bidding" means the method of purchasing prescribed by title 41, chapter 23, or procedures substantially equivalent to such method of purchasing, or as provided by local charter or ordinance.

8. "Public officer" means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute.

9. "Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.

10. "Remote interest" means:

(a) That of a nonsalaried officer of a nonprofit corporation.

(b) That of a landlord or tenant of the contracting party.

(c) That of an attorney of a contracting party.

(d) That of a member of a nonprofit cooperative marketing association.

(e) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five percent of his total annual income.

(f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.

(g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.

(h) That of a public school board member when the relative involved is not a dependent, as defined in section 43-1001, or a spouse.

(i) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment on the officer, the employee or his relative, of any of the following:

(i) Another political subdivision.

(ii) A public agency of another political subdivision.

(iii) A public agency except if it is the same governmental entity.

(j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.

(k) That of a relative who is an employee of any business entity or governmental entity that employs at least twenty-five employees within this state and who, in the capacity as an employee, does not assert control or decision-making authority over the entity's management or budget decisions.

(l) The ownership of any publicly traded investments that are held in an account or fund, including a mutual fund, that is managed by one or more qualified investment professionals who are not employed or controlled by the officer or employee and that the officer or employee owns shares or interest together with other investors.

11. "Substantial interest" means any nonspeculative pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

§ 38-503. Conflict of interest; exemptions; employment prohibition

A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

1. A school district governing board may purchase, as provided in sections 15-213 and 15-323, supplies, materials and equipment from a school board member.

2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

D. Notwithstanding subsections A and B of this section and as provided in sections 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

§ 38-504. Prohibited acts

A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.

B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

§ 38-505. Additional income prohibited for services

A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

B. This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.

§ 38-506. Remedies

A. In addition to any other remedies provided by law, any contract entered into by a public agency in violation of this article is voidable at the instance of the public agency.

B. Any person affected by a decision of a public agency may commence a civil suit in the superior court for the purpose of enforcing the civil provisions of this article. The court may order such equitable relief as it deems appropriate in the circumstances including the remedies provided in this section.

C. The court may in its discretion order payment of costs, including reasonable attorney's fees, to the prevailing party in an action brought under subsection B.

§ 38-507. Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee

Requests for opinions from either the attorney general, a county attorney, a city or town attorney, the senate ethics committee or the house of representatives ethics committee concerning violations of this article shall be confidential, but the final opinions shall be a matter of public record. The county attorneys shall file opinions with the county recorder, the city or town attorneys shall file opinions with the city or town clerk, the senate ethics committee shall file opinions with the senate secretary and the house of representatives ethics committee shall file opinions with the chief clerk of the house of representatives.

§ 38-508. Authority of public officers and employees to act

A. If the provisions of section 38-503 prevent an appointed public officer or a public employee from acting as required by law in his official capacity, such public officer or employee shall notify his superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.

B. If the provisions of section 38-503 prevent a public agency from acting as required by law in its official capacity, such action shall not be prevented if members of the agency who have apparent conflicts make known their substantial interests in the official records of their public agency.

§ 38-509. Filing of disclosures

Every political subdivision and public agency subject to this article shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to this article.

§ 38-510. Penalties

C. A person who:

1. Intentionally or knowingly violates any provision of sections 38-503 through 38-505 is guilty of a class 6 felony.

2. Recklessly or negligently violates any provision of sections 38-503 through 38-505 is guilty of a class 1 misdemeanor.

D. A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

E. It is no defense to a prosecution for a violation of sections 38-503 through 38-505 that the public officer or employee to whom a benefit is offered, conferred or agreed to be conferred was not qualified or authorized to act in the desired way.

F. It is a defense to a prosecution for a violation of sections 38-503 through 38-505 that the interest charged to be substantial was a remote interest.

2019

Board and Commission Staff Liaison Resource Guide

City of Flagstaff
August 2019
Adopted by Resolution No. 2019-XX

For purposes of this manual, the term “commission” refers to all boards, commission, or committees which have been established by the City Council.

TABLE OF CONTENTS

PART ONE – Understanding the Board & Commission Process 1

Board and Commission Creation 1
How Are Boards and Commissions Formed? 1

Types and Duties of Boards and Commissions 1
Advisory 1
Ad hoc 1
Decision Making 1
Quasi-Judicial 1
Subcommittees 2
Staff Liaison Duties for Subcommittees 2
Informal Working Groups 2

Scope of Authority 3

Statements Made to Other Public or Private Bodies 3
Official Versus Personal Capacity 3
Media Requests 4

Recommendations to City Council 4

Appointment Process 4
First Step – Apply 4
Second Step – Review 5
Third Step – Appointment 5
Fourth Step – After Appointments are Made 5

Oaths of Office and Training Affirmations 6
What is the Oath of Office? 6
Why do Board and Commission Members Need to Sign These Forms? 6

Roles and Responsibilities 6
Staff Liaisons 6
The Role of Staff Liaisons 6
Responsibilities of the Staff Liaison 7
Releasing Personal Information 7
City Council 7
The Role of City Council 7
Responsibilities of City Council 7
City Clerk 7
The Role of the City Clerk 7
Responsibilities of the City Clerk 7
Board and Commission Members 8
The Role of Board and Commission Members 8
Responsibilities of Board and Commission Members 8

PART TWO – Preparing for the Meeting 10

Attendance 10
Requirements 10
Resignations 10

Quorum *11*
What is a Quorum? *11*
Maintaining a Quorum Throughout the Meeting *11*

The Open Meeting Law *11*
What is the Open Meeting Law? *11*
Allowed and Prohibited Communication Methods *11*

Open Meeting Law Violations **12**
Bottom Line *12*
Additional Resources *13*

Meeting Agenda Process *13*
Types of Agendas *13*
Creating the Agenda *14*
Posting the Agenda *14*
Sending out the Agenda *14*

Executive Session *14*
What is an Executive Session? *14*
Subjects that Can be Discussed in an Executive Session *15*

Getting Ready for the Meeting *15*
Meeting Location *15*
Items to Bring to the Meeting *15*

Board and Commission Member Parking *16*

PART THREE – Staffing the Meeting **17**

Meeting Management *17*
Who Runs the Meeting? *17*
Role of Staff Liaison *17*

Public Comment *18*
What is Public Comment? *18*
What Can the Public Say and How Can Board and Commission Members Respond? *18*

Decorum *19*

Robert's Rules of Order *19*
What are Robert's Rules of Order? *19*

Voting *19*
Can a Designee or Proxy Vote? *19*
Can Board and Commission Members Abstain from Voting? *20*
Discussion and Voting Procedures *20*

Rules Governing Common Motions *20*
Motion to be Stated by the Chair - Withdrawal *20*
Motion to Postpone *21*
Motion to Table *21*
Motion to Divide the Question *21*
Motion to Amend *21*
Motion to Amend an Amendment *21*
Motion to Reconsider *21*

Minute Taking *22*
Purpose of Taking Minutes *22*
What Must be Included in the Minutes? *22*
Are Minutes Required if There is no Quorum? *22*
Are Minutes Required for an Executive Session? *23*
Approving the Minutes *23*

Conflict of Interest *23*
What is a Conflict of Interest? *23*
Determining if a Conflict Exists *23*
Noting a Conflict for the Record *24*
Examples of a Conflict of Interest *24*

PART FOUR – After the Meeting **25**

Minutes *25*
Tips for Good Minute Writing *25*
Minute Filing *25*

Records Retention *25*
E-mail *25*
Agendas and Minutes *26*
Public Records Requests *26*

What is Due and by When to the City Clerk *26*

Concluding Remarks *26*

APPENDICES

APPENDIX A – Board and Commission Descriptions and Enabling Legislation *A-1*

APPENDIX B – How to Post Agendas and Minutes to the Website *A-4*

APPENDIX C – Notice of Cancellation *A-8*

APPENDIX D – Notice of Possible Quorum *A-9*

APPENDIX E – Agenda Template *A-10*

APPENDIX F – Speaker Request Card *A-12*

APPENDIX G – Minutes Template *A-13*

APPENDIX H – Open Meeting Law *A-15*

APPENDIX I – Conflict of Interest Law *A-26*

PART ONE – Understanding the Board & Commission Process

Board and Commission Creation

How Are Boards and Commissions Formed?

The city relies on its citizens to voice their opinions and to provide their expertise to better our government. Boards and commissions provide excellent formats for this expression. As our city grows, these opportunities are expected to increase for our citizenry.

Per our Charter, the City Council may, by ordinance, create, change, or abolish a board or commission. When established, boards and commissions are given specific guidelines surrounding their purpose and authority. The purpose and authority of a board or commission can be found in its establishing legislation (ordinance or resolution).

Currently, the City has 24 active boards and commissions. APPENDIX A describes each board and commission and references their enabling legislation.

Types and Duties of Boards and Commissions

Advisory

Most commissions fall into this category. **Advisory commissions have the primary responsibility of advising and making recommendations to the City Council.** It is the City Council's role to consider the advice and recommendations offered by numerous sources and then decide. Because the recommendations of commissions are advisory, the City Council may not always follow the recommendations offered. An example of an advisory commission is the Parks and Recreation Commission, which was formed to make recommendations to the City Council regarding parks and recreational programs, the annual budget and capital improvements for the Parks and Recreation Divisions.

Ad hoc

Ad hoc committees are typically advisory in nature and are created to study, review, and make recommendations regarding specific issues designated by City Council. The major difference between *ad hoc* committees and other advisory bodies is that *ad hoc* committees are established only for a limited, clearly-defined period of time. At the end of the designated time, they automatically are allowed to sunset (or end), unless the term is extended by the City Council. An example of an *ad hoc* committee was the Citizen's Transportation Tax Commission, which was created in August 2017 and disbanded in June 2018. The goal of the committee was to provide input and recommendations regarding the city's future transportation needs.

Decision-making

A decision-making commission is a public body that possesses the power to select a course of action from multiple alternatives without having to seek the approval of a higher body, such as the City Council.

Examples of decision-making commission are the Planning and Zoning Commission, the Board of Adjustment, and Building and the Fire Code Board of Appeals.

Quasi-Judicial

The Open Meeting Law defines a quasi-judicial body as "a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public

agency and to make decisions in the general manner of a court regarding such disputed claims." Contested proceedings or quasi-judicial or adjudicatory proceedings conducted by public bodies are subject to all the requirements of the Open Meeting Law, as well as a number of additional due process requirements. These due process requirements include: no *ex-parte* communication (outside communication with the involved parties), and an opportunity for the person to present their case through witnesses, cross-examination, and argument. Robert's Rules are difficult to apply to quasi-judicial hearings, and separate rules for such hearings may be necessary. The following boards are considered quasi-judicial:

- Board of Adjustment
- Building and Fire Code Board of Appeals

Subcommittees

A commission may establish subcommittees and charge these bodies with their powers, duties, and responsibilities. Subcommittees are bound by the same rules and regulations as commissions. The commission may refer matters to a subcommittee for the purpose of collecting information, providing analysis, and making recommendations to the commission. An example of a subcommittee is the Bicycle Advisory Committee which has been established by the Transportation Commission to investigate, consider, and make recommendations to the Transportation Commission on items assigned to them by the Commission.

The commission appoints and removes the members and chair for each subcommittee. Subcommittees should have a consistent body of members. The number of members should be set by the commission, and a quorum would be a majority of the total membership; which includes any vacant seats. It is recommended that at least one member of the commission serve on the subcommittee (this member possibly could chair the subcommittee). Other commission members should refrain from attending and participating in subcommittee meetings to avoid potential violations of Open Meeting Law (which is discussed in more detail in its own Section).

Commissions often use subcommittees as a way to involve individuals who want to serve on the commission but cannot due to a lack of vacancies. The City strives to have a diverse makeup of its commissions. Likewise, commissions should look for diversity when filling their subcommittee rosters.

Staff Liaison Duties for Subcommittees

For staffing purposes, subcommittees should be treated as smaller versions of the commission. General staffing duties are discussed in more detail in the Roles and Responsibilities Section. In addition to your normal duties (which are discussed in detail throughout the rest of the resource guide), here are several things to be aware of when it comes to subcommittees:

- The meeting agenda **must** be posted at least 24 hours in advance of the meeting time, in accordance with the Open Meeting Law.
- Minutes are required for each subcommittee, in accordance with Open Meeting Law.
- You need to file the following items with the City Clerk's Office:
  - A list of all subcommittees;
  - A copy of each subcommittee's membership list, noting the chair and vice;
  - A copy of the subcommittee's charge;
  - Creation of any new subcommittees or dissolution of existing subcommittees.

Informal Working Groups

Informal working groups may be created to research, gather information, and provide recommendations back to the commission on various matters. **No official appointments are made to a working group by the commission.** Working groups may consist of members of the

public and/or less than a quorum of commission members. Unlike subcommittees, working groups are not required to have formal agendas or minutes.

All information and recommendations from the work group must be provided and presented to the commission in an open meeting for public discussion. Informal working groups do not have any powers, duties, or responsibilities of the parent commission. No actions, statements, or recommendations can be made or provided by the working group on behalf of the commission.

Scope of Authority

The strength of commissions lies in their ability to provide detailed review of specific issues and to increase public input and citizen participation in the determination of City policies and procedures. This process provides an opportunity for further public discussion and gives the City Council a broader base of information on which to formulate decisions.

Commissions are established by the City Council and they are given specific guidelines surrounding their purpose and authority. With few exceptions, commissions are advisory to the City Council. The purpose and authority of your commission is found in its establishing legislation (ordinance or resolution). Upon the request of the City Council, a commission shall advise the City Council on a matter. A commission may also submit to the City Council recommendations on matters that fall only within their purpose and authority as established by the City Council (see Recommendations to City Council Section).

Only the City Council or a person acting pursuant to the direction of the City Council, may issue a communication (verbal or written) which represents an official position of the City. This includes, but is not limited to, statements of support or opposition to an issue, resolutions on any matter, directives or requests of any kind to external agencies or entities, or anything that remotely purports to be of official city import.

Commissions shall not take independent action to represent a position or opinion, whether or not related to its responsibility pursuant to city ordinance, except by submitting an advisory recommendation to the City Council. In addition, commissions may not make recommendations for elective candidates or take a position on an election issue. Furthermore, a commission member may not use their official title or make any statement as a representative or member of their commission unless they are authorized to do so by a formal action of the commission.

Statements Made to Other Public or Private Bodies

Official versus Personal Capacity

It is important that members differentiate between their official and personal capacities. As a commission member they have certain official capacities which may include hearing presentations, obtaining public input, and making recommendations to a higher body. If they have not been charged with providing input to a higher body, then you should not do so.

Commission members cannot attend another commission meeting and provide input in an official capacity unless they have specifically been given that responsibility by their commission. However, they can attend other commission meetings in their personal capacity as a resident. When attending another public or private body meeting in their personal capacity, it is best to clarify that they do not speak on behalf of their commission (unless authorized to do so), rather that they are speaking in their personal capacity as a resident. This disclosure is even more important when their personal position conflicts with a decision of the commission.

Should you ever have any questions about official or personal capacities, please contact the City Clerk's Office.

Media Requests

At some point one of your commission members may be contacted by the media to give thoughts on a recent decision made by your commission or by the City Council. It is recommended that the commission member contact you before speaking with the media.

Commission members shall not take independent action to make a statement on behalf of, or as a representative of, the commission unless authorized to do so by a formal action. Members may speak as an individual, but it is important that they stress to the reporter that they are speaking on their own behalf, not on behalf of the commission.

Most importantly, only the City Council or a person acting pursuant to the direction of the City Council, may issue a communication (verbal or written) which represents an official position of the city. This includes, but is not limited to, statements of support or opposition to an issue, resolutions on any matter, directives, or requests of any kind to external agencies or entities; or anything that remotely purports to be of official city import.

Recommendations to City Council

Except as specified by state law or city ordinance, commission recommendations must be submitted to the City Manager through your Division Director. You should prepare a detailed report that includes information on how and why the commission decided to present the recommendation. The City Manager will determine how the recommendation gets delivered to the City Council whether through a formal City Council meeting presentation or a more informal manner. If it is to be presented at a City Council meeting, you will prepare a staff summary report that includes information regarding the recommendation and present the recommendation to the City Council. In addition to providing a formal recommendation to the City Manager, if a Council Representative is assigned to your commission, they are able to provide information about the recommendation during their report at a Council Meeting.

Commission recommendations are important to the City Council and they are taken under consideration for possible action. The City Council has several options and may:

- Accept the recommendation and give further direction.
- Change the provisions of a recommendation before giving further direction.
- Send a matter back for further consideration.
- Not accept the recommendation.

Appointment Process

First Step – Apply

With a few exceptions, commission membership appointments are made by the City Council. To apply to an open commission, individuals fill out an application (available online at https://www.flagstaff.az.gov/994/Boards-Commissions). By default, applications go to the City Clerk's Office and are entered into a database. Typically, appointments are brought forward for consideration when there is at least one more application than available seats.

With a few exceptions, it is the City Council's policy that an individual may serve on only one commission at any given time, unless they serve as a liaison to another commission. A commission member may apply to serve on a different commission during the last six months of

their term if they do not intend to apply for reappointment to their current commission. If the City Council appoints that individual to a new commission, overlapping service is permitted to finish the current term and begin the new term.

Under most circumstances, a commission member is eligible to serve two full terms and a partial term if they are filling the remaining term of a vacancy. If the member indicates their desire for reappointment and they are eligible to serve another term, they must submit an application to the City Clerk's Office in accordance with applicable deadlines. Commission members seeking another term are considered along with all other applicants for the vacant seat on the commission. **There is no preference given to current commission members and it is possible that they may not be selected for reappointment**.

City employees may apply and be considered for appointment on a commission so long as their position does not present a direct or perceived conflict of interest and if their Division Director approves the participation on the commission.

Second Step – Review

To give each councilmember the opportunity to appoint members of their choosing, a randomly rotating list of councilmembers has been developed for each commission to assign councilmembers when vacancies arise. Using the list for the appropriate commission, one councilmember is assigned to a single vacancy or appointment. If there is more than one appointment for that particular commission the next councilmember on the list will be assigned to the next appointment and so on. The assigned councilmember(s) will review the submitted applications for consideration of appointment.

Qualifications

Occasionally a commission's organizational structure will require a member to have a specific qualification or background. It is the City Council's responsibility to determine which applicants, if any, meet those qualifications for appointment; staff does not provide this determination.

Third Step – Appointment

The assigned councilmember(s) will make a motion to appoint their selected individual for the City Council to vote upon for possible approval. Should the motion not pass, the assigned councilmember may select another applicant for possible approval. This process may continue until an applicant is successfully approved. If the assigned councilmember chooses not to make another motion, the next councilmember on the rotating list may make a motion to appoint. In the event that the list of applicants is exhausted, the appointment will be postponed until additional applications are received.

Commission appointments are scheduled during the 4:30 PM session of regular City Council meetings. The City Clerk's Office will notify you of the date the appointments will be considered by the City Council. You should attend or view those meetings so you are aware of who was appointed or any current members who may not have been reappointed.

Fourth Step – After Appointments are Made

After appointments are made by the City Council, the City Clerk's Office will provide you with a new roster that includes contact information and term dates. **It is your responsibility to contact the new and outgoing members.**

The City Clerk's Office mails out a packet of information to new members that includes basic information about serving on a commission along with a certificate of appointment, a current commission roster, information about parking, new member training, open meeting law and a copy of the Board and Commission Member Manual. A copy of the welcome letter and updated

roster will be forwarded to you for your records.

Term of Office
Each commission member's term of office can be found in the ordinance or resolution that establishes the commission. The term of ad hoc committee members is equal to the life of the committee itself. Generally, the terms of each member are staggered to ensure continuity on the commission, with a third of the member terms expiring each year. Most appointments to city commissions are for three-year terms, unless an appointment is made for the balance of a member's term due to resignation, disqualification or removal from office.

Important to note: Individuals serve as active commission members until reappointed, removed, or replaced, even if their term has expired. In other words, **if a member's term has expired, please consider them an active member that continues to serve on the commission until a replacement is made.**

Oaths of Office and Training Affirmations

What is the Oath of Office?
The Oath of Office is a written affirmation in which the commission member promises to faithfully and impartially discharge the duties of their commission. The Training and Open Meeting Law affirmations are an acknowledgement that the commission member has reviewed the Open Meeting Law and watched the online training video. The Oath of Office and affirmations are included in the new member packet that is sent to new members following appointment.

Why do Board and Commission Members Need to Sign These Forms?
Commission members are required by State law (A.R.S. Title 38, Chapter 2, Article 4) to sign and file (with the City Clerk's Office) an Oath of Office before participating in a meeting or otherwise exercising the powers of the office they were appointed to hold.

Formal in-person commission member training is held at least one time per year. Rather than waiting until the next in-person training, new commission members can view the member and Open Meeting Law training online. Signing the affirmations indicates that they have reviewed this important information and are prepared to perform their duties as a commission member.

As the staff liaison, it is important for you to explain to your commission members the need to sign their Oaths of Office and review the training materials in a timely fashion upon appointment.

Roles and Responsibilities

Staff Liaisons

The Role of Staff Liaisons
Your role as staff liaison is to facilitate and enhance the commission's operation and effectiveness. You are responsible for providing technical expertise and research assistance, ensuring that your commission complies with the Open Meeting Law, answering questions related to city policies and procedures, and coordinating the involvement of other departments, or commissions as needed.

Your role is critical to the commission process; the liaison is the link between the commission and the City Council. You are a neutral third-party who advises the commission and ensures they focus their discussion on the properly-posted agenda items. It is important for you to develop a good working relationship with the entire commission.

Responsibilities of the Staff Liaison

In addition to the primary role of serving as the contact and advisor to the commission, you have a variety of other duties, including advising the commission, preparing the agenda, reserving and setting up the meeting room, taking minutes (or ensuring minutes are taken), and keeping track of attendance, among other things. These duties and others are discussed in more detail throughout this guide. A commission may request your assistance on various projects; however, your Division Director must approve all requests which create a substantial demand for a work product.

You are responsible for reporting commission recommendations and concerns to your Division Director for proper follow up with the City Manager and/or City Council.

Releasing Personal Information

Occasionally, you may receive a request from an outside third-party to release personal information (such as mailing addresses) of your commission members. You can direct the requestor to the City's Boards and Commissions website (https://www.flagstaff.az.gov/994/Boards-Commissions), where they can obtain a list of members (without any other personal information). If the requestor is insistent on obtaining personal information, please have them contact the City Clerk's Office.

City Council

The Role of City Council

A representative from the City Council may be assigned to your commission. The role of the Council Representative will be to gather information from the commission regarding their current work program, projects, and other activities and share that information with the City Council. The Council Representative may also convey information from the City Council to the commission or provide feedback on City Council decisions or direction that may be relevant to the duties and work of the commission. Your Council Representative may attend meetings in person, stream meetings on the City website, review agendas and minutes, and/or reach out to meet with you and the Chairperson of your commission. The Council Representative is not a voting member of the commission.

Responsibilities of City Council

The Council Representative is responsible for sharing information and reporting back to the City Council. Information that is collected will be shared with the rest of the City Council during the Council Liaison Reports portion of the Council Meetings.

The City Council will hold quarterly Work Session meetings to hear and discuss updates from and commissions on their work over the past year. This is another opportunity for the commission to share recommendations with the Council.

City Clerk

The Role of the City Clerk

The City Clerk will provide ongoing training and serve as a resource for city staff and commission members.

Responsibilities of the City Clerk

The City Clerk serves as the central contact for staff liaisons and commission members on all public-body related issues. The City Clerk also conducts training for staff liaisons and commission members on the overall commission process, Open Meeting Law requirements, and Conflict of

Interest. The City Clerk retains all commission agendas and minutes permanently and tracks meeting agendas and minutes for proper online archiving.

The City Clerk also maintains membership rosters for all the city's official and commissions. If a commission member's home or work address, email addresses, or phone number changes, be sure to notify the Clerk's Office as quickly as possible.

Board and Commission Members

The Role of Board and Commission Members

The primary role of most commission members is to advise and make recommendations to the City Council.

Commission members provide a great service to the city in terms of the commitment, interest, and expertise that they bring. The opportunity for citizen participation in the decision-making process is crucial to open and responsive government. It is important to remember that these individuals are not paid for their work and that they are volunteering their time and effort.

Responsibilities of Board and Commission Members

Residency

The City Charter requires all commission members to be residents of the City of Flagstaff at the time of their appointment and for the full duration of their term in office. This means that their primary physical residence must be located within city limits and that they reside at that location. A commission member who moves out of town during a term of office is no longer eligible to serve on the commission and must resign. The only exception to this rule is the joint City/County Library Board where the County appoints two individuals who are county residents but who may or may not be residents of the City.

Code of Conduct

The conduct of commission members is very important. It can strengthen or undermine the credibility of the commission and the decisions or recommendations that it makes. A commission member's statements and actions assume special significance and, if not responsibly discharged, could be detrimental to the city's best interests. In addition, improprieties of a commission member can have a legal impact on the city.

As an official member of the City of Flagstaff team, city policies apply to commission members.

Members of a commission may not use their official title or make any statement as a representative or member of the commission to influence an election, further a personal position, or for personal benefit. Under City policy, commission members are not allowed to make unauthorized statements as a representative of the commission unless authorized to do so by a formal action of the commission.

A process has been established for commission recommendations to be presented to the City Council. Individual members should not meet jointly or separately with members of the City Council on matters of commission business. This provision is not meant to deprive the commissioner, as a citizen, of the right to meet with any member of the City Council on any other matter. Private meetings with City Councilmembers can be interpreted as attempting to influence the outcome of a vote of the City Council prior to a matter coming to the City Council. Discussing commission business outside a public meeting could lead to serial communications potentially causing City Councilmembers to violate Open Meeting Law if the item is forthcoming on a City Council meeting agenda, particularly if a commissioner conveys information from one

councilmember to another.

Along the way, your commission members may find themselves facing ethical dilemmas. Matters of ethics are often difficult to detect. It is important to preserve the public perception of the ethics and values of the City. If you have a question on an ethical issue, contact your Division Director and/or the City Attorney's Office on the issue and take no position until the matter has been resolved.

Gift giving is one of the most common situations that come into play with public officials. If a commission member inquires about a gift, it may be helpful to ask the following questions:

1. Is the giver associated with an individual or organization involved with a past, present, or future matter that has been considered or will be considered by the commission?
2. Does the giver expect something in return?
3. Is the gift of more than nominal value?
4. Would someone question your integrity and values if they knew about the gift?

If the answer is "yes" to any of these questions the gift should not be accepted regardless of intent.

Removal from Public Office

Commission members serve at the discretion of the City Council and, like any other City Council-appointed position, may be removed from office by an official vote of the City Council. The following are examples of activities that can precipitate admonishment or removal from office:

- Violation of the Open Meeting Law.
- Refusal to sign the Official Oath of Office.
- More than two consecutive unexcused absences from regularly scheduled meetings.
- A 30% absenteeism rate or more from regularly scheduled meetings.
- Persistent or willful violation of the Conflict of Interest Law.
- Conduct jeopardizing the City's and community's best interests.
- Rude, abusive, slanderous, and/or disrespectful behavior directed at the public, city staff, or members of the City Council.
- Failure or refusal to participate in commission member training within a year of appointment, or when directed by the City Council, City Manager, or City Attorney.
- Violation of City policies.
- Unethical behavior.
- Using their status as a City official for personal purposes, to influence the outcome of an election, or other unsanctioned activities not related to official business.
- Willful non-compliance with the provisions of this guide.
- Fraud, collusion or coercion.
- Inefficiency, neglect of duty, or malfeasance in office.

PART TWO – Preparing for the Meeting

Attendance

It is always preferable to have full attendance as compared to a minimum (see Quorum Section). The success of a commission depends on the active participation of the members. A meeting cannot proceed without a quorum of members in attendance.

Here are several rationales that you can provide to commission members when explaining the importance of attendance:

1. The City Council appoints commission members for their experience, background, and perspective in a particular policy area and the City Council wants the benefit of those factors when the commission is making a decision.
2. More members in attendance will mean a greater likelihood of diversity of thoughts and opinions and hopefully generate a fruitful discussion.
3. Bare quorums mean a greater likelihood of meetings being cancelled or cut short due to last minute no-shows or members having to declare a conflict of interest. This not only wastes considerable time of the members and staff, delays the important work of the body, and is disappointing to the members and staff who attended the meeting, but it also sends a negative message to any members of the public who may have wished to speak on an item and believe their time was wasted.

Requirements

Commission members are expected to attend all regularly scheduled meetings. **It is important to stress that commission members should contact you as soon as they know they will not be able to attend a meeting.** The sooner you know that a quorum will not be present, the sooner the meeting can be cancelled and rescheduled.

Along with absence, tardiness can also be an issue. If meetings are starting late or being cancelled due to a lack of a quorum, it may be beneficial to have the chair remind the members of the importance of timely attendance or you may want to talk to individual members to see if there is something causing them to be late or absent (such as the meeting is too early or they have a conflicting commitment). After talking to the individual, confer with the chair to see if a solution can be reached (starting the meeting 15-30 minutes later for example). If the individual provides no reason and continues to be habitually late or absent, please contact the City Clerk's Office for follow up.

Some establishing ordinances contain attendance requirements, while other commissions have adopted bylaws to clearly define attendance requirements. As a general rule, a commission may recommend to the City Council the dismissal of any citizen member who is absent for more than two consecutive regular meetings without prior notification. This same rule applies if a commission member is absent for more than thirty percent (30%) of all meetings during a twelve-month period. For this reason, it is important to keep a record of absent or tardy members as well as a record of lost quorums.

Resignations

All resignations should be in written form (e-mail is acceptable) and forwarded to the City Clerk's Office for processing. Upon receipt of a resignation the roster will be updated, a thank you letter and certificate of appreciation from the Mayor will be sent to the outgoing member and the vacancy list will be updated.

Quorum

What is a Quorum?

A quorum is the number of members of the public body required to be in attendance at meetings in order for the meeting to be held. Quorum is defined as a majority of the members of the public body which includes any vacant seats, unless otherwise provided for by law. Most of Flagstaff's commissions consist of seven members with a quorum requirement of four members in attendance. Please contact the City Clerk's Office with any vacancy or quorum related questions or issues.

Maintaining a Quorum Throughout the Meeting

If a meeting is started with a quorum and the quorum is lost due to a member leaving, a member declaring a conflict of interest (see the Conflict of Interest Section for more information), or some other reason, items **cannot** be discussed or acted on until the quorum is regained. If it is not possible to regain the quorum, the meeting must end with any remaining items considered at the next commission meeting.

In the week leading up to the meeting, you should contact each commission member to determine if they can attend the upcoming meeting. Assuming you can only confirm a minimum quorum, you may want to consider cancelling the meeting because if one of the members does not show, you cannot discuss or act on items. If cancelling the meeting is not an option, call each confirmed member and stress the importance of attending the meeting and explain the quorum requirement. **If a quorum does not exist or is lost and cannot be regained, the meeting should not be held or it must end (in cases where the quorum cannot be regained).**

The Open Meeting Law

What is the Open Meeting Law?

Commission meetings are public meetings which are conducted openly in compliance with the Open Meeting Law. The Open Meeting Law promotes openness in government and ensures the general public has access to government processes. The Open Meeting Law applies anytime a quorum gathers and discusses business at a meeting, retreat, workshop, tour, or social function. For more information about quorums, please see the Quorum Section. The Open Meeting Law is a State Law (A.R.S. Title 38, Chapter 3, Article 3.1) that requires all public bodies (which includes commissions and their subcommittees) to conduct their meetings in an open environment. An agenda **must** be made available to the public at least 24 hours before the meeting with the meeting's time, date, location, and items for discussion and/or action indicated on the agenda. Meeting agendas **must** be posted online and physically on the bulletin board at the southwest corner of the City Hall lobby directly behind Human Resources. For instructions on posting items to the City website see APPENDIX B.

Allowed and Prohibited Communication Methods

The Open Meeting Law opens government to public review and prevents commissions from making decisions in secret. There are risks whenever commission members communicate with each other outside a public meeting. For example, while sending an e-mail to less than a quorum of commission members is not an Open Meeting Law violation, there is a chance that subsequent responses could be. In addition, member #1 could be talking with member #2 about an item, not realizing that member #3 and member #4 are also talking about the same item. This exchange of e-mails might result in a discussion or deliberation that could violate the Open Meeting Law. A final consideration is that any type of communication, including but not limited to e-mails, text messages, and social media posts, generated by commission members and/or staff pertaining to government business are public records. These communications must be preserved according to

the public records retention schedule and be available for inspection.

Here are some examples of prohibited and allowed communication methods under the Open Meeting Law:

> **Prohibited:** Commission members cannot circumvent public discussion by splintering the quorum and having separate or serial (one after another) discussions. For example, one commission member cannot communicate with another member and then pass on the results of that discussion to a third member.
>
> **Prohibited:** An e-mail from a commission member to the entire commission or to a quorum of the commission that proposes action would be considered a meeting and subject to the Open Meeting Law, **even if** no member responds to the e-mail. For example, an e-mail sent from a commission member to the commission which states "We should approve the grant to the elementary school" would be considered an action and would violate the Open Meeting Law.
>
> **Allowed:** An e-mail request by a commission member to you for specific information does not violate the Open Meeting Law. You may send e-mails and replies to all commission members without violating the Open Meeting Law as long as the response does not communicate the opinions of the other members. However, if further clarification is needed, the member should only respond to the you and not copy the other commission members as this would constitute a discussion or deliberation, which violates the Open Meeting Law.
>
> **Allowed:** An e-mail, phone call, text message, etc. between members about an upcoming social function.

It is **highly recommended** that the following statement be placed at the bottom of all e-mail correspondence to commission members:

> ***"NOTE TO [BOARD MEMBERS, COMMISSIONERS, OR COMMITTEE MEMBERS]:*** *To ensure compliance with the Open Meeting Law, recipients of this message should not forward it to other members of the* ***[Board or Commission name]****. Members of the* ***[Board or Commission name]*** *may reply to this message, but they should not send a copy of the reply to other members.*
>
> *Board and commission members can respond to staff's e-mail but should not discuss or deliberate with other board and commission members through e-mail."*

Open Meeting Law Violations

Actions taken at a meeting held in violation of the Open Meeting Law are null and void unless ratified within 30 days of discovery and notice and a detailed description is given at least 72 hours prior to the meeting to ratify the non-complying action(s).

Arizona's Open Meeting Law includes penalty provisions for violations. Anyone affected by an "illegal action" can file suit in Superior Court. If the Court finds that the Open Meeting Law has been violated, it may levy a fine of up to $500 against the individual(s) for each violation. The individual, and not the municipality, must pay the fine. Commission members are also subject to removal from office.

Bottom Line

Communications can occur among commission members in a variety of ways other than a public setting: face-to-face, in writing, over the telephone and through the use of e-mail, text messages, or social media. These types of communications can constitute a "meeting." The public does not

have access to these communication formats, so when members of a public body begin having discussions through these methods, it can result in Open Meeting Law violations. Once a commission member commits to a written form communication related to commission business, that record no longer belongs to the member as an individual but becomes part of the public domain. Anyone involved in sending messages back and forth which even discuss possible action or propose a formal action could be considered serial communications which potentially violates Open Meeting Law; it is the same as if the members had met together in a private meeting. Therefore, based on these reasons, **it is best that commission members communicate at public meetings about business and not through other methods.** If you have any questions about Open Meeting Law or any of the provisions above, please contact the City Clerk's Office at (928) 213-2077.

To avoid pitfalls associated with Arizona's Open Meeting Law, information and materials that a commission member wishes to share with other members of the commission should be provided to you for distribution, or should be distributed by the member at an open meeting with sufficient copies for those in attendance. Discussion is to be limited to public sessions.

Additional Resources

For more information on the Open Meeting Law, please refer to the Arizona Open Meeting Law Handbook found at https://www.azoca.gov/wp-content/uploads/Open-Meeting-Law-Booklet-September2018.pdf. Additionally, the City Clerk's Office in partnership with the City Attorney's Office can provide a presentation to commissions on the Open Meeting Law. To schedule a presentation, please contact the City Clerk's Office at (928) 213-2077.

Meeting Agenda Process

Types of Agendas

The meeting agenda is normally set by the commission chair, with input from members and yourself. Items can be placed on agendas in a variety of ways and commissions may establish their own process for setting their agenda. The following are examples of how agenda items may be placed on agendas:

- In response to direction from the City Council.
- In response to a directive from the City Manager.
- As requested by any commission member at a public meeting.
- In response to a request from the chairperson.
- As deemed necessary by the staff liaison.
- As requested by other commissions.

Agendas must include the following information:

1. Date, time, and location of the meeting.
2. Posting statement at the bottom.
3. Enough information to inform the public of the matters to be discussed or decided.

The agenda should be specific enough to allow members of the public to have a general idea of what will be discussed and may be voted on (if the item is set for action). The public is entitled to know what could potentially take place. The use of agenda items such as "new business" or "old business," is not permitted unless the specific items of new and old business are listed.

A commission agenda may include a "Call to the Public" to designate a part of the meeting for the public to address the commission on items that are not on the agenda. Neither discussion nor

action may occur on items raised during public participation because they are not on the agenda. See Public Comment Section for additional information.

In the event that a previously posted or regularly scheduled meeting is cancelled, you must draft and post a cancellation notice. You must also update the meeting room calendar and notify the IT Help Desk of the cancellation. APPENDIX C is the template for posting meeting cancellations.

In addition to regular meeting agendas, there are also notices for events, retreats/workshops, and tours. At these types of events, a quorum of the commission may be present. Discussion and action on commission-related business may not be discussed at events, retreats/workshops, and tours.

For example, if your division was involved with a city-sponsored luncheon and there was a possibility that a quorum of your commission members may attend this luncheon, you would create and post a Notice of Possible Quorum. The notice must state that no business will be discussed or acted on. APPENDIX D is a template for possible quorum postings.

If a quorum your commission is going on a tour of a location related to an upcoming agenda item, you would post a tour notice noting that information may be provided, but any discussion and/or action on the agenda item will occur at a publicly posted meeting.

Important note: For a tour, if you provide transportation (for example in a bus or van) for the commission members, you must also make this transportation available to the public.

Creating the Agenda

Commission agendas have been standardized for consistency and will be created and published in Agenda Quick using a standard template. APPENDIX E is the required template to be used for preparing agendas until Agenda Quick is in use.

Posting the Agenda

Agendas must be posted at least 24 hours in advance of the meeting **online and physically** on the bulletin board at the southwest corner of the City Hall lobby directly behind Human Resources. The posting statement portion of the physical agenda must be filled out and signed. Once signed, the agenda must be copied, and the copy is to be physically posted at the location described above. **The original, signed posting, along with any agenda packet materials must be forwarded to the City Clerk's Office for permanent retention.**

As a follow up, please check the website to ensure that the agenda has been properly uploaded. For instructions on how to post items on the city website please refer to APPENDIX B.

Sending out the Agenda

The agenda should be sent to your commission members by e-mail or other preferred method. Agendas must also be copied to your Division Director, Department Head, the Mayor and City Council, and the Executive Assistant to Mayor and City Council.

Executive Session

What is an Executive Session?

On a rare occasion, a commission may need to convene for an executive session. An executive session is a gathering of a quorum of members of a public body from which the public is excluded for one or more of the subjects prescribed in A.R.S. Section 38-431.03. In addition to the members of the commission, only individuals whose presence is reasonably necessary in order for the

commission to carry out its executive session responsibilities may attend the executive session. **Executive sessions may not be held without the prior consent of the City Attorney.**

Subjects that Can be Discussed in an Executive Session

Bodies are allowed to convene in executive session for only seven reasons. The most likely topic of an executive session involving a commission would be for legal advice, property negotiations, or personnel related issues. **A commission may not go into executive session without a City Attorney present**. Executive sessions are not open to the public and no formal action may be taken. Legal action involving a final vote or decision **shall not** be taken at an executive session. Rather, a vote on executive session topics must be taken at a publicly posted meeting. It is important to advise attendees that the information discussed is confidential and may not be discussed with anyone. Additionally, the item(s) to be discussed in executive session must be listed on the agenda. For assistance with creating an executive session agenda please contact the City Clerk's Office and your City Attorney.

Getting Ready for the Meeting

Meeting Location

All commission meetings must be held at City Hall in the Council Chambers and live-streamed. Live streaming meetings helps with public access and allows for compliance with Open Meeting Law for the posting of meeting minutes.

When reserving your commission meeting in the Council Chambers, please create a meeting invitation and include "VideoStreaming" and "Council CH" as meeting attendees. Be sure to include the needed equipment for your meeting in the location line of the appointment (i.e. sound, computer, screens, etc.), this will notify Facility Maintenance staff to set up the room accordingly.

When the meeting is ready to start un-mute the microphones by pressing the button at the desk nearest the utility/sound room in Council Chambers.

On occasion, conflicts may arise such as a need for Council Chambers by the City Council or City Manager's Office, or a larger space is needed to accommodate the public. In those instances an alternate location may be used. Arrangements must be made with the IT Help Desk to arrange for video recording at the alternate location.

All persons desiring to attend and listen to meetings must be accommodated to the extent reasonably possible. This may result in accommodations such as listening devices or interpreters. Reasonable requests for accommodation must be made at-least three days in advance of the meeting. Please coordinate with the City Clerk's Office if a request for accommodation is made.

Items to Bring to the Meeting

Here is a list of helpful items to bring to every meeting (please note that these are not required items, only suggestions):

- Copies of the agenda.
- Copies of reports to be presented.
- Sign-in sheet for members of the public and city staff.
- Name tents for commission members and staff.
- If items voted on by the commission will be considered by the City Council, have the date of that City Council Meeting available.
- Board and Commission Staff Liaison Guide.
- Staff contact information (bring business cards to hand out to members of the public).
- Calendar and future meeting schedule.

- Extra pens and notepads.
- Speaker cards for members of the public to fill out (optional).
- Copies of any presentations on flash drive or computer disks.
- Printed copies of presentations in case laptop does not work.

***Remember to arrive early to ensure proper setup and deal with any unanticipated issues.**

Board and Commission Member Parking

Commission members are permitted to park free of charge through Park Flag in one of the seven designated spaces on the west side of the Wheeler Park parking lot. The City Clerk's Office will notify Park Flag of new appointments to commissions and Park Flag will contact the member directly with instructions on how to obtain the appropriate permit. The City Clerk's Office will also notify Park Flag about outgoing members.

***Commission members who have outstanding parking violations will not be issued a permit until the matter is resolved.**

PART THREE – Staffing the Meeting

Meeting Management

Who Runs the Meeting?

The chairperson is the moderator of meetings and speaks on behalf of the commission when authorized by a majority of the members to do so. The vice-chair serves in the absence of the chairperson. There is no formal order of who would take over during the absence of both the chair and vice-chair and the commission can choose a presiding officer for the meeting.

Most commissions elect a chairperson and vice-chair, usually on an annual basis. This is generally accomplished by having a member make a motion to select another member as chair. If seconded by another member, the nomination is voted on by the full commission. This process can be repeated for the vice-chair position. When it comes time to appoint the leadership, the nomination process should be listed as an agenda item. Please notify the City Clerk's Office with the chair and vice-chair names.

The chair may, at their discretion, or shall, upon the majority vote of members present, change the order of the agenda. However, caution should be given to not changing the order to circumvent the Open Meeting Law. For example, moving a controversial item that was posted on the agenda as the last item of the meeting to the beginning of the meeting to avoid public attendance or participation would likely violate Open Meeting Law.

Role of Staff Liaison

Your primary role is as an advisor to the chair, vice-chair, and commission. At the meeting, your duties include:

- Greeting members of the public and seeing if they would like to comment on agenda items. If so, have them fill out a speaker card and present it to the chair for use when the item comes up during the meeting.
- Tell the chair when everyone is present and when the meeting should begin.
- Remind the chair of any correspondence to be read at the meeting or any presentations to be made.
- Advise your commission on applicable State laws and City policies, ordinances, resolutions, bylaws, and actions taken at previous meetings.
- Ensure your commission is operating in accordance with the Open Meeting Law, the City Charter, and refer to "Robert's Rules of Order" as a guide.
- Ensure your commission is staying on topic and only discussing items that are on the posted agenda. If the commission discussion moves away from the posted agenda, remind the chair that it is important to stay on the posted agenda due to the Open Meeting Law.
- Keep track of the discussion time for each agenda item. If the discussion is taking significantly longer than anticipated, let the chair know so a decision can be made about the best way to proceed through the rest of the agenda.
- When it is time to plan the future agenda, keep track of activities or decisions that were deferred to upcoming meetings and let the chair know.

You have many significant duties. For this reason, we recommend **that a second staff person take minutes to allow you to fully concentrate on the aforementioned duties, along with**

any commission-specific duties. This second person should not be a commission member.

Public Comment

What is Public Comment?

Public comment provides members of the public the opportunity to address the commission in two ways – on a **published agenda item** or on other issues that are not on the agenda during the **public participation period**. The public participation period is normally its own agenda item (see the Agenda Creation Section) and the commission cannot discuss, make any decisions, or take any action on any of the issues raised during this comment period.

The Open Meeting Law does not grant citizens the right to speak at public meetings and therefore a public comment period is not legally required. However, it is the policy and practice of the city to allow individuals to appear before public bodies to express their views on published agenda items and during the public comment period.

Individuals may speak only when recognized by the chair. It is a good idea to have individuals wishing to speak fill out a Speaker Comment Card (APPENDIX F). There are several benefits to having individuals fill out Speaker Cards:

- The chair is made aware of how many people wish to speak on a particular item and can implement reasonable time-limit restrictions.
- The chair can call up the speakers in order by name.
- You have a record to refer to when drafting minutes.
- Confirmation for those individuals not wishing to speak but wanting to have something on the record (e.g. that they supported or opposed a particular item).

If speaker cards are used, you should get all cards from the chair after the meeting for use in composing the minutes. You should maintain the comment cards for the appropriate public records retention period.

What Can the Public Say and How Can Board and Commission Members Respond?

The chair can place reasonable limits on the amount of time for each individual to speak on an agenda item or during public participation. For example, the City Council limits each speaker to three minutes to talk. It is important that the chair announces the limits prior to the start of public comment and all speakers be given the same amount of time to speak.

If an individual is commenting on a posted agenda item, the speaker must confine their statements to the agenda item. During these items commission members and/or staff can respond to citizen comments or questions.

The public can comment during public participation on any item that is not on the agenda. There are special restrictions on what commission members can respond to during public participation. Commission members can respond to statements made during the public participation period in three ways:

1. They can respond to personal attacks (someone questions their qualifications, suggests the member has a conflict of interest that was not disclosed, etc.).
2. The commission can instruct staff to follow up.
3. The commission can instruct staff to place the item brought up (by the member of the public) on a future agenda.

During public participation, commission members cannot express agreement or disagreement with a person's comment, discuss it, or take action. The reasoning behind this rule is that items brought up during public participation were not posted in accordance with the Open Meeting Law. The public is not aware of these items and did not have a chance to respond. This is why discussion or action cannot take place and why the item can be discussed only at a future meeting with a properly-posted agenda. **As the staff liaison, it is important to remind commission members of this if you see them responding in a way other than one of three previously listed exceptions.**

Decorum

Here are some tips to talk about with your commission members regarding discussion and conduct etiquette:

- Assume that the microphones are always on.
- Members should speak directly into the microphones to ensure that the audience, both present and streaming online, can hear.
- Commission members may speak after recognition by the chair. The chair shall not unreasonably withhold such recognition. However, the chair may not recognize similar repetitive discussions or motions which would delay the meeting.
- When two or more members wish to speak, the chair shall determine the order of speaking and recognize the first speaker.
- While a member is speaking, no other member shall interrupt except to make a point of order or a point of personal privilege. A point of order is made when a member notes an infraction of the rules or improper decorum in speaking. The point of order must be raised immediately after the error is made. A point of personal privilege pertains to noise, personal comfort, or related items.

Robert's Rules of Order

What are Robert's Rules of Order?

Robert's Rules of Order provide instruction, guidance, and consistency for how meetings are conducted. Robert's Rules are used only as a supplement to city policy. Therefore, in any conflict between Robert's Rules and city policy and procedures, the city's policy takes precedence.

It is important to remember that Robert's Rules of Order are only a guide for conducting the business of a meeting and it is not the law. The only required actions to make an item legal are a motion, a second, and a vote. Within the motion, intent must be clear and those who vote on the matter must clearly understand the intent. Robert's Rules of Order provide formulas for the sequencing of different kinds of motions and an orderly rule for conducting a meeting. However, if a motion is plainly made, a second to the motion is placed on the record, and the voting participants understand the effect of their vote and support the outcome of the motion, it will stand up on its own even if it does not follow the letter of Robert's Rules of Order.

Robert's Rules of Order regarding debate and decorum are further discussed in the Voting Section below.

Voting

Can a Designee or Proxy Vote?

No, this is not allowed. At times, a commission member will be unable to attend a meeting and may ask if a representative (also known as a designee, delegate or proxy) can be sent in their

place. While allowed under Robert's Rules of Order, this practice is **not** allowed under the Arizona Open Meeting Law. Proxy voting is inconsistent with provisions of Arizona's Open Meeting Law and is also inconsistent with the requirement that members of public bodies be appointed by the City Council and take an Oath of Office before assuming the duties of the office.

Can Board and Commission Members Abstain from Voting?

The City Charter provides that, in the absence of a conflict of interest (see the Conflict of Interest Section for more information on this subject), an abstention vote is counted as an affirmative vote. When a refusal to vote occurs, it is entered in the minutes as an affirmative vote with no explanation. The abstention clause is intended to provide an incentive to vote. The provision also protects the public process and ensures that, at a minimum, a majority of members present at a meeting vote on an issue.

Discussion and Voting Procedures

The general procedure for discussing and voting on a posted agenda item is:

1. The chair will explain the item is up for discussion and voting (if applicable as certain agenda items are for information or discussion only).
2. A presentation will be made by either staff or possibly an outside group that is making a presentation before the commission.
3. Following the presentation, and if public comments are allowed (see Public Comment Section), the chair may invite comments from the public on the item being considered.
4. If there is no discussion, or after discussion ends and the item is posted for action, the chair will ask for a motion.
    - A motion is a formal proposal that certain action be taken or that a certain statement express the opinion, desire, or will of the commission.
    - Motions must be made by members, not by guests or the public.
5. In order to vote, all motions require a second to put the issue before the commission. A member does not need to be recognized to second a motion.
    - A member who seconds a motion does not have to vote in favor of that motion.
    - Seconding a motion does not endorse the motion; it simply indicates a desire to have the motion considered.
6. After the motion and second the chair will call for discussion before the item is voted on.
7. Any member, at any time, may request a roll call vote. A roll call vote is a vote where each member notes their position (yes/yea or no/nay) when called by the individual taking minutes or the staff liaison.
8. A motion will pass or fail based on a majority vote.
    - The chair should announce whether the motion passed or failed.
    - For voice votes of ayes and nays that are not unanimous, the chair shall indicate the individual votes.
    - The chair may ask that a member's vote be clarified.
    - Printed or secret ballots are not permitted.
9. In the case of a tie in the vote on any motion, the motion fails.
10. If a motion fails, an alternative motion can be made.

Rules Governing Common Motions

Motion to be Stated by the Chair - Withdrawal

When a motion is made and seconded, it shall be so stated by the Chair before debate commences. A motion may not be withdrawn by the mover without the consent of the member seconding it.

Motion to Postpone

A motion to postpone is in order when an item is rescheduled to a time certain, when it is delayed with conditions, or when the matter is intended to be disposed of without action. If the motion prevails, the item shall return for action at the meeting specified or in accordance with the conditions established in the postponement. A motion to postpone may be debated prior to vote, but no other motion, including a motion to amend, may be offered until the vote is taken and only if the motion to postpone fails.

A motion to postpone indefinitely, if it receives a majority vote, effectively extinguishes an item.

Motion to Table

A motion to table is used to delay discussion on an item until later in the meeting or until the next meeting. Neither the motion to table nor other business can be discussed until a vote has been taken on the motion. If the motion is successful, no further discussion can be had without a motion to take off the table. To take an item off the table at the same or immediately succeeding meeting, a motion and second must be made to take the item off the table, and it must pass by majority vote.

If not revived by the adjournment of the immediately succeeding meeting, the matter is considered to be dead.

Motion to Divide the Question

If the question contains two or more divisionable propositions, the chairperson may, and upon request of a member shall, divide the same.

Motion to Amend

On a motion to amend or “strike out and insert” the motion shall be made so that the intent of the amendment is clear to the commission and public, and for the record.

Motion to Amend an Amendment

A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be introduced. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order.

Motion to Reconsider

After the decision on any question, any member who voted with the majority may move for a reconsideration of any action at the same meeting or at the next regular meeting that occurs at least one week after the date the action was taken. In the event of a tie vote on a motion, any member may move for reconsideration at the next regular meeting. To ensure that the matter will be included on the posted agenda in conformance with the Open Meeting Law, any member who wishes to have a decision reconsidered must alert the staff liaison in writing at least five (5) days prior to the meeting at which the motion to reconsider will be made, unless the motion to reconsider was made and seconded at a meeting.

A motion to reconsider shall require the affirmative vote of the majority of the members present at the time of reconsideration. After a motion for reconsideration has once been acted on, no other motion for reconsideration of the same subject shall be made without unanimous consent of all members.

After the reconsideration time period has expired, the same matter may be placed on a later meeting agenda as requested according to proper protocols.

Minute Taking

Purpose of Taking Minutes

Minutes are the official, formal record of what occurred in a meeting and are essential for continuity and information for future commissions. Minutes summarize action taken, action planned, responsibilities, and deadlines. Minutes can vary in length depending on the meeting length and the desires of the meeting body, chair, or management.

All commissions, and their subcommittees are required to take minutes under the Open Meeting Law. Additionally, minutes are public records and draft minutes or an audio/visual recording of a public meeting must be posted online for public viewing within three working days after the meeting. **All commission meetings are streamed live, recorded, and posted to the City's website which eliminates this three-day requirement.** Should a technical error occur and a meeting is not recorded then legal action of the meeting is required to be documented and posted to the website within three days.

What Must be Included in the Minutes?

Good minutes serve to refresh the minds of the meeting body on points of fact. The agenda items, decision, and actions will provide the outline of the record. Minutes should detail all subjects discussed, decisions reached, and relevant opinions and ideas offered during the discussion. The minutes do not need to be verbatim.

Minutes must include:

- The date, time, and place of the meeting. Include the actual time the meeting was called to order and the actual time the meeting was adjourned.
- The members recorded as either present or absent along with a list of staff in attendance.
- The names of the persons making statements or presenting material and a reference to the item or topic they discussed.
- A general description of all matters discussed or considered.
- An accurate description of all legal actions proposed, discussed, or taken and the voting process.
- The components of the voting process must include the names of the members who made the motion and seconded the motion.
- The numerical breakdown of the vote (for example 4 in favor, 1 opposed) should be noted along the names of those who made dissenting votes.
- If a member declares a conflict of interest, it should be noted in the minutes as that member not voting due to the conflict.
- If a member arrives after a meeting has started, list their name under "Members Present" and then make a notation of the time they arrived.
- If a member leaves during a meeting, make a notation in the minutes at what time that member left. If a quorum is lost (due to members leaving) at any time during the meeting, the meeting must end. For more information on quorum, please see the Quorum Section.
- If a member participates via telephone, minutes should identify those members participating by telephone.

Are Minutes Required if There is no Quorum?

If a quorum is not present, there is no meeting and, therefore, there is no need to take minutes. However, a Notice of Cancellation (APPENDIX C) should be created and posted on the website with an original forwarded to the City Clerk's Office.

Are Minutes Required for an Executive Session?

Minutes are required for an executive session. However, minutes of an executive session are confidential and may not be disclosed to anyone except members of the commission and certain necessary staff members.

Executive session minutes must include the following:

- The date, time and place of the meeting.
- The members recorded as present or absent.
- A general description of the matters considered.
- The detail of the minutes should be the same as in regular meeting minutes by providing a record of what took place in the executive session.
- No decisions can be made in executive session; therefore, there will be no votes to record.
- An accurate description of all instructions given to attorneys.
- Any other information deemed appropriate. For example, the public body might record that those present were advised that the information discussed and the minutes are confidential.

Approving the Minutes

Minutes are generally sent with the agenda of the next meeting to be reviewed and considered for approval by all members. Any member may make a motion to approve the minutes. Even a member not present during the meeting for which minutes are being approved may make the motion.

If a member makes a correction to the minutes and no other members object, the minutes are considered approved as corrected when the members vote. Any disputed corrections would need to be formally voted on by the group. Once approved, minutes become official government documents and their form is fixed. Any changes to approved minutes can only be made by a vote of the body that approved those minutes.

*** For information on drafting and filing minutes, see PART FOUR – After the Meeting.**

Conflict of Interest

What is a Conflict of Interest?

A conflict of interest refers to a situation when someone, such as a commission member, has competing professional or personal obligations or personal or financial interests that would make it difficult to fulfill their duties fairly. It is a conflict between an individual's personal interest and their public duty. This can exist whether or not money is involved, and whether the conflict is actual or only perceived. Public perception is not a sufficient basis alone upon which to determine whether or not a conflict of interest occurs.

Determining if a Conflict Exists

The City of Flagstaff is governed by Arizona's Conflict of Interest Laws (A.R.S. § 38-501 et seq.). It is the responsibility of commission members to be aware of and to identify the circumstances in which the commission's actions might affect them or a relative and to avoid any situation in which a conflict of interest exists or appears to exist. A conflict of interest may result in prosecution of up to a class 6 felony.

You should encourage your commission members to review meeting agendas before each meeting. If a member determines that there may be a potential conflict of interest with an item, they should let you know as soon as possible and then you should address the matter in writing

to your City Attorney for disposition on if an actual conflict exists. **If there is any doubt about whether a conflict exists, the member should opt not to participate in the discussion, deliberation and voting process on that item.** This is better than taking the risk of inadvertently violating the law.

Noting a Conflict for the Record

Any member having a conflict of interest (or even a possible conflict) in a commission decision must make that interest known in the official records (minutes) of the body. **Before** discussion on that item begins, the member should declare the conflict. Once the conflict is declared, the member should leave the dais and must refrain from taking part in the discussion, deliberation, or voting on that item. The member's vote would be recorded as an abstention because of the conflict of the interest. Conflicts of interest must be recorded each time they come up. A written disclosure of the conflict is required and must be kept for the public record. Recording the conflict in the minutes meets this requirement.

During this time, the member is not required to leave the meeting but can "step outside" if they so choose. Once the item is over, you should bring back any member who left the meeting due to a conflict before discussion begins on the next item.

As previously discussed in the Quorum Section, any member that declares a conflict of interest and does not participate cannot be counted toward the quorum requirement on that particular item.

Examples of a Conflict of Interest

The following examples provide a general understanding of how Arizona's Conflict of Interest Laws would be applied. One thing to keep in mind is that each situation is unique and depends on the specific facts presented. For this reason, it is a good idea to consult with the City Attorney's Office to determine if an actual conflict exists.

NOTE: The situations below assume that the commission on which the member is sitting is deciding the matter in question.

- The commission member owns a property close to another property that is the subject of a zoning or license application. The granting or denial of the application could affect the value of the member's property.
- A proposed amendment to the City Code seeks to regulate a specific type of business activity. The commission member or a relative has an exclusive franchise or right to conduct the activity in the city.
- A commission member's relative (for example, a sister) has done work in the past for a firm seeking a city contract. She anticipates doing further work for this firm in the future. A potential conflict exists whether or not she is involved in the work that is the subject of the contract.
    - A conflict only exists if the relative has a continuing business relationship with the company under consideration or anticipates a continuing business relationship in the future with this company. A past association does not constitute a conflict of interest. The statute defines "relative" as a "spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse."

PART FOUR – After the Meeting

Minutes

As with agendas, a standard template will be used for consistency and will be created and published using Agenda Quick. APPENDIX G is the required template to be used for preparing minutes until Agenda Quick is in use.

Tips for Good Minute Writing

- Draft your minutes as soon as possible after the meeting while the proceedings are still fresh in your mind.
- Have a copy of the agenda, attachments, documentation and minutes of the previous meeting available before typing up your minutes.
- Use the agenda items as a format for the minutes.
    - The discussion and action can then be summarized under each item which speeds the indexing of the minutes and assists anyone researching the information.
    - Bold or underline the agenda item to set it off from the summary.
    - Meeting minutes are entered into Agenda Quick.
- The motion and votes should be in a separate paragraph after the discussion paragraphs.
- Minutes are always written in the third person using past tense.
- Minutes should be a clear, accurate and concise record of the proceedings.
- Minutes are summary in nature – focus on the action items and the substance of the meeting. That being said, motions should be typed verbatim.
- Use simple, ordinary words which are commonly understood.
- Avoid personal comments, judgments, adjectives or adverbs that suggest good or bad qualities. Minutes should not be your interpretation of what happened.
- Minutes should follow the order of the meeting. If an item was taken out of order, that should be noted on the minutes by stating “Item Taken Out of Order” before beginning discussion on that agenda item.
- Make sure to spell out any acronyms when used for the first time in your minutes and put the acronym in parentheses after the full name. After that, you can use the acronym. [Example – Development Advisory Board (DAB)].
- Have someone else review your minutes for grammar, punctuation and word choice.

Minute Filing

All approved minutes **must** be filed in the City Clerk’s Office, this includes subcommittee minutes as well.

Once minutes are completed and approved by the commission they must be labeled with the date of approval, posted online, and the original forwarded to the City Clerk’s Office for permanent retention.

Records Retention

E-mail

E-mails sent to and among commission members are subject to the Public Records Law, as well as the Open Meeting Law. E-mails that members or staff generate pertaining to the business of the commission are public records. Therefore, e-mails must be preserved according to your approved records retention schedule and generally must be made available for public inspection

if a public records request is made. It is a good idea to maintain a file containing any e-mails sent to and from members.

Agendas and Minutes
All commission agendas and minutes are retained permanently by the City Clerk under the City's Records Management Program and posted online.

Public Records Requests
With limited exceptions, Arizona's Public Records Law makes public records and other matters in the custody of a public body open to inspection during office hours by any person (See Ariz. Rev. Stat. § 39-121). Although there are exceptions, as a general rule, members of commissions and committees should always assume that their records will be subject to inspection by the public.

What is Due and When is it Due to the City Clerk

Questions or possible revisions or additions to the Staff Liaison Resource Guide. **Due:** As needed.

Updates to commission member contact information. **Due:** As needed.

Changes to staff liaison (either contact information or new person appointed as liaison). **Due:** As needed.

Update to chair and vice-chair appointments, including the start and end dates of their terms of office. **Due:** each time a new chair and/or vice-chair is appointed.

The City Clerk' Office will be in periodic contact with staff liaisons regarding missing Oaths of Office or training affirmations. Please work with your members to ensure that oaths are sent to City Clerk's Office in a timely manner. **Due:** as needed.

Questions with vacancy, reappointment, and attendance issues. **Due:** As needed.

As issues or concerns arise about your commission, you should contact your supervisor and the City Clerk's Office. We are happy to assist in any way possible. **Due:** as needed.

A list of all subcommittees for the commission including:
- Each subcommittee's membership list, noting the chair and vice-chair (if applicable);
- Any changes to the subcommittee information; and
- Creation of any new subcommittees or dissolution of existing subcommittees.

Due: As soon as possible.

Original, signed agenda. **Due:** At time of posting (at least 24 hours in advance of the meeting).

Original, approved meeting minutes. **Due:** When approved.

Concluding Remarks

Democratic government can function properly only when the citizenry has confidence in how its government is run. Public trust is built largely upon the perceptions that citizens have regarding their Mayor and City Council, city employees, and commission members. If it is destroyed, it is hard to reestablish public confidence. Many of the rules and policies discussed in this resource guide were put in place to reinforce the public's trust in the commission process. These rules and policies are used to ensure that the business of commissions is conducted in an open atmosphere where the public can provide input and feedback.

APPENDICES

APPENDIX A – Board and Commission Descriptions and Enabling Legislation

APPENDIX B – How to Post Agendas and Minutes to the Website

APPENDIX C – Notice of Cancellation

APPENDIX D – Notice of Possible Quorum

APPENDIX E – Agenda Template

APPENDIX F – Speaker Request Card

APPENDIX G – Minutes Template

APPENDIX H – Open Meeting Law

APPENDIX I – Conflict of Interest Law

APPENDIX A

NAME	TERMS	APP'D BY	AUTHORITY	STAFF LIAISON	# OF SEATS
Airport Responsible for reporting to the Council on the development of the Airpark and matters affecting the operation and efficiency of the airport.	3 yrs	Council	City Code: Title 2, Chapter 2-11	Barney Helmick	7
Audit Committee Meets at least once a year, to review the Annual Financial and Single Audit reports.	Indef.	Council	Res Nos. 1320, 2029, 2002-59	Rick Tadder	6
Beautification and Public Art Recommends expenditures from the BBB, community beautification projects, the purchase and installation of public art projects.	3 yrs	Council	City Code: Title 2, Chapter 2-14	Mark DiLucido	7
Bicycle Advisory Committee Report to the City's Transportation Commission on issues related to planning for and accommodation of bicycles.	3 yrs	Transport Comm.	City Code: Title 2, Chapter 2-12	Martin Ince	7
Board of Adjustment Holds hearings on request for variances and appeals of decision by the Zoning Code Administrator.	3 yrs	Council	ARS § 9-462.06, City Code: Title 2, Chapter 2-10	Daniel Symer	7
Building and Fire Code Board of Appeals Holds hearings on appeals related to the application and interpretation of City building and fire codes.	5 yrs	Council	Res. 1565, 2001-42	Amy Palmer	7
Diversity Awareness Fosters mutual understanding, tolerance, respect, and awareness among all citizens; recognizing the different economic, cultural, social, religious, and ethnic groups within the City; cooperating in the development of educational programs dedicated to improving community relations and enlisting support of various groups to foster diversity awareness.	3 yrs	Council	City Code: Title 2, Chapter 2-08	Shannon Anderson	7
Flagstaff Housing Authority Oversees the functions of the Housing Authority. The Authority implements the public housing programs.	4 yrs	Mayor	ARS § 36-1404.B City Code: Title 1, Chapter 1-13	Sarah Darr	7
Flagstaff Metropolitan Planning Organization Federally mandated organization responsible for planning and programming federal transportation funds in the region	2 yrs	Council	Intergovernmental Agreement	Jeff Meilbeck	6

NAME	TERMS	APP'D BY	AUTHORITY	STAFF LIAISON	# OF SEATS
Housing Commission Makes recommendations with respect to housing policies, needs, and programs in Flagstaff.	3 yrs	Council	City Code: Title 2, Chapter 2-25	Sarah Darr	15
Heritage Preservation Advises the City Council on all matters relating to historic preservation, and reviews development projects in designated historic districts.	3 yrs	Council	City Code: Title 2, Chapter 2-19	Tiffany Antol	7
Inclusion and Adaptive Living Expand educational opportunities; improve access to housing, buildings, and transportation; have greater participation in recreational, social, and cultural activities; encourage greater opportunity for employment and expand/strengthen rehabilitative programs and facilities	3 yrs	Council	City Code: Title 2, Chapter 2-18	Denise Thompson	7
Industrial Development Authority Independent authority established by State law. Issue revenue bonds to projects eligible for financing under State statute.	6 yrs	Council	Resolution No. 1636	Brandon Kavanagh	9
Library Board Serves as a citizen's advisory board to the Library Director.	3 yrs	Council	Intergovernmental Agreement	Mark Cesare	8
Open Spaces Advises the Council on the acquisition, management, use, restoration, enhancement, protection, and conservation of open space land within the City of Flagstaff.	3 yrs	Council	City Code: Title 2, Chapter 2-20	Robert Wallace	7
Parks and Recreation Makes recommendations to the Council regarding City parks and recreational programs, the annual budget and capital improvements for the Parks and Recreation Divisions.	3 yrs	Council	City Code: Title 2, Chapter 2-03	Rebecca Sayers	7
Pedestrian Advisory Committee Report to the City's Transportation Commission on issues related to planning for and accommodation of pedestrians.	3 yrs	Transport Comm.	Code, Title 2, Chapter 2-12	Martin Ince	7
Personnel Board Conducts hearing to ensure due process for regular, classified employees who are dismissed, demoted, or suspended without pay.	4 yrs	Council	Ord. No. 971, 1041, 1116, 1146, 1198	Shannon Anderson	7

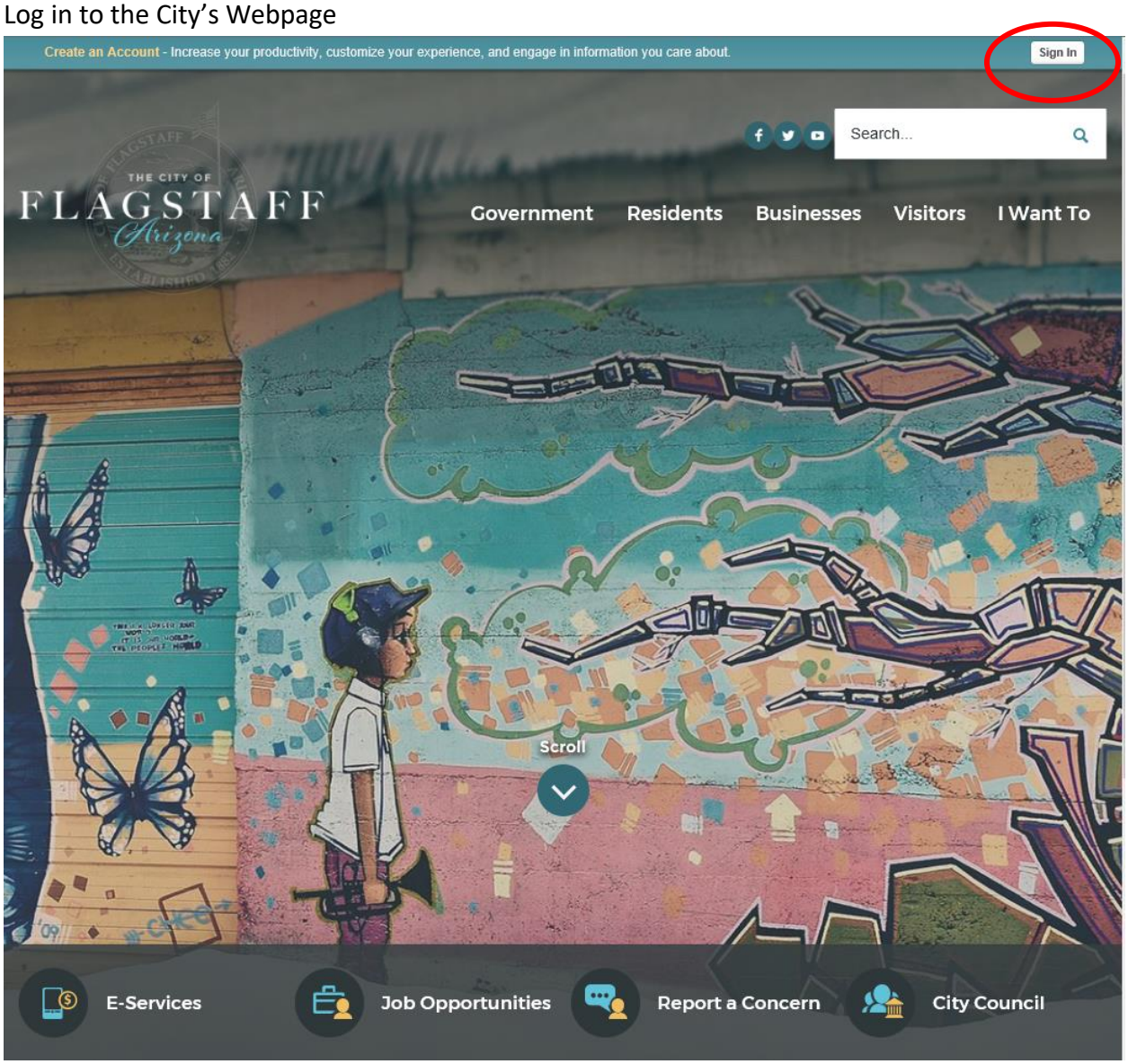
NAME	TERMS	APP'D BY	AUTHORITY	STAFF LIAISON	# OF SEATS
Planning and Zoning Serves as an advisory board to the Council on matters relating to the growth and physical development of the City. Conduct hearings on amendments to the Zoning Map, tentative subdivision plats, Conditional Use Permits.	3 yrs	Council	ARS § 9-461.02 City Code: Title 2, Chapter 2-01	Tiffany Antol	7
PSPRS Board Processes membership and retirement applications from the Flagstaff police officers and firefighters.	4 yrs	Mayor	ARS § 38-847	Vivian Fennema Allison Hughes	7
Self-Insurance Trust Fund Board Administers the self-insurance program of the City.	2 yrs	Council	City Code: Title 1, Chapter 1-24	Dean Coughenour	5
Sustainability Recommend and coordinates activities in concert with the Flagstaff Sustainability Program. Promotes sustainable practices in all spheres of life and educating Flagstaff citizens	3 yrs	Council	City Code: Title 2, Chapter 2-17	Nicole Antonopoulos	7
Tourism Develops, promotes, and maintains Flagstaff as a year-round destination with professional visitor services that will benefit the community economically, environmentally, and socially.	3 yrs	Council	City Code: Title 2, Chapter 2-13	Trace Ward	7
Transportation Reviews requests for changes in traffic regulations and recommends traffic-related policies to the Council.	3 yrs	Council	City Code: Title 2, Chapter 2-12	Jeffrey Bauman	7
Water Reviews extensions of the water and sewer collection systems, treatment and use of water furnished by the City, treatment and disposal of the City's sewage system effluent, and water/sewer rates.	3 yrs	Council	City Code: Title 2, Chapter 2-04	Brad Hill	7

APPENDIX B

How to Post Minutes and Agendas to Board & Commission Pages

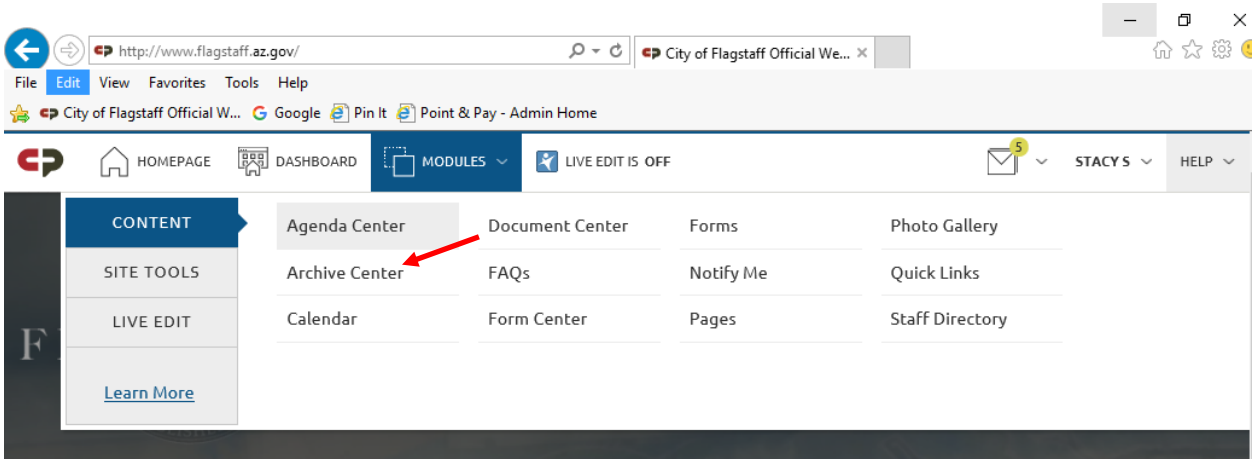
1. Save your document as a PDF and save on the network. If you need help doing this please let me know.

2. Log in to the City's Webpage

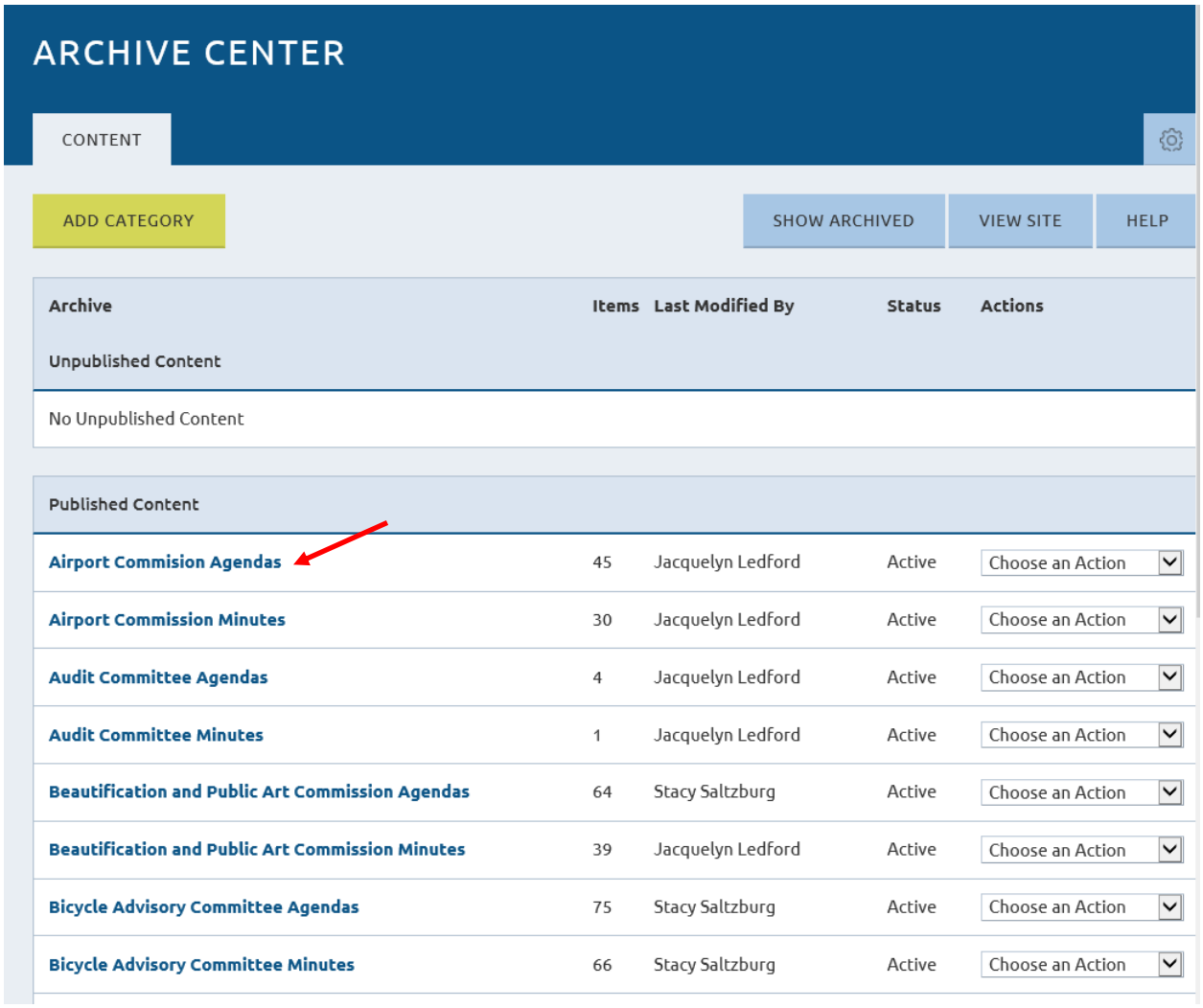


If you do not have a username or password please contact Jessica Drum to have one set up.

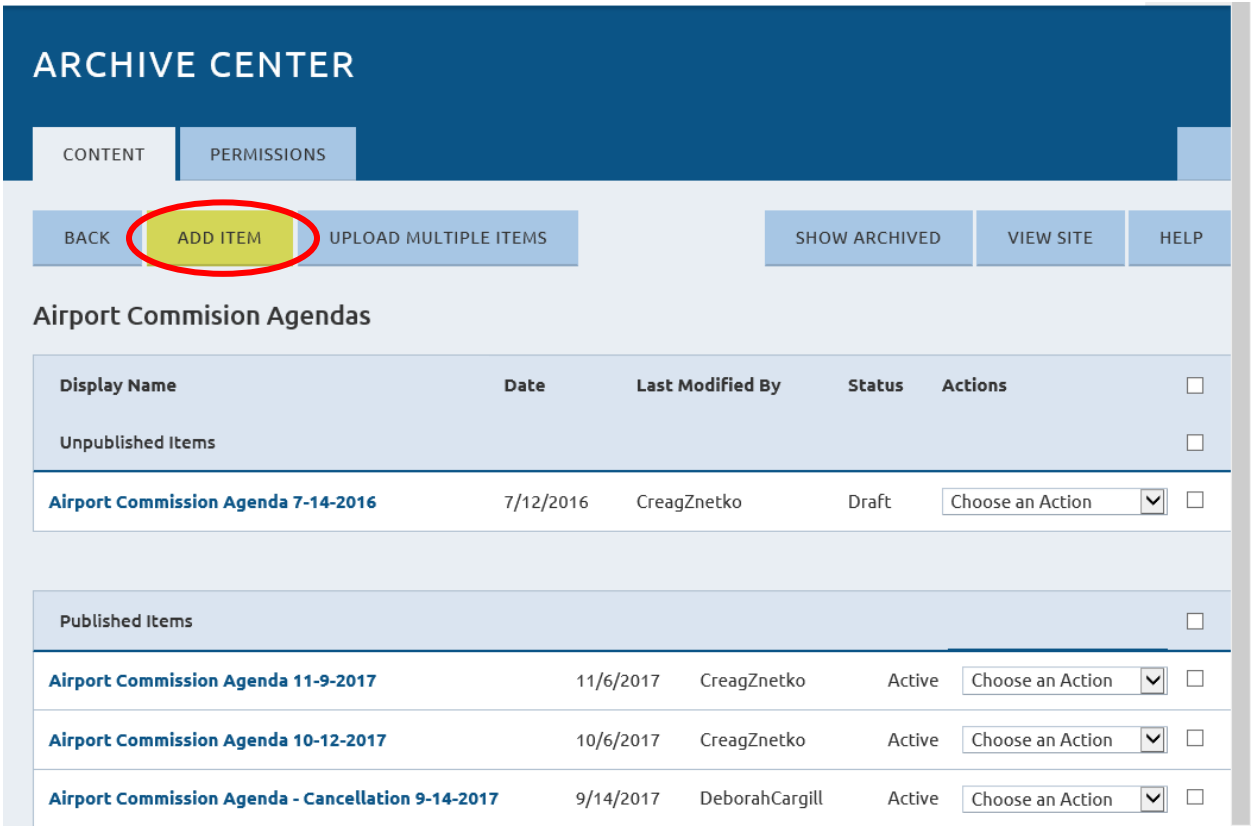
3. Click the ***Modules*** Button and choose ***Archive Center***



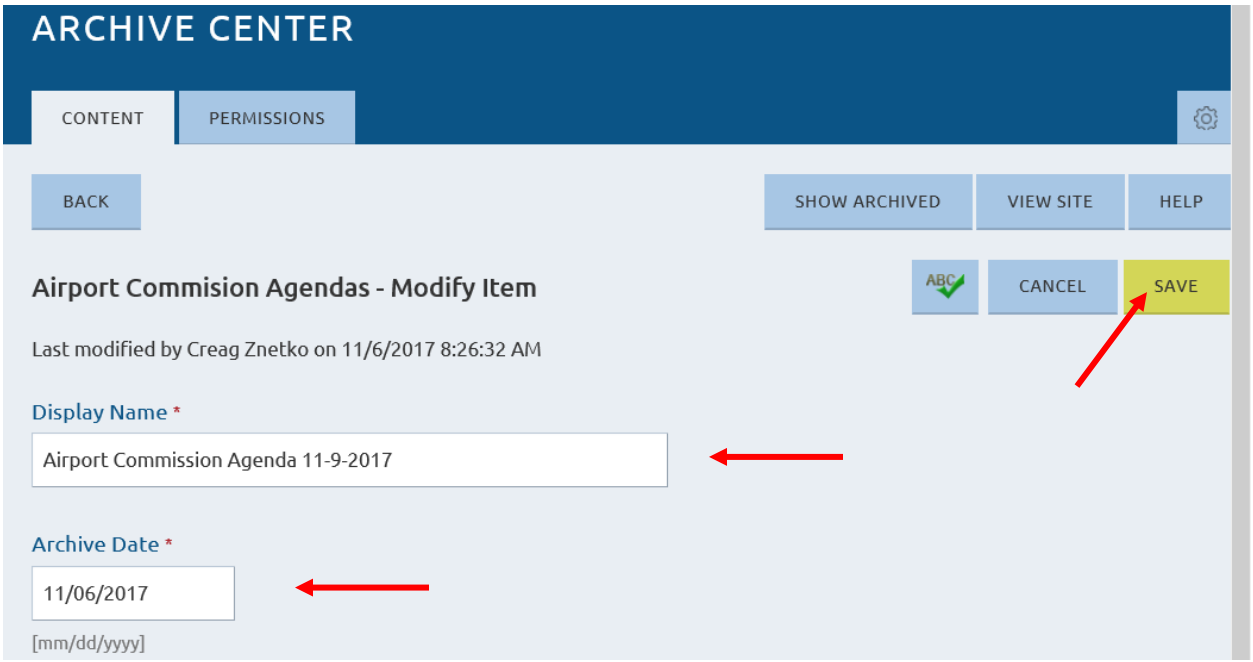
4. Select the appropriate commission minutes or agendas



5. Click ***Add Item***



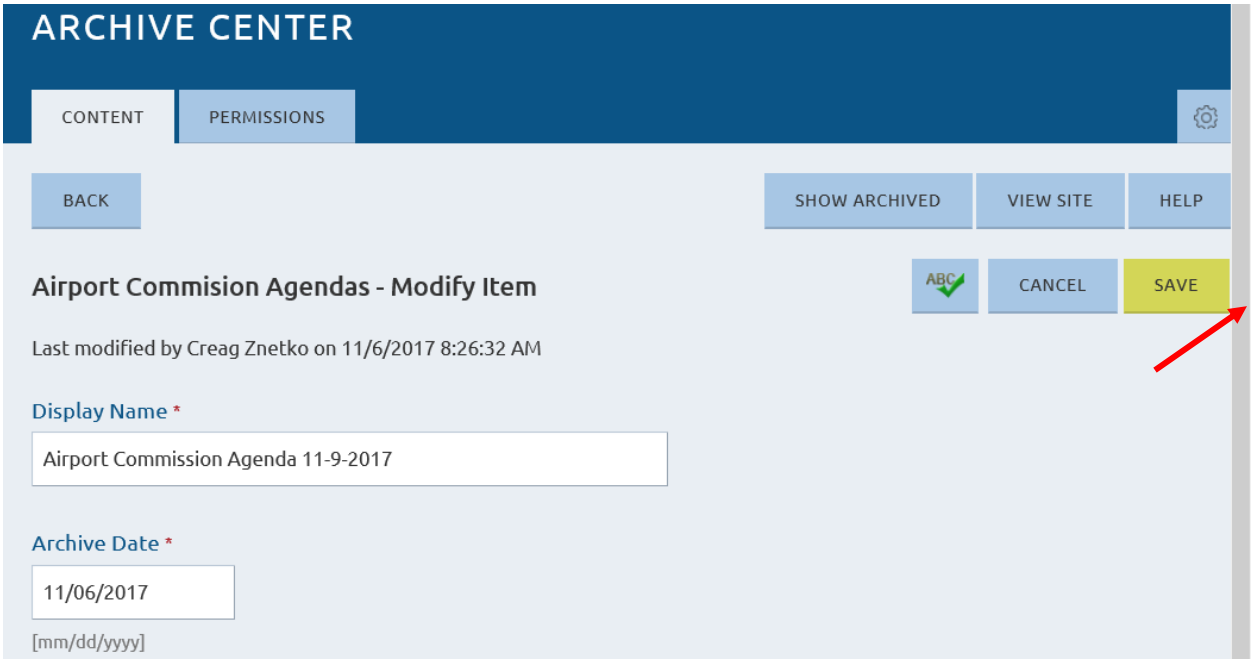
6. Fill in Display Name and Archive Date (the archive date should be the date of the meeting) and click ***Save*** (you must click save before going on to the next step)



7. Attach your document by clicking ***Browse*** under File Upload to locate your file.



8. Click ***Save***



You're done. Now go and check your work.

APPENDIX C

CITY OF FLAGSTAFF – [COMMISSION NAME]
NOTICE OF CANCELLATION

NOTICE IS HEREBY GIVEN THAT THE CITY OF FLAGSTAFF [COMMISSION NAME] HAS CANCELLED THEIR REGULARLY SCHEDULED MEETING FOR [DATE]. THEIR NEXT REGULARLY SCHEDULED MEETING WILL BE HELD ON [DATE].

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 Commission with the City Clerk.

Dated this_____day of_____, 2019.

_____
[YOUR NAME], [YOUR TITLE]

APPENDIX D

CITY OF FLAGSTAFF – [COMMISSION NAME]
NOTICE OF POSSIBLE QUORUM

A QUORUM OF THE [COMMISSION NAME] MAY BE IN ATTENDANCE ON [DATE OF FUNCTION] AT [ADDRESS OF FUNCTION], FLAGSTAFF, AZ 86001. NO FORMAL DISCUSSION/ACTION WILL BE TAKEN BY MEMBERS IN THEIR ROLE AS COMMISSIONERS

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 Commission with the City Clerk.

Dated this_____day of_____, 2019.

_____
[YOUR NAME], YOUR TITLE]

APPENDIX E

NOTICE AND AGENDA

[COMMISSION NAME]
[DAY OF WEEK]
[DATE]

COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
[TIME]

1. CALL TO ORDER

2. ROLL CALL

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

NAME, CHAIRPERSON	NAME
NAME, VICE CHAIRPERSON	NAME
NAME	NAME
NAME	

3. GENERAL BUSINESS

A. PUBLIC COMMENT

At this time, any member of the public may address the Commission on any subject within their jurisdiction that is not scheduled before the Commission on that day. Due to Open Meeting Laws, the Commission cannot discuss or act on items presented during this portion of the agenda. To address the Commission on an item that is on the agenda, please wait for the Chair to call for Public Comment at the time the item is heard.

B. Approval of Minutes

C. [Other Business]

4. DISCUSSION ITEM(S)

A.

B.

5. INFORMATIONAL ITEMS TO/FROM COMMISSION AND STAFF, FUTURE AGENDA ITEM REQUESTS

6. 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 Commission with the City Clerk. This notice has been posted on the City's website and can be downloaded at www.flagstaff.az.gov.

Dated this_____day of_____, 2019.

_____

[YOUR NAME], YOUR TITLE]

APPENDIX F

SPEAKER REQUEST Agenda #/Topic:_____

Flagstaff Resident? ☐ Yes ☐ No ☐ FOR ☐ AGAINST

Thank you for participating in your City government. We value your comments. If you wish to speak to the Council at tonight's meeting, complete the form below and submit it to the Recording Clerk. To allow everyone an opportunity to speak, comments will be limited to 3 minutes and speaking time cannot be transferred to another. If you are having your comments translated, you are permitted 5 minutes. If you are with a group, please designate a spokesperson. A spokesperson for TEN OR MORE PEOPLE PRESENT AT TONIGHT'S MEETING may be given up to 15 minutes to speak. Your name will be called when it is your turn to speak.

NAME_____ **DATE**_____

(Required for the record – PRINT CLEARLY)

THE FOLLOWING INFORMATION IS OPTIONAL AND WILL BECOME PART OF THE RECORD

ADDRESS _____ **PHONE**_____

☐ I am speaking on behalf of myself ☐ I am requesting 5 minutes to allow for translation

☐ I am speaking on behalf of a group of ten or more who are present at tonight's meeting, whose names are listed below:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

APPENDIX G

[COMMISSION NAME]
[DAY OF WEEK], [DATE]
CITY HALL COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
[TIME]

MINUTES

1. Call to Order

[NAME] called the Meeting of the meeting of the [COMMISSION NAME] held [DATE], to order at [TIME] p.m.

2. Roll Call

Commission Members present:	**Commission Members absent:**

Others present: [LIAISON NAME AND ANY OTHER STAFF]

3. Public Participation

Public Participation enables the public to address the Commission on any subject within their jurisdiction that is not scheduled before the Commission on that day. Due to Open Meeting Laws, the Commission cannot discuss or act on items presented during this portion of the agenda. To address the Commission on an item that is on the agenda, please wait for the Chair to call for Public Comment at the time the item is heard.

NOTES

4. Approval of Minutes

Moved by _____, **seconded by** _____ to…

Vote: 7 – 0 – Unanimously or

Vote: 5 – 2

NAY: Commissioner Smith
Commissioner Doe opposed

5. Action Items

[Heading/Title]

NOTES

Moved by _____, **seconded by** _____ to…

Vote: 7 – 0 – Unanimously or

Vote: 5 – 2

NAY: Commissioner Smith
Commissioner Doe opposed

6. Reports/Discussions Items

[Heading/Title]

NOTES

7. Informational Items To/From Commission and Staff, Future Agenda Item Requests

NOTES

8. Adjournment

The meeting of the [COMMISSION NAME] of [DATE], adjourned at [TIME].

APPENDIX H

Title 38. Public Officers and Employees
Chapter 3. Conduct of Office
Article 3.1. Public Meetings and Proceedings

§ 38-431. Definitions

In this article, unless the context otherwise requires:

1. "Advisory committee" or "subcommittee" means any entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body.

2. "Executive session" means a gathering of a quorum of members of a public body from which the public is excluded for one or more of the reasons prescribed in section 38-431.03. In addition to the members of the public body, officers, appointees and employees as provided in section 38-431.03 and the auditor general as provided in section 41-1279.04, only individuals whose presence is reasonably necessary in order for the public body to carry out its executive session responsibilities may attend the executive session.

3. "Legal action" means a collective decision, commitment or promise made by a public body pursuant to the constitution, the public body's charter, bylaws or specified scope of appointment and the laws of this state.

4. "Meeting":

   (a) Means the gathering, in person or through technological devices, of a quorum of the members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to such that action.
   (b) Includes:

      (i) A one-way electronic communication by one member of a public body that is sent to a quorum of the members of a public body and that proposes legal action.

      (ii) An exchange of electronic communications among a quorum of the members of a public body that involves a discussion, deliberation or the taking of legal action by the public body concerning a matter likely to come before the public body for action. "Political subdivision" means all political subdivisions of this state, including without limitation all counties, cities and towns, school districts and special districts.

5. "Public body" means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of this state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by this state or political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees

of, or appointed by, the public body. Public body includes all commissions and other public entities established by the Arizona constitution or by way of ballot initiative, including the independent redistricting commission, and this article applies except and only to the extent that specific constitutional provisions supersede this article.

6. "Quasi-judicial body" means a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public agency and to make decisions in the general manner of a court regarding such disputed claims.

§ 38-431.01. Meetings shall be open to the public

A. All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting.

B. All public bodies shall provide for the taking of written minutes or a recording of all their meetings, including executive sessions. For meetings other than executive sessions, the minutes or recording shall include:

1. The date, time and place of the meeting.

2. The members of the public body recorded as either present or absent.

3. A general description of the matters considered.

4. An accurate description of all legal actions proposed, discussed or taken, including a record of how each member voted. The minutes shall also include the names of the members who propose each motion and the names of the persons, as given, who make statements or present material to the public body and a reference to the legal action about which they made statements or presented material.

C. Minutes of executive sessions shall include items set forth in subsection B, paragraphs 1, 2 and 3 of this section, an accurate description of all instructions given pursuant to section 38-431.03, subsection A, paragraphs 4, 5 and 7 and such other matters as may be deemed appropriate by the public body.

D. The minutes or a recording of a meeting shall be available for public inspection three working days after the meeting except as otherwise specifically provided by this article.

E. A public body of a city or town with a population of more than two thousand five hundred persons shall:

1. Within three working days after a meeting, except for subcommittees and advisory committees, post on its website, if applicable, either:

(a) A statement describing the legal actions taken by the public body of the city or town during the meeting.

(b) Any recording of the meeting.

2. Within two working days following approval of the minutes, post approved minutes of city or town council meetings on its website, if applicable, except as otherwise specifically provided by this article.

3. Within ten working days after a subcommittee or advisory committee meeting, post on its website, if applicable, either:

   (a) A statement describing legal action, if any.

   (b) A recording of the meeting.

F. All or any part of a public meeting of a public body may be recorded by any person in attendance by means of a tape recorder or camera or any other means of sonic reproduction, provided that there is no active interference with the conduct of the meeting.

G. The secretary of state for state public bodies, the city or town clerk for municipal public bodies and the county clerk for all other local public bodies shall conspicuously post open meeting law materials prepared and approved by the attorney general on their website. A person elected or appointed to a public body shall review the open meeting law materials at least one day before the day that person takes office.

H. A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

I. A member of a public body shall not knowingly direct any staff member to communicate in violation of this article.

J. Any posting required by subsection E of this section must remain on the applicable website for at least one year after the date of the posting.

§ 38-431.02. Notice of meetings

A. Public notice of all meetings of public bodies shall be given as follows:

1. The public bodies of this state, including governing bodies of charter schools, shall:

   (a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

   (b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting

for which the notice was posted if the public body complies with all other public notice requirements required by this section.

2. The public bodies of the counties and school districts shall:

   (a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

   (b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

3. Special districts that are formed pursuant to title 48:

   (a) May conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

   (b) May post all public meeting notices on their website and shall give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

   (c) If a statement or notice is not posted pursuant to subdivision (a) or (b) of this paragraph, shall file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give additional public notice as is reasonable and practicable as to all meetings.

4. The public bodies of the cities and towns shall:

   (a) Conspicuously post a statement on their website or on a website of an association of cities and towns stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

   (b) Post all public meeting notices on their website or on a website of an association of cities and towns and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

B. If an executive session is scheduled, a notice of the executive session shall state the provision of law authorizing the executive session, and the notice shall be provided to the:

1. Members of the public body.

2. General public.

C. Except as provided in subsections D and E of this section, meetings shall not be held without at least twenty-four hours' notice to the members of the public body and to the general public. The twenty-four hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays prescribed in § 1-301.

D. In case of an actual emergency, a meeting, including an executive session, may be held on such notice as is appropriate to the circumstances. If this subsection is utilized for conduct of an emergency session or the consideration of an emergency measure at a previously scheduled meeting the public body must post a public notice within twenty-four hours declaring that an emergency session has been held and setting forth the information required in subsections H and I of this section.

E. A meeting may be recessed and resumed with less than twenty-four hours' notice if public notice of the initial session of the meeting is given as required in subsection A of this section, and if, before recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given.

F. A public body that intends to meet for a specified calendar period, on a regular day, date or event during the calendar period, and at a regular place and time, may post public notice of the meetings at the beginning of the period. The notice shall specify the period for which notice is applicable.

G. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such an agenda. The agenda must be available to the public at least twenty-four hours before the meeting, except in the case of an actual emergency under subsection D of this section. The twenty-four hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays prescribed in § 1-301.

H. Agendas required under this section shall list the specific matters to be discussed, considered or decided at the meeting. The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.

I. Notwithstanding the other provisions of this section, notice of executive sessions shall be required to include only a general description of the matters to be considered. The agenda shall provide more than just a recital of the statutory provisions authorizing the executive session, but need not contain information that would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee or compromise the attorney-client privilege.

J. Notwithstanding subsections H and I of this section, in the case of an actual emergency a matter may be discussed and considered and, at public meetings, decided, if the matter was not listed on the agenda and a statement setting forth the reasons necessitating the discussion, consideration or decision is placed in the minutes of the meeting and is publicly announced at the public meeting. In

the case of an executive session, the reason for consideration of the emergency measure shall be announced publicly immediately before the executive session.

K. Notwithstanding subsection H of this section, the chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:

1. The summary is listed on the agenda.

2. The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

§ 38-431.03. Executive sessions

A. Upon a public majority vote of the members constituting a quorum, a public body may hold an executive session but only for the following purposes:

1. Discussion or consideration of employment, assignment, appointment, pro-motion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.

2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.

3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.

4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.

5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.

6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.

7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

B. Minutes of and discussions made at executive sessions shall be kept confidential except from:

1. Members of the public body which met in executive session.

2. Officers, appointees or employees who were the subject of discussion or consideration pursuant to subsection A, paragraph 1 of this section.

3. The auditor general on a request made in connection with an audit authorized as provided by law.

4. A county attorney or the attorney general when investigating alleged violations of this article.

C. The public body shall instruct persons who are present at the executive session regarding the confidentiality requirements of this article.

D. Legal action involving a final vote or decision shall not be taken at an executive session, except that the public body may instruct its attorneys or representatives as provided in subsection A, paragraphs 4, 5 and 7 of this section. A public vote shall be taken before any legal action binds the public body.

E. Except as provided in section 38-431.02, subsections I and J, a public body shall not discuss any matter in an executive session which is not described in the notice of the executive session.

F. Disclosure of executive session information pursuant to this section or section 38-431.06 does not constitute a waiver of any privilege, including the attorney-client privilege. Any person receiving executive session information pursuant to this section or section 38-431.06 shall not disclose that information except to the attorney general or county attorney, by agreement with the public body or to a court in camera for purposes of enforcing this article. Any court that reviews executive session information shall take appropriate action to protect privileged information.

§ 38-431.04. Writ of mandamus

Where the provisions of this article are not complied with, a court of competent jurisdiction may issue a writ of mandamus requiring that a meeting be open to the public.

§ 38-431.05. Meeting held in violation of article; business transacted null and void; ratification

A. All legal action transacted by any public body during a meeting held in violation of any provision of this article is null and void except as provided in subsection B.

B. A public body may ratify legal action taken in violation of this article in accordance with the following requirements:

1. Ratification shall take place at a public meeting within thirty days after discovery of the violation or after such discovery should have been made by the exercise of reasonable diligence.

2. The notice for the meeting shall include a description of the action to be ratified, a clear statement that the public body proposes to ratify a prior action and information on how the public may obtain a detailed written description of the action to be ratified.

3. The public body shall make available to the public a detailed written description of the action to be ratified and all deliberations, consultations and decisions by members of the public body that preceded and related to such action. The written description shall also be included as part of the minutes of the meeting at which ratification is taken. The public body shall make available to the public the notice and detailed written description required by this section at least seventy-two hours in advance of the public meeting at which the ratification is taken.

§ 38-431.06. Investigations; written investigative demands

A. On receipt of a written complaint signed by a complainant alleging a violation of this article or on their own initiative, the attorney general or the county attorney for the county in which the alleged violation occurred may begin an investigation.

B. In addition to other powers conferred by this article, in order to carry out the duties prescribed in this article, the attorney general or the county attorney for the county in which the alleged violation occurred, or their designees, may:

1. Issue written investigative demands to any person.

2. Administer an oath or affirmation to any person for testimony.

3. Examine under oath any person in connection with the investigation of the alleged violation of this article.

4. Examine by means of inspecting, studying or copying any account, book, computer, document, minutes, paper, recording or record.

5. Require any person to file on prescribed forms a statement or report in writing and under oath of all the facts and circumstances requested by the attorney general or county attorney.

C. The written investigative demand shall:

1. Be served on the person in the manner required for service of process in this state or by certified mail, return receipt requested.

2. Describe the class or classes of documents or objects with sufficient definiteness to permit them to be fairly identified.

3. Prescribe a reasonable time at which the person shall appear to testify and within which the document or object shall be produced and advise the person that objections to or reasons for not complying with the demand may be filed with the attorney general or county attorney on or before that time.

4. Specify a place for the taking of testimony or for production of a document or object and designate a person who shall be the custodian of the document or object.

D. If a person objects to or otherwise fails to comply with the written investigation demand served on the person pursuant to subsection C, the attorney general or county attorney may file an action in the superior court for an order to enforce the demand. Venue for the action to enforce the demand

shall be in Maricopa county or in the county in which the alleged violation occurred. Notice of hearing the action to enforce the demand and a copy of the action shall be served on the person in the same manner as that prescribed in the Arizona rules of civil procedure. If a court finds that the demand is proper, including that the compliance will not violate a privilege and that there is not a conflict of interest on the part of the attorney general or county attorney, that there is reasonable cause to believe there may have been a violation of this article and that the information sought or document or object demanded is relevant to the violation, the court shall order the person to comply with the demand, subject to modifications the court may prescribe. If the person fails to comply with the court's order, the court may issue any of the following orders until the person complies with the order:

1. Adjudging the person in contempt of court.

2. Granting injunctive relief against the person to whom the demand is issued to restrain the conduct that is the subject of the investigation.

3. Granting other relief the court deems proper.

§ 38-431.07. Violations; enforcement; removal from office; in camera review

A. Any person affected by an alleged violation of this article, the attorney general or the county attorney for the county in which an alleged violation of this article occurred may commence a suit in the superior court in the county in which the public body ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of, this article, by the public body as a whole, or to determine the applicability of this article to matters or legal actions of the public body. The attorney general may also commence a suit in the superior court in the county in which the public body ordinarily meets against an individual member of a public body for a knowing violation of this article, and in such a suit the court may impose a civil penalty against each person who knowingly violates this article or who knowingly aids, agrees to aid or attempts to aid in violating this article and order equitable relief as the court deems appropriate in the circumstances. The court may impose a civil penalty not to exceed five hundred dollars for the second offense and not to exceed two thousand five hundred dollars for the third and subsequent offenses. If the court imposes a civil penalty against an individual member of the public body who knowingly violates this article, the public body may not pay the civil penalty on behalf of, or otherwise reimburse, the individual against whom the civil penalty has been imposed. If the court finds that a person who might otherwise be liable under this subsection objected to the action of the public body and the objection is noted on a public record, the court may choose not to impose a civil penalty on that person. The civil penalties awarded pursuant to this section shall be deposited into the general fund of the public body concerned. The court may also order payment to a successful plaintiff in a suit brought under this section of the plaintiff's reasonable attorney fees, by the defendant state, the political subdivision of the state or the incorporated city or town of which the public body is a part or to which it reports. If the court determines that a public officer with intent to deprive the public of information knowingly violated any provision of this article, the court may remove the public officer from office and shall assess the public officer or a person who knowingly aided, agreed to aid or attempted to aid the public officer in violating this article, or both, with all of the costs and attorney fees awarded to the plaintiff pursuant to this section.

B. A public body shall not expend public monies to employ or retain legal counsel to provide legal services or representation to the public body or any of its officers in any legal action commenced

pursuant to any provisions of this article, unless the public body has authority to make the expenditure pursuant to other provisions of law and takes a legal action at a properly noticed open meeting approving the expenditure before incurring any obligation or indebtedness.

C. In any action brought pursuant to this section challenging the validity of an executive session, the court may review in camera the minutes of the executive session, and if the court in its discretion determines that the minutes are relevant and that justice so demands, the court may disclose to the parties or admit in evidence part or all of the minutes.

§ 38-431.08. Exceptions; limitation

A. This article does not apply to:

1. Any judicial proceeding of any court or any political caucus of the legislature.

2. Any conference committee of the legislature, except that all such meetings shall be open to the public.

3. The commissions on appellate and trial court appointments and the commission on judicial qualifications.

4. Good cause exception and central registry exception determinations and hearings conducted by the board of fingerprinting pursuant to sections 41-619.55 and 41-619.57.

B. A hearing held within a prison facility by the board of executive clemency is subject to this article, except that the director of the state department of corrections may:

1. Prohibit, on written findings that are made public within five days of so finding, any person from attending a hearing whose attendance would constitute a serious threat to the life or physical safety of any person or to the safe, secure and orderly operation of the prison.

2. Require a person who attends a hearing to sign an attendance log. If the person is over sixteen years of age, the person shall produce photographic identification that verifies the person's signature.

3. Prevent and prohibit any articles from being taken into a hearing except recording devices, and if the person who attends a hearing is a member of the media, cameras.

4. Require that a person who attends a hearing submit to a reasonable search on entering the facility.

C. The exclusive remedies available to any person who is denied attendance at or removed from a hearing by the director of the state department of corrections in violation of this section shall be those remedies available in section 38-431.07, as against the director only.

D. Either house of the legislature may adopt a rule or procedure pursuant to article IV, part 2, section 8, Constitution of Arizona, to provide an exemption to the notice and agenda requirements of this article or to allow standing or conference committees to meet through technological devices rather than only in person.

§ 38-431.09. Declaration of public policy

A. It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Toward this end, any person or entity charged with the interpretations of this article shall construe this article in favor of open and public meetings.

B. Notwithstanding subsection A, it is not a violation of this article if a member of a public body expresses an opinion or discusses an issue with the public either at a venue other than at a meeting that is subject to this article, personally, through the media or other form of public broadcast communication or through technological means if:

1. The opinion or discussion is not principally directed at or directly given to another member of the public body.

2. There is no concerted plan to engage in collective deliberation to take legal action.

APPENDIX I

Title 38. Public Officers and Employees
Chapter 3. Conduct of Office
Article 8. Conflict of Interest of Officers and Employees

§ 38-501. Application of article

A. This article shall apply to all public officers and employees of incorporated cities or towns, of political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.

B. Notwithstanding the provisions of any other law, or the provisions of any charter or ordinance of any incorporated city or town to the contrary, the provisions of this article shall be exclusively applicable to all officers and employees of every incorporated city or town or political subdivision or the state and any of its departments, commissions, agencies, bodies or boards and shall supersede the provisions of any other such law, charter provision or ordinance.

C. Other prohibitions in the state statutes against any specific conflict of interests shall be in addition to this article if consistent with the intent and provisions of this article.

§ 38-502. Definitions

In this article, unless the context otherwise requires:

1. "Compensation" means money, a tangible thing of value or a financial benefit.

2. "Employee" means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration.

3. "Make known" means the filing of a paper which is signed by a public officer or employee and which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to section 38-509.

4. "Official records" means the minutes or papers, records and documents maintained by a public agency for the specific purpose of receiving disclosures of substantial interests required to be made known by this article.

5. "Political subdivision" means all political subdivisions of the state and county, including all school districts.

6. "Public agency" means:

   (a) All courts.

   (b) Any department, agency, board, commission, institution, instrumentality or legislative or administrative body of the state, a county, an incorporated town or city and any other political

subdivision.

(c) The state, county and incorporated cities or towns and any other political subdivisions.

7. "Public competitive bidding" means the method of purchasing prescribed by title 41, chapter 23, or procedures substantially equivalent to such method of purchasing, or as provided by local charter or ordinance.

8. "Public officer" means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute.

9. "Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.

10. "Remote interest" means:

(a) That of a nonsalaried officer of a nonprofit corporation.

(b) That of a landlord or tenant of the contracting party.

(c) That of an attorney of a contracting party.

(d) That of a member of a nonprofit cooperative marketing association.

(e) The ownership of less than three percent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five percent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five percent of his total annual income.

(f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.

(g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.

(h) That of a public school board member when the relative involved is not a dependent, as defined in section 43-1001, or a spouse.

(i) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment on the officer, the employee or his relative, of any of the following:

(i) Another political subdivision.

(ii) A public agency of another political subdivision.

(iii) A public agency except if it is the same governmental entity.

(j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.

(k) That of a relative who is an employee of any business entity or governmental entity that employs at least twenty-five employees within this state and who, in the capacity as an employee, does not assert control or decision-making authority over the entity's management or budget decisions.

(l) The ownership of any publicly traded investments that are held in an account or fund, including a mutual fund, that is managed by one or more qualified investment professionals who are not employed or controlled by the officer or employee and that the officer or employee owns shares or interest together with other investors.

11. "Substantial interest" means any nonspeculative pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

§ 38-503. Conflict of interest; exemptions; employment prohibition

A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

1. A school district governing board may purchase, as provided in sections 15-213 and 15-323, supplies, materials and equipment from a school board member.

2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

D. Notwithstanding subsections A and B of this section and as provided in sections 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

§ 38-504. Prohibited acts

A. A public officer or employee shall not represent another person for compensation before a public

agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.

B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

§ 38-505. Additional income prohibited for services

A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

B. This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.

§ 38-506. Remedies

A. In addition to any other remedies provided by law, any contract entered into by a public agency in violation of this article is voidable at the instance of the public agency.

B. Any person affected by a decision of a public agency may commence a civil suit in the superior court for the purpose of enforcing the civil provisions of this article. The court may order such equitable relief as it deems appropriate in the circumstances including the remedies provided in this section.

C. The court may in its discretion order payment of costs, including reasonable attorney's fees, to the prevailing party in an action brought under subsection B.

§ 38-507. Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee

Requests for opinions from either the attorney general, a county attorney, a city or town attorney, the senate ethics committee or the house of representatives ethics committee concerning violations of this article shall be confidential, but the final opinions shall be a matter of public record. The county attorneys shall file opinions with the county recorder, the city or town attorneys shall file opinions with the city or town clerk, the senate ethics committee shall file opinions with the senate secretary and the house of representatives ethics committee shall file opinions with the chief clerk of the house of representatives.

§ 38-508. Authority of public officers and employees to act

A. If the provisions of section 38-503 prevent an appointed public officer or a public employee from acting as required by law in his official capacity, such public officer or employee shall notify his superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.

B. If the provisions of section 38-503 prevent a public agency from acting as required by law in its official capacity, such action shall not be prevented if members of the agency who have apparent conflicts make known their substantial interests in the official records of their public agency.

§ 38-509. Filing of disclosures

Every political subdivision and public agency subject to this article shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to this article.

§ 38-510. Penalties

C. A person who:

1. Intentionally or knowingly violates any provision of sections 38-503 through 38-505 is guilty of a class 6 felony.

2. Recklessly or negligently violates any provision of sections 38-503 through 38-505 is guilty of a class 1 misdemeanor.

D. A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

E. It is no defense to a prosecution for a violation of sections 38-503 through 38-505 that the public officer or employee to whom a benefit is offered, conferred or agreed to be conferred was not qualified or authorized to act in the desired way.

F. It is a defense to a prosecution for a violation of sections 38-503 through 38-505 that the interest charged to be substantial was a remote interest.

Comments from Jim McCarthy

Comments Re:
Board and Commission Staff Liaison Resource Guide

The following are my edits in response to Councilmember McCarthy's comments.

Page 2, under Subcommittees, 2nd paragraph, third sentence, (QUORUM)
"… a quorum would be half plus on …"
So, if there are seven members, half would be 3.5, plus one would be 4.5 persons. Since you can not have half a person, that would be five.
How about "a quorum would be half of the number of members, increased to the next full number." So, half of 7 would be 3.5, rounded up to 4 persons.
Also see Page 10, first sentence. And Page 11.
On page 11, it is not clear what "regardless of vacancies" means. If you have a 7-member commission, with two vacancies, does that mean 3 makes a quorum, or 4? I can guess, but it should be stated unambiguously.

Proposed new language: (page 2)

> The number of members should be set by the commission, and a quorum would be ~~half plus one of the total members of the subcommittee~~ a majority of the total membership which includes any vacant seats.

Proposed new language: (page 10)

> It is always preferable to have full attendance as compared to a ~~bare~~ minimum quorum ~~(half the membership plus one)~~ (see Quorum Section).

Proposed new language: (page 11)

> What is a Quorum?
> A quorum is the number of members of the public body required to be in attendance at meetings in order for the meeting to be held. Quorum is defined as a majority of the members of the public body which includes any vacant seats, unless otherwise provided for by law. ~~The city defines majority as one more than half of the full voting membership of a commission, regardless of vacancies.~~ Most commissions consist of seven members with a quorum requirement of a minimum of four members in attendance. ~~For most commissions this is four members. For example, if there are seven authorized members of your commission, then you would need to have four members present to have a quorum.~~ Please contact the City Clerk's Office with any vacancy or quorum related questions or issues.

Page 2, third paragraph, this sentence is strange; the subcommittee member participation should be well defined when the subcommittee is defined by the committee, i.e. when the committee formally makes subcommittee appointments.

Proposed new language: (page 2)

Delete the 3rd paragraph under Subcommittees (begins with All subcommittee members…) and add the following sentence to the end of paragraph 2:

Other commission members should refrain from attending and participating in subcommittee meetings to avoid potential violations of Open Meeting Law (which is discussed in more detail in its own Section).

Page 5, second paragraph, in the underlined sentence, the work SECOND should be ANOTHER, to be consistent with the first sentence. Same comment for next sentence. No need for bold in last sentence.

I changed "second" to "another." I believe that the last two sentences should remain as they are; the bolding should remain as we are trying to highlight the issues that continue to be of concern or question.

Page 7, City Council, There is redundancy between statements made under the Roles, and Responsibilities, of City Council.

Proposed edits (page 7)

The Role of City Council
After the 3rd sentence add "Your Council Representative may attend meetings in person, stream meetings on the City website, review agendas and minutes, and/or reach out to meet with you and the Chairperson of your commission." The Council Representative is not a voting member of the commission.

Responsibilities of City Council
The Council Representative is responsible for ~~gathering~~ sharing information and reporting back to the City Council. ~~Your Council Representative may attend meetings in person, stream meetings on the City website, review agendas and minutes, and/or reach out to meet with you and the Chairperson of your commission.~~ Information that is collected will be shared with the rest of the City Council during the Council Liaison Reports portion of the Council Meetings.

Page 8, Role of Board and Commission Members, it should be clarified that advise and recommendations come from the commission, not the commission members. The members work in the commission so that the commission as a whole advises and recommends.

Proposed edits (page 8)

The primary role of most commissions ~~members~~ is to advise and make recommendations to the City Council.

Page 9, first full sentence ("Discussing commission business outside a public meeting could lead City Councilmembers into violations of the Open Meeting Law if the item is forthcoming on a City Council meeting agenda."). I have asked the city attorney if this is a true statement.

Proposed edits (page 9)

Discussing commission business outside a public meeting could lead to serial communications potentially causing City Councilmembers to violate ~~into violations of the~~ Open Meeting Law if the item is forthcoming on a City Council meeting agenda, particularly if a commissioner conveys information from one councilmember to another.

Page 12, Bottom Line (actually on the spill over words on Page 13), states: "Anyone involved in sending messages back and forth which even discuss possible action or propose a formal action are breaking the law; …" That is not a true statement. Although unadvisable, under the law, members may talk about any subject, as long as the total number of people involved is less than a quorum.

Proposed edits (page 12).

Anyone involved in sending messages back and forth which even discuss possible action or propose a formal action ~~are breaking the law~~; could be considered serial communications which potentially violates Open Meeting Law; it is the same as if the members had met together in a private meeting. Therefore, based on these reasons, **it is best that commission members communicate at public meetings about business and not through other methods.** If you have any questions about Open Meeting Law or any of the provisions above, please contact the City Clerk's Office at (928) 213-2077.

Page 13, Types of Agendas: If a commission member askes for an agenda item, does that mean that it shall be on the agenda, or does it take approval of the chair, vote of the members, or something else?

Proposed edits (page 13)

The meeting agenda is normally set by the commission chair, with input from members and yourself. ~~Agenda~~ Items can be placed on agendas in a variety of ways and commissions may establish their own process for setting their agenda. The following are examples of how agenda items may be placed on agendas:

Page 14, under Important Note: If just one, or maybe two, commission members are going on a tour, would the city have to provide transportation to the event for any and all members of the public that might like to go? This seems unworkable.

Proposed edits (page 14)

> If a quorum of your commission is going on a tour of a location related to an upcoming agenda item, you would post a tour notice noting that information may be provided, but any discussion and/or action on the agenda item will occur at a publicly posted meeting.
>
> **Important note:** ~~For a tour,~~ If you provide transportation (for example in a bus or van) for ~~the~~ a quorum of the commission members, you must also make this transportation available to the public upon a reasonable request.

Page 14, E-Sessions: the way that third sentence reads, an employee may attend an e-session even if they have no reasonable necessity to be at the e-session. This is not appropriate.

Employees refers to the staff liaison and other staff who may be involved in the issue. I can see how the sentence may be interpreted differently.

Proposed edits (page 14)

> In addition to the members of the commission, ~~officers, appointees and employees,~~ only individuals whose presence is reasonably necessary in order for the commission to carry out its executive session responsibilities may attend the executive session.

Page 15, Meeting Locations: When I was on the Water Commission, we had a meeting that would have overwhelmed city hall, so we had it at a local high school auditorium. Is that now disallowed? Maybe it should be allowed with special approvals.

It is currently allowed and is covered under all persons desiring to attend and listen must be accommodated.

Proposed edits (page 15)

> On occasion, conflicts may arise such as ~~with~~ a need for Council Chambers by the City Council or City Manager's Office, or a larger space is needed to accommodate the public. In those instances an alternate location may be used. Arrangements must be made with the IT Help Desk to arrange for video recording at the alternate location.

Under Meeting Locations, paragraph 5, it makes an ABSOLUTE statement: All persons desiring to attend and listen to meetings must be accommodated. This absolute statement is unrealistic. What if someone need a translator from English to Bengali or Arabic; we can not practically

provide that service. The absolute statement needs a qualifier, something like "reasonable effort."

Proposed edits (page 15)

All persons desiring to attend and listen to meetings must be accommodated to the extent reasonably possible.

Page 17, paragraph 3, how would changing the order on the agenda circumvent the Open Meeting Law? It might be good to add such an example to promote understanding and to let people know that the example is unacceptable.

Proposed edits (page 17)

Added the following to the end of that paragraph:

The chair may, at their discretion, or shall, upon the majority vote of members present, change the order of the agenda. However, caution should be given to not changing the order to circumvent the Open Meeting Law. For example, moving a controversial item that was posted on the agenda as the last item of the meeting to the beginning of the meeting to avoid public attendance or participation would likely violate Open Meeting Law.

Page 18, last paragraph, the first sentence applies to public comment, not for agenda items. That should be made clear in that sentence.

Proposed edits (page 18)

> During public participation, ~~C~~ccommission members cannot express agreement or disagreement with a person's comment, discuss it, or take action.

Board and Commission Members' Rules and Operations Manual

There is a lot of overlap in the two documents. This seems unnecessary to me. Some of the comments for the staff manual apply to this manual as well. In the spirit of this paragraph, I will not repeat them.

Where relevant, I will make the same adjustments noted above.

Page 14, parking, can a commission member park in the east side of Wheeler Park at any time, or just during commission meetings, or when doing commission work? Please clarify.

Their parking permits are only good for one of the seven spaces on the west side of the Wheeler Lot.

Proposed language (page 14)

You are permitted to park free of charge through Park Flag in one of the seven designated spaces on the west side of the Wheeler Park parking lot during commission meetings. The City Clerk's Office will notify Park Flag of your appointment and Park Flag will contact you directly with instructions on how to obtain the appropriate permit. If you do not hear from Park Flag prior to your first meeting, please contact your staff liaison or the City Clerk's Office.

Should you need to conduct commission business outside your normal commission meeting time please contact your staff liaison for temporary parking information.

File: Commission handbook

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE:

Consideration and Direction: Board and Commission Council Representative Assignments

STAFF RECOMMENDED ACTION:

Make Council Representative Assignments to the following Commissions:

1. Airport Commission
2. Beautification and Public Art Commission
3. Commission on Diversity Awareness
4. Commission on Inclusion and Adaptive Living
5. Heritage Preservation Commission
6. Housing Commission
7. Open Spaces Commission
8. Parks and Recreation Commission
9. Planning and Zoning Commission
10. Sustainability Commission
11. Tourism Commission
12. Transportation Commission
13. Water Commission
14. Any other commissions Council feels necessary

Executive Summary:

Interaction between the City Council and commissions is important and necessary to share information and recommendations. With a Councilmember assigned to various commissions it is believed that communication and information sharing can be improved. Each Councilmember assigned to a commission will be responsible for gathering information from the commission and reporting back to the Council during their meetings.

The commissions selected for appointment are based on the frequency in which they meet and if they already have a Council assignment statutorily. A list of all boards and commissions has been attached for review should Council wish to appoint a representative not included in the staff recommendation.

Financial Impact:

None

Policy Impact:

None

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

COMMUNITY OUTREACH

Enhance public transparency and accessibility.

Previous Council Decision on This:

On June 11, 2019 the City Council decided that having a Councilmember Representative assigned to a board or commission would improve the quality of interactions between the Council and its various boards and commissions. Council gave direction to bring back a list of boards and commissions for Council to discuss and make assignments.

Attachments: Boards and Commissions

APPENDIX A

NAME	TERMS	APP'D BY	AUTHORITY	STAFF LIAISON	# OF SEATS
Airport Responsible for reporting to the Council on the development of the Airpark and matters affecting the operation and efficiency of the airport.	3 yrs	Council	City Code: Title 2, Chapter 2-11	Barney Helmick	7
Audit Committee Meets at least once a year, to review the Annual Financial and Single Audit reports.	Indef.	Council	Res Nos. 1320, 2029, 2002-59	Rick Tadder	6
Beautification and Public Art Recommends expenditures from the BBB, community beautification projects, the purchase and installation of public art projects.	3 yrs	Council	City Code: Title 2, Chapter 2-14	Mark DiLucido	7
Bicycle Advisory Committee Report to the City's Transportation Commission on issues related to planning for and accommodation of bicycles.	3 yrs	Transport Comm.	City Code: Title 2, Chapter 2-12	Martin Ince	7
Board of Adjustment Holds hearings on request for variances and appeals of decision by the Zoning Code Administrator.	3 yrs	Council	ARS § 9-462.06, City Code: Title 2, Chapter 2-10	Daniel Symer	7
Building and Fire Code Board of Appeals Holds hearings on appeals related to the application and interpretation of City building and fire codes.	5 yrs	Council	Res. 1565, 2001-42	Amy Palmer	7
Diversity Awareness Fosters mutual understanding, tolerance, respect, and awareness among all citizens; recognizing the different economic, cultural, social, religious, and ethnic groups within the City; cooperating in the development of educational programs dedicated to improving community relations and enlisting support of various groups to foster diversity awareness.	3 yrs	Council	City Code: Title 2, Chapter 2-08	Shannon Anderson	7
Flagstaff Housing Authority Oversees the functions of the Housing Authority. The Authority implements the public housing programs.	4 yrs	Mayor	ARS § 36-1404.B City Code: Title 1, Chapter 1-13	Sarah Darr	7
Flagstaff Metropolitan Planning Organization Federally mandated organization responsible for planning and programming federal transportation funds in the region	2 yrs	Council	Intergovernmental Agreement	Jeff Meilbeck	6

NAME	TERMS	APP'D BY	AUTHORITY	STAFF LIAISON	# OF SEATS
Housing Commission Makes recommendations with respect to housing policies, needs, and programs in Flagstaff.	3 yrs	Council	City Code: Title 2, Chapter 2-25	Sarah Darr	15
Heritage Preservation Advises the City Council on all matters relating to historic preservation, and reviews development projects in designated historic districts.	3 yrs	Council	City Code: Title 2, Chapter 2-19	Tiffany Antol	7
Inclusion and Adaptive Living Expand educational opportunities; improve access to housing, buildings, and transportation; have greater participation in recreational, social, and cultural activities; encourage greater opportunity for employment and expand/strengthen rehabilitative programs and facilities	3 yrs	Council	City Code: Title 2, Chapter 2-18	Denise Thompson	7
Industrial Development Authority Independent authority established by State law. Issue revenue bonds to projects eligible for financing under State statute.	6 yrs	Council	Resolution No. 1636	Brandon Kavanagh	9
Library Board Serves as a citizen's advisory board to the Library Director.	3 yrs	Council	Intergovernmental Agreement	Mark Cesare	8
Open Spaces Advises the Council on the acquisition, management, use, restoration, enhancement, protection, and conservation of open space land within the City of Flagstaff.	3 yrs	Council	City Code: Title 2, Chapter 2-20	Robert Wallace	7
Parks and Recreation Makes recommendations to the Council regarding City parks and recreational programs, the annual budget and capital improvements for the Parks and Recreation Divisions.	3 yrs	Council	City Code: Title 2, Chapter 2-03	Rebecca Sayers	7
Pedestrian Advisory Committee Report to the City's Transportation Commission on issues related to planning for and accommodation of pedestrians.	3 yrs	Transport Comm.	Code, Title 2, Chapter 2-12	Martin Ince	7
Personnel Board Conducts hearing to ensure due process for regular, classified employees who are dismissed, demoted, or suspended without pay.	4 yrs	Council	Ord. No. 971, 1041, 1116, 1146, 1198	Shannon Anderson	7

NAME	TERMS	APP'D BY	AUTHORITY	STAFF LIAISON	# OF SEATS
Planning and Zoning Serves as an advisory board to the Council on matters relating to the growth and physical development of the City. Conduct hearings on amendments to the Zoning Map, tentative subdivision plats, Conditional Use Permits.	3 yrs	Council	ARS § 9-461.02 City Code: Title 2, Chapter 2-01	Tiffany Antol	7
PSPRS Board Processes membership and retirement applications from the Flagstaff police officers and firefighters.	4 yrs	Mayor	ARS § 38-847	Vivian Fennema Allison Hughes	7
Self-Insurance Trust Fund Board Administers the self-insurance program of the City.	2 yrs	Council	City Code: Title 1, Chapter 1-24	Dean Coughenour	5
Sustainability Recommend and coordinates activities in concert with the Flagstaff Sustainability Program. Promotes sustainable practices in all spheres of life and educating Flagstaff citizens	3 yrs	Council	City Code: Title 2, Chapter 2-17	Nicole Antonopoulos	7
Tourism Develops, promotes, and maintains Flagstaff as a year-round destination with professional visitor services that will benefit the community economically, environmentally, and socially.	3 yrs	Council	City Code: Title 2, Chapter 2-13	Trace Ward	7
Transportation Reviews requests for changes in traffic regulations and recommends traffic-related policies to the Council.	3 yrs	Council	City Code: Title 2, Chapter 2-12	Jeffrey Bauman	7
Water Reviews extensions of the water and sewer collection systems, treatment and use of water furnished by the City, treatment and disposal of the City's sewage system effluent, and water/sewer rates.	3 yrs	Council	City Code: Title 2, Chapter 2-04	Brad Hill	7

16. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE

Future Agenda Item Request (F.A.I.R.): A request by Mayor Evans to place on a future agenda a discussion about the fees the City assesses for special events on private property and the possibility of implementing a staggered fee schedule similar to what is done for events on public property.

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. Mayor Evans has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there are two other members of Council interested in placing it on a future agenda.

INFORMATION:

Attachments:

16. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	08/28/2019
Meeting Date:	09/03/2019

TITLE

Future Agenda Item Request (F.A.I.R.) A Citizens' Petition requesting Council consideration of adding a grandfather clause to Ordinance 2019-24 (T21 Smoking Ordinance).

STAFF RECOMMENDED ACTION:

Council direction.

EXECUTIVE SUMMARY:

In accordance with Art. II, Sect. 17 of the Flagstaff City Charter, any citizen may present a written petition to the City Manager, signed by a minimum of 25 citizens from the City...who shall present it to the Council at its next regular meeting. The attached petition was filed with the City Manager's Office on August 20, 2019, requesting that the Council consider adding a grandfather clause to Ordinance 2019-21, "T21 Smoking Ordinance."

INFORMATION:

Chapter 1-12 of the Flagstaff City Code formalizes the information to be required, and the attached petition conforms to those requirements. As outlined in this chapter, the petition is to be submitted to the Council under Future Agenda Item Request (F.A.I.R.) to determine if there is Council interest in placing the item on a future agenda for consideration.

Attachments: Petition #2018-01

RECEIVED
AUG 20 20[illegible]
BY:

PETITION TO FLAGSTAFF CITY COUNCIL

Pursuant to Flagstaff City Charter Article II Section 17 and Flagstaff City Code Title I Chapter 12

Pursuant to the Flagstaff City Charter and the City Code, any citizen (resident) of the City may present a written petition to the City Manager, signed by a minimum of 25 citizens from the City of Flagstaff, which shall be presented to the City Council.

Title of Issue: Ordinance No. 2019-24 (Tobacco 21)

Action Requested: Add Grandfather Clause

Printed Name of Submitter: Tucker Robinson
(Submitter must also sign below and complete information)

Contact Information: (928) 606-2031 / tucker882537@gmail.com
(Phone Number and/or e-mail address)

PETITION SIGNATURES

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
8/14/19	MICHAEL TURNER	3770 S YAQUI FLAG, AZ	
8/14/19	Emily Bennett	110 W Sherman Ave	
8/14/19	Miguel Flores	1042 W Lower Coconino Ave	
8/14/19	Tom Brown	1515 S. Yale St Apt 1-14	
8/14/19	[illegible]	4427 C Hollygreen Rd.	
8/14/19	Amber Myers	708 S Blackbird Roost Street APT#43	
8/15/19	Joel Shea	2353 E Kirsty Williams AZ	
8/15/19	Shyame Mahar	8763 N State Hwy 64 Williams, AZ	
8-16-19	Michael Stell	7264 W. Whispering Wind Peoria AZ 85383	
8/15/19	Kimberly Myers	2407 W Pikes Place Dr	

RECEIVED BY CITY OF FLAGSTAFF		
DATE RECEIVED	**BY**	**COUNCIL MEETING DATE**
8/20/2019		9/3/19

PETITION TO FLAGSTAFF CITY COUNCIL (Continued)

TITLE OF ISSUE: _____ **PAGE** _____ **OF** _____

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
8/15	Patience Boston	1625 E. Zoe Way	Patience Boston
8/15	Christopher Dolan	1625 E. zoe way	
8/15	Andrew Hoover	875 E Pine Knoll	
8/15	Dave Lockwood	1830 Smiton RD	
8/15	Alexyn Reid	~~KES~~ 1107 Monave	
8/15	Dakota Martin	3200 S. Litzler Blvd.	
8/15	Steven Boss	309 W. Cedar Av	
8/15	Michael Weaver	309 W. Cedar Ave	
8/15	Andrew Hinkle	414 S. San Francisco St.	
8/15	Savannah Baker	215 W Phoenix	
8/15	Ali Marx	215 W Phoenix	
8/15	Caleb Fredrick	555 W Forest Meadows	
8/15	Aidan Mathews	555 W Forest Meadows	
8/15	Logan Slude	555 W Forest Meadows	
8/15	Ryann Loyd	555W Forest Meadows	
8/15	Sawyer Peck	555 W Forest Meadows	
8/15	Diante Kellar-Johnson	2500 W Route 66	
8/15	Nick Tullo	1385 W University	
8/15	Alex Bruns	304 S Oleary St	
8/15	Katherine Brannan	7622 E Dusty Boot	
8/15	Baylee Martin	737 E. Kensington Dr.	
8/16	Trent Pickard	3405 W. Wilson Dr	
8/16	Justin Schuster	1816 N. Hornet way	

RECEIVED
AUG 20 2019
BY:

PETITION TO FLAGSTAFF CITY COUNCIL

Pursuant to Flagstaff City Charter Article II Section 17 and Flagstaff City Code Title I Chapter 12

Pursuant to the Flagstaff City Charter and the City Code, any citizen (resident) of the City may present a written petition to the City Manager, signed by a minimum of 25 citizens from the City of Flagstaff, which shall be presented to the City Council.

Title of Issue: Ordinance No. 2019-24 (Tobacco 21)

Action Requested: Add Grandfather Clause

Printed Name of Submitter: Tucker Robinson
(Submitter must also sign below and complete information)

Contact Information: (928) 606-2031 / tucker882537@gmail.com
(Phone Number and/or e-mail address)

PETITION SIGNATURES

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
08/14/19	Dylan Wright	6715 mariah Dr	
08/14/19	Ben Teshnick	9035 N Silver Saddle Dr	
8/15/19	Francis Leavy	2506 E. Jeffrey Loop	
8-15-19	Jonathan Briese	891 South Rte 64 Sp. 62	
8/15/19	Aaron Soto	1550 N Fort Valley RD #6 Flagstaff AZ 86001	
8/15/19	Isaiah McGill	7710 Prairieclog Ln	
8/16/19	Kaylie Wilson	923 W University Ave	

RECEIVED BY CITY OF FLAGSTAFF		
DATE RECEIVED	BY	COUNCIL MEETING DATE

02/2016