FINAL AGENDA

REGULAR COUNCIL MEETING **COUNCIL CHAMBERS**
TUESDAY **211 WEST ASPEN AVENUE**
DECEMBER 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:** Voluntary Environmental Stewardship Program ADEQ Recognition of Cinder Lake Landfill

B. **Recognition:** Finance Section's 25th Consecutive Year of Receiving the GFOA Budget and Comprehensive Annual Financial Report Awards

C. **Recognition:** ARFF Joel Barnett Recognition

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:** Sustainability Commission.

STAFF RECOMMENDED ACTION:

Make three appointments to terms expiring October 2022.

7. 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 of Final Plat** Request from Vintage Partners, for the subdivision of 18.11 acres known as Mill Town Mixed-Use into two lots, two tracts, and public right-of-way within the Highway Commercial (HC) zone. ***(PZ-16-00239-07, Mill Town Mixed-Use Final Plat)***

STAFF RECOMMENDED ACTION:

Staff recommends approving the final plat with the condition that, prior to recording, that the dedication/description of tracts A & B be clarified; and authorizing the Mayor to sign both the plat and City/Subdivider Agreement when notified by staff that the documents are ready for recording.

8. ROUTINE ITEMS

A. Consideration and Approval of Environmental Professional Services Contract: Rio de Flag Flood Control Project Environmental Investigation Services.

STAFF RECOMMENDED ACTION:

1. Approve the Professional Services Contract to SCS Engineers of Phoenix, Arizona in an amount not to exceed $188,884, with a contract period of 180 calendar days; and
2. Authorize the City Manager to execute the necessary documents.

B. Consideration and Approval of Contract: City of Flagstaff Municipal Court Facility Project - Award of Amendment #3 to the Design-Build Services Agreement 2018-63. This amendment contains the Guaranteed Maximum Price #3 agreement for completion of construction.

STAFF RECOMMENDED ACTION:

1. Award the Design-Build Services Amendment #3 Guaranteed Maximum Price (GMP) #3 to Kinney Construction Services, Inc. (KCS) of Flagstaff, Arizona in an amount not to exceed $545,478 with a 45 calendar-day contract period; and
2. Authorize the City Manager to execute the necessary documents

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).

9. 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

10. PLEDGE OF ALLEGIANCE

11. PUBLIC PARTICIPATION

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

13. REGULAR AGENDA

A. **Consideration and Adoption of Resolution No. 2019-60:** A resolution approving an Intergovernmental Agreement between the City of Flagstaff and Coconino County for the acceptance of household and small business hazardous wastes at the City's Hazardous Products Center.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-60 by title only
2) City Clerk reads Resolution No. 2019-60 by title only (if approved above)
3) Adopt Resolution No. 2019-60

B. **Consideration of and Adoption of Resolution No. 2019-52:** Approve the designation of an applicant agent and authorizing the agent to apply for and sign on behalf of the City of Flagstaff for the receipt of funds from the Arizona Division of Emergency Management and Military Affairs Public Assistance Program.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-52 by title only
2) City Clerk reads Resolution No. 2019-52 by title only (if approved above)
3) Adopt Resolution No. 2019-52

C. **Consideration and Adoption of Resolution No. 2019-58:** A resolution of the Flagstaff City Council, approving an Intergovernmental Agreement between the Summit Fire and Medical District; the Highlands Fire District; and the City of Flagstaff to participate in automatic aid.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-58 by title only
2) City Clerk reads Resolution No. 2019-58 by title only (if approved above)
3) Adopt Resolution No. 2019-58

14. DISCUSSION ITEMS

A. **Update and Review:** Flagstaff Trails Initiative and Draft Flagstaff Regional Trail Strategy

STAFF RECOMMENDED ACTION:

Provide an update on Flagstaff Trails Initiative (FTI) and discuss the Draft Flagstaff Regional Trail Strategy and trail plan.

B. **Discussion:** Water Conservation Strategic Plan Draft

C. **Discussion and Possible Direction:** 2020 August Election

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 Councilmember Salas to have a Work Session discussion with the Arizona Commerce Authority to learn more and pursue possibilities and opportunities on economic development and housing on Flagstaff's opportunity zones.

17. **CITY MANAGER REPORT**

A. **City Manager Report**

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

19. **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

6. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	11/26/2019
Meeting Date:	12/03/2019

TITLE:

Consideration of Appointments: Sustainability Commission.

STAFF RECOMMENDED ACTION:

Make three appointments to terms expiring October 2022.

Executive Summary:

The Sustainability Commission consists of seven citizens and is responsible for recommending and coordinating activities in concert with the City of Flagstaff Sustainability Program. To accomplish this objective, the Commission will address the social, economic, and environmental considerations of meeting the needs of current and future citizens. Among the Commission's directives are the promotion of sustainable practices in all spheres of life and educating Flagstaff citizens.

There are currently three seats available.

It is important to fill vacancies on Boards and Commissions quickly so as to allow the Commission to continue meeting on a regular basis.

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

- Eli Chamberlain (current commissioner)
- Ariel Coffey (new applicant)
- Lee Haferkamp (new applicant)
- Kristen Konkel (new applicant)
- Brian Petersen (current commissioner)
- Laurie Rogers (new applicant)
- Jessica Simmons (new applicant)

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

COUNCIL APPOINTMENT ASSIGNMENT: Councilmember Aslan, Councilmember Salas, Councilmember Whelan

Financial Impact:
These are voluntary positions and there is no budgetary impact to the City of Flagstaff.

Policy Impact:
Not applicable.

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 provide input and recommendations based on City Council goals that may pertain to the board or commission work plan.

Has There Been Previous Council Decision on This:
None

Options and Alternatives:
1) Appoint three Commissioners: By appointing one member at this time, the Sustainability Commission will be at full membership, allowing the group to meet and provide recommendations to the City Council.

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

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

Community Involvement:
INFORM: The vacancies are posted on the City's website and individual recruitment and mention of the openings by Board members and City staff has occurred, informing others of these vacancies through word of mouth.

Attachments: Sustainability Commission Authority

CHAPTER 2-17
SUSTAINABILITY COMMISSION

SECTIONS:

2-17-001-0001 COMMISSION ESTABLISHED; ORGANIZATIONAL STRUCTURE
2-17-001-0002 PURPOSE; POWERS AND DUTIES

2-17-001-0001 COMMISSION ESTABLISHED; ORGANIZATIONAL STRUCTURE

A. Establishment of the Commission.

1. There is hereby created the Sustainability Commission (the "Commission"), which shall replace the Clean and Green Committee.

2. The membership of the Commission shall consist of seven (7) members. Members of the Commission shall be appointed by the City Council and shall represent the diverse interests and views of the community. The Commission shall be a working Commission, in which each member takes an active role in accomplishing the goals and objectives of the Commission. Members shall serve a term of three (3) years with no member appointed for more than two (2) full consecutive terms.

3. The Commission shall be responsible for electing a Chair and a Vice-Chair. The Chair shall act as public spokesperson for the Commission at public functions, shall serve as an ex officio member of all standing committees, shall appoint the Chair of all standing committees upon the advice and consent of the Commission, and shall perform other duties as required. The Vice-Chair shall act in the absence of the Chair. (Ord. 2014-28, Amended, 11/18/2014)

2-17-001-0002 PURPOSE; POWERS AND DUTIES

The purpose of this Commission shall be to continue the work initiated by the Clean and Green Committee and to further work with the City Council and the City Staff by recommending and coordinating activities as part of the Flagstaff Sustainability Program, the U.S. Mayors Climate Protection Agreement, and any future sustainability initiatives pursued by the City.

Subject to state law and the procedures prescribed herein, the Sustainability Commission shall have and may exercise the following powers, duties, and responsibilities:

A. The Commission shall work with City staff toward the development and implementation of the Flagstaff Sustainability Program. The issues addressed by this program may include, but not be limited to, the following:

1. Climate and air quality
2. Transportation
3. Energy
4. Solid waste and toxic substances
5. Water, wastewater, and stormwater
6. Sustainable building and purchasing practices
7. Sustainable economic development

B. The Commission shall work with the City staff toward the development and implementation of the U.S. Mayors Climate Protection Agreement and any future sustainability initiatives passed by the City Council.

C. The Commission shall work with the City Council in the development of initiatives linking the concepts of sustainability with economic development and affordability for the benefit of all community members.

D. The Commission shall promote the benefits of sustainable practices in all spheres of life and shall educate the public concerning such practices.

E. The Commission shall promote compliance with City ordinances concerning sustainability and environmental management.

F. The Commission shall encourage sustainable practices by individuals, groups, organizations, industrial and commercial enterprises, educational institutions, and government agencies.

(Ord. 2007-27, Amended 04/17/2007)

7. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Alaxandra Pucciarelli, Planning Development Manager - AP
Date:	11/26/2019
Meeting Date:	12/03/2019

TITLE:

Consideration and Approval of Final Plat Request from Vintage Partners, for the subdivision of 18.11 acres known as Mill Town Mixed-Use into two lots, two tracts, and public right-of-way within the Highway Commercial (HC) zone. ***(PZ-16-00239-07, Mill Town Mixed-Use Final Plat)***

STAFF RECOMMENDED ACTION:

Staff recommends approving the final plat with the condition that, prior to recording, that the dedication/description of tracts A & B be clarified; and authorizing the Mayor to sign both the plat and City/Subdivider Agreement when notified by staff that the documents are ready for recording.

Executive Summary:

This is a request from Vintage Partners for Final Plat approval for two lots, two tracts, and right-of-way for the Beulah Boulevard extension and the University Avenue realignment. Please see sheet 1 of the Final Plat for a vicinity map.

***** The Final Plat for Milltown will be included in the final packet distributed to Council next week.*****

Financial Impact:

Financial impacts are outlined in the accompanying Development Agreement.

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

Team Flagstaff Goals
Strategic priority #3: Foster a resilient and economically prosperous city.

Regional Plan
Staff identified the relevant Regional Plan Goals and Policies that could be applied to support or not support the proposed Final Plat in association with the Direct to Ordinance Zoning Map Amendment. A list of those Goals and Policies, as well as a discussion and analysis, is provided in the Zoning Map Amendment staff report.

Has There Been Previous Council Decision on This:

City Council approved a Zoning Map Amendment, a Development Agreement, and a Preliminary Plat on April 17, 2018.

Options and Alternatives:

1. Approve the Final Plat with the condition that, prior to recording, the final plat indicate the ownership of Tracts A and B.
2. Approve the Final Plat with added conditions necessary to ensure compliance with the approved Preliminary Plat, the Zoning code, the Subdivision Code, and/or the Engineering Design Standards and Specifications for New Infrastructure.
3. Deny the Final Plat based on non-compliance with the approved Preliminary Plat, the Zoning code, the Subdivision Code, and/or the Engineering Design Standards and Specifications for New Infrastructure.

Community Benefits and Considerations:

Community benefits and considerations are explained in detail in the attached Planning and Zoning Commission report dated February 6, 2018.

Community Involvement:

Inform. No public hearings or public outreach are required by either the Zoning Code or the Subdivision Code as part of a final plat subdivision review process. Outreach was conducted in conjunction with the Zoning Map Amendment for this site.

Attachments:
Mill Town Final Plat Application
Mill Town Final Plat
Mill Town Development Agreement
Mill Town Prelim Plat Report

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
OCT 29 2019

Application for Subdivision Review

Date Received: OCT 29 2019
File Number: P2-16-00239-07

Property Owner(s) State of Arizona & City of Flagstaff		**Phone**
Mailing Address	**City, State, Zip**	**Email**
Applicant(s) Vintage Partners, LLC		**Phone**
Mailing Address 2502 E. Camelback Rd., Ste. 214	**City, State, Zip** Phoenix, AZ 85016	**Email**
Project Representative Tim Kruge		**Phone** 480-305-4312
Mailing Address 2502 E. Camelback Rd., Ste. 214	**City, State, Zip** Phoenix, AZ 85016	**Email** tim@vintagevp.com

Requested Review:
- ☐ Development Master Plan
- ☐ Modified Subdivision
- ☐ Conceptual Plat
- ☐ Preliminary Plat
- ☐ Preliminary Plat P&Z and Council
- ☐ Final Plat- Council

Project Name: Mill Town Mixed-Use	**Site Address** 1801 S. Milton Rd.		**Parcel Number** 103-21-001 & 103-21-002
Proposed Use Mix-Use Development	**Existing Use** Residential & Public Facility		**Subdivision, Tract & Lot Number**
Zoning District Highway Commercial (HC)	**Regional Plan Category** Suburban	**Flood Zone** Zone X	**Size of Site (Sq. ft. or Acres)** 17.36 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? Partially Developed

Surrounding Uses (Res, Com, Ind)	**North**	**South**	**East**	**West**
	Res./Comm.	Comm.	Comm.	Res.

Proposed Use:	**Number of Lots**	**Number of Units**	**Number of acres per use**	**Building Square Feet**
Mixed-Use	2 lots & 2 tracts			

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:** 10-28-19	**Applicant Signature:**	**Date:** 10.28.19

For City Use

Date Filed:	**Case Number (s)**		
P & Z Hearing Date:		**Publication and Posting Date:**	
Council Hearing Date:		**Publication and Posting Date:**	
Fee Receipt Number:	**Amount:**		**Date:**

Action by Planning and Zoning Commission:	**Action By City Council:**
☐ Approved	Approved
Denied	Denied
☐ Continued	☐ Continued

Staff Assignments	**Planning**	**Engineering**	**Fire**	**Public Works/Utilities**	**Stormwater**

PLOTTED: Nov 26, 2019 - 2:51pm

DEDICATION

STATE OF ARIZONA
SS.
COUNTY OF COCONINO

KNOW ALL MEN BY THESE PRESENTS: THAT VP CINEMA, LLC., ("OWNER") HAS SUBDIVIDED UNDER THE NAME OF 'MILL TOWN MIXED-USE', LOCATED IN SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, OF THE GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA, AS SHOWN AND PLATTED HEREON, AND HEREBY PUBLISHES THIS PLAT AS THE PLAT OF 'MILL TOWN MIXED-USE' AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATIONS AND DIMENSIONS OF THE LOTS AS SHOWN HEREON AND THAT EACH SHALL BE KNOWN BY THE NUMBER GIVEN ON SAID PLAT.

THE OWNER HEREBY DEDICATES THE FOLLOWING:

1. THOSE PROPOSED PUBLIC UTILITY EASEMENTS (P.U.E.) SHOWN HEREON FOR THE BENEFIT OF ALL AUTHORIZED UTILITY COMPANIES FOR PUBLIC UTILITY INSTALLATION, MAINTENANCE, AND ACCESS PURPOSES ONLY. THE EXACT LOCATION OF EACH P.U.E. MAY BE ESTABLISHED BY SEPARATE INSTRUMENT WHICH LOCATION, IF DIFFERENT FROM THE PROPOSED LOCATION SHOWN HEREON, SHALL GOVERN.
2. THOSE RIGHTS OF WAY (R.O.W.) SHOWN HEREON FOR USE/ACCESS BY THE PUBLIC AND USE BY ALL AUTHORIZED COMPANIES FOR THE CITY OF FLAGSTAFF.
3. A PERMANENT FLAGSTAFF URBAN TRAIL SYSTEM (F.U.T.S.) EASEMENT TO THE CITY OF FLAGSTAFF OVER, UNDER AND ACROSS TRACT A AS SHOWN.

FEE TITLE TO TRACT A AND TRACT B ARE NOT BEING DEDICATED TO THE CITY OF FLAGSTAFF PURSUANT TO THIS PLAT.

IN WITNESS WHEREOF, THE DECLARANT HAS CAUSED THIS DECLARATION TO BE DULY EXECUTED AS OF THIS_____ DAY OF _____, 2019.

VP CINEMA, LLC,
AN ARIZONA LIMITED LIABILITY COMPANY

BY: VP FLAGSTAFF P3, LLC,
AN ARIZONA LIMITED LIABILITY COMPANY
ITS: MEMBER

BY: VINTAGE PARTNERS, LLC,
AN ARIZONA LIMITED LIABILITY COMPANY
ITS: MANAGER

BY: EDWARD & COMPANY, LLC,
AN ARIZONA LIMITED LIABILITY COMPANY
ITS: ADMINISTRATIVE MEMBER

BY: _____
NAME: MARK ORTMAN, JR.
ITS: MANAGER

ACKNOWLEDGEMENT

STATE OF ARIZONA
SS.
COUNTY OF COCONINO

ON THIS _____ DAY OF _____, 2019, BEFORE ME, THE UNDERSIGNED PERSONALLY APPEARED _____ WHO ACKNOWLEDGED BY SELF TO THE REPRESENT VINTAGE PARTNERS, LLC, AND THAT HE/SHE AS SUCH, BEING AUTHORIZED SO TO DO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSE THEREIN CONTAINED.

IN WITNESS WHEREOF: I HEREUNTO FORTH MY HAND AND OFFICIAL SEAL.

_____
NOTARY PUBLIC MY COMMISSION EXPIRES

CITY OF FLAGSTAFF CERTIFICATION

IT IS HEREBY CERTIFIED THAT THIS PLAT HAS BEEN OFFICIALLY APPROVED FOR THE RECORD BY THE COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA ON THE ____ DAY OF _____, 2019.

BY: _____
MAYOR

ATTEST: _____
CITY CLERK

IT IS HEREBY CERTIFIED THAT THIS PLAT HAS BEEN OFFICIALLY APPROVED FOR THE RECORD BY THE INTERNAL DEVELOPMENT STAFF BOARD OF THE CITY OF FLAGSTAFF, ARIZONA ON THE ____ DAY OF _____, 2019.

BY: _____
CHAIRPERSON/PLANNING DIRECTOR

BY: _____
CITY ENGINEER

LEGAL DESCRIPTION (APN 103-21-001):

INSTRUMENT # N/A. OWNED BY THE STATE OF ARIZONA

PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. NCS-697103-PHX1, EFFECTIVE DATE: OCTOBER 10, 2014 AT 7:30 A.M.

PARCEL NO. 1:

A PARCEL OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER BASE AND MERIDIAN, COCONINO COUNTY, STATE OF ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST BOUNDARY LINE OF OAK CREEK HIGHWAY, AND THE SECTION LINE BETWEEN SECTION 21 AND 28, TOWNSHIP 21 NORTH, RANGE 7 EAST, WHICH IS NORTH 89° 55' EAST, 1336.8 FEET FROM SECTION CORNER COMMON TO SECTIONS 20, 21, 29 AND 28,WHICH IS THE SOUTHEAST CORNER OF THE PLOT TO BE CONVEYED;

THENCE NORTH 1° 23' WEST 760 FEET, WHICH IS THE NORTHEAST CORNER OF PLOT TO BE CONVEYED;

THENCE SOUTH 89° 55' WEST 286.57 FEET, WHICH IS THE NORTHWEST CORNER OF THE PLOT TO BE CONVEYED;

THENCE SOUTH 1° 23' EAST, 760 FEET, WHICH IS THE SOUTHWEST CORNER OF THE PLOT TO BECONVEYED;

THENCE NORTH 89° 55' EAST, 286.57 FEET, WHICH IS THE POINT OF BEGINNING.

PARCEL NO. 2:

A PARCEL OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER BASE AND MERIDIAN, COCONINO COUNTY, STATE OF ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE EXISTING FLAGSTAFF SHOP SITE ON THE SOUTH LINE OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, FROM WHENCE THE SOUTHWEST CORNER OF SECTION 21 BEARS SOUTH 89° 55' WEST 1050.23 FEET;

THENCE NORTH 1° 23' WEST ALONG THE WEST LINE OF SAID SHOP SITE 760 FEET TO THE NORTHWEST CORNER THEREOF;

THENCE NORTH 89° 55' EAST ALONG THE NORTH LINE OF SAID SHOP SITE 286.57 FEET TO THE NORTHEAST CORNER THEREOF;

THENCE NORTH 1° 23' WEST 150 FEET;

THENCE SOUTH 89° 55' WEST 386.57 FEET;

THENCE SOUTH 1° 23 EAST 910 FEET TO A POINT ON THE AFORESAID SOUTH SECTION LINE;

THENCE NORTH 89° 55' EAST ALONG SAID SECTION LINE 100 FEET TO THE POINT OF BEGINNING.

NOTES:

-UNLESS OTHERWISE NOTED, ALL BEARINGS AND DISTANCES ARE "MEASURED"
-FOR "RECORD" DIMENSIONS (R), REFER TO SUBJECT PARCEL LEGAL DESCRIPTION, THIS SHEET, AND INST. #3341515, OFFICIAL RECORDS OF COCONINO COUNTY.
-THE PLATTED PROPERTY LINES AS SHOWN HEREON CONTAIN A MATHEMATICAL CLOSURE WHICH DOES NOT EXCEED 0.1 FEET.
REFERENCE DOCUMENTS:
(R1) - CASE 5, MAP 3, OFFICIAL RECORDS OF COCONINO COUNTY
(R2) - CASE 4, MAP 62, OFFICIAL RECORDS OF COCONINO COUNTY
(R3) - ADOT RESULTS OF SURVEY, PROJECT NO. 089A CN 403 H0888, DRAWING NO. D-03-7-701, DATED 4/23/2013
(R4) - BOOK 3, PAGE 81, OFFICIAL RECORDS OF COCONINO COUNTY

LEGAL DESCRIPTION (APN 103-21-002):

INSTRUMENT #3341515, OWNED BY THE CITY OF FLAGSTAFF

PER FIRST AMERICAN TITLE INSURANCE COMPANY ORDER NO. NCS-697102-PHX1, EFFECTIVE DATE: OCTOBER 17, 2014 AT 7:30 A.M.

PARCEL NO. 1:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER BASE AND MERIDIAN, COCONINO COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, BEARING NORTH 89 DEGREES 55 MINUTES EAST A DISTANCE OF 950.23 FEET FROM THE SECTION CORNER COMMON TO SECTION 20, 21, 28 AND 29, TOWNSHIP 21 NORTH, RANGE 7 EAST;

THENCE NORTH 1 DEGREES 23 MINUTES WEST A DISTANCE OF 1175.80 FEET;

THENCE SOUTH 88 DEGREES 04 MINUTES 12 SECONDS WEST A DISTANCE OF 413.66 FEET;

THENCE SOUTH 2 DEGREES 45 MINUTES 42 SECONDS WEST A DISTANCE OF 131.33 FEET TO A POINT OF CURVE;

THENCE ALONG THE ARC OF A 1382.40 FOOT RADIUS CURVE, CONCAVE TO THE EAST A DISTANCE OF 602.58 FEET TO A POINT OF TANGENT;

THENCE SOUTH 22 DEGREES 12 MINUTES 48 SECONDS EAST ALONG THIS TANGENT LINE A DISTANCE OF 476.74 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 21;

THENCE NORTH 89 DEGREES 55 MINUTES EAST ALONG THE SOUTH LINE OF SAID SECTION 21, A DISTANCE OF 166.90 FEET TO THE TRUE POINT OF BEGINNING;

PARCEL NO. 2:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER BASE AND MERIDIAN COCONINO COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT BEARING NORTH 1 DEGREES 23 MINUTES WEST A DISTANCE OF 910.00 FEET FROM A POINT ON THE SOUTH LINE OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST THAT BEARS NORTH 89 DEGREES 55 MINUTES EAST A DISTANCE OF 950.23 FEET FROM THE SOUTHWEST
CORNER OF SAID SECTION 21;

THENCE NORTH 1 DEGREES 23 MINUTES WEST A DISTANCE OF 35.01 FEET;

THENCE NORTH 89 DEGREES 55 MINUTES EAST A DISTANCE OF 386.57 FEET MORE OR LESS TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 89A, ACCORDING TO BOOK 6 OF PROMISCUOUS RECORDS, PAGE 315, RECORDS OF COCONINO COUNTY, ARIZONA;

THENCE SOUTHERLY ALONG THE WESTERLY RIGHT OF WAY LINE OF SAID U.S. HIGHWAY 89A A DISTANCE OF 35.00 FEET MORE OR LESS;

THENCE SOUTH 89 DEGREES 55 MINUTES WEST A DISTANCE OF 386.57 FEET MORE OR LESS TO THE POINT OF BEGINNING.

FINAL PLAT
FOR
MILL TOWN MIXED-USE
FLAGSTAFF, ARIZONA

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, CITY OF FLAGSTAFF, ARIZONA

VICINITY MAP
N.T.S.

PROJECT OWNER:
VP CINEMA. LLC
2502 E. CAMELBACK RD. STE. 214
PHOENIX, AZ 85016
(602) 459-9931

CIVIL ENGINEER:
SHEPHARD-WESNITZER, INC.
STEPHEN IRWIN, PE #58405
110 WEST DALE AVE
FLAGSTAFF, AZ 86001
(928) 773-0354

SURVEYOR:
SHEPHARD-WESNITZER, INC.
AARON BORLING, RLS #48756
110 WEST DALE AVE
FLAGSTAFF, AZ 86001
(928) 773-0354

SHEET INDEX		
SHEET NO.	DRAWING NO.	SHEET TITLE
1	FP01	COVER SHEET
2	FP02	EXISTING BOUNDARIES & EASEMENTS
3	FP03	FINAL PLAT

LEGEND

- ROAD CENTERLINE
- LOT LINE
- ROW
- EASEMENT
- SUBDIVISION BOUNDARY
- SECTION LINE
- EX. LOT LINE
- EX. EASEMENT
- ◎ 1/2" REBAR W/ ALUMINUM CAP 'RLS 48756'
- ○ ALL OTHER MONUMENTS FOUND AS NOTED ON SHEET 2
- SECTION CORNER AS NOTED
- • MONUMENT TO BE SET UPON COMPLETION OF ROADWAY IMPROVEMENTS
- LOT 44 / 10298.04 / 0.24 LOT #, LOT SQUARE FOOTAGE, LOT ACREAGE

PROJECT INFORMATION

MILL TOWN MIXED-USE
1801 S. MILTON ROAD & 701 W. UNIVERSITY AVENUE
FLAGSTAFF, AZ 86001

ASSESSOR'S PARCEL NOS. 103-21-001 & 103-21-002

NUMBER OF LOTS/TRACTS: 4
BUILDING TYPE: MIXED-USE
GROSS AREA: 18.08 ACRES
NET ACREAGE (EXCLUDING ROW): 12.66 ACRES

EXISTING ZONING: HC (HIGHWAY COMMERCIAL)

1. 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. 41-90000.0002.
2. ALL UTILITIES, INCLUDING STREET LIGHT AND ELECTRIC LINES INSTALLED WITH THIS DEVELOPMENT SHALL BE PLACED UNDERGROUND.
3. DEVELOPMENT AND USE OF THIS SITE WILL CONFORM TO ALL APPLICABLE CITY OF FLAGSTAFF CODES AND ORDINANCES.
4. THE CITY OF FLAGSTAFF SHALL HAVE THE RIGHT TO PERIODICALLY INSPECT SAID DETENTION FACILITIES TO VERIFY THE REGULAR MAINTENANCE ACTIVITIES ARE BEING PERFORMED ADEQUATELY.
5. DRAINAGE EASEMENTS CONFORM TO NATURAL OR MAN-MADE WATER COURSES. THESE WATER COURSES WILL REQUIRE PERIODIC MAINTENANCE TO CONVEY ON-SITE OR OFF-SITE DISCHARGES. PERIODIC MAINTENANCE WILL CONSIST OF THE REMOVAL OF EARTH AND/OR VEGETATIVE MATERIAL THAT HAS BUILT UP SINCE THE ORIGINAL APPROVAL OF THE FINAL PLAT FOR THIS SUBDIVISION. IN THE EVENT THE DRAINAGE EASEMENTS ARE NOT ADEQUATELY MAINTAINED IN THE OPINION OF THE CITY ENGINEER OF THE CITY OF FLAGSTAFF BY THE INDIVIDUAL PROPERTY OWNER, THEN THE CITY OF FLAGSTAFF SHALL HAVE THE AUTHORITY TO ENTER THE PROPERTY AND/OR CAUSE THE NECESSARY MAINTENANCE AND SHALL FURTHER HAVE THE AUTHORITY TO PASS ON ALL COSTS ASSOCIATED WITH SAID MAINTENANCE TO THE INDIVIDUAL PROPERTY OWNER.
6. NO FENCING, RE-GRADING, DISTURBANCE OF NATURAL GROUND, PLACEMENT OF FILL OR ANY OTHER OBSTRUCTIONS ARE PERMITTED WITHIN THE DRAINAGE EASEMENTS.
7. EXCEPT FOR CONSTRUCTION AND IMPROVEMENTS BY GOVERNMENTAL ENTITIES AND CERTIFICATED PUBLIC UTILITIES, CONSTRUCTION AND IMPROVEMENTS WITHIN UTILITY EASEMENTS SHALL BE LIMITED TO ONLY THE FOLLOWING: REMOVABLE WOOD, WIRE OR SECTION TYPE FENCING; CONSTRUCTION, STRUCTURES OR BUILDING EXPRESSLY APPROVED IN WRITING BY ALL PUBLIC UTILITIES WHICH USE OR SHALL USE THE UTILITY EASEMENT.
8. SITE TOPOGRAPHY FROM AERIAL SURVEY DATA PROVIDED BY AEROTECH MAPPING IN APRIL 2015, SUPPLEMENTED BY ADDITIONAL FIELD SURVEY AND AERIAL MAPPING SURVEY CONTROL BY SHEPHARD-WESNITZER, INC. PERFORMED IN APRIL 2015. UTILITY LOCATIONS SHOWN HEREON ARE BASED ON THE LOCATION OF ABOVE-GROUND APPURTENANCES, AVAILABLE UTILITY BLUE-STAKE MARKINGS, CITY OF FLAGSTAFF GIS UTILITY MAPS, AND CITY OF FLAGSTAFF AS-BUILT PLANS. FOR ACCURATE UTILITY LOCATIONS, ADDITIONAL UTILITY PIT-HOLING AND/OR BLUE-STAKING MAY BE REQUIRED TO REVEAL ACTUAL UNDERGROUND LOCATIONS. REFER TO ALTA SURVEYS PREPARED BY SWI FOR ASSESSOR'S PARCEL NUMBERS 103-21-001 (INST. # NOT AVAILABLE) AND 103-21-002 (INST. #3341515), DATED 5-12-2015, SWI PROJECT NO. 14225. BASIS OF BEARING: NORTH 89-26-37 EAST, 1322.62' BETWEEN THE SOUTHWEST CORNER OF SECTION 21 AND THE W 1/16TH CORNER COMMON TO SECTIONS 21 AND 28, TOWNSHIP 21 NORTH, RANGE 7 EAST, OF THE GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA. AS SHOWN ON AFOREMENTIONED ALTA SURVEYS PREPARED BY SWI.

SUMMARY OF TRACTS:
TRACT A: SLOPE AND TREE RESOURCE PRESERVATION - 78,693 SF, 1.81 ACRES
TRACT B: DETENTION/LID AND TREE RESOURCE PRESERVATION - 6,360 SF, 0.15 ACRES

FLOOD ZONE CLASSIFICATION:

THE SUBJECT PARCEL IS LOCATED WITHIN ZONE X OF FEMA FIRM MAP #04005C6816G, EFFECTIVE SEPTEMBER 3, 2010. ZONE X IS DESCRIBED AS AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.

ZONING:

EXISTING ZONING: HIGHWAY COMMERCIAL (HC)

THE ENTIRE PROJECT AREA IS WITHIN THE CITY OF FLAGSTAFF ZONING "HIGHWAY COMMERCIAL (HC)" PER ZONING ORDINANCE 2018-13.

CITY OF FLAGSTAFF ZONING CODE CODE SEC. 10-40.30.040 (HC)

- -MAX. GROSS FAR 3.0
- -MAX. BUILDING HEIGHT 60'
- -FRONT SET BACK 0'
- -SIDE INTERIOR 0', 15' ADJACENT TO RESIDENTIAL
- -SIDE EXTERIOR 10'
- -REAR 0', 15' ADJACENT TO RESIDENTIAL
- -MIN. LOT AREA 9,000 SF
- -MIN. WIDTH 60'
- -MIN. DEPTH 100'
- -STREET OR PERIPHERAL BUFFER 10'

RESOURCE PROTECTION OVERLAY ZONE:

THE PROJECT FALLS WITHIN THE CITY OF FLAGSTAFF RESOURCE PROTECTION OVERLAY ZONE. THE RESOURCES HEREIN SHALL BE PRESERVED BASED ON THE APPROVED NRPP PROVIDED WITH ZONING ORDINANCE NO. 2018-13.

UTILITY COMPANY APPROVAL

ARIZONA PUBLIC SERVICE
BY: DATE:

CENTURYLINK
BY: DATE:

UNISOURCE ENERGY SERVICES
BY: DATE:

ALTICE USA
BY: DATE:

CERTIFICATE OF LAND SURVEYOR

This is to certify that the survey of the property described and platted hereon was made under my direction and supervision and is accurately represented on this plat.
I also certify that the plat is in substantial conformance to the approved tentative plat and that this plat is correct and accurate as shown to the best of my knowledge and belief.

Registered Land Surveyor
_____

Date _____

REGISTERED LAND SURVEYOR 48756 AARON D. BORLING Date Signed 11/26/19 ARIZONA, U.S.A. Expires 12/31/20

C.O.F. #PZ-16-00239

FLAGSTAFF ARIZONA

MILL TOWN MIXED-USE FINAL PLAT

COVER SHEET

JOB NO:	14225
DATE:	NOV 19
SCALE:	AS SHOWN
DRAWN:	KMF
DESIGN:	KMF
CHECKED:	SCI/ADB

REVISIONS			
NO.	DESCRIPTION	DATE	BY

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.8934 fax
www.swiaz.com
Shephard Wesnitzer, Inc.

Call at least two full working days before you plan to excavate
ARIZONA811 Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)

DRAWING NO.
FP01

SHT NO. 1 OF 3

FILE: P:\2014\14225\DRAWINGS (ALT 4)\PLATS\FINAL\14225 - FINAL PLAT COVER.DWG SIRWIN

PLOTTED: Nov 26, 2019 - 2:51pm

NOTES:

-UNLESS OTHERWISE NOTED, ALL BEARINGS AND DISTANCES ARE "MEASURED"
-FOR "RECORD" DIMENSIONS (R), REFER TO SUBJECT PARCEL LEGAL DESCRIPTION, SHEET 1.
-(C) - CALCULATED DIMENSION

REFERENCE DOCUMENTS:

(R1) - CASE 5, MAP 3, OFFICIAL RECORDS OF COCONINO COUNTY
(R2) - CASE 4, MAP 62, OFFICIAL RECORDS OF COCONINO COUNTY
(R3) - ADOT RESULTS OF SURVEY, PROJECT NO. 089A CN 403 H0888, DRAWING NO. D-03-7-701, DATED 4/23/2013
(R4) - BOOK 3, PAGE 81, OFFICIAL RECORDS OF COCONINO COUNTY
(R5) - INST. #3341515, OFFICIAL RECORDS OF COCONINO COUNTY

FOUND 3" BRASS CAP ON 2" PIPE
USDI-BLM CADASTRAL SURVEY
SW COR. SEC. 21 1965

APN: 112-24-016
WOODLANDS VILLAGE UNIT 1
CASE 4, MAP 62 C.C.R.
PO BOX 3568
FLAGSTAFF, AZ 86001
ZONING: HR

FOUND ILLEGIBLE 2" ALUMINUM CAP AT CENTERLINE INTERSECTION OF UNIVERSITY AVE. AND WOODLANDS VILLAGE BLVD.

EXISTING 60' ROW

N 87°28'47" E 152.03'(R2)
S 87°36'18" W 153.17'

W. UNIVERSITY AVE.

FOUND 1/2" REBAR W/ TAG "RLS 26047"

S 2°14'41" W 130.99'
S 2°45'42" W 131.33'(R)

Δ=24°57'20" R=1382.40 L=602.12
R=1382.40 L=602.58 (R)

8' ELECTRIC EASEMENT TO REMAIN

CENTERLINE ELECTRIC EASEMENT NO WIDTH SPECIFIED TO BE REMOVED

N 87°36'18" E 1626.93'
N 87°28'45" E (R2)

1382.40'
S 8°45'19" E
(RADIAL BEARING)

S 87°36'18" W 413.32'
S 88°04'12" W 413.66'(R)

APN: 103-20-059C
UNIVERSITY SQUARE APARTMENTS
PO BOX 3568
FLAGSTAFF, AZ 86003
ZONING: HC

SCALE 1" : 60'
0 30 60

NORTH

SEWER EASEMENT TO REMAIN

782.70'(R1)
783.37'(R2)
783.84'

APN: 103-32-008A
GATEWAY CENTRE
CASE 5, MAP 3
BRE/LO PROPERTIES LLC
909 HIDDEN RIDGE STE 600
IRVING, TX 75038
ZONING: HC

N 89°26'37" E 1322.62'
N 89°16'12" E 1322.73'(R3)
BASIS OF BEARING

FOUND 1/2" REBAR, NO I.D.
ATTACHED TAG "RLS 48756"

S 22°42'39" E 477.16'
S 22°12'48" E 476.74'(R)

N 67°17'21" E
1382.40'
(RADIAL BEARING)

8' ELECTRIC EASEMENT TO REMAIN

APN: 103-21-002
PARCEL NO. 1
9.27 ACRES
CITY OF FLAGSTAFF
211 W ASPEN AVE
FLAGSTAFF, AZ 86001
COUNTY INSTRUMENT #3341515
ZONING: RR

S 11°55'06" W 207.96'

FOUND 2" ALUMINUM CAP "H.G. REIMER"

FOUND 1/2" REBAR, NO I.D.

N 89°55' E 166.90'(R)
164.50'
107.99'

L=120.55, R=500.00
Δ=13°48'50"

EXISTING 56' ROW

S. BEULAH BLVD.

S 1°51'52" E 107.11'

BEULAH R/W PER CASE 5, MAP 3 (R1)

8' UTILITY EASEMENT TO BE REMOVED

N 1°47'31" W 1175.17'
N 1°23' W 1175.80' (R)

APN: 103-21-002
PARCEL NO. 2
0.31 ACRES
CITY OF FLAGSTAFF

FOUND 1/2" REBAR W/ PLASTIC CAP "PE 10301"

230.64'

35.00'
35.01'(R)

FOUND 1/2" REBAR IN PAVEMENT

EXISTING 60' ROW

S. YALE ST.

999.53'
910.00' (R)

FOUND 5/8" REBAR, ATTACHED TAG "RLS 48756"
FOUND 1/2" REBAR W/ TAG "LS 16887" BEARS S 74°26'39" W 0.49' AT BEULAH R/W LINE

10' UTILITY EASEMENT TO BE REMOVED

APN: 103-21-001
PARCEL NO. 2
3.12 ACRES
STATE OF ARIZONA

N 89°22'19" E 142.14'

APN: 103-21-021C
PONDEROSA MOUNTAIN PROPERTIES INC.
1000 E APPALACHIAN RD.
FLAGSTAFF, AZ 86004
ZONING: HC

APN: 103-21-003 THRU 007
ELDEN PROPERTIES LLC
FRISCO HILLS, CASE 2, MAP 33
8767 SUNSHINE AVE. FLAGSTAFF, AZ 86004
ZONING: HC

FOUND 1" REBAR, NO I.D.
ATTACHED TAG "RLS 48756"

S 89°55' W 386.57'(R) 392.23'(R4)
S 89°55' W 386.57'(M)
N 89°22'19" E 391.65'

FOUND 1" REBAR, NO I.D.
ATTACHED TAG "RLS 48756"

EX. 16' ALLEY ROW

APN: 103-21-001
PARCEL NO. 1
5.01 ACRES
STATE OF ARIZONA
219 E CHERRY AVE.
FLAGSTAFF, AZ 86001
COUNTY INSTRUMENT #-N/A
ZONING: PF

APN: 103-32-001
GATEWAY CENTRE
CASE 5, MAP 3
FLAGSTAFF HOTEL GROUP LLC
2402 MILFORD DR
SAN RAMON, CA 94582
ZONING: HC

N89°26'37"E 370.61'(M) N 89°18'19" E 369.48'(R1)

S 89°26'32" W 386.61'

APN: 103-21-021B
BURGER KING CORPORATION
PO BOX 460189
HOUSTON, TX 77056
ZONING: HC

APN: 103-21-022C
LNN ENTERPRISES INC
1490 S RIORDAN RANCH RD.
FLAGSTAFF, AZ 86001
ZONING: HC

FOUND ADOT MONUMENT IN CONCRETE
7408+16.76
1960

STATE OF ARIZONA PARCEL BOUNDARY (TYP)

FOUND 3" BRASS CAP ON 2" PIPE
USDI-BLM CADASTRAL SURVEY
W 1/16 COR. SEC. 21/28 1965

8' UTILITY EASEMENT TO BE REMOVED

N 1°28'21" W 672.86'

S 1°28'21" E
35.00'
35.00'(R)

N 1°28'21" W 909.92'

FOUND ADOT MONUMENT IN CONCRETE
7408+16.76
1960

N 1°28'21" W
N 1°38'20" W (R3)

FOUND 5/8" REBAR MARKED: "ADOT NE COR. LOC SER 1984"

APN: 103-22-005A
CONSOLIDATED INVESTMENT CO INC
PO BOX 9456
MINNEAPOLIS, MN 55440
ZONING: HC

APN: 103-19-007A
ERNST TRUST ARIZONA LLC
BRINKER RESTAURANT CORPORATION
PO BOX 802206
DALLAS, TX 75380
ZONING: HC

EXISTING 100' ROW

S. MILTON RD.

N 89°13'29" E 1323.02'(R3)
S 89°24'00" W 1323.22'

APN: 103-24-002G
CHARLES J & DOROTHY B
SAUNDERS TRUSTEES; CJ&DB
RVCBL LIV TR DTD 12-7-90
PO BOX 52085
PHOENIX, AZ 85072
ZONING: HC

APN: 103-22-004N
NAU - NNY PROPERTIES LLC
15011 WEST COOLIDGE ST
GOODYEAR, AZ 85395
ZONING: HC

APN: 103-22-004V
PIZZA HUT OF ARIZONA INC
5902 E PIMA ST
TUCSON, AZ 85712
ZONING: HC

APN: 103-22-004S
UNIVERSITY WEST LP
192 SUMMERFIELD CT STE 102
ROANOKE, VA 24019
ZONING: HC

APN: 103-22-004D
1372 PINE STREET ASSOCIATES LTD
PO BOX 13059
OAKLAND, CA 94661
ZONING: HC

FOUND 2" BRASS CAP IN CONCRETE "ARENCO 1/4 S21-S28

CERTIFICATE OF LAND SURVEYOR

This is to certify that the survey of the property described and platted hereon was made under my direction and supervision and is accurately represented on this plat.
I also certify that the plat is in substantial conformance to the approved tentative plat and that this plat is correct and accurate as shown to the best of my knowledge and belief.

Registered Land Surveyor

Date

REGISTERED LAND SURVEYOR
48756
AARON D. BORLING
Date Signed 11/26/19
ARIZONA, U.S.A.
Expires 12/31/20

C.O.F. #PZ-16-00239

FLAGSTAFF ARIZONA

MILL TOWN MIXED-USE FINAL PLAT

EXISTING BOUNDARIES & EASEMENTS

JOB NO:	14225
DATE:	NOV 19
SCALE:	AS SHOWN
DRAWN:	KMF
DESIGN:	KMF
CHECKED:	SCI/ADB

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0334
928.774.8934 fax
www.swiaz.com

Shephard Wesnitzer, Inc.

REVISIONS			
NO.	DESCRIPTION	DATE	BY

Call at least two full working days before you dig, it's the law!
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DRAWING NO.
FP02

SHT NO. 2 OF 3

FILE: P:\2014\14225\DRAWINGS (ALT. 4)\PLATS\FINAL\14225 - FINAL PLAT EXISTING BOUNDARIES & EASEMENTS.DWG SIRWIN

PLOTTED: Nov 26, 2019 - 2:51pm

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	35.00	N 1°25'27" W
L2	129.11	S 1°29'09" E
L3	780.81	S 1°28'21" E
L4	12.34	N 89°24'00" E
L5	3.66	N 89°26'37" E
L6	347.36	N 89°26'37" E
L7	107.41	N 89°26'37" E
L8	80.34	S 89°26'37" W
L9	477.16	S 22°42'39" E
L11	79.65	S 2°14'41" W
L12	51.35	N 2°14'41" E
L13	119.50	S 87°36'18" W
L14	73.88	S 87°36'18" W
L15	5.52	N 1°47'44" W
L16	230.64	N 1°47'31" W
L17	142.14	S 89°18'19" W
L18	249.73	S 89°24'36" W

LINE TABLE		
LINE #	LENGTH	DIRECTION
L20	22.69	S 45°16'07" E
L21	116.43	N 88°38'19" E
L22	69.24	N 88°38'19" E
L23	7.18	N 53°11'05" E
L24	7.18	S 31°17'01" E
L25	31.67	S 70°26'26" E
L26	14.03	S 70°04'18" E
L27	72.81	N 4°54'08" E
L28	60.66	N 35°31'00" W
L29	26.33	N 35°31'00" W
L30	103.16	N 35°31'00" W
L31	26.44	N 35°31'00" W
L32	216.60	N 35°31'00" W
L33	79.55	N 9°08'10" E
L34	33.04	S 21°33'09" W
L35	104.94	S 14°15'29" W
L36	35.27	S 68°26'36" E

LINE TABLE		
LINE #	LENGTH	DIRECTION
L37	16.94	S 59°23'35" E
L38	14.44	S 57°51'11" E
L39	20.98	S 12°26'01" W
L40	19.77	S 18°26'13" W
L41	23.28	S 72°21'47" E
L42	4.27	N 22°14'10" E
L43	10.00	S 67°45'51" E
L44	6.24	S 22°14'10" W
L45	6.99	N 83°10'12" W
L46	10.00	N 6°49'48" E
L47	6.59	S 83°10'12" E
L48	4.79	S 55°14'04" W
L49	10.00	N 34°45'56" W
L50	5.78	N 55°14'04" E
L51	6.00	S 55°14'04" W
L52	10.00	N 35°31'00" W
L53	6.00	N 55°14'04" E

LINE TABLE		
LINE #	LENGTH	DIRECTION
L54	85.53	S 89°26'37" W
L55	33.79	S 7°38'33" W
L56	29.84	S 7°38'33" W
L58	27.66	S 18°30'39" W
L59	281.29	S 87°36'18" W
L62	14.31	N 15°10'19" E
L63	294.21	N 87°36'18" E
L64	219.95	S 87°36'18" W
L65	87.48	N 89°26'29" E
L66	284.04	S 1°28'21" E
L67	58.94	S 11°33'38" W
L68	172.52	S 1°20'34" E
L69	19.96	S 44°44'23" E
L70	112.98	N 1°28'21" W
L71	153.39	S 88°31'39" W
L72	93.30	N 1°28'21" W
L73	18.70	S 88°31'39" W

LINE TABLE		
LINE #	LENGTH	DIRECTION
L74	12.00	N 1°28'21" W
L75	18.70	N 88°31'39" E
L76	52.81	N 1°28'21" W
L77	53.59	N 9°12'02" W
L78	172.72	N 1°39'41" W
L79	23.20	S 88°31'39" W
L80	12.00	N 1°28'21" W
L81	23.16	N 88°31'39" E
L82	84.55	N 1°39'41" W
L83	4.17	S 89°36'46" W
L84	10.00	N 1°28'21" W
L85	4.14	N 89°36'46" E
L86	112.25	N 1°39'41" W
L87	23.47	S 88°34'49" W
L88	12.00	N 1°28'21" W
L89	23.43	N 88°34'49" E
L90	24.98	N 1°39'41" W

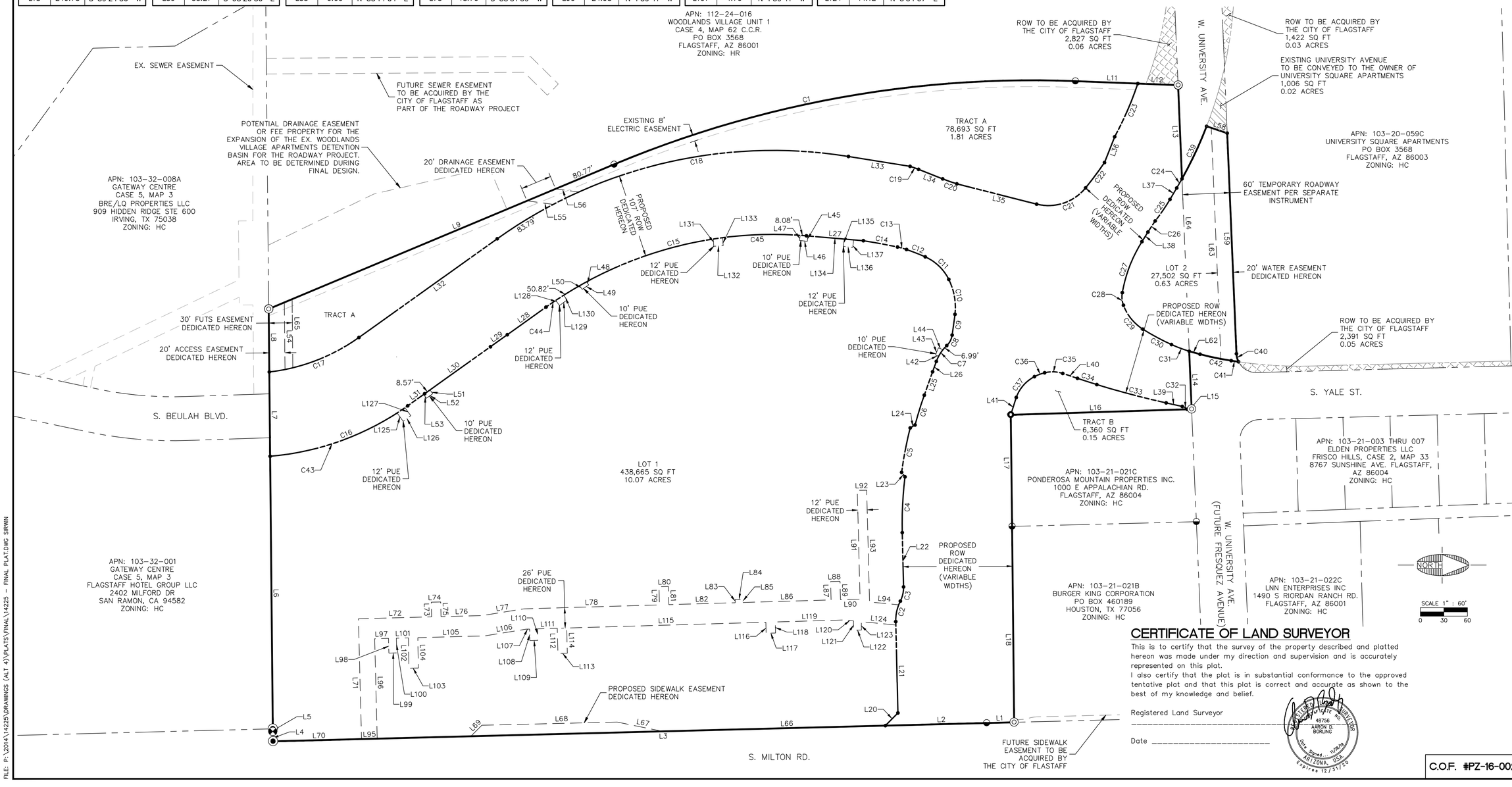
LINE TABLE		
LINE #	LENGTH	DIRECTION
L91	138.61	S 88°31'39" W
L92	12.00	N 0°50'04" W
L93	142.44	N 88°31'39" E
L94	37.32	N 5°34'07" E
L95	20.00	N 1°28'21" W
L96	127.39	S 88°31'39" W
L97	17.68	N 1°28'21" W
L98	18.72	N 88°31'39" E
L99	10.00	N 1°28'21" W
L100	18.72	S 88°31'39" W
L101	15.38	N 1°28'21" W
L102	38.71	N 89°05'39" E
L103	12.00	N 1°28'21" W
L104	38.71	S 89°05'39" W
L105	84.81	N 1°28'21" W
L106	53.63	N 9°12'02" W
L107	4.76	N 1°39'41" W

LINE TABLE		
LINE #	LENGTH	DIRECTION
L108	14.73	N 88°31'39" E
L109	10.00	N 1°28'21" W
L110	14.76	S 88°31'39" W
L111	25.26	N 1°39'41" W
L112	32.06	N 88°31'39" E
L113	12.00	N 1°28'21" W
L114	32.10	S 88°31'39" W
L115	253.88	N 1°39'41" W
L116	14.04	N 88°31'38" E
L117	12.00	N 1°28'22" W
L118	14.08	S 88°31'38" W
L119	87.74	N 1°39'41" W
L120	12.10	N 5°34'07" E
L121	11.87	N 89°36'46" E
L122	10.00	N 1°28'21" W
L123	10.64	S 89°36'46" W
L124	44.12	N 5°34'07" E

LINE TABLE		
LINE #	LENGTH	DIRECTION
L125	13.03	S 53°43'45" W
L126	12.00	S 36°16'15" E
L127	12.52	N 53°43'45" E
L128	8.09	N 53°43'45" E
L129	12.00	N 36°16'15" W
L130	7.42	S 53°43'45" W
L131	9.38	S 86°01'09" W
L132	12.00	S 3°58'51" E
L133	10.24	N 86°01'09" E
L134	46.45	N 4°54'08" E
L135	9.29	S 83°10'12" E
L136	12.00	N 6°49'48" E
L137	9.70	N 83°10'12" W

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C1	602.12	1382.40	24°57'20"
C2	27.07	55.25	28°04'21"
C3	18.74	38.25	28°04'21"
C4	71.21	488.50	8°21'07"
C5	57.68	493.50	6°41'47"
C6	39.81	488.50	4°40'09"
C7	24.28	52.00	26°45'11"
C8	15.40	22.72	38°49'43"
C9	22.63	5012.00	0°15'31"
C10	45.87	81.00	32°26'42"
C11	42.44	61.00	39°51'34"
C12	25.61	298.00	4°55'24"
C13	11.91	98.00	6°57'54"
C14	44.25	857.50	2°57'25"
C15	351.31	498.00	40°25'08"
C16	189.00	352.00	30°45'51"

CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C17	123.69	245.00	28°55'36"
C18	471.50	605.00	44°39'10"
C19	11.49	152.00	4°19'53"
C20	19.12	251.57	4°21'17"
C21	69.36	61.00	65°09'07"
C22	40.37	481.00	4°48'30"
C23	74.07	427.00	9°56'19"
C24	13.47	528.00	1°27'42"
C25	33.30	248.00	7°41'39"
C26	16.86	500.00	1°55'54"
C27	70.05	181.00	22°10'29"
C28	16.37	31.00	30°15'37"
C29	39.93	61.00	37°30'04"
C30	41.47	298.00	7°58'22"
C31	24.20	198.00	7°00'07"
C32	7.55	12.50	34°37'43"



CERTIFICATE OF LAND SURVEYOR

This is to certify that the survey of the property described and platted hereon was made under my direction and supervision and is accurately represented on this plat.
I also certify that the plat is in substantial conformance to the approved tentative plat and that this plat is correct and accurate as shown to the best of my knowledge and belief.

Registered Land Surveyor _____

Date _____

REGISTERED LAND SURVEYOR — 48756 — AARON D. BORLING — Date Signed 11/26/19 — ARIZONA, U.S.A. — Expires 12/31/20

C.O.F. #PZ-16-00239

FLAGSTAFF ARIZONA

MILL TOWN MIXED-USE FINAL PLAT

FINAL PLAT

JOB NO:	14225
DATE:	NOV 19
SCALE:	AS SHOWN
DRAWN:	KMF
DESIGN:	KMF
CHECKED:	SCI/ADB

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.8934 fax
www.swiaz.com
Shephard Wesnitzer, Inc.

REVISIONS			
NO.	DESCRIPTION	DATE	BY

Call at least two full working days before you dig in Arizona
ARIZONA811 Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)

DRAWING NO.
FP03

SHT NO.	OF
3	3

FILE: P:\2014\14225\DRAWINGS (ALT 4)\PLATS\FINAL\14225 - FINAL PLAT.DWG SIRWIN

Official Records of Coconino County 3816763
Patty Hansen - Recorder 06/05/2018 09:22 AM Pgs: 29
CITY OF FLAGSTAFF AM $19.00

DEV-2015-023-AG2

City Clerk
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

MILL TOWN DEVELOPMENT AGREEMENT

AMONG

CITY OF FLAGSTAFF

AND

VINTAGE PARTNERS, LLC

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made as of this 4 day of June, 2018, among the City of Flagstaff, a municipal corporation organized and existing under the laws of the State of Arizona ("City"), and Vintage Partners, LLC, an Arizona limited liability company ("Vintage"). The effective date of this Agreement will be determined in accordance with Section 1 below.

RECITALS

A. A.R.S. § 9-500.05 authorizes the City to enter into development agreements with landowners and persons having an interest in real property located in the City.

B. The Arizona Department of Transportation, a division of the State of Arizona ("ADOT"), owns certain real property (the "ADOT Property") located at the southwest corner of Milton and University in Flagstaff, Arizona as legally described in Exhibit A, attached hereto and incorporated herein by this reference.

C. The City owns certain real property located adjacent to the ADOT Property (the "City Property") as legally described on Exhibit B, attached hereto and incorporated herein by this reference.

D. An affiliate of Vintage owns certain real property located at the southwest corner of University Avenue and Woodlands Village Boulevard ("Vintage Property") as legally described on Exhibit C, attached hereto and incorporated herein by this reference.

E. Vintage, the City, and ADOT previously entered into a Pre-Development Agreement recorded in the Official Records of Coconino County, Arizona on March 17, 2015 as Instrument Number 2015-023, as amended (the "PDA").

F. Pursuant to the PDA, Vintage has the right to seek rezoning of the City and ADOT Property. The City and ADOT Property are collectively referred to in this Agreement as the "Mill Town Property".

G. The City and Vintage are entering into this Agreement pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") § 9-500.05 (pertaining to development agreements) in order to facilitate development of the Mill Town Property and related transportation improvements, which include the "City Transportation Improvements" and the "Milton Underpass Improvements" identified in Exhibit D.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Effective Date/Sequence of Approvals. The Parties agree that this Agreement will not become effective, and no party will have any obligation under this Agreement unless each of the following occurs: (1) this Agreement is executed by all parties, (2) the City has entered into an Intergovernmental Agreement with ADOT, pursuant to which the City will convey the City Property to ADOT (the "IGA"), (3) Vintage has entered into an Implementation Agreement with ADOT, pursuant to which Vintage will design and construct new operational facilities for ADOT on the Vintage Property ("New ADOT Facilities") and, immediately following the completion of the New ADOT Facilities, ADOT will transfer its property to Vintage and, concurrently, the City will convey the City Property to ADOT pursuant to the IGA, ADOT will transfer the Mill Town Property to Vintage, and the City-approved final plat dedicating all right-of-way required for the City Transportation Improvements will be recorded (the "Implementation Agreement"), (4) Vintage's application to rezone the Mill Town Property to Highway Commercial ("HC") and Resource Protection Overlay ("RPO") is approved by the City Council and the rezoning becomes final and effective (the "Rezoning Ordinance"), and (5) this Agreement is recorded as required by A.R.S. § 9-500.05(D). The City, Vintage, and ADOT will use an escrow process to ensure that all transfers of property and recordation of right-of-way and public easement dedications occur simultaneously. The date on which all of the foregoing items have been completed is the "Effective Date" of this Agreement. If a challenge is properly made to the Agreement or the Rezoning Ordinance, this Agreement will become effective after resolution of any such challenges in favor of the City. If requested by either party, the parties shall execute an amendment to this Agreement confirming the Effective Date.

1.1 No Default. Any delay relative to the Effective Date of this Agreement by judicial challenge, referendum, or injunction filed by parties acting independently of and not under the control of the City will not be deemed a default by the City.

1.2 Duration. If the Effective Date has not occurred within five (5) years from the date of this Agreement, then this Agreement shall automatically terminate. In addition, this Agreement will automatically terminate on the tenth (10th) anniversary of the Effective Date, unless this Agreement is rescinded or terminated earlier as provided for herein. Notwithstanding any automatic termination, if requested by either party, the parties shall execute an instrument confirming the termination of this Agreement.

2. Entitlements. Vintage hereby agrees to be subject to all the terms, conditions, and stipulations of the Rezoning Ordinance for PZ-16-00239-02 (City Ordinance No. 2018-13), Site Plan (PZ-16-00239-01), and preliminary plat (PZ-16-00239-03) (collectively, the "Entitlements"). The City acknowledges and agrees that the development rights granted by the Rezoning Ordinance are vested for a term of five (5) years from the Effective Date of this Agreement (the "Vested Rights") and that Vintage shall have a right to develop the Mill Town Property consistent with the Vested Rights, subject to the Applicable Rules (as defined in Section 3, below) and any changes to the Rules as permitted by this Agreement. Further, the City acknowledges that the recordation of the final plat for the Mill Town Property ("Final Plat") will occur only after (i) the New ADOT Facilities have been constructed on the Vintage Property pursuant to the Implementation Agreement, (ii) the City has conveyed the City Property to ADOT pursuant to the IGA, and (iii)

the Mill Town Property has been conveyed to Vintage by ADOT in exchange for the conveyance by Vintage to ADOT of the Vintage Property with the New ADOT Facilities constructed thereon pursuant to the Implementation Agreement. As a result, the parties agree that the preliminary plat approval will remain valid for three (3) years from the Effective Date to allow sufficient time for the transactions contemplated by clauses (i) through (iii) to be completed.

3. Development Standards. The development of the Mill Town Property, as well as the standards for off-site and on-site public improvements, will be governed by the City's codes, ordinances, regulations, rules, guidelines, and policies controlling permitted uses of the Mill Town Property, design review guidelines, the density and intensity of uses, the maximum height and size of the buildings within the Mill Town Property in existence as of the Effective Date of this Agreement (for purposes of the Zoning Code [Title 10 of the Flagstaff City Code], the version in place as of May 5, 2017 will apply), except as modified herein or otherwise agreed to, in writing, by Vintage and the City (collectively, the "Applicable Rules" or "Rules"); provided, however, that if Vintage fails to apply for any Construction Permits for development of the Mill Town Property within five (5) years following the Effective Date of this Agreement, and thereafter diligently proceeds with construction pursuant to those Construction Permits, then development of the Mill Town Property will be subject to the City's codes, ordinances, regulations, rules, guidelines, and policies in effect at the time Vintage applies for such Construction Permits. "Construction Permits" shall mean any permit issued by the City or other jurisdiction that is required in order to begin construction of any on-site or off-site improvements related to development of the Mill Town Property, including but not limited to public improvements, grading, electrical, gas, plumbing, mechanical, or structural.

4. Permits and Fees. Vintage agrees and understands that all building permit fees, Development Fees enacted under A.R.S. § 9-463.05, and other fees normally applicable to construction within the City at the time of application shall apply to construction of all on-site and off-site improvements related to the development of the Mill Town Property (collectively, "User Fees"), and that User Fees are subject to change at the discretion of the City Council. From and after the date of this Agreement until the expiration of the fifth (5^{th}) year following the Effective Date, the City agrees that no User Fee payable to the City in connection with the development of the Mill Town Property will be increased by more than 7% per calendar year. For example, if the City does not change the User Fees during the first three (3) years following the date of this Agreement, but during the fourth (4^{th}) year the City increases a User Fee by 30%, then the User Fee applicable to Vintage will be limited to a 28% increase. From and after the expiration of such five (5) year period, all User Fees will be charged at the then-current rate, regardless of the percentage increase(s) from the prior year(s), if any.

5. Project Description, Site Layout, and Design Considerations. The Mill Town Property will be developed according to the approved Site Plan including the conditions of approval, which is attached as Exhibit E and incorporated into this Agreement by reference. Development according to the approved Site Plan is a condition to the approved Rezoning Ordinance.

5.1 Development Allocations. As depicted on the Site Plan, the overall maximum number of residential units to be developed on the Mill Town Property is 348 units and 1186 beds. Recognizing that the residential units within the project are not age restricted, to encourage

multigenerational living, marketing for the ground level units will be age-targeted to attract mature residents and, to the extent permitted by law, the ground level units will be (i) restricted to tenants who are not full-time undergraduate students and (ii) subsidized a minimum of 30% below market, as measured against comparable units in the Project, in accordance with affordability criteria to be mutually agreed upon by Vintage and the City. This provision shall survive the term of this Agreement and shall continue in full force and effect for a period of ten (10) years from issuance of certificate of occupancy on the residential building and provided that the Project's residential units remain rental units. The parties agree to meet and negotiate in good faith for an extension of this provision following its expiration in ten (10) years.

5.2 Safety Plan. Owner agrees to participate in the City of Flagstaff Crime Free Multi-Housing Program and agrees that a final safety plan that addresses events, parties, general safety requirements, staffing and operations shall be approved by the Planning Director prior to final Certificate of Occupany for the residential portion of the development.

6. Resource Protection Plan. The Rezoning Ordinance provides that the Mill Town Property will be included within the City's Resource Protection Overlay. In connection with the Preliminary Plat and Site Plan, a Natural Resource Protection Plan (the "NRPP") was prepared by Shepard Westnitzer ("Engineer") dated February 5, 2018, that contains the approved resource protection strategy for the Mill Town Property. The City acknowledges that the NRPP exempts disturbance related to the City's Transportation Improvements and governs future plat submittals for the individual development parcels.

7. Combined Roadway Project. Vintage, through the Public Private Partnership ("P3 Partnership"), has been selected to manage the design and construction of the City Transportation Improvements. Vintage will manage the procurement process for the design and construction of the City Transportation Improvements and the upsized 12" sewer line in University Drive described in Section 7.5 below ("University Sewer"), utilizing a public procurement process in compliance with Title 34 of the Arizona Revised Statutes pertaining to construction of public infrastructure. The City will assign a Construction Manager to coordinate with Vintage's Project Manager and to determine the method of project delivery and serve as the project liaison through the construction phase. Vintage has previously engaged Engineer to prepare the thirty percent (30%) plans (the "30% Plans") for the City Transportation Improvements, University Sewer, and the Milton Underpass Improvements (collectively, the "Combined Roadway Project"). The parties have determined which improvements within the Combined Roadway Project will be categorized as City Transportation Improvements or Milton Underpass Improvements, and that summary is provided as Exhibit D. Milton Underpass Improvements are generally limited to those that would not otherwise have been required to be completed as a part of the City Transportation Improvements. The City will be responsible for City Transportation Improvement costs and Vintage will be responsible for Milton Underpass Improvement costs, except as otherwise expressly provided herein.

7.1 Design Phase. Vintage intends to utilize Engineer as the primary professional consultant to complete the final design for the Combined Roadway Project. Within ninety (90) days following the Effective Date of this Agreement, Vintage's Project Manager, in coordination with the City's Construction Manager, will complete the final design budget for the Combined

Roadway Project ("Design Budget"). The Design Budget will include the cost of the 30% Plans, and identify, by line item, each major component of the Combined Roadway Project and assign allocations to the City Transportation Improvements, the University Sewer, and the Milton Underpass Improvements. Vintage will be entitled to reimbursements for the amount paid to the Engineer for the 30% Plans related to City Transportation Improvements and the University Sewer. If the actual cost of any line item is more or less than the estimate shown on the Design Budget, then the party responsible for such line item shall be responsible for any excess costs and entitled to the benefit of any cost savings for that line item, subject to the other limitations set forth in this Agreement.

7.1.1 Final Design and Right-of-Way Adjustments. The parties acknowledge that the right-of-way required for the final design for the Combined Roadway Project ("Roadway ROW"), including related transit facilities, may require modifications to the design of the roadway, and that some of these changes may require minor adjustments to the right-of-way lines between preliminary and final plat. Both parties acknowledge that if the final Roadway ROW lines must adjust beyond what is shown on the preliminary plat, the City will facilitate the administrative approval of Site Plan modifications. Any such adjustment will not impact the approvals granted through theEntitlements.

7.1.2 High Frequency Bus Lanes and Bus Stop Locations. The parties agree to design and construct the City Transportation Improvements in a manner that supports the future addition of High Frequency Bus Lanes, if adequate funding for High Frequency Bus Lanes and construction by a third party are provided to the satisfaction of the City and the City determines that the addition of High Frequency Bus Lanes is in the best interest of the community, in the City's sole discretion. If adequate funding is provided prior to the completion of the Final Design for the Combined Roadway Project, and the City determines that the addition of High Frequency Bus Lanes is in the best interest of the community, the City will eliminate the requirement for bus pull-outs within the Combined Roadway Project. The City further agrees to work with ADOT to coordinate High Frequency Bus Routes on their jurisdictional roadways to be consistent with the adopted results of the Milton Road Corridor Master Plan.

7.2 Land Transfers.

7.2.1 ROW Dedications. At the time of approval of the 100% Plans, the City will consider the Final Plat. Upon approval of the Final Plat and transfer of the Mill Town Property to Vintage, Vintage and the City shall take all action necessary to record the Final Plat which will provide for the dedication by Vintage to the City and the City's acceptance of the Roadway ROW, including public easements.

7.2.2 University Remnant. The City acknowledges and agrees that the realignment of University will cause a portion of the prior alignment to become remnant right-of-way as depicted in Exhibit G hereto (the "University Property"). Concurrently with the recordation of the Final Plat, the City agrees to take all action necessary to transfer the University Property to Vintage in exchange for the Roadway ROW, which process is

provided for and permitted under A.R.S. § 28-7203. Upon such transfer, the University Property shall become part of the Mill Town Property for purposes of this Agreement.

7.2.3 Additional Public Easements and Rights-of-Way. Vintage will use good faith, best efforts to obtain agreements with relevant property owners for any and all public easements, public right-of-way, rights of entry, and/or other use rights required for construction of the City Transportation Improvements and University Sewer. Vintage shall use good faith, best efforts to negotiate commercially reasonable terms for the acquisitions of the easements by the City; provided, however, if despite the exercise of such efforts, Vintage is unable to secure agreements for any necessary easements, the City shall take steps to obtain such easements, which may include use of the City's power of eminent domain and the obtaining of immediate possession, all in accordance with applicable law. Such costs of obtaining the easements necessary for the City Transportation Improvements or University Sewer (including, without limitation, the costs of eminent domain, including legal fees and court costs) shall be paid by the City and included in the cost of the City Transportation Improvements. Costs of obtaining easements for the Milton Underpass Improvements will be borne by Vintage, and if Vintage is unable to obtain any easements required for the Milton Underpass Improvements, the City shall take steps to obtain such easements at Vintage's expense, which may include use of the City's power of eminent domain and the obtaining of immediate possession, all in accordance with applicable law.

7.3 Construction Phase. The City has budgeted $7,375,000 for the City Transportation Improvements and an additional $300,000 for related sewer upsizing detailed in Section 7.5 below. Engineer has prepared an Estimate of Probable Costs based on the Roadway ROW design drawings as of the date of this Agreement, and based on that Estimate the City intends to program an additional $400,000, subject to City Council approval, for the City Transportation Improvements, which is expected to be available no later than July 1, 2018.

7.3.1 Construction Budget. Following the completion of the Combined Roadway Project design, Vintage's Project Manager shall initiate the procurement of a contractor properly licensed by the State of Arizona Registrar of Contractors in coordination with the City's Construction Manager to construct the Combined Roadway Project (the "Work"). After contractor selection and prior to contract approval by the City Engineer, Vintage's Project Manager will prepare a final budget in coordination with the City's Construction Manager which will identify, by line item, each major component of the Combined Roadway Project and shall allocate each component to the City Transportation Improvements, the University Sewer, or the Milton Underpass Improvements ("Construction Budget"). Pursuant to Section 7.4.2 and 7.5 below, the City will be responsible for the costs of the line items for the City Transportation Improvements and Vintage will be responsible for the cost of the line items for the Milton Underpass Improvements, subject to the contributions to be made by the City to the Milton Underpass Improvements as provided in Section 7.4.2 below. If the actual costs of any line item at the completion of the Work is more or less then the estimate shown on the Construction Budget, then the party responsible for such line item shall be responsible for any excess costs and entitled to the benefit of any cost savings for that line item, subject to the other limitations set forth in this Agreement. The Construction Budget will account for all costs

related to the construction of the Combined Roadway Project pursuant to the final design. Such costs include without limitation surveying, testing, permits, bonding, construction management fees, overhead, taxes, as well as a contingency.

7.3.2 Construction. Vintage, through the selected contractor, shall diligently complete the construction of the Work in accordance with the Applicable Rules and secure all necessary Construction Permits for the Work. The City shall provide inspection services for the Work that is within the City's jurisdiction to ensure construction in accordance with the final design, and will accept the Work completed with the City's jurisdiction when the project has been completed subject to the requirements of this Agreement.

7.4 Project Payments.

7.4.1 Design Costs. Following the Effective Date of this Agreement and within ten (10) working days of the completion of the Design Budget, the parties will deposit their respective allocations into an escrow account, pursuant to separate escrow instructions to be prepared by Vintage's Project Manager with approval of the City's Construction Manager.

7.4.2 Construction Costs. Within ten (10) business days of the completion of the Construction Budget, the parties will deposit their respective allocations in an escrow account pursuant to separate escrow instructions to be prepared by Vintage's Project Manager with approval of the City's Construction Manager and which will ensure payments are made in accordance with the prompt pay requirements under A.R.S. § 34-221 for the Work. The City will also contribute $400,000 toward the costs of the Milton Underpass Improvements as the City's share of the regional transportation improvement. Further, at final acceptance of the City Transportation Improvements, the total cost for the City Transportation Improvements, University Sewer, and Milton Underpass Improvements will be established, and if the actual cost of the City Transportation Improvements is less than $7,775,000, then such cost savings will be contributed to the costs of the Milton Underpass Improvement; provided that, the City's total contribution to the Milton Underpass Improvements must not exceed 50% of the total cost of the Milton Underpass Improvements.

7.4.3 Alternate Funding Sources. The City agrees to support Vintage's efforts to secure other non-City funding sources for the Milton Underpass Improvements, but only to the extent that such funding sources do not trigger Federal procurement processes or construction related processes. Vintage agrees that it will not pursue funding sources that "Federalize" the City Transportation Improvements.

7.5 University Sewer. The Combined Roadway Project includes a section of sewer upsizing from 8" to 12" in University Avenue, and a new 12" sewer extension in University Drive to be funded separately by the City Water Services Division with a budget of $300,000. The funds for the oversizing and extension of the 12" sewer lines will be deposited and dispersed as part of the City Transportation Improvement funds as provided in Section 7.4.2 above. The Design and

Construction Budgets will separate the University Sewer cost so that they can be allocated to the correct City Division.

7.6 No Further Financial Assurance. The parties agree that the escrow requirement for the estimated cost of the Milton Underpass Improvements, as set forth in Section 7.4.2 above, will satisfy any requirement for financial assurances in connection with the Final Plat for the Mill Town Property and that no additional assurance beyond the escrow account will be required by the City for the Milton Underpass Improvements.

8. Vintage Project Infrastructure.

8.1 Impact Analyses. The City and Vintage acknowledge that the following impact analyses are approved in connection with the Entitlements and applicable to the Mill Town Property:

- Water and Sewer Impact Analysis, dated March 23, 2017 ("WSIA")
- Traffic Impact Analysis, dated October 30, 2017 ("Traffic Study")
- Preliminary Drainage Report and Drainage Impact Analysis, dated October 5, 2017 (collectively the "DIA")

8.2 Offsite Infrastructure. Provided that Vintage proceeds with the development of the Mill Town Property in accordance with the Entitlements, the City agrees no offsite infrastructure improvements are required by the Mill Town Projectbeyond the City's Transportation Improvements, except for the Milton Underpass Improvements and Milton Turn Lane described below. As part of the overall P3 Partnership, the Combined Roadway Project mitigates the offsite development impacts of the Mill Town Project. Vintage agrees to mitigate the identified onsite drainage impacts arising from the development of the Mill Town Property in accordance with the DIA. Further, the parties acknowledge that the DIA goes beyond the analysis of the Mill Town Property by providing for the necessary improvements related to the City Transportation Improvements. The City agrees that any offsite drainage improvement requirements that are a component of DIA are City Transportation Improvements and as a result will be included in the completion of the Plans and treated as a City Transportation Improvement cost under Section 7 of this Agreement. As a result, no financial assurances for offsite drainage improvements are required.

8.2.1 Milton Turn Lane. The Traffic Study identifies that a right-turn lane into the Mill Town Property from Milton will be required, and that such improvement is not a component of City Transportation Improvements and will be completed as a separate project by Vintage, at Vintage's sole cost and expense.

8.2.2 Milton Underpass. As provided for in the Rezoning Ordinance, the Milton Underpass Improvements must be completed before any certificate of occupancy is issued for development on the Mill Town Property. Following completion of the Milton Underpass Improvements and acceptance by the City, Vintage will make a one-time

payment not to exceed $60,000 to the City to contribute to the operation and maintenance costs of the Underpass. In addition to the $60,000 one-time payment, Vintage will be responsible for all warranty work related to the Milton Underpass for one year after acceptance by the City or ADOT.

8.3 Onsite Construction. The parties hereto acknowledge and agree that to the extent Vintage develops the Mill Town Property, including the frontage improvements along Milton Road, it shall have the right and the obligation, at any time after the Effective Date of this Agreement, to construct or cause to be constructed and installed, in accordance with the Applicable Rules, regulations, construction standards, and governmental review processes, all portions of the onsite improvements that relate to the phase or portion of the Mill Town Property to be developed by Vintage subject to approved civil plans, and the construction of the project will be concurrent with the Work provided that adequate fire flow is available to the Mill Town Property. However, no certificate of occupancy will be issued for any portion of the Mill Town Property until the Combined Roadway Project is completed and accepted by the City and/or ADOT.

8.3.1 Vintage shall restore such City easements and rights-of-way, used pursuant to the encroachment permit, to their condition prior to Vintage's entry upon completion of such construction, repairs, or maintenance. Vintage, its agent, and employees, also shall have the right, upon receipt from the City of an appropriate encroachment permit, to enter and remain upon and cross over any City easements or rights-of-way to the extent reasonably necessary to install and maintain landscaping material within the portion of the City right-of-way not used for vehicular travel.

8.4 Eco-Pass. Vintage has committed to providing each residential lessee within the Mill Town Project a NAIPTA Eco-Pass till such time that NAIPTA implements a higher education bulk rate pass program (U-Pass) which will provide students of both NAU and CCC with fare-free access to the entire Mountain Line network.

9. Notices. Any notice or other communication required or permitted to be given under this Agreement will be in writing and will be deemed to have been given if (1) delivered to the party at the address set forth below during normal business hours, (2) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, with sufficient postage, or (3) given to a recognized and reputable overnight delivery service, to the address set forth below, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this Section.

To City:

City Manager
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

To Vintage:

Mark Ortman
VP Flagstaff P3, LLC
2502 E. Camelback Road, Suite 214
Phoenix, AZ 85016

Notices will be deemed received (1) when delivered to the party, (2) three business days after being sent by U.S. mail, certified and return receipt requested, properly addressed, with sufficient postage, or (3) the following business day after being given to a recognized and reputable overnight delivery service.

10. General Provisions.

10.1 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.

10.2 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 hereto pursuant to A.R.S. § 9-500.05(D), except as provided below. Vintage's rights and obligations hereunder may only be assigned to (i) a person or entity that has acquired the Vintage Property or the Mill Town 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, or (ii) a related entity including any subsidiary, business, corporation, partnership, limited liability company, or other entity in which Vintage (or its principals) holds a substantial interest, directly or indirectly. All rights and obligations of Vintage under this Agreement will constitute covenants that run with the land and will be binding on all of Vintage's respective successors and assigns.

10.2.1 Notwithstanding the foregoing, the City agrees that Vintage's ownership, operation, and maintenance obligations provided by this Agreement may be assigned to one or multiple property owners' association(s) ("POA(s)") to be established by Vintage. Vintage agrees to provide the City with written notice of any assignment of Vintage's rights or obligations within a reasonable period of time following such assignment.

10.2.2 Notwithstanding any other provisions of this Agreement, Vintage may assign all or part of its rights and duties under this Agreement to any financial institution from which Vintage has borrowed funds for developing the Mill Town Property or a portion thereof.

10.3 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.

10.4 Modification of Agreement. This Agreement may be amended at any time by written amendment executed by and between the City and Vintage. 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).

10.5 Default. Failure of a party to perform a material obligation of this Agreement shall constitute a breach by that party of this Agreement and, if the breach is not cured within thirty (30) days after written notice thereof from the other party (the "Cure Period"), shall constitute a default under this Agreement; provided, however, that if the failure is such that more than thirty (30) days

would be reasonably required to perform such action or comply with any term or provision thereof, then the breaching 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. In the event a breach is not cured within the Cure Period, the non-defaulting party shall have all the rights and remedies that may be available under law or equity, including the right to institute an action for damages.

10.6 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. Nothing in this Agreement shall constitute or be deemed to be a waiver by Vintage of its right to request future rezonings or changes in development standards for all or any portion(s) of the Property pursuant to City procedures and requirements existing at the time of the request. Nothing in this Agreement shall be deemed to be a waiver by the City of the right to act, by approval or denial, on such rezoning or change. Further, nothing in this Agreement shall constitute or be deemed to be a waiver or relinquishment by Vintage of its rights to continue nonconforming uses of all or any portion(s) of the Mill Town Property which may exist, or have existed, as of the date of this Agreement, subject to legal principles applicable to such non-conforming uses.

10.7 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.

10.8 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.

10.9 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.

10.10 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.

10.11 Recordation and Effect. This Agreement will be recorded by the City in its entirety, inclusive of all exhibits, in the official records of Coconino County, Arizona, as required by A.R.S. § 9-500.05(D).

10.12 Governing Law. This Agreement and the rights of the parties shall be governed by and construed in accordance with the laws of the State of Arizona.

10.13 Cancellation for Conflict of Interest. This Agreement is subject to the cancellation provisions of A.R.S. § 38-511.

10.14 Time of the Essence. Time is of the essence in implementing the terms of this Agreement.

10.15 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.

10.16 Severability. If any provision or provisions of this Agreement, or the application thereof to any person or circumstance, is determined to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is so determined invalid or unenforceable, will not be affected thereby, and each provision hereof will be valid and will be enforced to the fullest extent permitted by law unless the enforcement of the remaining provisions would defeat the benefit of the bargain for either party in any material respect.

10.17 Exhibits. All exhibits attached hereto are incorporated herein by reference as though fully set forth herein.

10.18 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 first to try in good faith to resolve the dispute by mediation before resorting to litigation or some other dispute resolution procedure.

10.18.1 Mediation Procedure. 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.

10.18.1.1 Commencement of Mediation. Either 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 will contact the party calling for mediation seven (7) days from receipt of the Mediation Notice to confirm receipt of the Mediation Notice and to begin the mediator selection process.

10.18.1.2 Mediator Selection. Unless the parties agree otherwise, the parties will 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 ten (10) business days of the confirmation of receipt of Mediation Notice, each party will 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 will 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.

10.18.1.3 Fees and Costs. Each party agrees to bear its own fees and costs in mediation. The parties will enter into a written agreement with the mediator(s) regarding the mediator(s)' fees and expenses before the first mediation session. The parties will share equally the mediators' fees and mediation expenses.

10.18.1.4 Subsequent or Contemporaneous Contracts. The parties will include this provision in all subsequent or contemporaneous contracts relative to this matter, absent specific written agreement of the parties otherwise.

10.18.1.5 Participation in Mediation. 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.

10.18.1.6 Waiver. 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.

10.19 Venue and Attorneys' Fees. Except as otherwise agreed by the parties, any litigation brought by either party against the other to enforce the provisions of this Agreement must be filed in the Coconino County Superior Court or in the United States District Court for the District of Arizona, if appropriate under 28 U.S.C. § 1331. 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.

10.20 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.

10.21 No Obligation to Develop Property. Except as expressly set forth in this Agreement, neither the City nor Vintage will be required to complete any part or all of the development of the Mill Town Property. City reserves the right to design and construct the City Transportation Improvements if Vintage has not commenced development of the Mill Town Property (i.e., construction of related on-site or off-site improvements) within three (3) years of the effective date of this Agreement.

10.22 No Third Party Beneficiaries. The City and Vintage acknowledge and agree that the terms, provisions, and conditions of this Agreement are for the sole benefit of, and may be enforced solely by, the City and Vintage, and none of the terms, provisions, conditions, and obligations are for the benefit of or may be enforced by any third party.

10.23 Compliance with All Laws. Vintage will comply with all applicable Federal, State, County, and City laws, regulations, and policies.

10.24 Recitals. The Recitals set forth above are incorporated in this Agreement by reference as though fully restated.

11. Estoppel Certificate. Vintage may request of the City Manager, and the City Manager shall, within thirty (30) calendar days, respond and certify by written instrument to the requesting party that (a) the Rezoning Ordinance is unmodified and in full force and effect, or if there have been modifications, that the Site Plan is in full force and effect as modified, stating the nature and date of such modification; (b) there is or is not a default under the Rezoning Ordinance or this Agreement and the scope and nature of the default; and (c) the City has or does not have any existing or pending legal or equitable claims against any party with an ownership interest in the Mill Town Property. In the event Vintage has not received an estoppel certificate within thirty (30) days from the date of the request, then in such event, Vintage shall be entitled to prepare an estoppel certificate and deliver the certificate to the City Manager, and such estoppel certificate shall be binding upon City.

12. Performance Under Agreements. The City shall perform its obligations under and pursuant to the IGA, subject to all provisions of the IGA, including provisions related to termination, and subject to and conditioned upon ADOT's performance under and pursuant to the IGA. Termination of the IGA by the City or ADOT pursuant to any provision in the IGA related to termination will not result in a default by the City of any obligations under this Section. In the event of a default by the City of its obligations under this Section, Vintage's sole and exclusive remedy shall be limited to specific performance (i.e., transfer of the City Property to ADOT), thereby waiving any right to seek damages of any kind from the City. However, in no event will Vintage have any rights to specific performance or enforcement of this Section if either Vintage or ADOT is in default of its obligations under the Implementation Agreement, separately entered into by those parties.

[Signature page follows.]

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly authorized representatives, and Vintage has signed the same on or as of the day and year first above written.

"City"

City of Flagstaff, an Arizona municipal corporation

Coral Evans, Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

"Vintage"

By: Vintage Partners, LLC, an Arizona limited liability company

Mark E. Ortman, Jr., Its Manager

STATE OF ARIZONA)
COUNTY OF COCONINO)

ACKNOWLEDGMENT

On this 4 day of June, 2018, before me, a Notary Public, personally appeared Coral Evans, Mayor of the City Flagstaff, known to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same on behalf of the City of Flagstaff, for the purposes therein contained.

STACY SALTZBURG
Notary Public - State of Arizona
COCONINO COUNTY
My Commission Expires
January 24, 2022

Stacy Saltzburg
Notary Public
My Commission Expires: 1/24/22

STATE OF ARIZONA)
COUNTY OF MARICOPA)

ACKNOWLEDGMENT

On this 16th day of May, 2018, before me, a Notary Public, personally appeared Mark E. Ahlman, Jr., known to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he/she executed the same on behalf of Vintage Partners LLC, an Arizona limited liability company, for the purposes therein contained.

Notary Public
My Commission Expires:
April 24, 2020

LIST OF EXHIBITS

Exhibit A	Legal Description of ADOT Property
Exhibit B	Legal Description of City Property
Exhibit C	Legal Description of Vintage Property
Exhibit D	Identification of City Transportation Improvements and Milton Underpass Improvements
Exhibit E	Site Plan for Mill Town Property
Exhibit F	[RESERVED]
Exhibit G	Depiction of University Property

LEGAL DESCRIPTION

EXHIBIT 'A'

STATE LAND/ADOT PARCEL
APN: 103-21-001

PARCEL NO. 1:

A PARCEL OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER BASE AND MERIDIAN, COCONINO COUNTY, STATE OF ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST BOUNDARY LINE OF OAK CREEK HIGHWAY, AND THE SECTION LINE BETWEEN SECTION 21 AND 28, TOWNSHIP 21 NORTH, RANGE 7 EAST, WHICH IS NORTH 89° 55' EAST, 1336.8 FEET FROM SECTION CORNER COMMON TO SECTIONS 20, 21, 29 AND 28, WHICH IS THE SOUTHEAST CORNER OF THE PLOT TO BE CONVEYED;

THENCE NORTH 1° 23' WEST 760 FEET, WHICH IS THE NORTHEAST CORNER OF PLOT TO BE CONVEYED;

THENCE SOUTH 89° 55' WEST 286.57 FEET, WHICH IS THE NORTHWEST CORNER OF THE PLOT TO BE CONVEYED;

THENCE SOUTH 1° 23' EAST, 760 FEET, WHICH IS THE SOUTHWEST CORNER OF THE PLOT TO BE CONVEYED;

THENCE NORTH 89° 55' EAST, 286.57 FEET, WHICH IS THE POINT OF BEGINNING.

CONTAINING 5.00 ACRES, MORE OR LESS

PARCEL NO. 2:

A PARCEL OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER BASE AND MERIDIAN, COCONINO COUNTY, STATE OF ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE EXISTING FLAGSTAFF SHOP SITE ON THE SOUTH LINE OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, FROM WHENCE THE SOUTHWEST CORNER OF SECTION 21 BEARS SOUTH 89° 55' WEST 1050.23 FEET;

THENCE NORTH 1° 23' WEST ALONG THE WEST LINE OF SAID SHOP SITE 760 FEET TO THE NORTHWEST CORNER THEREOF;

THENCE NORTH 89° 55' EAST ALONG THE NORTH LINE OF SAID SHOP SITE 286.57 FEET TO THE NORTHEAST CORNER THEREOF;

THENCE NORTH 1° 23' WEST 150 FEET;

THENCE SOUTH 89° 55' WEST 386.57 FEET;

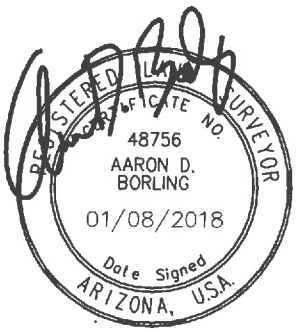
THENCE SOUTH 1° 23 EAST 910 FEET TO A POINT ON THE AFORESAID SOUTH SECTION LINE;

THENCE NORTH 89º 55' EAST ALONG SAID SECTION LINE 100 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.12 ACRES, MORE OR LESS

SEE EXHIBIT 'B ' ATTACHED HERETO AND MADE A PART HEREOF.

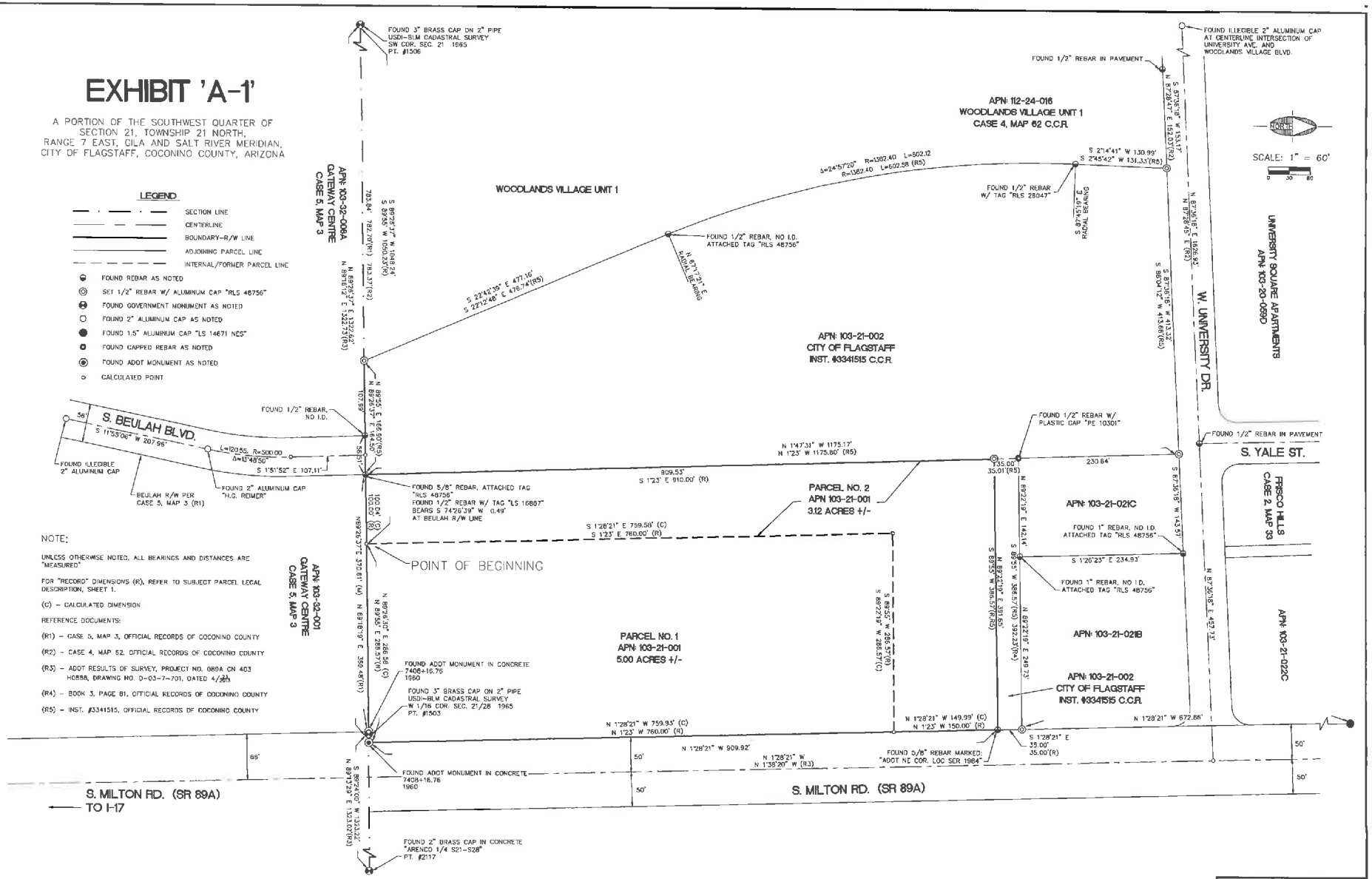
THIS LEGAL DESCRIPTION WAS PREPARED BY AARON D. BORLING, RLS 48756 ON BEHALF OF AND AT THE REQUEST OF SHEPHARD-WESNITZER, INC., FLAGSTAFF, AZ.



EXPIRES 12/31/20

EXHIBIT 'A-1'

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN, CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA



NOTE:

UNLESS OTHERWISE NOTED, ALL BEARINGS AND DISTANCES ARE "MEASURED"

FOR "RECORD" DIMENSIONS (R), REFER TO SUBJECT PARCEL LEGAL DESCRIPTION, SHEET 1.

(C) – CALCULATED DIMENSION

REFERENCE DOCUMENTS:

(R1) – CASE 5, MAP 3, OFFICIAL RECORDS OF COCONINO COUNTY

(R2) – CASE 4, MAP 62, OFFICIAL RECORDS OF COCONINO COUNTY

(R3) – ADOT RESULTS OF SURVEY, PROJECT NO. 089A ON 403 HOBBB, DRAWING NO. 0-03-7-701, DATED 4/25/89

(R4) – BOOK 3, PAGE 81, OFFICIAL RECORDS OF COCONINO COUNTY

(R5) – INST. #3341515, OFFICIAL RECORDS OF COCONINO COUNTY

CALL TWO WORKING DAYS BEFORE YOU DIG 1-800-STAKE-IT

REVISIONS			
NO.	DESCRIPTION	DATE	BY

Shephard Wesnitzer, Inc.
110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.6934 fax
www.swiaz.com

JOB NO:	14225
DATE:	JAN '16
SCALE:	1" = 60'
DRAWN:	ADB
DESIGN:	
CHECKED:	ADB

FLAGSTAFF, ARIZONA

LEGAL EXHIBIT

DRAWING NO. EX1

SHT NO. 1 OF 1

For location purposes only

LEGAL DESCRIPTION

EXHIBIT 'B'

CITY OF FLAGSTAFF PARCEL
APN: 103-21-002

PARCEL NO. 1:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER BASE AND MERIDIAN, COCONINO COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, BEARING NORTH 89 DEGREES 55 MINUTES EAST A DISTANCE OF 950.23 FEET FROM THE SECTION CORNER COMMON TO SECTION 20, 21, 28 AND 29, TOWNSHIP 21 NORTH, RANGE 7 EAST;

THENCE NORTH 1 DEGREES 23 MINUTES WEST A DISTANCE OF 1175.80 FEET;

THENCE SOUTH 88 DEGREES 04 MINUTES 12 SECONDS WEST A DISTANCE OF 413.66 FEET;

THENCE SOUTH 2 DEGREES 45 MINUTES 42 SECONDS WEST A DISTANCE OF 131.33 FEET TO A POINT OF CURVE;

THENCE ALONG THE ARC OF A 1382.40 FOOT RADIUS CURVE, CONCAVE TO THE EAST A DISTANCE OF 602.58 FEET TO A POINT OF TANGENT;

THENCE SOUTH 22 DEGREES 12 MINUTES 48 SECONDS EAST ALONG THIS TANGENT LINE A DISTANCE OF 476.74 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 21;

THENCE NORTH 89 DEGREES 55 MINUTES EAST ALONG THE SOUTH LINE OF SAID SECTION 21, A DISTANCE OF 166.90 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING 9.27 ACRES, MORE OR LESS.

PARCEL NO. 2:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER BASE AND MERIDIAN COCONINO COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT BEARING NORTH 1 DEGREES 23 MINUTES WEST A DISTANCE OF 910.00 FEET FROM A POINT ON THE SOUTH LINE OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST THAT BEARS NORTH 89 DEGREES 55 MINUTES EAST A DISTANCE OF 950.23 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 21;

THENCE NORTH 1 DEGREES 23 MINUTES WEST A DISTANCE OF 35.01 FEET;

THENCE NORTH 89 DEGREES 55 MINUTES EAST A DISTANCE OF 386.57 FEET MORE OR LESS TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 89A, ACCORDING TO BOOK 6 OF PROMISCUOUS RECORDS, PAGE 315, RECORDS OF COCONINO COUNTY, ARIZONA;

THENCE SOUTHERLY ALONG THE WESTERLY RIGHT OF WAY LINE OF SAID U.S. HIGHWAY 89A A DISTANCE OF 35.00 FEET MORE OR LESS;

THENCE SOUTH 89 DEGREES 55 MINUTES WEST A DISTANCE OF 386.57 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 0.31 ACRES, MORE OR LESS.

SEE EXHIBIT 'B ' ATTACHED HERETO AND MADE A PART HEREOF.

THIS LEGAL DESCRIPTION WAS PREPARED BY AARON D. BORLING, RLS 48756 ON BEHALF OF AND AT THE REQUEST OF SHEPHARD-WESNITZER, INC., FLAGSTAFF, AZ.

EXPIRES 12/31/20

EXHIBIT 'B-1'

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN, CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA

NOTE:

UNLESS OTHERWISE NOTED, ALL BEARINGS AND DISTANCES ARE "MEASURED"

FOR "RECORD" DIMENSIONS (R), REFER TO SUBJECT PARCEL LEGAL DESCRIPTION, SHEET 1.

(C) – CALCULATED DIMENSION

REFERENCE DOCUMENTS:

(R1) – CASE 5, MAP 3, OFFICIAL RECORDS OF COCONINO COUNTY

(R2) – CASE 4, MAP 62, OFFICIAL RECORDS OF COCONINO COUNTY

(R3) – ADOT RESULTS OF SURVEY, PROJECT NO. 089A CN 403 H0886, DRAWING NO. D-03-7-701, DATED 4/23/80

(R4) – BOOK 3, PAGE 81, OFFICIAL RECORDS OF COCONINO COUNTY

(R5) – INST. #3341515, OFFICIAL RECORDS OF COCONINO COUNTY

CALL TWO WORKING DAYS BEFORE YOU DIG 1-800-STAKE-IT

REVISIONS			
NO	DESCRIPTION	DATE	BY

SWI Shephard Wesnitzer, Inc.
110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.8934 fax
www.swiaz.com

JOB NO:	14225
DATE:	JAN '18
SCALE:	1" = 60'
DRAWN:	AOB
DESIGN:	
CHECKED:	AOB

FLAGSTAFF, ARIZONA

LEGAL EXHIBIT

DRAWING NO. EX1

SHT NO. 1 OF 1

For location purposes only

PLOTTED: Jan 08, 2018 - 4:49pm

FILE: P:\2014 Survey\14225 – Milton-Ninety\Legal Descriptions\COF Exhibit.dwg Tab: EX1-ARB

LEGAL DESCRIPTION

EXHIBIT "C"

VINTAGE PROPERTY

PARCEL NO. 1:

A PORTION OF SECTION 20, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, STATE OF ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT 14, WOODLANDS VILLAGE UNIT ONE, ACCORDING TO CASE 4, MAP 62, 62A AND AFFIDAVIT OF CORRECTION RECORDED IN DOCKET 1156, PAGE 392, RECORDS OF COCONINO COUNTY, ARIZONA.

EXCEPT ALL URANIUM, THORIUM, OR ANY OTHER FISSIONABLE MATERIAL WHICH IS OR MAY BE DETERMINED TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF COMMERCIAL VALUE, AS RESERVED IN PATENT FROM UNITED STATES OF AMERICA.

PARCEL NO. 2:

A PORTION OF SECTION 20, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, STATE OF ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT 53, WOODLANDS VILLAGE UNIT THREE, ACCORDING TO CASE 4, MAPS 131 THROUGH 131B, INCLUSIVE, RECORDS OF COCONINO COUNTY, ARIZONA.

EXCEPT ALL URANIUM, THORIUM, OR ANY OTHER FISSIONABLE MATERIAL WHICH IS OR MAY BE DETERMINED TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF COMMERCIAL VALUE, AS RESERVED IN PATENT FROM UNITED STATES OF AMERICA.

CONTAINING 355,220 SQUARE FEET, (8.15 ACRES), MORE OR LESS.

EXHIBIT D

Identification of City Transportation Improvements and Milton Underpass Improvements

Milton Underpass Improvements:

The following is a list that is intended to define the Underpass (to be only items specifically caused by the Underpass that would not already be built if the Underpass were not a part of the City Transportation Improvement project):

1. Concrete box culvert and entrance wing walls
2. Excavation/backfill including rock and unsuitable materials
3. Stairs, ADA ramps & railings
4. Landscaping, planter boxes, retaining walls and irrigation systems
5. Decorative Streetscape
6. Lighting
7. Signage
8. Drainage system
9. Utility relocations
10. Right-of-way acquisition
11. Design, plan review, permitting
12. Mobilization, traffic control, SWPPP, survey
13. Replacement of asphalt pavement, striping and edge improvements

City Transportation Improvements:

Transportation Improvements shall be defined as all improvements in the Roadway ROW including a public art installation in the Beulah and University roundabout, and excluding Milton Turn Lane Improvements (as provided for in Section 8.2.1 of the Agreement) and Milton Underpass Improvements.

EXHIBIT E

Site Plan for Mill Town Property

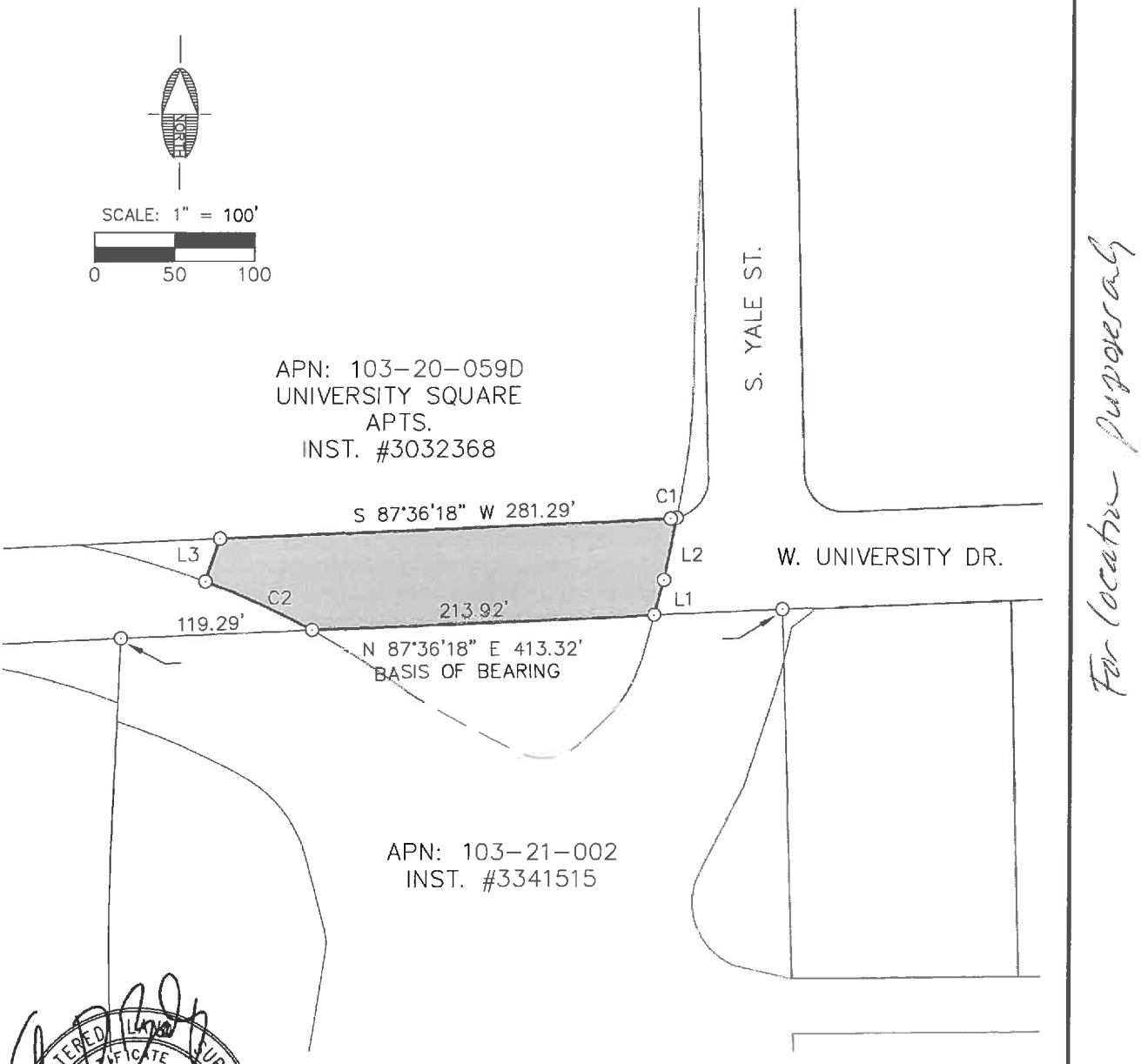
[On file with the City]

EXHIBIT F

[RESERVED]

EXHIBIT "G" - UNIVERSITY PROPERTY

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 21,
TOWNSHIP 21 NORTH, RANGE 7 EAST
GILA AND SALT RIVER MERIDIAN,
COCONINO COUNTY, ARIZONA



REGISTERED LAND SURVEYOR
CERTIFICATE NO.
48756
AARON D.
BORLING
Date Signed 11/07/17
ARIZONA, U.S.A.
Expires 12/31/17

L1-N 15°12'06" E 22.63'
L2-N 11°04'06" E 39.89'
L3-S 18°30'39" W 28.27'

C1-Δ=09°44'56" R=25.00' L=4.25'
C2-Δ=07°59'31" R=528.56' L=73.73'

For location purposes

SWI
Shephard Wesnitzer, Inc. www.swiaz.com
110 West Dale Ave
Flagstaff, Az 86001
928.773.0354
928.774.8934 fax

JOB NO:	14225
DATE:	11/7/2017
SCALE:	1" = 100'
DRAWN:	ADB
DESIGN:	
CHECKED:	ADB

FLAGSTAFF, ARIZONA

LEGAL EXHIBIT G

SHEET 1 OF 1

PLANNING & DEVELOPMENT SERVICES REPORT
PRELIMINARY PLAT

PZ-16-00239-03

DATE: February 6, 2018
MEETING DATE: February 14, 2018
REPORT BY: Tiffany Antol, AICP

REQUEST:

A request for Preliminary Plat approval for Mill Town Mixed Use into two lots, two tracts and right-of-way, located at 1801 Milton Road within the Rural Residential (RR) and Public Facility (PF) zones. This application is submitted in conjunction with a Zoning Map Amendment to rezone the property to the Highway Commercial (HC) zone.

STAFF RECOMMENDATION:

Staff recommends the Planning and Zoning Commission forward the Preliminary Plat to the City Council with a recommendation of approval subject to conditions.

PRESENT LAND USE:

The property subject to this request is comprised of two existing parcels of land, in addition to a remnant piece of right-of-way after the realignment of University Avenue/Drive. The existing parcels include a 9.58-acre site owned by the City of Flagstaff that has four vacant buildings including a single-family residence, a modular home, barn, and garage. The other parcel is an 8.13-acre site owned by the Arizona Department of Transportation (ADOT) which includes several structures related to the ADOT Motor Vehicles Department and Roadway Maintenance Operations.

PROPOSED LAND USE:

Subdivision of 18.11-acres of land into two lots, two tracts and the right-of-way for the Beulah Boulevard extension and the University Avenue realignment. Proposed development for the two lots consists of a horizontal and vertical mixed-use project consisting of 48,400 square feet of commercial space with a 340-dwelling unit, 1,221-bed Rooming and Boarding facility.

NEIGHBORHOOD DEVELOPMENT:

North: Burger King and Montessori Schools of Flagstaff Westside Campus; Highway Commercial (HC) Zone
East: Greentree Village Shopping Center; Highway Commercial (HC) Zone
South: Baymont Inn & Suites; Highway Commercial (HC) Zone
West: Woodlands Village Apartments; High Density Residential (HR) Zone

REQUIRED FINDINGS:

The Planning and Zoning Commission shall find the proposed Preliminary Block Plat meets the requirements of City Code Title 10, Flagstaff Zoning Code; City Code Title 11, General Plans and Subdivisions; and City Code Title 13, Engineering Design Standards and Specifications.

STAFF REVIEW:

Introduction

The applicant, Vintage Partners, is requesting rezoning approval to permit a mixed-use development consisting of 48,400 square feet of commercial development in conjunction with a 340-unit, 1,221 bed Rooming and Boarding Facility, referred to

as "Mill Town". The proposed Preliminary Plat will divide the two existing parcels and a portion of the existing University Avenue right-of-way into two lots, two tracts, and the right-of-way required for the extension of Beulah Boulevard and the re-alignment of University Avenue. Lot 1 is the largest parcel at approximately 10.10 acres. This lot is fronted on three sides by Milton Road to the east, University Avenue to the north, and Beulah Boulevard to the west. Lot 2 is approximately 0.63 acres and is located northwest of the Beulah/ University/Yale intersection. Tract A located west of Beulah and south of University is approximately 1.80-acres set aside as open space and resource protection area. Tract B is approximately 0.15 acres located between Yale Street and the adjacent charter school to provide for detention and Low Impact Development (LID) and to preserve additional tree resources. All lots and tracts are proposed to be rezoned to the Highway Commercial (HC) zoning district subject to development consistent with the approved plans.

Flagstaff Regional Plan 2030

The 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 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 provide the framework for the density, intensities, and mix of uses within the area types. The subject property falls within a Neighborhood Suburban Activity Center that is currently being considered for a Regional Plan amendment in conjunction with the adoption of the High Occupancy Housing Plan to be a Regional Suburban Activity Center.

Neighborhood Suburban Activity Centers are mixed-use centers at intersections of circulation corridors and access roads with access to surrounding neighborhoods providing local goods and services and public spaces accessible to transit and the Flagstaff Urban Trail System (FUTS). Suburban activity centers call for a density range of greater than six units per acre for mixed-use projects. The mix of uses within the commercial core should include services, offices, retail, restaurant, residential mixed-use and public spaces. Neighborhood commercial is intended for all commercial retail and service uses that meet consumer demands for frequently needed goods and services, with an emphasis on serving the surrounding residential neighborhoods. These areas are typically anchored by a grocery store, with supporting retail and service establishments. Transportation features of a Suburban Activity Center include easy-to-access parking available via shared lots, shared parking structures, lots and on-street parking with pedestrian paths through and around parking areas. Transit stops should be available. Suburban block sizes may be larger than urban areas but must have highly connected bike and pedestrian infrastructure across the block and not solely around the block edges.

ZONING REQUIREMENTS

If this Direct to Ordinance Zoning Map Amendment request is approved, approximately 18.11 acres will be rezoned to the Highway Commercial zone with the Resource Protection Overlay (RPO) zone. Development of the site will be conditioned to the approved site plan. Any substantial change to the approved site plan would require a new rezoning request and further review and approvals by the Planning & Zoning Commission and City Council. The Site Plan provided includes the overall site layout; open space and civic space areas and calculations; parking areas and calculations; landscaping and screening; architectural renderings; colors and material specifications; 3D views of the proposed development; and, exterior lighting details.

Site Planning Standards

In accordance with Section 10-30.60.030 of the Zoning Code (Page 30.60-2), a site analysis was completed in conjunction with the concept plan for this project that considers 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. The findings of the site analysis were used for the layout of the mixed-use development, open space and civic space areas on site. The largest building on the site is set back approximately 200 feet from the Milton Road corridor in order to maintain the sweeping views of the San Francisco Mountains when entering Flagstaff from the south. The mixed-use building and road layout are designed to work with the existing topography. Open/civic spaces have been provided for

public access as well as private open space areas for the residents of the development. These areas also provide buffers from existing multi-family developments to the west of the subject property. The surrounding land use context includes a variety of uses and structures including single-story restaurants and retail stores, multi-story hotels, and multi-story apartments.

Landscaping

Landscaping plans are not required in conjunction with a Direct to Ordinance Zoning Map Amendment. The applicant did provide a detailed landscaping plan that meets the requirements of parking lot landscaping, street buffer landscaping, public right-of-way landscaping, open space landscaping, and landscape screening standards found within Section 10-50.60 of the Zoning Code (Page 50.60-1). The landscaping design for this project includes a combination of urban and suburban landscaping to develop specific character areas within the development. A final landscape plan will be reviewed at the time of civil plan submittal.

Natural Resources

In accordance with Section 10-50.90.020.A of the Zoning Code (Page 50.90-2), the Subject Property will be located within the established Resource Protection Overlay (RPO) zone. Section 10-50.90.030.B of the Zoning Code (Page 50.90-3) outlines the priority for resource protection as floodplains, steep slopes, forest, and other. There is no floodplain located on-site. Table 10-50.90.050.A of the Zoning Code (Page 50.90-5) establishes a minimum slope protection threshold of 70% for slopes that range between 17% and 24.99% as part mixed-use developments, and 80% for slopes between 25% and 34.99%. A Preliminary Resource Protection Plan, a copy of which is attached to the Preliminary Plat report, was prepared by the Developer and identified 100% of the steep slopes outside of the new right-of-way as being preserved. Table 10-50.90.060.A of the Zoning Code (Page 50.90-7) establishes a minimum forest resource protection threshold of 30% for development within a commercial zone. The Preliminary Resource Protection Plan identifies a total of 1,273 existing forest resource points on-site (after 5% allowed reduction for the provision of civic space). Using the above-referenced forest resource protection threshold, a minimum of 318 forest resource points must be preserved. As proposed, the development is preserving 407.5 points (32%) of the existing forest resources. Final compliance with resource protection standards will be ensured as part of the Civil Plan submission and will include measures for resource protection during construction.

Parks and Open Space

This subdivision includes approximately 1.8 acres of public open space in a separate tract. This tract allows for the preservation of mature trees and steeply sloped areas while providing a buffer between residential uses. The Zoning Code identifies specific open space requirements for mixed-use developments. Open space for all other types of development is achieved through compliance with lot coverage and landscaping requirements. However, Section 10-40.30.040.B (footnote 6) of the Zoning Code (Page 40.30-16) requires mixed-use developments to include a minimum of 15% of the gross lot area as open space. Using these parameters, the 10.10-acre site is required to maintain at least 1.51 acres of open space. The proposed development maintains 3.39 acres of open space, which is 33% of the lot area. Section 10-30.60.060.B.1.b of the Zoning Code (Page 30.60-11) requires residential developments with 50 or more dwelling units to provide a minimum of 5% of the site as civic spaces. Using this parameter, 0.51 acres of the 10.10-acre site must be civic space. A total of 1.73 acres of civic space is provided on this site. The streetscape that surrounds the retail component of this development provides extended sidewalks for urban design features that support public civic space and allow for outdoor seating. Based on the amount of open space preserved and amenities provided on-site, staff believes that the intent of creating on-site civic space, which is to ensure quality space that reinforces the highly valued existing character of Flagstaff's neighborhoods and natural environment, has been met.

SYSTEMS ANALYSIS:

Access and Traffic

The Mill Town Transportation Impact Analysis (TIA) included 19 existing and proposed intersections and driveways, extending along Milton Road from Forest Meadows Street to Butler Avenue, along Yale Street and Beulah Boulevard from Forest Meadows Street to Plaza Way, and along University Avenue/University Drive from Woodlands Village Boulevard to the Target driveway east of Milton Road. Ten of the intersections/driveways are along City roadways, eight are ADOT locations, and one, the Target driveway, is under NAU's jurisdiction. The TIA was done to meet both the City's and ADOT requirements. The analysis considered opening year, assumed to be 2018, and five years after opening, 2023. Since the Mill Town project includes the City's capital street project, realignment of University Avenue and construction of Beulah Boulevard south of University Avenue, staff also considered a 20-year horizon for the new streets. Detailed information in regards to this impact analysis can be found in the Direct to Ordinance Zoning Map Amendment report.

Vehicular access to the lots within the subject site will be from all four adjacent roadways: Milton Road, University Avenue, Beulah Boulevard and Yale Street. The commercial portion of Mill Town will have right-in/right-out access only from Milton Road and a full movement access from the realigned University Avenue/Drive. These two access points allow visitors to park in the surface parking lot or within a separated portion of the parking garage. The Rooming and Boarding Facility will have a full movement access from the extension of Beulah Boulevard into the residential parking garage.

Pedestrian and Bicycle Facilities

Mill Town includes enhanced pedestrian and bicycle facilities to connect with the NAU campus. The most prominent of these is an underpass on the north leg of Milton Road to completely separate pedestrians and bicyclists from Milton Road traffic. FUTS shared use pathways are designated along the north side of University Avenue/Drive and the west side of Beulah Boulevard. Therefore the project includes a ten-foot pathway along the north side of University from Beulah Boulevard to the existing NAU pathway that now ends at the east edge of the Target parcel, and a ten-foot pathway on the west side of Beulah Boulevard from University Avenue south to the existing pathway. An eight-foot wide sidewalk along the east side of Beulah Boulevard from University Avenue to Forest Meadows Street is also included. This will accommodate students walking from Mill Town to south campus via Beulah Boulevard and McConnell Drive. The project also provides a pedestrian connection through the site from the southwestern corner along the adjacent parcel into the commercial core of the mixed-use project. The sidewalk along Milton Road adjacent to Mill Town will also be eight feet wide. Both University Avenue and Beulah Boulevard will include on-street bike lanes within the project area. Due to its proximity to NAU, the Milton Road pedestrian and bicycle underpass, available transit service, and its mixed-use nature, Mill Town is expected to generate only about half of the vehicle trips that would be anticipated without all of these features.

Water and Wastewater

The Mill Town Mixed-Use Public Water and Sewer Impact Analysis was completed March 23, 2017 after the submittal of a concept plan application for the proposed project. The proposed development is located within the City of Flagstaff urban growth boundary and has the ability to 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. It is the developer's responsibility to design, acquire adequate right-of-way, and construct all on-site and connecting water infrastructure in accordance with all applicable City, State, and Federal rules and regulations.

Water
All public water infrastructure exists in the right-of-way adjacent to this property. There is an 8" water main extended across the full property frontage within the existing alignment of Milton Road, and an 8" main within University Avenue. New infrastructure will be constructed as part of the transportation improvements. The existing 8" water main that

terminates on the north end of Beulah Boulevard will be extended to the north within the Beulah Boulevard extension to the new intersection with University Avenue. The water main will continue north and connect to an existing 8" water main in Yale Street. A new 8" water main will also be constructed within the University Avenue realignment and will connect an existing 8" water main in University Avenue to an existing 8" water main in Milton Road. The new 8" water mains will provide domestic water and fire service to the project. All appropriate looping and second source requirements will be satisfied. The property lies within the City of Flagstaff Zone "B" water pressure system limits, and appears to meet the minimum pressure requirements stated in the City of Flagstaff Engineering Standards.

Wastewater
To provide sewer services to the project, a new 12" sewer main will be constructed within the University Avenue realignment as part of the transportation improvements. It will connect an existing 8"sewer main in University Avenue west of Milton Road to an existing 12" sewer main behind Trail Crest Brewing Company on University Drive east of Milton Road.

Stormwater

The Mill Town project's overarching drainage concept is to provide peak flow stormwater discharge mitigation, total stormwater runoff volume mitigation, and improvement to the water quality of site discharges. Topography of the project site splits the drainage into two watersheds, the Sinclair Wash and Clay Avenue Wash watersheds. Mitigation measures and stormwater quality improvement requirements are applied for each watershed. The Mill Town project has been further separated into on-site development and the transportation improvements. Mitigation measures and stormwater quality improvement requirements are applied to each of the two separate developments to maintain the same overarching drainage concept requirements.

Development of the Mill Town site will meet the mitigation and water quality requirements through the use of subsurface water storage systems consisting of both a detention and a retention storage capacity. Water quality improvements consisting of sediment capture components will be incorporated into the subsurface storage systems. Essentially, impervious surface areas of the site, will have runoff routed to landscaping areas and subsurface collection systems. The subsurface collection systems will collect surface flows not able to be stored within landscape areas and these flows will be routed through filters to capture sediment and other debris before entering the larger containment systems. Roof areas will connect to roof drains that discharge directly to the subsurface system. Discharge from the containment systems will be through low flow outlets designed to slow discharge of the retained volume for a 24-hour to 36 hour drain time.

Development of the City transportation improvements will include routing of impervious roadway surfaces to subsurface drainage systems that split the roadway project between the two watersheds. The proposed roadway surfaces within the Clay Avenue Wash watershed area of the project are located in areas with substantial existing impervious. Roadway in this area is designed to be a reduction in total impervious area, therefore, mitigation parameters for this portion of the roadway will be accomplished by the reduction in impervious area. Discharges from this area will flow by the subsurface conveyance system to the existing detention facility behind Target building. Existing discharges from this area of the site ultimately flow to the same location via a combination of subsurface and above ground conveyance. The proposed roadway surfaces within the Sinclair Wash watershed area of the project are in an area with little existing impervious surfaces and therefore are to be routed to mitigation and filtration facilities. The proposed subsurface conveyance system for this portion of roadway will discharge to an existing drainage channel and detention facility located on the west side of the development. A proposed expansion of the existing detention facility will incorporate an 'LID extended detention' facility in the lower portion of the basin which will essentially serve as volume mitigation and water quality feature through a soil filtration system with metered discharge designed to slow discharge of the retained volume for a 24 hour to 36 hour drain time.

RECOMMENDATION:

Staff recommends the Planning and Zoning Commission forward the Preliminary Plat for Mill Town Mixed Use to the City Council with a recommendation for approval with the following conditions:

1. The final plat shall include a 30-foot wide FUTS easement along the southern border of Tract A.

ATTACHMENTS:

- Application
- Preliminary Plat
- Preliminary Natural Resource Protection Plan

8. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Christine Cameron, Project Manager III
Date:	11/26/2019
Meeting Date:	12/03/2019

TITLE:

Consideration and Approval of Environmental Professional Services Contract: Rio de Flag Flood Control Project Environmental Investigation Services.

STAFF RECOMMENDED ACTION:

1. Approve the Professional Services Contract to SCS Engineers of Phoenix, Arizona in an amount not to exceed $188,884, with a contract period of 180 calendar days; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

- The recommended award of the Professional Services Contract to SCS Engineers will authorize an agreement for environmental investigation and reporting services for the Rio de Flag Flood Control Project (Project).
- SCS Engineers is being procured under the active Arizona State Land Cooperative Purchasing Agreement (contract: ADSPO18-207104; solicitation: ADSPO18-00007994). The City of Flagstaff is eligible to participate in the use of this contract.
- The scope of this contract is anticipated to be completed by May 2020.
- Final environmental remediation needs will be determined after this initial site investigation is completed.
- The site investigation area is located on the City of Flagstaff and BNSF Railway (BNSF) property on what is referred to as the Project Lower Reach. This area extends from 116 W. Phoenix Avenue to a point approximately 4,200 linear feet (LF) to the east. Please refer to the attached vicinity map.

Financial Impact:

The Contract will be funded by the Rio de Flag Flood Control Stormwater Capital Improvements FY 2019-2020 account budget of $3,264,134. Account (206-08-385-3236-0).

Policy Impact:

No Impact

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

Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:
Council Goal 2017 – 2019 Transportation and Other Public Infrastructure - Deliver quality community assets and continue to advocate and implement a highly performing multi-modal transportation system.
Council Goal 2017 - 2019 Environmental and Natural Resources - Actively manage and protect all environmental and natural resources.
Regional Plan - Policy WR5 - Manage watersheds and stormwater to address flooding concerns, water quality, environmental protections, and rainwater harvesting.
Team Flagstaff Strategic Plan - Foster a Resilient and Economically Prosperous City: Deliver outstanding services through a healthy environment, resources and infrastructure.

Has There Been Previous Council Decision on This:

The Rio de Flag Flood Control Project has been presented to City Council for various actions and decisions over the course of the project, including the City of Flagstaff/US Army Corps of Engineers Project Cooperation Agreement (PCA), engineering consultant services agreements, approval of fiscal year budgets, and Project updates.

Options and Alternatives:

1. Approve the Contract as recommended. Approval will allow SCS Engineers to investigate and categorize potential environmental contaminates on the Project site; or
2. Reject the award and provide additional direction to staff. This option would delay the environmental clearance activities.

Background/History:

The Rio de Flag Flood Control Project has been under development as a cooperative project between the City of Flagstaff and the US Army Corps of Engineers since the early 2000s. The goal of the project is to remove the 100-year floodplain from the center of town, which will reduce flooding impacts in our community and improve citizen's quality of life and safety. The project has undergone extensive design, value engineering, and reporting efforts. Several of the project components have been constructed and are complete, including the Clay Wash Detention Basin, the Thorpe Bridge, and the Butler Tunnel.

The project design is currently going through final completion. One of the items required for the final design is the certification of environmental clearances for all Project property. SCS Engineers will identify and quantify any existing contamination that will need to be removed.

Key Considerations:

The City of Flagstaff and the US Army Corps of Engineers executed the joint PCA in 2004. One of the primary responsibilities of the PCA is that the City must provide a construction corridor to the Army Corps' contractor that is clear of environmental contamination.

SCS Engineers was hired by the City in April 2019 to develop and submit an environmental work plan to BNSF for site access and approval to conduct environmental investigations on their property. The work plan has been approved and the agencies are working through the final execution of the agreement.

Expanded Financial Considerations:

The Contract will be funded by the Rio de Flag Flood Control Project Stormwater Capital Improvement account budget of $3,264,134 for FY 2019-2020. Account #206-08-385-3236-0.

Pending the approval of City of Flagstaff Resolution No. 2019-55, the City will be eligible for participation in the 2019 Brownfield Coalition Assessment Grant, in partnership with the Northern Arizona Council of Governments. The Rio de Flag project will be investigated for eligibility of funding through this grant.

Community Benefits and Considerations:

This effort will identify and quantify potential environmental contaminants in the Rio de Flag Project area, which will then be removed from the community. The overall project provides many benefits to the community, including:

- Reduces the 100-year floodplain associated with the Rio de Flag and the Clay Avenue Wash.
- Removes a considerable portion of the properties adjacent to the Rio de Flag from the floodplain.
- New and improved Flagstaff Urban Trail System along the new Rio de Flag channel north of Route 66.
- Elimination of mandatory flood insurance and restrictive floodplain management regulations.

Community Involvement:

The Rio de Flag Flood Control Project has been included as a major element of the City's Capital program and budget since 2004. The project has also been the subject of numerous Council Work Sessions, Friends of the Rio meetings, Project Public Meetings, Cityscape articles, and Arizona Daily Sun articles.

Expanded Options and Alternatives:

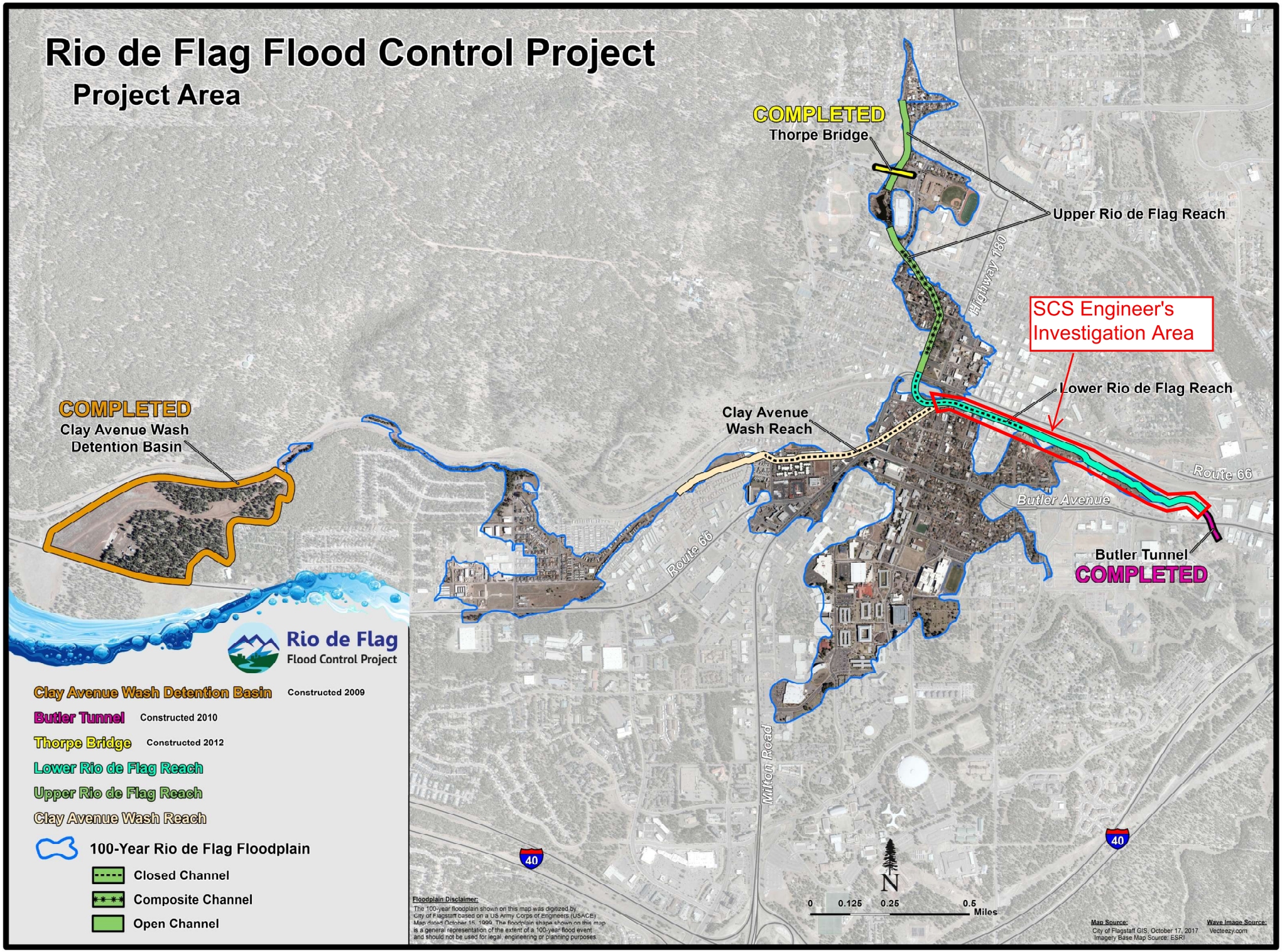
1. Approve the Contract as recommended. Approval will allow SCS Engineers to investigate and categorize potential environmental contaminants on the Project site; or
2. Reject the award and provide additional direction to staff. This option would delay the environmental clearance activities and delay completion of the Project design and construction bid documents.

Attachments:

RDF env vicinity map
City Cooperative Contract
Scope of Work and Pricing
State Contract

Rio de Flag Flood Control Project

Project Area



Rio de Flag
Flood Control Project

Clay Avenue Wash Detention Basin Constructed 2009

Butler Tunnel Constructed 2010

Thorpe Bridge Constructed 2012

Lower Rio de Flag Reach

Upper Rio de Flag Reach

Clay Avenue Wash Reach

100-Year Rio de Flag Floodplain

Closed Channel

Composite Channel

Open Channel

Floodplain Disclaimer:
The 100-year floodplain shown on this map was digitized by City of Flagstaff based on a US Army Corps of Engineers (USACE) Map dated October 15, 1999. The floodplain shape shown on this map is a general representation of the extent of a 100-year flood event and should not be used for legal, engineering or planning purposes.

Map Source:
City of Flagstaff GIS, October 17, 2017
Imagery Base Map Source: ESRI

Wave Image Source:
Vecteezy.com

COOPERATIVE PURCHASE CONTRACT
Contract No. 2020-61

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 Stearns, Conrad & Schmidt, Consulting Engineers, Inc., a Virginia Corporation, DBA SCS Engineers ("Contractor").

RECITALS:

A. Contractor has a contract with State of Arizona 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:

ENVIRONMENTAL CONSULTING WORK

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 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, 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

Professional Services for Arizona State Land Department – Contract Number: ADSPO18-207104

November 6, 2019
File No. 01219114.00

MEMORANDUM

TO: Christine Cameron, City of Flagstaff

FROM: Daniel V. Sola and Brad Johnston

SUBJECT:
Rio De Flag Conceptual Remedy Evaluation,
Proposed Rio De Flag Flood Control Project Alignment Coincident with BNSF Owned Parcels

INTRODUCTION AND PURPOSE

A work plan was prepared for the City of Flagstaff (COF) to submit an access application to BNSF Railway (BNSF) as discussed in the June 4, 2019 meeting with COF, BNSF, Arizona Department of Environmental Quality (ADEQ), and SCS Engineers (SCS). A revised scope was prepared in response to comments received from the BNSF contractor, TRC Companies, via email on September 20, 2019. BNSF subsequently approved the work plan with comments addressed.

The objective of this scope of work is to determine the conceptual scope and cost of a remedy to prepare the proposed Rio De Flag Flood Control Project (Rio De Flag) alignment to satisfy the USACE environmental requirements, based on our current understanding of the USACE needs. The basis of the study are preliminary drawings of the proposed channel alignment and depths prepared by USACE. SCS has no further information on the proposed channel alignment.

The key factors in evaluating the remedy cost are the volume of required soil remediation (presumably excavation), and the cost for transportation and disposal. This work is being undertaken as a voluntary study and is not subject of a decree, consent order, or other regulatory requirements. This scope was not prepared to meet all of the US Army Corps of Engineers (USACE) needs or the likely investigation requirements of the ADEQ Voluntary Remediation Program (VRP).

SCOPE OF WORK

Following is brief summary of the scope of work described in the work plan.

Task 1: Point of Access, Outline of Areas to be Impacted, Sampling Locations

Sampling locations are proposed on both COF and BNSF parcels. SCS will walk the entire alignment and photo-log and geo-tag each proposed location and any visible stains and other evidence of contamination. SCS will also photograph and confirm access routes for drilling and test pit operations consistent with BNSF requirements. If locations or access change beyond minor adjustments, BNSF will be notified and approval sought.

Task 2: Health and Safety Measures for Applicant, Railroad Workers, and Training Requirements

SCS will prepare a health and safety plan (HASP) covering activities of all workers on the site consistent with the requirements of CFR 40 1910.120 (HAZWOPER). All on-site staff will be HAZWOPER certified with 40-hour training and current 8-hour refreshers. The HASP will be submitted to BNSF for review prior to starting work.

SCS and its contractors will also complete all required BNSF Contractor Orientation training and certification to work on the BNSF parcels.

Task 3: Paramount Area Test Trenches

- Five test trenches will be excavated with track-mounted equipment and hand tools across areas of visible tar in the ravine adjacent to the Paramount SCS will attempt to visually identify the vertical and lateral extent of tar at each location and follow any subsurface tar into the side slope as much as safety and equipment limitations allow.

- SCS will sample visibly clean soil at the base and sides of each trench to confirm the extent of contamination.

- If groundwater is encountered it will be sampled as quantity allows.

Task 4: Paramount Soil Borings

- Three soil borings will be drilled along the top of the embankment at the Paramount Site. Borings will extend to approximately 3 feet below the bottom of the proposed invert or auger refusal, whichever occurs first

- If groundwater is encountered it will be sampled as quantity allows.

Task 5: General Alignment Borings and Surface Samples

- Based on the field inspection and available data, twelve soil borings will be completed along the alignment. These borings will extend to approximately three feet below the bottom of proposed invert.

- Grab samples of surface soil will be collected in areas of potential contamination identified in Task 1 within an estimated 50 feet on either side of the centerline.

- If groundwater is encountered in the borings it will be sampled as quantity allows using a temporary screen or sampling probe.

Task 6: Monitoring Well Installation

The USACE has specifically discussed a concern with groundwater quality at the former Route 66 Creosote Pit site. This is not on BNSF property.

- A soil boring and monitoring well will be installed at the source area at the location of the former preservative vat. This location will provide a "worst case" groundwater sample and determine if a groundwater contamination issue exists.

Task 7: Pollution Prevention, Runoff Management, Plugging and Abandonment, and Site Restoration Plan

SCS will follow best management practices for drilling and excavation work as agreed to with BNSF.

Soil needed for backfill will be from a source acceptable to BNSF. The backfill source will be sampled and analyzed prior to the start of the investigation to verify the soil is acceptable for fill.

Task 8: Waste Management and Disposal

SCS will work with the city and adjacent landowners to select staging areas off of BNSF property. Lined roll-off dumpsters and drums will be used to hold investigation derived soil for characterization and disposal.

Waste disposal will be performed by the contractor. The City of Flagstaff will be the responsible party for disposing of all investigation derived waste. All waste profile sheets, manifests, and shipping documents will be signed by a City of Flagstaff representative.

Task 9: Evaluation and Reporting

- SCS will prepare a report documenting all field activities, laboratory data, and field decisions.

- SCS will estimate the extent of excavation necessary to construct the channel based on the available drawings and standard engineering estimation methods. This may include discussion with USACE. The soil boring and test trench analytical data will be plotted to determine what portion of the total excavation is likely to be contaminated.

- SCS will use the laboratory data to determine the likely waste characterization and requirements for disposal of soil excavated for remediation.

- Based on the volume and characteristics of the soil, SCS will develop an estimate of the excavation and disposal costs.

- SCS will estimate budgetary costs to enter and complete the remediation under the ADEQ Voluntary Remediation Program (VRP). ADEQ will not approve or comment on the scope until the Rio De Flag project is entered into the VRP.

- Laboratory results will be received approximately 2 weeks after submittal to the laboratory. The draft report will be available for COF and BNSF review 4 weeks after receipt of laboratory results.

- This work is being undertaken as a voluntary study by COF and is not subject to any decree, consent order, or other regulatory requirements.

Task 10: Phase 1 ESA Arizona Materials Property

- SCS will perform a Phase I Environmental Site Assessment (ESA) for the above-referenced property. The primary screening tool for identifying potential environmental problems at a property is the current ASTM *Standard Practice for Environmental Site Assessments, the Phase I Environmental Site Assessment Process* (E1527-13), along with the All Appropriate Inquiries (AAI) Standard 40 CFR 312 developed by the U.S. Environmental Protection Agency (EPA).

COST ESTIMATE

The work will be conducted in phases in December and January 2019-2020 to meet the reporting requirements of USACE of February 29, 2019. These are termed Phase 2 and 3. Phase 1 is complete and comprised preparing and obtaining approval of the work plan. All work will be completed on a time and materials basis. The proposed budgets will not be exceeded without prior City of Flagstaff approval. We understand the City is negotiating with BNSF on the various fees. The cost estimates included best estimates of these fees. SCS and its Subcontractors will each meet the insurance and liability requirement of BNSF.

Table 1
PHASE 2 and 3
COST ESTIMATE SUMMARY
IMPLEMENTATION OF BNSF WORK PLAN
RIO DE FLAG
November 6, 2019

Task	Subtotal	Phase
Task 1 - Sampling Locations, Access	$4,134	2
Task 2 - Health and Safety, Training, Permitting	$4,712	2
Task 3 - Paramount Area Test Trenches	$17,050	3
Task 4 - Paramount Area Borings	$18,525	3
Task 5 - General Alignment Borings and Surface Samples	$78,007	3
Task 6 - Monitoring Wells	$5,300	3
Task 7 - PP, Runoff Mgmt, Abandonment, Restoration Plan	$486	3
Task 8 - Waste Mgmt and Disposal	$10,786	3
Task 9 - Evaluation and Reporting	$5,640	3
Task 10 - Phase 1 ESA Arizona Materials	$3,611	2
Other - Meetings, Project Management, BNSF contact	$10,003	2 and 3
USACE/BNSF Additional Testing and Reporting	$20,000	3
Investigation Subtotal	$178,255	
Anticipated BNSF Fees:		
BNSF Access Fee	$9,100	2
BNSF Crossing Review	$800	2
BNSF Insurance (SCS)	$730	2
Phase 2 Total	$30,556	
Phase 3 Total	$158,329	
Project Total	$188,884	

Contract Amendment

Legacy Contract: ADSPO18-207104

CTR031488 APP Amendment #1

Arizona Department of Administration
State Procurement Office
100 N. 15th Avenue, Suite 402
Phoenix, AZ 85007

Professional Services for Arizona State Land Department

Stearns Conrad & Schmidt Consulting Engineers Inc.

In accordance with the Special Terms and Conditions, Section 3.2, Contract Extensions, this contract is amended as follows:

1. The term of the contract is hereby extended until July 31, 2023

ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED

ACKNOWLEDGEMENT AND AUTHORIZATION

This amendment shall be fully executed upon the electronic approval in the State e-Procurement system by an authorized representative of the Contractor and applied to the contract in the State e-Procurement system by the Procurement Officer or delegate.

	Request for Proposals Solicitation No. **ADSPO18-00007994** Description: **Professional Services for Arizona State Land Department**	Arizona Department of Administration **State Procurement Office** 100 N 15th Ave., Suite 402 Phoenix, AZ 85007

Attachment 1

Offer and Acceptance Form

SUBMISSION OF OFFER: Undersigned hereby offers and agrees to provide **Professional Services for Arizona State Land Department** to in compliance with the Solicitation indicated above and our Offer indicated by the latest dated version below:

Initial Offer:	**1.** May 23, 2018 date	BJ initial						
Revised Offers:	**2.** x date #1	initial	**3.** x date #1	initial	**4.** x date #1	initial		
	5. x date #4	initial	**6.** x date #5	initial	**7.** x date #6	initial		
Best and Final Offer:	**8.** x date	initial						

SCS Engineers	Brad Johnston BJ	
Offeror company name	Signature of person authorized to sign Offer	Initials
4222 East Thomas Road Suite 310	Bradley F. Johnston, RG, Vice President	
Address	Printed name and title	
Phoenix, AZ 85018	Randy Bauer, RG, Project Director	
City | State | ZIP	Contact name and title	
54-0913440	rbauer@scsengineers.com	602-840-2596
Federal tax identifier (EIN or SSN)	Contact Email Address	Contact phone number

CERTIFICATION: By signature in the above, Offeror certifies that it:

1. will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order 2009-9 or A.R.S. §§ 41−1461 through 1465;
2. 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 will result in rejection of the Offer. Signing the Offer with a false statement will void the Offer, any resulting contract, and may be subject to legal penalties under law;
3. complies with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance; and
4. is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

ACCEPTANCE OF OFFER: State hereby accepts the initial Offer, Revised Offer, or Best and Final Offer identified by number at the top of this form, and which was dated (the Accepted Offer). Offeror is now bound (as Contractor) to carry out the Work under the attached Contract, of which the Accepted Offer forms a part. Contractor is cautioned not to commence any billable work or to provide any material or perform any service under the Contract until Contractor receives the applicable Order or written notice to proceed from Procurement Officer.

State's Contract No. is: ADSPO18-207104 **The effective date of the Contract is: August 1, 2018** **Contract awarded: July 10, 2018**

	Rocky Advani
Procurement Officer signature	Procurement Officer printed name

Douglas A. Ducey
Governor

Gilbert Davidson
Chief Operating Officer and Interim Director

ARIZONA DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT OFFICE
100 NORTH FIFTEENTH AVENUE • SUITE 402
PHOENIX, ARIZONA 85007
(602) 542-5511 (main)
http://spo.az.gov

Sent via e-mail to: rbauer@scsengineers.com
June 27, 2018

Re: Award of Contract for Solicitation No.ADSPO18-00007994 for Professional Services for Arizona State Land Department

Dear Randy,

Thank you for submitting a response to the Request for Proposal Solicitation No. ADSPO18-00007994 for Professional Services for Arizona State Land Department. I am pleased to inform you that your company's offer has been selected for award for the following work streams.

	Awarded
Planning	
Engineering	
Archaeology	
Environmental Site Assessment	X
GIS	
Hydrology	
Land Surveying	

The initial contract term shall begin on **August 1, 2018**

All offers received were evaluated in accordance with the evaluation criteria set forth in the solicitation document. The procurement file for this solicitation, including evaluation documents and resultant contracts, will be shortly available for public viewing via the State's e-Procurement system, ProcureAZ.

In accordance with Special Terms and Conditions, Section 6.2 of the contract and prior to beginning work under the contract, your company is required to submit a Certificate of Insurance to the State Procurement Office if you have not already done so. The certificate of insurance shall indicate that your company is in compliance with insurance requirements contained in the contract. **Please submit your certificate of insurance to me no later than July 25, 2018**

You are cautioned not to begin any work under this new contract until the Procurement Officer assigned to your contract has issued a written notice to proceed.

If you have any questions regarding your company's contract, please contact me at rocky.advani@azdoa.gov or 602.542.0100. Thank you for your response and for your continued interest in doing business with the State of Arizona.

Sincerely,

RJAdvani

Rocky Advani
State Procurement Manager

Part 2: Scope, Pricing and Terms and Conditions

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SECTION 2-A: Scope of Work

1. STATEMENT OF NEED

The State of Arizona (hereinafter referred to as the State), is seeking to establish a comprehensive statewide term contract for Professional Services for the Arizona State Land Department; Any contract resulting from this Request for Proposal shall become a statewide contract for use by all State agencies, counties, municipalities, school districts, and other political subdivisions, herein after referred to as Using Entity.

To ensure statewide coverage, it is the State's intent to award multiple contracts to establish a pool of Vendors. The selection of Vendors from the pool to provide these services for an assignment will be determined by the Using Entity.

The Using Entity makes no guarantee as to the amount of work that will be available to any given Vendor during the term of this contract.

Vendors are requested to bid on any of the workstreams/modules they have capability in performing

WORKSTREAMS

1. PLANNING
2. ENGINEERING
3. ARCHAEOLOGY
4. ENVIRONMENTAL SITE ASSESSMENT
5. GIS
6. HYDROLOGY
7. LAND SURVEYING

1.0 PLANNING

1. INTRODUCTION & BACKGROUND:
   1.1 The purpose of this solicitation is develop a list of qualified firms and/or individuals that are able to provide a range of services related to planning and zoning. These services will be utilized by the Arizona State Land Department, hereafter referred to as the "State Agency" on an as needed, if needed basis. Submitting under this contract does not guarantee work and additional information may be required before a project is assigned.

2. GENERAL REQUIREMENTS:
   2.1 The Contractor shall have the capacity, requisite experience and expertise necessary to provide consulting services in conjunction with planning and zoning studies, and actions.
   2.2 The Contractor shall be able to successfully complete the assigned project (task and subtasks). To that end, the Contractor may elect to utilize the services of one (1) or more pre-approved Subcontractors.
   In the performance of the services specified in this solicitation, the Contractor shall expressly understand and agree that a contract exists between the Contractor and the State Procurement Office as evidenced by the submission of the Offer and Acceptance portion of its proposal submitted under this solicitation.
   2.2.1 The Contractor will interface directly with the State Agency that is responsible for the administration and oversight of this contract. Additionally, the Contractor shall provide representatives of the State Agency access to its records, reports, related information and activities provided under the terms of this contract.

3. SPECIFIC REQUIREMENTS:
   3.1 Any GIS work performed under this contract shall conform to the Agencies most current GIS standards. A copy of the standards as of the date of this solicitation is attached for information purposes; however, contractors will obtain the most current standards from the State Agency prior to beginning work on a project that requires GIS.

   3.2 The performance of Planning and Zoning Studies and actions shall include, but are not limited to, the following subtasks:
   3.2.1 Draw Conceptual Plans Utilizing Agency GIS Standards as outlined above
   3.2.2 Draw Development Lotting Plans
   3.2.3 Draw Specific Site Lotting Plans
   3.2.4 Prepare and Process Planning and Zoning Applications
   3.2.5 Prepare and Process General/ Comprehensive Plan Amendments
   3.2.6 Conduct Special Planning Studies as determined by the State Land Commissioner

   3.3 Make Presentations to Urban Land Planning Oversight Committee, State Agency Staff, City Staff and/or Appropriate Jurisdictions, and stakeholders

   3.4 Prepare or Review and Critique Traffic, Drainage, Engineering, Landscape Plans, Design Guidelines and Related Studies

   3.5 Attend Pre-Application Conferences and Public Hearings
   Conduct and/or attend Stakeholder Meetings

   3.6 Within fifteen (15) days after the award contract, submit written notification to the State Agency identifying the name, title, address, e-mail address, telephone and facsimile numbers of the individual, within its organization, who is designated as the Contractor's authorized representative.

   3.6.1 The individual named will receive all correspondence, official notices, information related to the Contractor's performance, or that of its designated Subcontractor, and all other pertinent information as it relates to this contract.

3.6.2 The Contractor shall have the right to change or substitute the name of the authorized representative as long as it provides written notification to the state Agency, by e-mail or facsimile, a minimum of five (5) calendar days in advance of the change or substitution.

3.6 When a project is assigned, the Contractor shall immediately provide the State Agency confirmation in writing, by e-mail or facsimile, the name of the individual assigned as the project manager with the understanding that the project manager shall be responsible and accountable for the planning, conduct, progress, and successful completion of the specific subtasks to be performed.

3.6.1 The Contractor shall understand and agree that the project manager it names is expected to have the ability and authority to make decisions and commitments on behalf of the Contractor.

3.7 Prior to the initiation of work, the Contractor may be requested to submit a proposal for a specific project and/or attend a meeting with State Agency representatives to discuss specific project, and subtask objectives, procedures, methods, materials, staffing, deliverables, completion dates, project costs, and other matters that are pertinent to the conduct and successful completion of the defined project and subtasks within the designated time frame.

3.8 At the request of the State Agency, the Contractor shall provide a written summary containing information that pertains to all major aspects of the designated project and subtasks. If utilizing the services of a Subcontractor, the Contractor shall specify which subtasks, or portions thereof, the Subcontractor will perform. Additionally, the Contractor shall include a statement certifying that the Contractor, and Subcontractor where utilized, has no interest, vested or otherwise, in the specific property or nearby property upon which the project is based.

3.8.1 Once approved by the State Agency, all parties concerned will then have a clear understanding of all service requirements, subtasks to be performed and by whom (key personnel of the Contractor or Subcontractor where appropriate), and the specific time frame within which the assigned project is to be successfully completed.

3.9 The Contractor shall submit written progress on a timeline determined by the State Agency project manager, and final reports, signed by the Contractor or the Contractor's designated representative, as required by the State Agency. In some instances, however, the Contractor may be directed to provide an oral progress report.

3.9.1 The State Agency shall establish the report format and have final approval of the report content, frequency, and submission deadline. The content of such reports may include, but is not limited to, the following:

3.9.1.1 project title and period covered from start to finish
3.9.1.2 a description of the work performed (identifying subtasks performed)
3.9.1.3 outcomes/findings or accomplishments to date and percent of project completed
3.9.1.4 problems encountered, specific steps taken (or recommended) to resolve them, and the short and long term impact these problems have had on the project
3.9.1.5 conformance to the approved project schedule
3.9.1.6 expenditure to date
3.9.1.7 subtasks for the next period
3.9.1.8 other recommendations and/or relevant comments

3.9.2 Unless otherwise specified by the State Agency, progress reports shall be submitted by the tenth (10th) of each month during the life of the project. All work documents (e.g., reports, research notes, charts, graphs, analyses, computer programs, etc.) is considered to be the property of the State and as such shall be submitted to the State Agency as requested.

3.10 The Contractor shall, upon the direction of the State Agency, provide a deposition and/or testimony in court or before the State Land Department's Board of Appeals concerning the work performed under this contract.

3.10.1 The Contractor shall receive approval from the State Agency before commencement of preparation work for a hearing or court action. The Contractor will be compensated for the

provision of testimony, preparation work, and/or deposition related to the court of Board appearance.

3.11 Unless otherwise directed by the State Agency, the Contractor shall provide the State Agency with digital copies in a format compatible with the State Agency Software, and an original and ten (2) copies of each report prepared under this contract by the designated due date. Changes to the narrative report format and content, from that listed below, shall require the prior approval of the State Agency.

3.11.1 Conceptual Plan Report content shall include, but is not limited to, the following:
- 3.11.1.1 Title page that states: 1) location of the property; 2) name of the contractor; and, 3) date of the report.
- 3.11.1.2 Table of Contents/List of Figures, Charts and Tables
- 3.11.1.3 Introduction
- 3.11.1.4 Explanation of Data Gathering and Mapping Procedures
- 3.11.1.5 Site Suitability/Needs Analysis

Land Use Alternatives number to be determined prior to work and agreed to by the project manager.
- 3.11.1.6 Explanation of Rationale for The Land Use Alternatives and Associated Maps
- 3.11.1.7 Explanation of Rationale for Preferred Land Use Alternatives and Associated Map
- 3.11.1.8 Appendix Containing Data Layer Maps, Socioeconomic Data and Other Maps/Information Deemed Necessary by the Land Department

3.12.1 Development Plan Report content shall include, but is not limited to, the following:
- 3.12.1.1 Title Page that states: 1) location of property or project name; 2) development plan statement from ARS 37-334; and, 3) State Land Commissioner signature line and approval date line.
- 3.12.1.2 Letter of Transmittal
- 3.12.1.3 Secondary Title Page stating name of the Contractor
- 3.12.1.4 Table of Contents/List of Figures, Charts, and Tables
- 3.12.1.5 Introduction
- 3.12.1.6 Site and Area Analysis Summary
- 3.12.1.7 Market Analysis/Marketability Studies Summaries (if required by the project scope of work)
- 3.12.1.8 Explanation of Rationale of Alternative Plans and Associated Maps
- 3.12.1.9 Proposed Development Plan and Rationale for Preferred Alternative
- 3.12.1.10 Summary
- 3.12.1.11 Zoning Stipulations and Associated Maps
- 3.12.1.12 Local Zoning Ordinance Information
- 3.12.1.13 Phasing Plan
- 3.12.1.14 Plat per most current State Agency specifications
- 3.12.1.15 Appendix

3.13.1 Specific site/lotting plans will vary depending on project location, size and local jurisdiction requirements.

3.14.1 General Plan Amendments and Zoning/Rezoning Applications are dependent upon local jurisdiction requirements.

3.15.1 Special studies as determined by the State Land Commissioner.

4. STATE AGENCY RESPONSIBILITIES:

4.1 Define the level of service(s) to be provided then, where necessary, request a scope of work from the Consultant and attend a meeting with the Contractor to discuss the specific details of the project, reach an agreement with the contractor regarding all aspects of the service(s) to be provided, including a time line for the project and dates for deliverables.

4.2 Review and approve, with or without noted changes, detailed written project information provided by the contractor to insure a clear understanding of all aspects of the services to be performed. This will include, but is not limited to, areas such as: key personnel assigned, time frames, prior approval for reimbursable travel related costs, and project costs prior to the commencement of services.

4.2.1 Review and approve credentials of proposed key personnel provided by the contractor or subcontractor, as well as the credentials of temporary or permanent replacements prior to the start date for said personnel on the project.

4.2.2 Work closely with the contractor concerning changes in key personnel regardless of which party is requesting the change in personnel.

4.2.3 Clearly indicate to the contractor which sub-tasks are required for the successful completion of the assigned task(s).

4.2.3.1 If any sub-task, listed in the service requirements is to be eliminated or substituted, insure this is clearly communicated to the contractor in writing.

4.3 Establish the report format and approve the final content, frequency, and deadline for progress and/or final reports as described herein.

4.4 Assign a specific individual to provide oversight and contract administration for all services provided by the contractor for a specific project (tasks and subtasks).

4.4.1 This individual shall be responsible for insuring that all aspects of the project are conducted in accordance with stated requirements, including time frames and reports, changes required by the State Agency, or the actions that impact the contractor.

2.0 ENGINEERING

1. INTRODUCTION & BACKGROUND:
   1.1 The purpose of this solicitation is to develop a list of qualified firms and/or individuals that are able to provide a range of services related to engineering consulting services. These services will be utilized by the Arizona State Land Department, hereafter referred to as the "State Agency" on an as needed, if needed basis. Submitting under this contract does not guarantee work and additional information may be required before a project is assigned.

2. GENERAL REQUIREMENTS:
   2.1 The Contractor shall have the capacity, requisite experience and expertise necessary to provide consulting services in conjunction with engineering review and design.
   2.2 The Contractor shall have the ability to successfully complete the assigned project (task and subtasks). To that end, the Contractor may elect to utilize the services of one (1) or more pre-approved Subcontractors.
   2.3 In the performance of the services specified in this solicitation, the Contractor shall expressly understand and agree that a contract exists between the Contractor and the State Procurement Office as evidenced by the submission of the Offer and Acceptance portion of its proposal submitted under thissolicitation.
      2.3.1 The Contractor will interface directly with the State Agency that is responsible for the administration and oversight of this contract. Additionally, the Contractor shall provide representatives of the State Agency access to its records, reports, related information and activities provided under the terms of this contract.

3. SPECIFIC REQUIREMENTS:
   3.1 Any Geographic Information System (GIS) work performed under this contract shall conform to the State Agency's most current GIS standards. A copy of the standards as of the date of this solicitation is attached for information purposes; however, Contractors shall obtain the most current standards from the State Agency prior to beginning work on a project that requiresGIS.
   3.2 The performance of Engineering Studies and actions shall include, but are not limited to, the following
   3.3 The ideal candidate firm will have the internal capacity to carry out the engineering-related tasks listed below, and to conduct 3rd-party reviews of the work products listed below and prepared by others. In cases involving specialized knowledge such as Clean Water Act Section 404 permitting, candidate firms may propose to utilize sub consultants with that specialization. This list is subject to revision.

      1. Drainage
         a. Hydrology & Hydraulics-Develop Existing Conditions drainage exhibit identifying all FEMA floodplains, off-site flows and their conveyance through project site. Aerial and drainage studies and master plans will be reviewed in the project vicinity. Ability to prepare master drainage study, plan based on hydrologic and hydraulic analysis. Analysis conducted utilizing latest software such as HEC HMS, HEC RAS, FLO 2D.
      2. Floodplains: ability to map existing floodplains and ability to delineate new floodplains and prepare CLOMR/LOMR submittals for regulatory agency review and approval.
      3. Transportation Infrastructure
         a. Prepare a master street plan based on existing roadway network in the vicinity. Also, the ability to design a system of arterial streets to support proposed conceptual site plan.
         b. Prepare preliminary traffic demands and/or Traffic Impact Study (TIS) that support proposed conceptual site plan.

4. Water and Wastewater Infrastructure
    a. Prepare a master water and wastewater plan based on existing lines. Evaluate capacity of existing service lines and treatment plants. Evaluate potential water supply sources and water and wastewater providers. Ability to design water and wastewater distribution system utilizing latest engineering software.
5. Dry Utility Infrastructure
    a. Prepare a master dry utility plan based on existing lines. Evaluate capacity of existing dry utilities and service infrastructure. Evaluate potential dry utility providers. Ability to design dry utility distribution system utilizing latest engineering software.
6. Plans and Mapping: Prepare and deliver site plans, improvement plans and other mapping products to ASLD in hard copy and electronic files in editable industry-standard CAD and/or GIS software, including:
    a. Topography and contours
    b. Aerial imagery
7. Site Planning and Development
    a. Ability to identify existing conditions, opportunities and constraints to site planning and development
    b. Design and development of conceptual grading, drainage and lotting plans
    c. Design and development of conceptual road and utility infrastructure
    d. Utilize the plans listed above to estimate Development Impact Fees and available Fee Credits
    e. Preparation of Development Cost Estimates
    f. Conduct Geotechnical investigations and prepare reports of findings
    g. Conduct Biological resource investigations and prepare reports of findings
    h. Disposition phasing
8. Survey
    a. Legal Descriptions (text and depictions)
    b. Title Reports
    c. ALTA Survey
9. Clean Water Act Section 404 Permitting
    a. Preliminary and Approved Jurisdictional Determinations
    b. Significant Nexus Analysis
    c. Compensatory Mitigation Analysis
    d. Mitigation measures and monitoring

3.4 Prepare or Review and Critique Traffic, Drainage, Engineering, Landscape Plans, Design Guidelines and Related Studies

3.5 Attend Pre-Application Conferences and Public Hearings

3.6 Conduct and/or attend Stakeholder Meetings

3.7 When a project is assigned, the Contractor shall immediately provide the State Agency confirmation in writing, by e-mail or facsimile, the name of the individual assigned as the project manager with the understanding that the project manager shall be responsible and accountable for the planning, conduct, progress, and successful completion of the specific subtasks to be performed.

3.7.1 The Contractor shall understand and agree that the project manager it names is expected to have the ability and authority to make decisions and commitments on behalf of the Contractor.

3.8 Prior to the initiation of work, the Contractor may be requested to submit a proposal for a specific project and/or attend a meeting with State Agency representatives to discuss specific project, and subtask objectives, procedures, methods, materials, staffing, deliverables, completion dates, project costs, and other matters that are pertinent to the conduct and successful completion of the defined project and subtasks within the designated time frame.

3.9 At the request of the State Agency, the Contractor shall provide a written summary containing information that pertains to all major aspects of the designated project and subtasks. If utilizing the services of a Subcontractor, the Contractor shall specify which subtasks, or portions thereof, the

Subcontractor will perform. Additionally, the Contractor shall include a statement certifying that the Contractor, and Subcontractor where utilized, has no interest, vested or otherwise, in the specific property or nearby property upon which the project is based.

3.9.1 Once approved by the State Agency, all parties concerned will then have a clear understanding of all service requirements, subtasks to be performed and by whom (key personnel of the Contractor or Subcontractor where appropriate), and the specific time frame within which the assigned project is to be successfully completed.

3.10 The Contractor shall submit monthly written progress, and final reports, signed by the Contractor or the Contractor's designated representative, or on a timeline determined by the State Agency project manager. In some instances, however, the Contractor may be directed to provide an oral progress report.

3.11 The State Agency shall establish the report format and have final approval of the report content, frequency, and submission deadline. The content of such reports may include, but is not limited to, the following:

3.11.1 project title and period covered from start to finish
3.11.2 a description of the work performed (identifying subtasks performed)
3.11.3 outcomes/findings or accomplishments to date and percent of project completed
3.11.4 problems encountered, specific steps taken (or recommended) to resolve them, and the short and long term impact these problems have had on the project
3.11.5 conformance to the approved project schedule
3.11.6 expenditure to date
3.11.7 subtasks for the next period
3.11.8 other recommendations and/or relevant comments

3.12 Unless otherwise specified by the State Agency, progress reports shall be submitted by the tenth (10^{th}) of each month during the life of the project. All work documents (e.g., reports, research notes, charts, graphs, analyses, computer programs, etc.) is considered to be the property of the State and as such shall be submitted to the State Agency as requested.

3.13 The Contractor shall, upon the direction of the State Agency, provide a deposition and/or testimony in court or before the State Land Department's Board of Appeals concerning the work performed under this contract.

3.13.1 The Contractor shall receive approval from the State Agency before commencement of preparation work for a hearing or court action. The Contractor will be compensated for the provision of testimony, preparation work, and/or deposition related to the court of Board appearance.

3.14 Unless otherwise directed by the State Agency, the Contractor shall provide the State Agency with digital copies in a native file format compatible with the State Agency Software and in conformance with specifications as determined by the project manager. The Contractor shall submit an original hardcopy and a number of copies of each report prepared under this contract as determined by the State Agency project manager, by the designated due date. Changes to the narrative report format and content, from that listed below, shall require the prior approval of the State Agency.

4. STATE AGENCY RESPONSIBILITIES:

4.1 Define the level of service(s) to be provided then, where necessary, prepare a call for proposals or request and attend a meeting with the Contractor to discuss the specific details of the project, reach an agreement with the Contractor regarding all aspects of the service(s) to be provided, including a time line for the project and dates for deliverables.

4.2 Review and approve, with or without noted changes, detailed written project information provided by the Contractor to insure a clear understanding of all aspects of the services to be performed. This will include, but is not limited to, areas such as: key personnel assigned, time frames, prior

approval for reimbursable travel related costs, and project costs prior to the commencement of services.

4.2.1 Review and approve credentials of proposed key personnel provided by the Contractor or Subcontractor, as well as the credentials of temporary or permanent replacements prior to the start date for said personnel on the project.

4.2.2 Work closely with the Contractor concerning changes in key personnel regardless of which party is requesting the change in personnel.

4.2.3 Clearly indicate to the Contractor which sub-tasks are required for the successful completion of the assigned task(s).

4.2.4 If any sub-task listed in the service requirements is to be eliminated or substituted, insure this is clearly communicated to the contractor inwriting.

4.3 Establish the report format and approve the final content, frequency, and deadline for progress and/or final reports as described herein.

4.4 Assign a specific individual to provide oversight and contract administration for all services provided by the Contractor for a specific project (tasks andsubtasks).

4.4.1 This individual shall be responsible for insuring that all aspects of the project are conducted in accordance with stated requirements, including time frames and reports, changes required by the State Agency, or the actions that impact theContractor.

3.0 ARCHAELOGY

1. INTRODUCTION & BACKGROUND:

This is a multi-year Contract for the Environmental Site Assessments. This contract shall be utilized by other state agencies as needed.

2. DEFINITIONS

a. ACCEPTED STANDARD

Shall mean a method or technology whose performance has withstood professional scrutiny and is currently employed successfully at sites contaminated with hazardous or regulated substances.

b. ARAR

Shall mean Applicable or Relevant and Appropriate Requirements. Is used to initiate identification of ARARs that may affect remedy selection.

c. A.R.S. TITLE 41-861, HISTORIC PRESERVATION ACT

Applicable Arizona Administrative Code (AAC) rules. The definitions within this document and the Arizona Revised Statues and appropriate rules shall provide for a first interpretation of all definitions and terms.

d. BEST MANAGEMENT PRACTICES

Shall mean a method or combination of methods that is used in the treatment; storage and disposal of a pollutant and that achieves the maximum practical cost effective protection of public health and/or the environment.

e. CONSULTANT

Shall mean a highly-specialized individual or firm having significant input and responsibility for certain aspects of a project and possessing unusual or unique capabilities for assuring success of the finished work.

f. CONTRACT OFFICER REPRESENTATIVE

Authorized representative of State Procurement Office that is responsible for administering a contract and monitoring the contractor's performance

g. ENGINEERING EVALUATION & COST ANALYSIS (EE/CA)

Shall mean the analysis of removal alternatives for an area in accordance with EPA guidance document, "Guidance on Conducting Non-Time-Critical Removal Actions Under Cercla" EPA 540-R- 93-057, August 1993 or as delineated in the Task Order

h. ENVIRONMENTAL IMPACT AREAS

Shall mean an area contaminated by a pollutant or by criminal littering, or causing an environmental nuisance, health or safety hazard.

i. ENVIRONMENTAL SITE ASSESSMENT (ESA)

Shall mean overall property evaluation process. Due diligence study, investigation, characterization and evaluation of an area, and/or Phase I & II ESA to ASTM standards stamped by an Arizona Professional Engineer or Registered Geologist to meet the Environmental Protection Agency requirements of the Innocent Landowner Defense

j. FEASIBILITY STUDY

Analysis of the practicability of a proposal; e.g., a description and analysis of potential cleanup alternatives for a site. The feasibility study usually recommends selection of a cost-effective alternative. It usually starts as soon as the remedial investigation is underway; together, they are commonly referred to as the RI/FS

k. KEY PERSONNEL

Shall mean those persons whose experience and knowledge is professional in nature as opposed to clerical. Professional work is that which is predominantly intellectual, varied in character (as opposed to routine, manual, mechanical or physical), and involves the consistent exercise of discretion and judgment in the theoretical principles and techniques of a recognized field of science or learning

l. REMEDIAL ACTION (RA)

The actual construction or implementation phase of a site cleanup that follows remedial design

m. REMEDIAL DESIGN (RD)

A phase of remedial action that follows the remedial investigation/feasibility study and includes development of engineering drawings and specification for a site cleanup

n. REMEDIAL INVESTIGATION (RI)

An in-depth study designed to gather data needed to determine the nature and extent of contamination at a site; establish site cleanup criteria; identify preliminary alternative for remedial action; and support technical and cost analyses of alternatives. The remedial investigation is usually done with the feasibility study. Together they are usually referred to as the "RI/FS"

o. REMEDIATION

Cleanup or other methods used to remove or contain a toxic spill or hazardous materials from a site

3.0 SCOPE REQUIREMENTS

3.1 SCOPE SUMMARY

Firm must have and maintain a valid Arizona State Museum (ASM) Arizona Antiquities Act (AAA) Blanket Permit to conduct cultural resources survey throughout the term of the contract. Projects may be located throughout Arizona. Projects must be overseen by an ASM-permitted Principal Investigator. Any fieldwork shall be supervised by an ASM-permitted Project Director. Services required may include Class I records searches/literature reviews, Class III pedestrian survey, archaeological site eligibility testing, and data recovery. Reporting of results shall conform to ASM, State Historic Preservation Office (SHPO), and ASLD guidelines. Any identified cultural resources shall be assessed regarding eligibility to the Registers, and recommendations regarding eligibility shall be made. An evaluation of the effect of the proposed project on each of the Register-eligible cultural resources shall be made A draft report shall be submitted to the ASLD Cultural Resources Manager for review and comment. Final reports and consultation letters, prepared on ASLD letterhead, shall be submitted to the SHPO and applicable Indian tribes for consultation under the State Historic Preservation Act. Upon project completion, project shall be sent to the ASM for close-out per ASM guidelines.

3.2 DELIVERY/SERVICE AREA

This will be a Statewide contract

3.3 DETAILED SCOPE REQUIREMENTS

3.3.1 Prior to Conducting Fieldwork:

- The consultant will ensure that all required permits are in effect and all required notifications are made.

- The consultant will request a map that defines the Area of Potential Effects (APE)/ project area for the undertaking from the Pima County Office of Sustainability and Conservation's Cultural Resources and Historic Preservation Division (OSC). OSC/ASLD will define the APE for the undertaking.

3.3.2 Need:

- A non-collection Class III surface inventory survey of the project area.
- Documentation of any cultural resources in the project area and recommendations regarding eligibility of each cultural resource to the Arizona and National Register of Historic Places (ARHP/NRHP/Registers).

3.3.3 Scope:

- An archaeological Class III inventory survey of the project area shall be conducted.
- All fieldwork and recording shall be conducted subject to the provisions of the consultant's current permits and shall be to ASLD, Arizona State Museum (ASM), and State Historic Preservation Office (SHPO) current standards.
- The cultural resources report shall conform to current ASLD, ASM and SHPO reporting standards, and shall be adequate for consultation under state law between ASLD and SHPO.
- Any identified cultural resources shall be assessed regarding eligibility to the Registers, and recommendations regarding eligibility shall be made.
- An evaluation of the effect of the proposed project on each of the Register-eligible cultural resources shall be made (if specific undertaking is known).
- The consultant is required to research ASLD-specific requirements for Class III surveys.

3.3.4 Deliverables:

- A draft (complete version) report (1 PDF copy), and a draft (redacted version- redacted of all information pertaining to the location of archaeological properties) report (1 PDF copy), both of which provide the results of the fieldwork and research, shall be submitted to OSC for review.
- A draft final (complete version) report (X bound paper copies) shall be submitted to OSC, with revisions based on comments on the draft, for submittal and review by ASLD.
- A final (complete version) report (X bound paper copies) shall be submitted to OSC, with revisions based on ASLD/SHPO comments on the draft final (complete version) report, if needed.
- A final (redacted version) report (X bound paper copies) shall be submitted to OSC following acceptance of the final (complete version) report by ASLD/SHPO). The title page of this document must state "REDACTED VERSION".
- A CD/DVD containing the following: 1 PDF copy of the final (complete version) report, 1 PDF copy of the final (redacted version) report, all associated project shapefiles (e.g. area surveyed, APE, archaeological sites, isolated occurrences, etc.).
- All deliverables shall contain the following confidentiality statement on the title page of all applicable documents, as well as on all maps which depict the locations of archaeological properties regardless of type or eligibility to the Registers:

STATEMENT OF CONFIDENTIALITY: Disclosure of the locations of historic properties to the public may be in violation of both federal and state laws. Applicable United States laws include, but may not be limited to, Section 304 of the National Historic Preservation Act (16 U.S.C. 470w-3) and the Archaeological Resources Protection Act (16 U.S.C.§470hh). In Arizona, applicable state laws include, but may not be limited to, Arizona Revised Statute Title 39, Section 125.

3.4 STATE AGENCY RESPONSIBILITIES:

3.4.1 Define the level of service(s) to be provided then, where necessary, prepare a call for proposals or request and attend a meeting with the Contractor to discuss the specific details of the project,

reach an agreement with the Contractor regarding all aspects of the service(s) to be provided, including a time line for the project and dates for deliverables.

3.4.2 Review and approve, with or without noted changes, detailed written project information provided by the Contractor to insure a clear understanding of all aspects of the services to be performed. This will include, but is not limited to, areas such as: key personnel assigned, time frames, prior approval for reimbursable travel related costs, and project costs prior to the commencement of services.

3.5 Review and approve credentials of proposed key personnel provided by the Contractor or Subcontractor, as well as the credentials of temporary or permanent replacements

Unless otherwise directed by the State Agency, the Contractor shall provide the State Agency with digital copies in a native file format compatible with the State Agency Software and in conformance with specifications as determined by the project manager. The Contractor may submit an original hardcopy and a number of copies of each report prepared under this contract as determined by the State Agency project manager, by the designated due date. Changes to the narrative report format and content, from that listed below, shall require the prior approval of the StateAgency

4.0 ENVIRONMENTAL SITE ASSESSMENT

1. INTRODUCTION & BACKGROUND:

This is a multi-year Contract for the Environmental Site Assessments. This contract shall be utilized by other state agencies as needed.

2. DEFINITIONS

a. ACCEPTED STANDARD

Shall mean a method or technology whose performance has withstood professional scrutiny and is currently employed successfully at sites contaminated with hazardous or regulated substances.

b. ARAR

Shall mean Applicable or Relevant and Appropriate Requirements. Is used to initiate identification of ARARs that may affect remedy selection.

c. A.R.S. TITLE 49, THE ENVIRONMENT & A.R.S. TITLE 45, WATERS

Applicable Arizona Administrative Code (AAC) rules, and the U.S. Environmental Protection Agency, Terms of Environment, lists definitions and terms associated with this contract. The definitions within this document and the Arizona Revised Statues and appropriate rules shall provide for a first interpretation of all definitions and terms.

d. BEST MANAGEMENT PRACTICES

Shall mean a method or combination of methods that is used in the treatment; storage and disposal of a pollutant and that achieves the maximum practical cost effective protection of public health and/or the environment.

e. CONSULTANT

Shall mean a highly-specialized individual or firm having significant input and responsibility for certain aspects of a project and possessing unusual or unique capabilities for assuring success of the finished work.

f. CONTRACT OFFICER REPRESENTATIVE

Authorized representative of State Procurement Office that is responsible for administering a contract and monitoring the contractor's performance

g. ENGINEERING EVALUATION & COST ANALYSIS (EE/CA)

Shall mean the analysis of removal alternatives for an area in accordance with EPA guidance document, "Guidance on Conducting Non-Time-Critical Removal Actions Under Cercla" EPA 540-R- 93-057, August 1993 or as delineated in the Task Order

h. ENVIRONMENTAL IMPACT AREAS

Shall mean an area contaminated by a pollutant or by criminal littering, or causing an environmental nuisance, health or safety hazard.

i. ENVIRONMENTAL SITE ASSESSMENT (ESA)

Shall mean overall property evaluation process. Due diligence study, investigation, characterization and evaluation of an area, and/or Phase I & II ESA to ASTM standards stamped by an Arizona Professional

Engineer or Registered Geologist to meet the Environmental Protection Agency requirements of the Innocent Landowner Defense

j. FEASIBILITY STUDY
Analysis of the practicability of a proposal; e.g., a description and analysis of potential cleanup alternatives for a site. The feasibility study usually recommends selection of a cost-effective alternative. It usually starts as soon as the remedial investigation is underway; together, they are commonly referred to as the RI/FS

k. KEY PERSONNEL
Shall mean those persons whose experience and knowledge is professional in nature as opposed to clerical. Professional work is that which is predominantly intellectual, varied in character (as opposed to routine, manual, mechanical or physical), and involves the consistent exercise of discretion and judgment in the theoretical principles and techniques of a recognized field of science or learning

l. REMEDIAL ACTION (RA)
The actual construction or implementation phase of a site cleanup that follows remedial design

m. REMEDIAL DESIGN (RD)
A phase of remedial action that follows the remedial investigation/feasibility study and includes development of engineering drawings and specification for a site cleanup

n. REMEDIAL INVESTIGATION (RI)
An in-depth study designed to gather data needed to determine the nature and extent of contamination at a site; establish site cleanup criteria; identify preliminary alternative for remedial action; and support technical and cost analyses of alternatives. The remedial investigation is usually done with the feasibility study. Together they are usually referred to as the "RI/FS"

o. REMEDIATION
Cleanup or other methods used to remove or contain a toxic spill or hazardous materials from a site

3.0 SCOPE REQUIREMENTS

3.1 SCOPE SUMMARY

Contract services include performance of site management and site assessment. Services may include Phase I and II Environmental Site Assessments (ESAs) in accordance with current American Society of Testing Materials (ASTM) standardsand
U. S. Environmental Protection Agency (EPA) standards and/or guidelines. Some of the applicable ASTM standards are: E1527-13, E2247-08 and E1903-11. The objective is to provide Using Agencies assistance as specified in any Task Orders issued under this contract, in the identification and recommendations of corrective actions necessary to mitigate or eliminate the health and environmental dangers posed by various pollutants.

3.2 DELIVERY/SERVICE AREA

This is a Statewide Contract

3.3 DETAILED SCOPE REQUIREMENTS

3.3.1 Work Plan Preparation – **may include** the followingdocuments:

1. Quality Assurance Project Plans (QAPP) or Sampling and Analysis Plans (SAP): This includes preparation of a QAPP or a SAP. A QAPP or a SAP is site specific and should be prepared in accordance with the Task Order, if applicable. The QAPP or a SAP may also include development of data qualityobjectives

2. Health and Safety Plan (HASP). Field Sampling Plan (FSP) and Work plan: Prepare a site specific HASP and FSP. Both documents may be included as part of the Work plan

3.3.2 Work Plan – may include the following items:

1. Locations of samples collected by all Contractors or Using Agency, which did investigations at the site
2. A map or maps using all available data may include the following:
   - Concentrations of contaminants in soil;
   - Groundwater contaminant map with flow directions; and
   - Contour groundwater quality data if necessary;
3. Soil sample summary table (showing laboratory analyses and sample depth);
4. Groundwater data summary table (showing groundwater elevation and laboratory analyses);
5. A historical evaluation of the property describing past site uses, if possible. The purpose of this task is to help gain a better understanding of the site to assist the

   Contractor in choosing sampling methods and locations.

6. Remediation system design, installation, operation and maintenance
7. Schedule of proposed work with times shown by units and not actual date.

3.3.3 Access: The Using Agency will be responsible for negotiating property access with the property owners. However, the Contractor may be requested to assist the Using Agency by providing back-up documentation, such as warranty deeds and any other information, which may be considered vital to obtaining access. The Contractor may be responsible for preparation of any required permits

3.3.4 Phase I Environmental Site Assessments: This activity includes conducting a Phase I ESA in accordance with ASTM current standards E 1527-13 and E2247-08, as applicable or as stated in the Task Order. Phase I ESA are intended to determine the existence of recognized environmental conditions hazards, identify environmental liabilities and/or provide a preliminary screening to facilitate the assignment of site priorities. The major activities include visual inspection of the site and surrounding areas, document reviews, database reviews, aerial photographic interpretation, Geological background study and/or recommendations and conclusions

3.3.5 Phase II Environmental Site Assessments: This activity includes conducting a Phase II ESA in accordance with ASTM standards, as applicable or as stated in the Task Order. A Phase II ESA is a site investigation/characterization that may to determine the nature and extent of contamination in any and all affected environmental media at the site. The major activities include characterization and description of soils, groundwater, surface water, air or other affected environmental media with respect to location, nature, extent of migration of contamination sources and their proximity to potentially impacted receptors; characterization of the hydro-geologic setting to determine most likely contaminant migration pathways and physical features that could affect potential remedial actions; and the gathering of data and information to the extent necessary and sufficient to help quantify risk to public health and all aspects of the environment

3.3.6 Contractor Support: This task includes providing support services to the Using Agency to plan, monitor and control all work issued under a Task Order. The Contractor shall be responsible for making sure that all work is completed in a timely, cost-effective and competent manner. This task includes the following types of support: Administrative; Technical and Professional.

3.3.7 Subcontractor Management Cost: Equipment rentals, commodities purchased, etc. which are directly required for the completion of the Task Order, and are approved by the Using Agency's

Procurement Office or designee, shall be compensated at the actual cost of the services, rental fees, commodities purchased, etc. with no mark-up.
Administrative expenses for providing items such as insurance, bonds, equipment rentals, travel, per diem and incidental supplies (e.g. offices supplies, hardware supplies, petty cash, etc.), etc. shall be considered an administrative expense and shall not be used in computing the Subcontractor Management Cost
Subcontracted Services are defined as follows: e.g. well drillers, laboratory services, IDW containerization and transportation, utility locators, archaeologists, consultant services (i.e. community involvement, groundwater modeling risk assessors, etc.), and similar trade professions with the Using Agency's advance approval.

3.3.8 Project Documents: The Contractor shall devise, implement and maintain at the Contractor's place of business or project site, on a current basis, a structured document control system which includes and tracks records of all necessary contracts, shop drawings, samples, purchases, materials, equipment, operation and maintenance manuals and instructions, reports and any other documents and revisions thereto which arise out of the Task Order. These documents shall be readily available to the Using Agency any time during the performance of the Task Order.

3.3.9 Access Agreements and/or Consent Decrees: The Contractor shall comply with all requirements established in Access Agreements and/or Consent Decrees entered into between the Using Agency and current/former property owners/operators regarding the site. The Using Agency's Project Manager shall provide any relevant information to the Contractor. Additionally, the Contractor's Commercial General Liability Insurance shall be in conformance with the basic Contract provisions (Name of Landowner as provided by the Using Agency's Project Manager) and shall be named as additional insured, as their interests may appear for coverage on an occurrence basis for completed operations liability with an unlimited extended reporting period provision. The insurance certificate provided shall include the Using Agency's Project Manager Name and Task Order number for identification.

4. STATE AGENCY RESPONSIBILITIES:

4.1 Define the level of service(s) to be provided then, where necessary, prepare a call for proposals or request and attend a meeting with the Contractor to discuss the specific details of the project, reach an agreement with the Contractor regarding all aspects of the service(s) to be provided, including a time line for the project and dates for deliverables.

4.2 Review and approve, with or without noted changes, detailed written project information provided by the Contractor to insure a clear understanding of all aspects of the services to be performed. This will include, but is not limited to, areas such as: key personnel assigned, time frames, prior approval for reimbursable travel related costs, and project costs prior to the commencement of services.

5. Review and approve credentials of proposed key personnel provided by the Contractor or Subcontractor, as well as the credentials of temporary or permanent replacements

5.1 Unless otherwise directed by the State Agency, the Contractor shall provide the State Agency with digital copies in a native file format compatible with the State Agency Software and in conformance with specifications as determined by the project manager. The Contractor may submit an original hardcopy and a number of copies of each report prepared under this contract as determined by the State Agency project manager, by the designated due date. Changes to the narrative report format and content, from that listed below, shall require the prior approval of the StateAgency.

5.0 GIS

Introduction and Background

Solicit qualified organizations or individuals that can provide a range of services related to Geographic Information Systems (GIS).

General Requirements

1. Selected contractor shall have the capacity, experience and expertise necessary to provide services with regard to GIS data, analysis and development.
2. In the performance of the services specified in this solicitation, the Contractor shall understand and agree that a contract exists between the Contractor and the Arizona State Procurement Office as evidenced by the submission of the Offer and Acceptance portion of its proposal submitted under this solicitation.
    2.1. The Contractor will interface directly with the State Agency that is responsible for the administration and oversight of this contract. Additionally, the Contractor shall provide representative of the State Agency access to its records, reports, data, code and other information related to the activities performed under the terms of this contract.

Specific Requirements

1. Digitization of data originating in many formats Legal, Paper Maps
2. Analysis of data, be able to analyze and manipulate data in a wide variety of ways to show, patterns, trends and other relationships.
3. Data Management: Understanding on how to manage data with a spatial component.
    3.1. Clear understanding of a projections, datums, and transformations enabling them to be able to move data freely and accurately between them.
    3.2. Conversion of data between a wide variety of formats (KMZ, Shapefile, Geodatabase, RDBMS, CSV, JSON etc.)
4. Understand coordinate systems, datums, projections and transformations.
5. Geoprocessing
    5.1. Should have an extensive understanding of various geoprocessing tasks (Cutting, buffering, masking, nearest neighbor analysis, etc.)
    5.2. Should be able to use multiple geoprocessing tools to create repeatable workflows/analysis that can be verified by the offeror.
6. Image processing (wide variety of formats from legacy milars to TIFF's)
7. Production of high quality, large size, paper map products.
8. Development
    8.1. Customization of enterprise software through developed plugins.
    8.2. Ground up development of GIS solutions for both desktop and mobile environments.
    8.3. Proof of concept and documentation for custom solutions.
9. Server SQL support
10. Training of users

These requirements are laid out to give a general of idea of the kind of GIS work that can take place under this RFP. Detailed requirements, including specific products, data or analysis, are to be laid out in a scope of work.

Technical Definitions

1. GIS – Geographic Information Systems – Is a system designed to capture, store, manipulate, analysis or present spatially aware data.
2. Georeferencing - Aligning geographic data, often imagery or scanned maps, to a known coordinate system so that it can be viewed, queried, analyzed with other GIS data.

3. Geoprocessing - An operation to process and manipulate geographic data, often for analysis or conversion.
4. GIS Modeling: Geoprocessing tools can be chained together to create repeatable workflows to process and analyze data.

State Agency Responsibilities

1. Define services and products to be provided then, where necessary, prepare a call for proposals or request and attend a meeting with the Contractor to discuss the specific details. Then, reach an agreement with the contractor regarding all aspects of the services and products to be provided, including a time line for the project with dates and deliverables.
2. Review and approve, with or without noted changes, a detailed written project plan provided by the contractor to insure a clear understanding of all aspects of the project. This will include, but is not limited to, areas such as: key personnel assigned, time frames, deliverables, agency commitments, training plans, and expected costs.
   2.1. Review and approve credentials of proposed key personnel provided by the contractor or subcontractor, as well as the credentials of temporary or permanent replacements prior to the start date for said personnel on the project.
   2.2. Work closely with the contractor concerning changes in key personnel regardless of which party is requesting the change in personnel.
   2.3. Clearly indicate to the contractor which sub-tasks are required for the successful completion of the assigned task(s).
   2.4. If any sub-task, listed in the service requirements is to be eliminated or substituted, insure this is clearly communicated to the contractor in writing.
3. Establish a project plan and approve the final content, frequency, and deadline for progress and/or final reports as described herein.
4. Assign individuals to provide project oversight and contract administration for all services provided by the Contractor for a specific project (tasks and subtasks).
5. These individuals shall be responsible for insuring that all aspects of the project are conducted in accordance with stated requirements, including time frames and reports, changes required by the State Agency, or actions that impact the contractor.

6.0 HYDROLOGY

1.0 INTRODUCTION & BACKGROUND:

This is a multi-year Contract for well and groundwater management and evaluation services. This contract shall be utilized by other state agencies as needed.

2.0 DEFINITIONS

2.1 ADWR

Arizona Department of Water Resources. The Department administers and enforces Arizona's groundwater code and surface water rights laws (except those related to water quality).

2.2 A.R.S. TITLE 45, WATERS

Applicable Arizona Administrative Code (AAC) rules, lists definitions and terms associated with this contract. The definitions within this document and the Arizona Revised Statues and appropriate rules shall provide for a first interpretation of all definitions and terms.

2.2 CONSULTANT

Shall mean a highly-specialized individual or firm having significant input and responsibility for certain aspects of a project and possessing unusual or unique capabilities for assuring success of the finished work.

2.3 CONTRACT OFFICER REPRESENTATIVE

Authorized representative of State Procurement Office that is responsible for administering a contract and monitoring the contractor's performance

2.4 GROUNDWATER MODELS

Groundwater models are computer models of groundwater flow systems, and are used by hydrogeologists. Groundwater models are used to simulate and predict aquifer conditions.

2.5 KEY PERSONNEL

Shall mean those persons whose experience and knowledge is professional in nature as opposed to clerical. Professional work is that which is predominantly intellectual, varied in character (as opposed to routine, manual, mechanical or physical), and involves the consistent exercise of discretion and judgment in the theoretical principles and techniques of a recognized field of science or learning

2.6 MODFLOW

MODFLOW is a modular finite-difference computerized flow model, developed by the U.S. Geological Survey. The program is used to simulate the flow of groundwater through an aquifer.

2.7 WELL IMPACT ANALYSIS

A well Impact Analysis is conducted pursuant to A.A.C. R12-15-1302-1307 and is required for new Non-Exempt wells (excluding replacement wells), proposed for installation in Active Management Areas (AMA's) in the state, demonstrating that the proposed well(s) will not cause undue hardship on surrounding land or other water users, and must be submitted prior to ADWR approval of the Notice of Intent (NOI) to Drill application.

2.8 WELL ABANDONMENT

Well abandonment is conducted pursuant to A.A.C R12-15-816, in conformance with the requirements of ADWR's "Well Abandonment Handbook" (September 2008). Prior to undertaking abandonment ADWR Form 55-38 "Notice of Intent to Abandon a Well" shall be submitted for ADWR review and approval. Following completion of abandonment activities ADWR Form 55-58 "Well Abandonment Completion Report" shall be filed with ADWR.

3. SCOPE REQUIREMENTS

a. SCOPE SUMMARY

Well and groundwater management and evaluation related activities. Services may include water level measurements, groundwater sampling, video logging, well abandonment, impact analysis, aquifer testing, groundwater modelling, and valuation of water and water rights consulting.

b. DELIVERY/SERVICE AREA

This will be a Statewide contract

c. DETAILED SCOPE REQUIREMENTS

3.3.1 Conduct Well Evaluations; which may include, any, or all, of the following activities:

- Water level measurements - in wells which in some cases may be equipped with pumps, or alternatively be capped and in some situations, may require the use of a cutting torch to access the well.
- Water Sampling – in wells which may be equipped with operational pumps, or in wells where the pump is not operational and must be removed, prior to the installation of a sampling pump, or
- Well Video logging – which may require removal of a well cap, or in situations where the well is equipped, the pump must be removed prior to conducting video logging.

3.3.2 Conduct Well Abandonment; which may involve some, or all, of the following tasks in accordance with obtaining an ADWR approved "Notice of Intent to Abandon a Well" and issuance of a "Well Abandonment Card"

- In the event the well is equipped with a pump, it shall be removed from the well prior to abandonment.
- The Consultant shall collect all information necessary to develop the appropriate abandonment methodology and submit a "Notice of Intent to Abandon a Well" ADWR (Form 55-38) to ADWR for review and approval.
- Upon approval of the Notice of Intent and issuance of a Well Abandonment Card, the Consultant shall abandon the subject well in accordance with the approved methodology.
- Following completion of abandonment activities, the Consultant shall submit a "Well Abandonment Completion Report" to ADWR.

3.3.3 Conduct Well Impact Analysis; comprised of preparing a hydrological study including any, or all the following:

3.3.3.1 ● Prepare an inventory of existing wells and well information in the vicinity of the proposed new well(s).

3.3.3.2 ● Evaluate the geologic and hydrogeologic conditions to determine the relevant aquifer parameters and recharge/discharge boundaries.

3.3.3.3 ● Using a methodology acceptable to ADWR estimate the drawdown associated with the proposed well(s) and delineate the area surrounding the proposed well(s) where the impact would exceed 10-feet of additional drawdown after the first 5-years of operation of the proposed well(s).

3.3.3.4 ● In the event the proposed well(s) are located in an area of known land subsidence, a geophysical evaluation of the impact of the proposed well(s) on future land subsidence may also be required.

3.3.3.5 ● The "hydrologic study" shall then be submitted to ADWR for review and approval.

3.34 Conduct Aquifer Testing: Aquifer testing is conducted to determine the aquifer parameters in a groundwater basin or portion of a basin or sub-basin. This testing may consist of the following:

● Based on the specific project requirements, the Consultant may be provided information on the well(s) to be utilized in the aquifer test, or alternatively, may be tasked with conducting a preliminary groundwater evaluation to identify the recommended well(s) to be incorporated into the aquifer test program.
● The Consultant shall be responsible for providing and installing/removing all equipment for instrumentation of pumping and observation wells. This equipment may include, transducers, data loggers, and water level sounders.
● The Consultant shall provide or subcontract the test pump(s) and associated equipment needed to conduct the aquifer test. All Sub-Contractors shall be approved by ASLD.
● The Consultant shall provide all personnel necessary to conduct the aquifer test. The length of the test shall be determined by ASLD, and may be from 24-hours to two-weeks, and may involve multiple pumping and observation wells, depending upon the specific test configuration and objectives. The number of wells involved in the test will be determined prior to the test, however, the test length may be open-ended and based on an hourly rate.
● At the completion of the test the Consultant/Subcontractor shall remove all pumping and measurement equipment from the wells, and restore the wells to their original condition.
● Following the test, the Consultant shall download/compile all test data, and evaluate using accepted computerized aquifer test analytical software (e.g. AQTESOLV, AquiferWin32, etc.).
● The consultant shall then prepare a summary report, describing the aquifer test program and results

3.35 Develop/Update Groundwater Models. The model shall consist of a numeric model (i.e. MODFLOW), and may be required to be developed, in areas where no model currently exists, or updated in the event a model already exists. Under some circumstances, the model and accompanying report may be submitted to ADWR for review.

3.36 Prepare analysis regarding the value of water on State Trust land, and surface and groundwater rights held by the Land Department. The Consultant shall have the capability to ascertain the current and estimated future value of any, but not limited to the following:

● The value groundwater pumped from State Trust land in various areas of the state.

● Assist in assembling a marketable portfolio and determining the value for the lease/sale of water rights currently held by ASLD, including IGFR's, Type 1 and Type 2 water rights and long term storage credits.

● Provide current and estimated future valuations for groundwater from State Trust land eligible for inter-basin transport under A.R.S. Title 45 Article 8.1 (551-559).

3.37 Consultant Support: This task includes providing support services to the Using Agency to plan, monitor and control all work issued under a Task Order. The Consultant shall be responsible for making sure that all work is completed in a timely, cost-effective and competent manner. This task includes the following types of support: Administrative; Technical and Professional.

3.38 Subcontractor Management Cost: Equipment rentals, commodities purchased, etc. which are directly

required for the completion of the Task Order, and are approved by the Using Agency's Procurement Office or designee, shall be compensated at the actual cost of the services, rental fees, commodities purchased, etc. with no mark-up.

Administrative expenses for providing items such as insurance, bonds, equipment rentals, travel, per diem and incidental supplies (e.g. offices supplies, hardware supplies, petty cash, etc.), etc. shall be considered an administrative expense and shall not be used in computing the Subcontractor Management Cost.

Subcontracted Services are defined as follows: e.g. well drillers, pump, well logging and well abandonment contractor's, laboratory services, utility locators, archaeologists, and similar trade professions with the Using Agency's advance approval.

3.39 Project Documents: The Consultant shall devise, implement and maintain at the Consultant's place of business or project site, on a current basis, a structured document control system which includes and tracks records of all necessary contracts, shop drawings, samples, purchases, materials, equipment, operation and maintenance manuals and instructions, reports and any other documents and revisions thereto which arise out of the Task Order. These documents shall be readily available to the Using Agency any time during the performance of the Task Order.

3.40 Access Agreements: The Consultant shall comply with all requirements established in Access Agreements entered into between the Using Agency and lessees and adjacent property owners/operators regarding the site. The Using Agency's Project Manager shall provide any relevant information to the Consultant.

4 STATE AGENCY RESPONSIBILITIES:

4.1 Define the level of service(s) to be provided then, where necessary, prepare a call for proposals or request and attend a meeting with the Consultant to discuss the specific details of the project, reach an agreement with the Consultant regarding all aspects of the service(s) to be provided, including a time line for the project and dates for deliverables.

4.2 Review and approve, with or without noted changes, detailed written project information provided by the Consultant to insure a clear understanding of all aspects of the services to be performed. This will include, but is not limited to, areas such as: key personnel assigned, time frames, prior

4.3 approval for reimbursable travel related costs, and project costs prior to the commencement ofservices.

4. Review and approve credentials of proposed key personnel provided by the Consultant or Subcontractor, as well as the credentials of temporary or permanent replacements

i. Unless otherwise directed by the State Agency, the Consultant shall provide the State Agency with digital copies in a native file format compatible with the State Agency Software and in conformance with specifications as determined by the project manager. The Consultant may submit an original hardcopy and a number of copies of each report prepared under this contract as determined by the State Agency project manager, by the designated due date. Changes to the narrative report format and content, from that listed below, shall require the prior approval of the StateAgency.

7.0 LAND SURVEYING

1. INTRODUCTION & BACKGROUND:
   1.1 The purpose of this solicitation is to develop a list of qualified firms and/or individuals that can provide ALTA Land Surveying Services. These services will be utilized by the Arizona State Land Department, hereafter referred to as the "State Agency" on an as needed, if needed basis. Submitting under this contract does not guarantee work and additional information may be required before a project is assigned.

2. GENERAL REQUIREMENTS:
   2.1 The Contractor shall have the capacity, requisite experience and expertise necessary to provide ALTA Surveying Services on Arizona State Trust properties.
   2.2 The Contractor shall have the ability to successfully complete the assigned project. To that end, the Contractor will be required to utilize the services of a professional title company to obtain a most recent title commitment for a subject property.
   2.3 In the performance of the services specified in this solicitation, the Contractor shall expressly understand and agree that a contract exists between the Contractor and the State Procurement Office as evidenced by the submission of the Offer and Acceptance portion of its proposal submitted under thissolicitation.
      2.3.1 The Contractor will interface directly with the State Agency that is responsible for the administration and oversight of this contract. Additionally, the Contractor shall provide representatives of the State Agency access to its records, reports, related information and activities provided under the terms of this contract.

3. SPECIFIC REQUIREMENTS:
   3.1 Work performed under this contract shall conform to the MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS (Effective February 23, 2016), however, Contractors shall obtain the most current standards in affect.
   3.2 The ALTA survey will be prepared in accordance with a current title report and Schedule "B" documents and Items 1, 3, 4, 8, and 11 of the "Optional Survey Responsibilities and Specifications" from Table A of the Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys as adopted in 2016. Additional Items may be added by the State Agency.
   3.3 The 2016 standard certification required on ALTA/NSPS Land Title Surveys shall be used for the survey and the certification shall be addressed to Arizona State Land Department and the title company utilized by the Contractor.

4. STATE AGENCY RESPONSIBILITIES:
   4.1 Reach an agreement with the Contractor regarding all aspects of the ALTA service(s) to be provided, including those items listed on Table A of the Optimal Survey Responsibilities and Specifications the State Agency wish to include and time line for the project and dates for deliverables.
   4.2 Review and approve, with or without noted changes, detailed written project information provided by the Contractor to insure a clear understanding of all aspects of the services to be performed. This will include, but is not limited to, areas such as: key personnel assigned, time frames, prior approval for reimbursable travel related costs, and project costs prior to the commencement of services.

EXHIBITS TO THE SCOPE DOCUMENT

No Exhibits apply to the Scope of Work.

End of Section 2-A

SECTION 2-B: Pricing Document

1.0 Compensation

1.1 FIXED-PRICE. Through the bidding process, a fixed price is determined. This fixed price encompasses all of the contractors costs for the scope of work and represents the total compensation to the contractor

1.2 CONTRACTED LABOR RATES.

2.0 Reserved

2.1 COST-REIMBURSEMENT.

Reserved

3.0 Pricing

3.1 FIXED-PRICE. Through the bidding process, a fixed price is determined. This fixed price encompasses all the contractor's costs for the scope of work and represents the total compensation to the contractor

3.2 UPCHARGES. When required this will be handled on a case by case basis

4.0 Funding

No particular funding considerations apart from paragraph 4.3 of the Uniform Terms and Conditions [*Availability of Funds*] have been identified as of the Solicitation date.

5.0 Invoicing

5.1 INVOICES GO TO BUYING ENTITY. Contractor shall submit all billing notices or invoices to the ordering Eligible Agency or Co-Op Buyer at the address indicated on the applicable Order document.

5.2 MINIMUM INVOICE REQUIREMENTS. Every invoice must include the following information:

Item	Required
Bill-to name and address	●
Contractor name and contact information	●
Remit-to address	●
State contract number	●
Order number (typically the ProcureAZ PO #)	●
Invoice number and date	●
Date the items shipped or services performed	●
Applicable payment terms	●
Contract line item number	●
Contract line item description	●

Quantity delivered or performed	●
Line item unit of measure	●
Item price	●
Extended pricing	●
Total invoice amount due	●

5.3 NO INVOICE WITHOUT AUTHORIZATION. Contractor shall not seek payment for any:

1. Services that have not been authorized.

6.0 Payments

6.1 PAYMENT. The applicable Eligible Agency or Co-Op Buyer shall pay undisputed amounts due to Contractor within the time period specified in Article 4 of the Uniform Terms and Conditions

6.2 JOINT CHECKS OR DIRECT PAY. applicable Eligible Agency or Co-Op Buyer may, but is under no obligation to, pay by joint check or to pay directly to any Subcontractor or other creditor to whom any portion of Contractor's requested payment is owed.

6.3 RECOVERY OF OVER-PAYMENT. If applicable Eligible Agency or Co-Op Buyer determines that an over-payment has been made to Contractor on any prior invoice, it shall inform Contractor of the amount and date of the over-payment and may deduct the over-paid amount from amounts then or thereafter due to Contractor.

6.4 PAYMENTS TO SUBCONTRACTORS. Contractor shall make payment of all undisputed amounts due to Subcontractors within thirty (30) days of receipt of funds from applicable Eligible Agency or Co-Op Buyer applicable to their services.

6.5 AUTOMATED CLEARING HOUSE. applicable Eligible Agency or Co-Op Buyer may pay invoices for some or all Orders through an Automated Clearing House (ACH). In order to receive payments in this manner from Eligible Agencies, Contractor must complete an ACH Vendor Authorization Form (form GAO-618) within 30 (thirty) days after the effective date of the Contract. The form is available online at:

https://gao.az.gov/afis/vendor-information

7.0 Exhibits to the Pricing Document

None

Please note that in order for Offeror to be susceptible, there must be a $1.00 response under Unit Cost on the Items Tab in ProcureAZ

End of Section 2-B

SECTION 2-C: Special Terms and Conditions

The Special Terms and Conditions modify the Uniform Terms and Conditions and its Appendices. It can modify them by replacing, deleting, appending to, or revising the text of an existing provision or by inserting a new paragraph into an existing article. No other document modifies or adds to the Uniform Terms and Conditions, except as may subsequently be otherwise and expressly agreed and incorporated by Contract Amendment.

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

1.1	**Acceptance**	"Acceptance" means the document headed "Offer and Acceptance Form" bearing the State contract number once Procurement Officer has signed it to signify (1) State's formal acceptance of the Accepted Offer and (2) the formation of the Contract. For clarity of intent, the foregoing is not to be confused with the term "acceptance" used throughout the Contract in the context of delivery, inspection, etc., with respect to Materials or Services.
1.2	**Accepted Offer**	If State did not request a Revised Offer, then "Accepted Offer" means the Initial Offer. If State did request a Revised Offer but not a Best and Final Offer, then "Accepted Offer" means the latest Revised Offer. If State requested a Best and Final Offer, then "Accepted Offer" means the Best and Final Offer.
1.3	**Arizona Procurement Code; A.R.S.; A.A.C.**	"Arizona Procurement Code, "A.R.S.," and "A.A.C." are each defined in the Instructions to Offerors.
1.4	**Arizona TPT**	"Arizona TPT" means Arizona Transaction Privilege Tax. For information, refer to the Arizona Department of Revenue (DOR) website at: https://www.azdor.gov/business/transactionprivilegetax.aspx.
1.5	**Attachment**	"Attachment" means any item that: the Solicitation required Offeror to submit as part of the relevant Offer (e.g., Initial Offer, Revised Offer, or BAFO); was attached to an Offer when submitted; and was included in the Accepted Offer.
1.6	**Building Work**	"Building Work" means everything covered by the definitions in A.R.S. § 41-2503 [*Definitions*] of the terms "construction" (para. 4), "maintenance services" (para. 26), and "operations services" (para. 28).
1.7	**Commercial Document**	"Commercial Document" means Section 2-B of Part 2 of the Solicitation Documents, provided that, if there is no such Section in the Contract, then "Commercial Document" is to be construed as referring to whatever item in the Contract contains the contracted pricing and payment provisions.
1.8	**Contract**	"Contract" means, collectively, the Acceptance, the Solicitation Documents, the Accepted Offer, all acknowledged Orders, and any Contract Amendments. See paragraph 1.22. The Contract is identified as a "Purchase Order" in ProcureAZ, since that is the terminology used in the software; use of that term in ProcureAZ is not to be confused with the contractual term "Order" defined in paragraph 1.21.

1.9	**Contract Amendment**	"Contract Amendment" means a document signed by Procurement Officer that has been issued for the purpose of making changes to the Contract after execution. The term "Change Order" in ProcureAZ is to be construed as being synonymous with "Contract Amendment".
1.10	**Contract Terms and Conditions**	"Contract Terms and Conditions" means the Special Terms and Conditions and these Uniform Terms and Conditions taken collectively.
1.11	**Contractor**	"Contractor" means the Person identified on the Accepted Offer who has entered into the Contract with State.
1.12	**Contractor Indemnitor**	"Contractor Indemnitor" means Contractor or any of its owners, officers, directors, agents, employees, or Subcontractors.
1.13	**Co-Op Buyer**	"Co-Op Buyer" means a member of the State Purchasing Cooperative that has entered into a "Cooperative Purchasing Agreement" with the Arizona Department of Administration State Procurement Office under A.R.S. § 41-2632. Unless there is an applicable Cooperative Purchasing Agreement in effect at the time, a State Purchasing Cooperative member cannot be a Co-Op Buyer. For reference, "Co-Op Buyer" is to be construed as encompassing "eligible procurement unit" under A.A.C. R2-7-101(23). NOTE: Membership in the State Purchasing Cooperative is open to all Arizona political subdivisions, including cities, counties, school districts, and special districts. Membership is also available to non-profit organizations, other state governments, the federal government and tribal nations. For reference, "non-profit organizations" are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the IRS under section 501(c)(3) through 501(c)(6) of the tax code.
1.14	**Day**	"Day" means a calendar day unless otherwise specified in a particular context.
1.15	**Eligible Agency**	If the Special Terms and Conditions indicates that the Contract is a "single-agency" contract, then "Eligible Agency" means the particular State of Arizona agency, university, commission, or board identified therein. If the Special Terms and Conditions indicates that the Contract is a "statewide" contract, then "Eligible Agency" means any State of Arizona department, agency, university, commission, or board.
1.16	**Gratuity**	"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.
1.17	**Indemnified Basic Claims**	"Indemnified Basic Claims" means any and all claims, actions, liabilities, damages, losses, or expenses, including court costs, attorneys' fees, and costs of claim processing, investigation and litigation, for bodily injury or personal injury, including death, or loss or damage to any real or tangible or intangible personal property, collectively. See paragraph 6.3.
1.18	**Instructions to Offerors**	"Instructions to Offerors" is Section 1-B of Part 1 of the Solicitation Documents.
1.19	**Materials**	"Materials" has the meaning given in A.R.S. § 41-2503(7) to the extent those things are included in the Work, which, for convenience of reference only, is "… 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." Materials includes software, except that If software is sold or provided as a service, then to the extent it consists of encoded information or computer instructions it is included in "Materials" and to the extent it is a service it is in "Services".
1.20	**Offer; Initial Offer; Revised Offer; Best and Final Offer (BAFO)**	"Offer," "Initial Offer," "Revised Offer," and "Best and Final Offer" ("BAFO") are each defined in the Instructions to Offerors.
1.21	**Order**	"Order" means the instrument by which State authorizes Contractor to perform some or all of the Work. Whether the Contract will have one Order or many Orders depends the scope of the

Contract and how State will use it. The Special Terms and Conditions provide that information. Any of the following is to be construed as being an "Order":

1. "Release" or "Release Purchase Order" in ProcureAZ;

"task order", "service order," or "job order" when a Release Purchase Order for Services has already been committed in ProcureAZ; or

"purchase order" for buying by Co-Op Buyers, if co-op buying applies.

1.22 Part, Section; Exhibit "Part," "Section," and "Exhibit" are each defined in the Instructions to Offerors.

1.23 Person "Person" means any corporation, business, individual, union, committee, club, or other organization or group of individuals.

1.24 Procurement Officer "Procurement Officer" means the person, or his or her designee, who has been duly authorized by State to enter into and administer the Contract and to make written determinations with respect to the Contract. Procurement Officer is as identified on the Acceptance unless subsequently changed by Contract Amendment.

1.25 ProcureAZ "ProcureAZ" means State's official electronic procurement system, established pursuant to A.A.C. R2-7-201 as set forth in the Arizona Department of Administration State Procurement Office policy document *Technical Bulletin No. 020, ProcureAZ – The Official State eProcurement System*.

NOTE (1): Technical Bulletin No. 020 is available online at:

https://spo.az.gov/administration-policy/state-procurement-resource/procurement-regulations

NOTE (2): The URL for ProcureAZ itself is:

https://procure.az.gov/

1.26 Scope of Work "Scope of Work" means Section 2-A of Part 2 of the Solicitation Documents.

1.27 Services "Services" has the meaning given in A.R.S. § 41-2503(35), which, for convenience of reference only, is "… the furnishing of labor, time, or effort by [the] [C]ontractor or [S}ubcontractor 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." Services includes Building Work and the service aspects of software described in paragraph 1.19.

1.28 Solicitation; Solicitation Documents "Solicitation" and "Solicitation Documents" are defined in the Instructions to Offerors.

1.29 Special Terms and Conditions "Special Terms and Conditions" are Section 3-A of Part 3 of the Solicitation Documents.

1.30 Specification "Specification" has the meaning given in A.R.S. § 41-2561, which, for convenience of reference only, is "… any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery." Specifications (if any are included in the Contract), are indexed in the Scope of Work and could be bound separately from the other documents forming the Contract.

1.31 State With respect to the Contract generally, "State" means the State of Arizona and its department, agency, university, commission, or board that has executed the Contract. With respect to administration or rights, remedies, obligations and duties under the Contract for a given Order, "State" means each of Eligible Agency or Co-Op Buyer who has issued the Order.

1.32 State Indemnitees "State Indemnitees" means, collectively, the State of Arizona, its departments, agencies, universities, commissions, and boards and, and their respective officers, agents, and employees.

1.33 State Fiscal Year "State Fiscal Year" means the period beginning each July 1 and ending each June 30.

1.34 Subcontract "Subcontract" means any contract, express or implied, between 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 Materials, the performing of any Services, or the carrying out of any other aspect of the Work.

1.35 Subcontractor "Subcontractor" has the meaning given in A.R.S. § 41-2503(38), which, for convenience of reference only, is "… a person who contracts to perform work or render service to … [C]ontractor or to another [S]ubcontractor as a part of a contract with a state governmental unit . . ."The Contract is to be construed as "a contract with a state governmental unit" for purposes of the definition. For clarity of intent, a Person carrying out any element of the Work is a Subcontractor from the moment they first carry out that element of the Work regardless of whether or not a Subcontract exists then or subsequently.

1.36 Uniform Terms and Conditions The "Uniform Terms and Conditions" are made up of this document and whichever of the Appendices are indicated in the Special Terms and Conditions as being applicable.

1.37 Work "Work" means the totality of the Materials and the Services and all the acts of administration, creation, production, and performance necessary to fulfill and incidental to fulfilling all of Contractor's obligations and duties under the Contract in conformance with the Contract and applicable laws.

2.0 Contract Interpretation

2.1 Arizona Law The Contract is governed by and is to be interpreted in accordance with the laws of the State of Arizona, including the Arizona Procurement Code, without consideration of conflict of laws principles.

2.2 Usage

1. Where the Contract:
2. assigns obligations to Contractor, any reference to "Contractor" is to be construed to be a reference to "Contractor and all Subcontractors, whether they are first-tier subcontractors, sub-subcontractors, suppliers, sub-suppliers, consultants, or sub-consultants, as well as all of Contractor's and the Subcontractors' respective agents, representatives, and employees" in every instance unless the context plainly requires that it is be a reference only to Contractor as apart from Subcontractors;
3. uses the permissive "may" with respect to a party's actions, determinations, etc., the term is to be interpreted as in A.A.C. R2-7-101(31) [*Definitions*]. For clarity of intent, any right given to State using "State may" or a like construction denotes discretion and freedom to act so far as any regulatory or operative constraints permit in the relevant circumstances, provided that: (a) where written "may, at its discretion," the discretion extends to whatever is most advantageous to State; and (b) where written only as "may," the discretion is constrained by what is fair, reasonable, and as accommodating of the respective best interests of both parties as practicable under the circumstances;
4. uses the imperative "shall" with respect to a party's actions, duties, etc., the term is to be interpreted as in A.A.C. R2-7-101(43) [*Definitions*]. Conversely, the phrase "shall not" is to be interpreted as an imperative prohibition.
5. uses the term "must" with respect to a requirement, criterion, etc., the term is to be interpreted as conveying compulsion or strict necessity, and is to be read as though written "*must, if [the subject] is to be entitled to have [the object] considered or credited as being compliant with, conforming to, or satisfying [the requirement, criterion, constraint, etc.], otherwise, [the object] will be considered or debited as being non-compliant, non-conforming, or unsatisfactory for its Contract-related purposes*" in every instance;

6. uses the term "might" with respect to an event, outcome, action, etc., the term is to be interpreted as conveying contingency or non-discretionary conditionality; and
7. uses the term "will" or the phrases "is to be" or "are to be" with respect to an event, outcome, action, etc., the term or phrase is to be interpreted as conveying such certainty or imperativeness that "shall" is either unnecessary or irrelevant in that instance.

2.3 Contract Order of Precedence

2.4.1 COMPLEMENTARY DOCUMENTS. All of the documents forming the Contract are complementary. If certain work, requirements, obligations, or duties are set out only in one but not in another, Contractor shall carry out the Work as though the relevant work, requirements, obligations, or duties had been fully described in all, consistent with the other documents forming the Contract and as is reasonably inferable from them as being necessary to produce complete results.

2.4.2 CONFLICTS. In case of any inconsistency, conflict, or ambiguity among the documents forming the Contract and their provisions, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document but not in another is not to be considered a conflict or inconsistency.

(a) Contract Amendments;
(b) the Solicitation Documents, in the order:
  (1) Special Terms and Conditions;
  (2) Exhibits to the Special Terms and Conditions;
  (3) Uniform Terms and Conditions;
  (4) Scope of Work;
  (5) Exhibits to the Scope of Work;
  (6) Commercial Document;
  (7) Exhibits to the Commercial Document;
  (8) Specifications; and
  (9) any other documents referenced or included in the Solicitation;
(c) Orders, in reverse chronological order; and
(d) Accepted Offer.

2.4.3 ATTACHMENTS AND EXHIBITS. For clarity of intent, if an item was an Attachment in the Solicitation Documents or an Offer (either Initial, Revised, Best and Final, or Accepted) and was subsequently made into an Exhibit, or its content was incorporated into one of the other Contract documents, then that Attachment no longer exists contractually as an "Attachment" since it has at that point been made into some other Contract document. In every other case, an Attachment and the Offeror data therein remain part of the Accepted Offer for purposes of precedence and contractual effect.

2.4 Independent Contractor

Contractor is an independent contractor and shall act in an independent capacity in performance under the Contract. Neither party is or is to be construed as being to be the employee or agent of the other party, and no action, inaction, event, or circumstance will be grounds for deeming it to be so.

2.5 Severability

Any term or condition deemed or adjudged illegal or invalid is thereby stricken from the Contract and will not affect any other term or condition of the Contract.

2.6 Complete Integration

The Contract, including any documents incorporated into the Contract by reference, is intended by the parties as a final and complete expression of their agreement. There are no prior, contemporaneous, or additional agreements, either oral or in writing, pertaining to the Contract.

2.7 No Waiver of Rights

Either party's failure to insist on strict performance of any term or condition of the Contract is not and is not to be construed as being, nor will it be deemed to be, a waiver of that term or condition or a bar to, or diminishment of the right of, subsequent enforcement of any term or condition.

3.0 Contract Administration and Operation

3.1 Term of Contract

The term of the Contract will commence on the date indicated on the Acceptance and continue for the period specified in the Special Terms and Conditions unless canceled, terminated, or permissibly extended. If the Special Terms and Conditions do not specify a period, then the initial term is 1 (one) year. State has no obligation to extend or renew the Contract past the initial term.

3.2 Contract Extensions

State may at its discretion extend the initial Contract term in increments of one or more months and do so one or more times, provided that, the maximum aggregate term of the Contract including extensions cannot exceed the period specified in the Special Terms and Conditions. If the Special Terms and Conditions do not specify a period, then the maximum aggregate term is 5 (five) years.

3.3 Notices and Correspondence

3.3.1 TO CONTRACTOR. Unless stated otherwise in the Special Terms and Conditions, State shall:

(a) address all Contract correspondence other than formal notices to the email address indicated as "Default for Type" for "General Mailing Address" in Contractor's corresponding ProcureAZ Vendor Profile; and

(b) address any required notices to Contractor to the "Contact Name and Title" at the "Mailing Address" indicated on the Accepted Offer, as that address might have been amended during the term of the Contract.

3.3.2 TO STATE. Unless stated otherwise in the Special Terms and Conditions, Contractor shall :

(a) address all Contract correspondence other than format notices to the email address indicated in "Contact Instructions" in the ProcureAZ Summary for State; and

(b) address any required notices to State to Procurement Officer identified as "Purchaser" in the ProcureAZ Summary at the following mailing address:

Arizona Department of Administration
State Procurement Office
100 N 15th Ave., Suite 201
Phoenix, AZ 85007

3.3.3 CHANGES. State may change the designated Procurement Officer, update contact information, or change the applicable mailing address by Contract Amendment.

3.4 Signing of Contract Amendments

Contractor's counter-signature – or "approval" in ProcureAZ, in the case of a Change Order – is not required to give effect if the Contract Amendment only covers either:

2. extension of the term of the Contract within the maximum aggregate term;
3. revision to Procurement Officer appointment or contact information; or
4. modifications of a clerical nature that have no effect on terms, conditions, price, scope, or other material aspect of the Contract.

In every case other than those listed in *(1)*, *(2)*, and *(3)* above, both parties' signature – or "approval" in ProcureAZ, in the case of a Change Order – are required to give it effect.

3.5 Click-Through Terms and Conditions

Unless expressly stated otherwise in the Special Terms and Conditions, if either party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of State do

not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized State user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized State user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.

3.6 Books and Records

3.6.1 RETAIN RECORDS. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating for any cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute.

3.6.2 RIGHT TO AUDIT. The retained books and records are subject to audit by State during that period. By A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating to performance under the Contract for the period specified in the statute and those retained books and records are subject to audit by State during that period.

3.6.3 AUDITING. Contractor or Subcontractor shall either make all such books and records under subparagraphs 3.6.1 and 3.6.2 available to State at all reasonable times or produce the records at a designated State office on State's demand, the choice of which being at State's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities.

3.7 Contractor Licenses

Contractor shall maintain current all federal, state and local licenses and permits required for the operation of its business in general, for its operations under the Contract, and, unless expressly stated otherwise in the Special Terms and Conditions, for the Work itself.

3.8 Inspection and Testing

By A.R.S. § 41-2547, State may at reasonable times inspect the part of Contractor's or Subcontractors' plant or places of business related to performance under the Contract. Accordingly, Contractor agrees to permit (for itself) and ensure (for Subcontractors) access for inspection at any reasonable time to its facilities, processes, and services. State may inspect or test, at its own cost, any finished goods, work-in-progress, components, or unfinished materials that are be supplied under the Contract or that will be incorporated into something to be supplied under the Contract. If the inspection or testing shows non-conformance or defects, then Contractor will owe State reimbursement or payment of all costs it incurred in carrying out or contracting for the inspection and testing, as well as for any re-inspection or re-testing that might be necessary. Neither inspection of facilities nor testing of goods, work, components, or unfinished materials will of itself constitute acceptance by State of those things.

3.9 Ownership of Intellectual Property

3.9.1 RIGHTS IN WORK PRODUCT. Unless otherwise provided for in the Special Terms and Conditions, all intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State.

"Government Purpose Rights" are:

the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party;

the right to release or disclose that work product to third parties for any State government purpose; and

the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose; such recipients being understood to include the federal government, the governments of other states, and various local governments.

"Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from, or disclose that work product for any commercial purpose or to authorize others to do so.

3.9.2 JOINT DEVELOPMENTS. The parties may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.

3.9.3 PRE-EXISTING MATERIAL. All pre-existing software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable Purchase Orders are not part of the work product to which rights are granted State under subparagraph 3.9.1 above, and will remain the exclusive property of Contractor, provided that:

4.1. any derivative works of such pre-existing material or elements thereof that are created pursuant to the Contract are part of that work product;

4.2. any elements of derivative work of such pre-existing material that was not created pursuant to the Contract are not part of that work product; and

4.3. except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing materials.

3.9.4 DEVELOPMENTS OUTSIDE OF CONTRACT. Unless expressly stated otherwise in the Special Terms and Conditions, the Contract does not preclude Contractor from developing competing materials outside the Contract, irrespective of any similarity to materials delivered or to be delivered to State hereunder.

3.10 Subcontracts

3.10.1 INITIAL LIST. At the time of Contract execution, Contractor's candidate Subcontractors were identified in Attachment 3-C to the Accepted Offer [*Proposed Subcontractors*]. Agreeing to them being included in the Accepted Offer signified Procurement Officer's advance consent for Contractor to enter into a Subcontract with each candidate, which Contractor shall do as promptly as necessary to ensure its ability to carry out the Work in a timely manner.

3.10.2 ADDITIONAL NAMES. Contractor shall not enter into a Subcontract without first obtaining Procurement Officer's written consent with any prospective Subcontractor that (a) was not listed on Attachment 3-C at time of Contract execution or (b) is for any Materials or Services categories other than the ones for which they were previously consented. For either case *(a)* or *(b)*, Contractor shall submit a written request sufficiently in advance of the need date for those materials or services so that performance under the Contract is not impaired. Procurement Officer may request any additional information he or she determines is necessary to assess the submittal, and may withhold consent pending it.

3.10.3 FLOW-DOWN. Contractor shall incorporate the provisions, terms, and conditions of the Contract into every Subcontract by inclusion or by reference, as appropriate. When making any post-execution consent requests, Contractor shall include its warrant that it will do the same for the pending Subcontracts covered by the request. Entering into Subcontracts will not relieve Contractor of any of its obligations or duties under the Contract, including, among other things, the duty to supervise and coordinate the work of Subcontractors. Nothing contained in any Subcontract will create or is to be construed as creating any contractual relationship between State and the Subcontractor.

3.11 Non-Discrimination

Contractor shall comply with [Arizona] State Executive Order No. 2009-09 and all other applicable federal and state laws, rules, and regulations regarding non-discrimination and equal opportunity, including the Americans with Disabilities Act.

3.12 E-Verify Requirements

As required by A.R.S. § 41-4401, Contractor and each Subcontractor warrants compliance with A.R.S. § 23-214(A) and all federal immigration laws and any regulations relating to the immigration status of their employees. Contractor and each Subcontractor acknowledge that under A.R.S. § 41-4401, State retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works under the Contract to ensure that Contractor or Subcontractor is in compliance with the foregoing warranty and understands that a breach of the foregoing warranty under shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract.

3.13 Offshore Performance of Certain Work Prohibited

Contractor shall only perform those portions of the Services that directly serve State or its clients and involve access to secure or sensitive data or personal client data within the defined territories of the United States. Unless specifically stated otherwise in the Specifications or the Scope of Work, this paragraph does not apply to indirect or overhead services, redundant back-up services, or services that are incidental to performance under the Contract. This provision applies to work performed by Subcontractors at all tiers.

3.14 Orders

3.14.1 ORDER SUFFICIENCY. The Contract was awarded in accordance with the Arizona Procurement Code; the transactions and procedures required by the code for competitive source selection have been met. An Order issued as set forth in the Special Terms and Conditions that cites the correct State contract number will suffice to authorize Contractor to provide the Materials and perform the Services covered by that Order.

3.14.2 ORDER TERMS. All Orders are subject to the Contract Terms and Conditions; an Order cannot modify the Contract Terms and Conditions.

3.14.3 ORDERS ARE OBLIGATORY. Until the expiration or earlier termination of the Contract, State may issue and Contractor shall accept Orders that make proper reference to the Contract and are permissible hereunder, provided that, Contractor is not obliged to accept any Order that is not consistent with the then-current pricing, lead times, specifications, or payment provisions of the Contract. Contractor shall fulfill and complete any Orders that are begun but not yet completed as of expiration or earlier termination of the Contract unless State instructs otherwise at the time.

3.14.4 SPECIAL CASE. In the special case where both the following conditions are true, Procurement Officer's signature on the Acceptance is Contractor's authorization to perform and therefore no Order is required: (a) the Contract is identified as being a "single-agency/single-project" contract in the Special Terms and Conditions and (b) the Contract was created in ProcureAZ as something other than a "Master/ Blanket" type.

3.14.5 NO MINIMUMS OR COMMITMENTS. Unless expressly stated otherwise in the Special Terms and Conditions: (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on Orders; (b) State makes no commitment of any kind concerning the quantity or monetary value of activity actually initiated or completed during the term of the Contract; (c) Contractor shall only deliver or perform as authorized by Orders; and (d) State is not limited as to the number of Orders it may issue for the Contract. For clarity of intent, the foregoing applies equally whether an Eligible Agency issues the Order or, if applicable, a Co-Op Buyer issues it.

3.14.6 NON-CONTRACTED MATERIALS OR SERVICES. Any attempt to knowingly represent for sales, marketing, or related purposes that goods or services not specifically awarded are under a State contract is a violation of the Contract and law.

3.15 Statewide Contract Provisions

If the Special Terms and Conditions indicate that the Contract is for statewide use, then the following provisions apply:

5. Contractor shall verify if an ordering entity is a bona fide Co-Op Buyer before selling Materials to or providing Services for them under the Contract. The current list of Co-Op Buyers is available on the State Procurement Office website:

https://spo.az.gov/procurement-services/cooperative-procurement/state-purchasing-cooperative

6. Contractor shall sell to Co-Op Buyers at the same price and on the same lead times and other terms and conditions under which it sells to Eligible Agencies, with the sole exception of any legitimately additional costs for extraordinary shipping or delivery requirements if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).
7. Contractor shall pay State an administrative fee against all Contract sales to Co-Op Buyers, as provided for under A.R.S. § 41-2633. The fee rate is specified in the Special Terms and Conditions. Failure to remit the administrative fees is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee

8. Contractor shall submit to State a quarterly usage report documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle State to its remedies under Article 8 and its right to terminate for default under Article 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

https://spo.az.gov/contractor-resources/statewide-contracts-administrative-fee

9. Contractor shall acknowledge each Order from Eligible Agencies within 1 (one) business day after receipt by either: (a) "approving" the Order electronically in ProcureAZ, which will indicate Contractor's unqualified acceptance of the Order as-issued; or (b) "rejecting" the Order electronically in ProcureAZ, with a concurrent explanation by email to relevant originator as to the reason for rejecting it. By way of reminder, the only grounds on which Contractor may reject or refuse an Order are those set out in subparagraph 3.14.3 [*Orders are Obligatory*]. Unless and until Contractor has approved the Order in ProcureAZ, it will have no effect under the Contract and will not oblige either State or Contractor. If the relevant Eligible Agency explicitly instructs at the time that a verbal acceptance is sufficient because of urgency or other unusual circumstances and Contractor duly gives its verbal acceptance, then Contractor will be deemed to have accepted the Order immediately upon commencing performance, provided that, Contractor must follow-up its verbal acceptance by accepting the Purchase Order electronically in ProcureAZ within 3 (three) business days. Contractor shall thereafter be barred from subsequently rejecting the Order in ProcureAZ and if it does so the rejection will be void.
10. Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each buyer's instructions given at the time of ordering or in any supplemental participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though they were with an Eligible Agency, and Contractor's refusal to do so would be a material breach of the Contract.

3.16 Multiple-Use Provisions

If the Special Terms and Conditions indicate that the Contract is for statewide use, then Eligible Agencies may issue Orders for Services in several forms, all of which become final and effective by a "Release Purchase Order" in ProcureAZ. Orders issued by Co-Op

Buyers will be in whatever form the Co-Op Buyer normally uses. Regardless of origin, Orders must cite the State contract number to be valid. State may, at its discretion in each instance, determine the scope, schedule, and price for each Order in any of the following ways:

11. By choosing some or all of the Materials or Services items covered by the Contract for which a price is established in the Commercial Document, then preparing an Order using those prices (e.g., filling out an order form), and sending it to Contractor.

By instructing Contractor to provide a comprehensive proposal of item quantities, combinations, etc., or services hours, personnel, etc., for a defined scope using those established prices as a basis, then validating and negotiating the proposal with Contractor and issuing an Order if and when reaching agreement.

As described in *(2)* above but requesting the proposal from both Contractor and other vendors who are contracted within the applicable scope categories and locations, either sequentially or concurrently, then selecting the proposal or proposals combination that is most advantageous to State.

As described in *(3)* above but introducing ad-hoc commercial competition by making the selection and ordering conditional on obtaining more favorable prices than the contractually-established ones.

When evaluating the proposals under *(3)* and *(4)* above, State may select based on price (for example, a quoted number of hours times the contracted or improved rate plus a fixed amount for incidentals), by experience and qualifications (for example, having an office nearer the required work location), or whatever combination thereof it determines is most appropriate to the work in question.

3.17 Other Contractors

State may undertake with its own forces or award other contracts to the same or other vendors for additional or related work. In such cases, Contractor shall cooperate fully with State's employees and such other vendors and carefully coordinate, fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the Contract requires handing-off Contractor's work to others, Contractor shall cooperate as State instructs regarding the necessary transfer of its work product, services, or records to State or the other vendors. Contractor shall not commit or permit any act that interferes with the State's or other vendors' performance of their work, provided that, State shall enforce the foregoing section equitably among all its vendors so as not impose an unreasonable burden on any one of them.

3.18 Work on State Premises

3.20.1 COMPLIANCE WITH RULES. Contractor is responsible for ensuring that its personnel comply with State's rules, regulations, policies, documented practices, and documented operating procedures while delivering or installing Materials or performing Services on State's grounds or in its facilities. For clarity of intent, the foregoing means that if Contractor is required to comply with certain security requirements in order to deliver, install, or perform at that particular location, then it shall do so nonetheless and without entitlement to any additional compensation or additional time for performance if those particular requirements are not expressly stated in the Contract. Contractor is reminded that violation of the prohibition under A.R.S. § 13-1502 against possession of weapons on State's property by anyone for whom Contractor is responsible is a material breach of contract and grounds for termination for default.

3.20.3 PROTECTION OF GROUNDS AND FACILITIES. Contractor shall deliver or install the Materials and perform the Services without damaging any State grounds or facilities. Contractor shall repair or replace any damage it does cause promptly and at its own expense, subject to whatever instructions and restrictions State needs to make to prevent inconvenience or disruption of operations. If Contractor fails to make the necessary repairs or replacements and do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*].

3.19	**Advertising, Publishing and Promotion of Contract**	Contractor shall not advertise, promote, or otherwise use information concerning the Contract for commercial benefit without the prior written approval of Procurement Officer, which approval Procurement Officer may withhold at his or her discretion.

4.0 Costs and Payments

4.1	**Payments**	4.1.1 PAYMENT DEADLINE. State shall make payments in compliance with Arizona Revised Statues Titles 35 and 41. Unless and then only to the extent expressly stated otherwise in the Commercial Document, State shall make payment in full for Materials that have been delivered and accepted and Services that have been performed and accepted within the time specified in A.R.S. § 35-342 after both of the following become true: (a) all of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Services being invoiced have been performed and accepted; and (b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Commercial Document, provided that, State will not make or be liable for any payments to Contractor until Contractor has registered properly in ProcureAZ and provided a current IRS Form W-9 to State unless excused by law from providing one. 4.1.2 PAYMENTS ONLY TO CONTRACTOR. Unless compelled otherwise by operation of law or order of a court of competent jurisdiction, State will only make payment to Contractor under the federal tax identifier indicated on the Accepted Offer.
4.2	**Applicable Taxes**	4.3.1 CONTRACTOR TO PAY ALL TAXES. State is subject to Arizona TPT. Therefore, Arizona TPT applies to all sales under the Contract and Arizona TPT is Contractor's responsibility (as seller) to remit. Contractor's failure to collect Arizona TPT or any other applicable sales or use taxes from an Eligible Agency or Co-Op Buyer (as buyer) will not relieve Contractor of any obligation to remit sales or use taxes that are due under the Contract or laws. Unless stated otherwise in the Commercial Document, all prices therein include Arizona TPT as well as every other manner of transaction privilege or sales/use tax that is due to a municipality or another state or its political subdivisions. Contractor shall pay all federal, state, and local taxes applicable to its operations and personnel. 4.3.2 TAX INDEMNITY. Contractor shall hold State harmless from any responsibility for taxes or contributions, including any applicable damages and interest, that are due to federal, state, and local authorities with respect to the Work and the Contract, as well any related costs; the foregoing expressly includes Arizona TPT, unemployment compensation insurance, social security, and workers' compensation insurance.
4.3	**Availability of Funds**	By A.R.S. § 35-154, every State payment obligation under the Contract is conditioned on the availability of funds appropriated for payment of that obligation. If funds are not appropriated and available for continuance of the Contract, State may terminate the Contract at the end of the period for which funds are available, or, at State's discretion, allow appropriate amendment to the Contract. No liability will accrue to State if it exercises the foregoing right or discretion, and State will have no obligation or liability for any future payments or for any damages as a result of having exercised it.

5.0Contract Changes

5.1	**Contract Amendments**	The Contract is issued for State under the authority of Procurement Officer. Only a Contract Amendment can modify the Contract, and then only if it does not change the Contract's general scope. Purported changes to the Contract by a person not expressly authorized by Procurement Officer or made unilaterally by Contractor will be void and without effect; Contractor will not be entitled to any claim made under the Contract based on any such purported changes.
5.2	**Assignment and Delegation**	5.2.1 IN WHOLE. Contractor shall not assign in whole its rights or delegate in whole its duties under the Contract without Procurement Officer's prior written consent, which consent Procurement Officer may withhold at his or her discretion. If Contractor's proposed assignment or delegation stems from a split, sale, acquisition, or other non-merger change in control, then no such consent will be given in any event without the assignee or delegate giving State

satisfactory and equivalent evidence or assurance of its financial soundness, competency, capacity, and qualification to perform as that which Contractor possessed when State first awarded it the Contract.

5.2.2 IN PART. Subject to paragraph 3.10 [*Subcontracts*] with respect to subcontracting, Contractor may assign particular rights or delegate particular duties under the Contract, but shall obtain Procurement Officer's written consent before doing so. Procurement Officer shall not unreasonably withhold consent so long as the proposed assignment or delegation does not attempt to modify the Contract in any way or to alter or impair State's rights or remedies under the Contract or laws.

6.0 Risk and Liability

6.1 Risk of Loss

Contractor shall bear all risk of loss to Materials while in pre-production, production, storage, transit, staging, assembly, installation, testing, and commissioning, if and as those duties are within the scope of the Work, until they have been accepted as conforming by State in the particular location and situation specified in the Order, or as specified generally elsewhere in the Contract if the Order does not provide particulars, provided that, risk of loss for nonconforming Materials will remain with Contractor notwithstanding acceptance to the extent the loss stems from the nonconformance.

6.2 Contractor 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 arising from, or in connection with, the performance of the work hereunder by the Contractor, his 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 arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability (CGL) – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage

General Aggregate	$2,000,000
Products – Completed Operations Aggregate	$1,000,000
Personal and Advertising Injury	$1,000,000
Blanket Contractual Liability – Written and Oral	$1,000,000
Damage to Rented Premises (Fire Legal Liability)	$50,000
Each Occurrence	$1,000,000

a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, 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 automobiles used in the performance of this Contract.

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

a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.

b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, 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.

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, as required by this written agreement, 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 that is exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

4. Professional Liability (Errors and Omissions Liability)

Each Claim	$ 2,000,000
Annual Aggregate	$ 2,000,000

a. In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, the Contractor warrants that any retroactive date under the Policy shall precede the effective date of this Contract and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

b. The Policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this Contract.

ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

a. The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary 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).

b. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

NOTICE OF CANCELLATION: Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be electronically submitted via email to AZStateContractCOI@azdoa.gov and rocky.advani@azdoa.gov **(State of Arizona, State Procurement Office, 100 N 15th Ave, Suite 402, Phoenix AZ 85007).**

ACCEPTABILITY OF INSURERS: Contractor's 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.

VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

1. All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.
2. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
3. All certificates required by this Contract shall be sent directly to **(Rocky Advani, 100 N 15th Ave, Suite 402, Phoenix AZ 85007)**. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT DIVISION.**

SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum insurance requirements identified above. The State reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.

APPROVAL and MODIFICATIONS: The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

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, none of the above shall apply.

6.3 Basic Indemnification

6.3.1 CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless State Indemnitees from Indemnified Basic Claims that: (a) are caused or alleged to be caused in whole or in part by the negligent or willful acts or omissions of a Contractor Indemnitor; (b) arise out of or are recovered under

worker compensation laws; and/or (c) arise out of a Contractor Indemnitor's failure to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. The parties specifically intend that the Contractor Indemnitors shall indemnify the relevant State Indemnitees from and against Indemnified Basic Claims in all instances except where the Indemnified Basic Claim arises solely from those State Indemnitees' own negligent or willful acts or omissions. Wherever the indemnification under this subparagraph applies, Contractor is responsible for primary loss investigation, defense, and judgment costs for an on behalf of the other Contractor Indemnitors with respect to State Indemnitees, and accordingly Contractor is also responsible for any cooperation, contribution, or subordination between or amongst the Contractor Indemnitors. In consideration of the award of the Contract by a State Indemnitee, Contractor hereby waives all rights of subrogation against State Indemnities for losses arising from the Work.

6.4 Patent and Copyright Indemnification

CONTRACTOR/VENDOR (NOT PUBLIC AGENCY). With respect to Materials or Services provided or proposed by a Contractor Indemnitor for performance under the Contract, Contractor shall indemnify, defend and hold harmless State Indemnitees against any third-party claims for liability, costs, and expenses, including, but not limited to reasonable attorneys' fees, for infringement or violation of any patent, trademark, copyright, or trade secret by the Materials and the Services. With respect to the defense and payment of claims under this subparagraph:

1. State shall provide reasonable and timely notification to Contractor of any claim for which Contractor may be liable under this paragraph;
2. Contractor, with reasonable consultation from State, shall have control of the defense of any action on an indemnified claim including all negotiations for its settlement or compromise;
3. State may elect to participate in such action at its own expense; and
4. State may approve or disapprove any settlement or compromise, provided that, (i) State shall not unreasonably withhold or delay such approval or disapproval and (ii) State shall cooperate in the defense and in any related settlement negotiations.

If Contractor is a public agency, this paragraph 6.4 does not apply.

6.5 Force Majeure

6.5.1 DEFINITION. For this paragraph, "force majeure" means an occurrence that is (a) beyond the control of the affected party, (b) occurred without the party's fault or negligence, and (c) something the party was unable to prevent by exercising reasonable diligence. Without limiting the generality of the foregoing, force majeure expressly includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, failures or refusals to act by government authorities, and, subject to paragraph 7.7 [*Performance in Public Health Emergency*], declared public health emergencies. Force majeure expressly does not include late delivery caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, late performance by a Subcontractor unless the delay arises out of an occurrence of force majeure, or inability of either Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.

6.5.2 RELIEF FROM PERFORMANCE. Except for payment of sums due, the parties are not liable to each other if an occurrence of force majeure prevents its performance under the Contract. If either party is delayed at any time in the progress of their respective performance under the Contract by an occurrence of force majeure, the delayed party shall notify the other no later than the following working day after the occurrence, or as soon as it could reasonably have been expected to recognize that the occurrence had effect in cases where the effects were not readily apparent. In any event, the notice must make specific reference to this paragraph specifying the causes of the delay in the notice and, if the effects of the occurrence are on-going, provide an initial notification and thereafter the delayed party shall provide regular updates until such time as the effects are fully known. To the extent it is able, the delayed party shall cause the delay to cease promptly and notify the other party when it has done so. The parties

shall extend the time of completion by Contract Amendment for a period equal to the time that the results or effects of the delay prevented the delayed party from performing.

6.5.3 EXCUSABLE DELAY IS NOT DEFAULT. Failure in performance by either party will not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if and to the extent that such failure was or is being caused by an occurrence of force majeure.

6.5.4 DEFAULT DIMINISHES RELIEF. Entitlement to relief from the effects of an occurrence of force majeure is diminished to the extent that the delay did or will result from the affected party's default unrelated to the occurrence, in which case and to that extent the other party's normal remedies and the affected party's obligations would apply undiminished.

6.6 Third Party Antitrust Violations

Contractor assigns to State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to Contractor toward fulfillment of the Contract.

7.0 Warranties

7.1 Conformity to Requirements

Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for 1 (one) year after acceptance and in each instance: (1) conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any Contractor affirmations included as part of the Contract; (2) be free from defects of material and workmanship; (3) conform to or perform in a manner consistent with current industry standards; and (4) be fit for the intended purpose or use described in the Contract. Mere delivery or performance does not substitute for express acceptance by State. Where inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation, the forgoing warranty will not begin until State's acceptance.

7.2 Contractor Personnel

Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.

7.3 Intellectual Property

Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.

7.4 Compliance with Laws

Contractor warrants that the Materials and Services do and will continue to comply with all applicable federal, state, and local laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the non-compliance.

7.5 Licenses and Permits

Contractor warrants that it will maintain all licenses required under paragraph 3.7 [*Contractor Licenses*] and all required permits valid and in force.

7.6 Operational Continuity

Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.2 [*Assignment and* Delegation] that expressly recognizes the event.

7.7 Performance in Public Health Emergency

Contractor warrants that it will:

12. have in effect promptly after commencement a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum: (a) identification of response personnel by name; (b) key succession

and performance responses in the event of sudden and significant decrease in workforce; and (c) alternative avenues to keep sufficient product on hand or in the supply chain; and

13. provide a copy of its current plan to State within 3 (three) business days after State's written request. If Contractor claims relief under paragraph 6.5 [*Force Majeure*] for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that occurrence, or mitigate those effects to the extent that overcoming entirely is not practicable.

For clarification of intent, being obliged to implement the plan is not of itself an occurrence of force majeure, and Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement it. Furthermore, failure to have or implement an appropriate plan will be a material breach of contract.

7.8 Lobbying

7.11.1 PROHIBITION.

Contractor warrants that:

it will not engage in lobbying activities, as defined in 40 CFR part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and

upon award of the Contract, it will disclose all lobbying activities to State to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety.

Contractor shall implement and maintain adequate controls to assure compliance with *(a)* above.

Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.

7.11.2 EXCEPTION. This paragraph does not apply to the extent that the Services are defined in the Contract as being lobbying for State's benefit or on State's behalf.

7.9 Survival of Warranties

All representations and warrants made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.

8.0 State's Contractual Remedies

8.1 Right to Assurance

If State in good faith has reason to believe that Contractor does not intend to, or is unable to, perform or continue performing under the Contract, Procurement Officer may demand that Contractor promptly provide written assurance of intent to perform. Failure by Contractor to provide the assurance within the time specified may be the basis for terminating the Contract or for State to exercise any other remedy available to it under the Contract or laws.

8.2 Stop Work Order

The State may at any time require Contractor to stop all or any part of the Work by written order. Upon receipt of a stop order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring of further costs during the period of stoppage that might be chargeable to State associated with the portions of the Work covered by the order. If Contractor incurs losses, it may make a claim under Article 10.

8.3 Non-exclusive Remedies

State's rights and remedies under the Contract are not exclusive.

8.4 Nonconforming Tender

The Materials provided and Services performed must comply fully with the Contract, and providing Materials or performing Services or any portion thereof that do not comply fully

constitutes a breach of contract, in which event State will be entitled to exercise any remedy available to it under the Contract or laws.

8.5 Right of Offset

State is entitled to offset against any sums due Contractor any expenses or costs State incurs or damages it has assessed against it concerning Contractor's non-conforming performance or failure to carry out the Work, including any expenses, costs, and damages to which it is entitled by the Contract or laws.

9.0Contract Termination

9.1 Termination for Conflict of Interest

By A.R.S. § 38-511, State may terminate the Contract within 3 (three) years after the effective date without penalty or further obligation if any Person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of State is or becomes an employee or agent of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. Any such termination will be effective when Contractor receives State's written notice of the termination unless the notice specifies a later date.

9.2 Gratuities

State may, by written notice, terminate the Contract, in whole or in part, if State determines that employment or a Gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of State for the purpose of influencing the outcome of the procurement or the administration of the Contract or any favorable treatment concerning the Contract or performance of the Contract. State, in addition to any other rights or remedies available to it, will be entitled to recover exemplary damages in the amount of 3 (three) times the value of the Gratuity offered by Contractor.

9.3 Suspension or Debarment

State may, by written notice to Contractor, terminate the Contract immediately if State discovers that 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. State has taken Contractor's submittal of the Accepted Offer and will take its performance under the Contract as Contractor's attestation that it is not currently suspended or debarred. If Contractor subsequently becomes suspended or debarred, it shall notify Procurement Officer immediately.

9.4 Termination for Convenience

State may terminate the Contract when in the best interest of State, in whole or in part, at any time, and without penalty or recourse on Contractor's part other than as expressly stated in the Contract. Upon receipt of State's written termination notice, Contractor shall stop work as directed in the notice, notify all Subcontractors of the termination and its effective date, and minimize any further costs that might be chargeable to State. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the Contract will become State's property and Contractor shall deliver it all promptly on demand. Contractor will be entitled to receive just and equitable compensation for necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted before the effective date of the termination, provided that, the cost principles and procedures in A.A.C. R2-7-701 are to be applied.

9.5 Termination for Default

In addition to the rights reserved to it under the Contract, State may terminate the Contract in whole or in part due to Contractor's failure to: (a) comply with any term or condition of the Contract; (b) obtain and maintain all required insurance policies, bonds, licenses, and permits; or (c) make satisfactory progress in carrying out the Work. Procurement Officer shall give written notice of the termination and the reasons for it. Upon termination under this paragraph, all documents, data and reports prepared by Contractor under the Contract and all necessary and attributable unfinished materials on hand, work in progress, work completed, and work accepted will become State's property, and Contractor shall deliver all of it immediately on demand. State may, following termination of the Contract under this paragraph, procure on terms and in the manner it determines to be appropriate materials or services to replace those that were to have been provided or performed by Contractor, and Contractor will be liable to State for any excess cost State incurs in procuring such substitutes.

9.6	**Continued Performance Required**	Contractor shall continue to perform in accordance with the requirements of the Contract up to the effective date of any termination, as directed by State in the notice.

10.0Contract Claims

10.1	**Claim Resolution**	Notwithstanding any law to the contrary, all contract claims or controversies under the Contract are to be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9, and rules adopted thereunder, including judicial review under A.R.S. § 12-1518.
10.2	**Mandatory Arbitration**	In compliance with A.R.S. § 12-1518, the parties agree to comply in a judicial review proceeding with any applicable, mandatory arbitration requirements.

11.0General Provisions for Materials

11.1	**Applicability**	Article 11 applies to the extent the Work is or includes Materials.
11.2	**Off-Contract Materials**	Contractor shall ensure that the design and/or procedures for the Materials ordering method prevents Orders for off-contract items or excluded items. Notwithstanding that State might have its own internal administrative rules regarding off-contract or excluded item ordering, and endeavors to prevent such orders from occurring, Contractor is responsible for not accepting any such Orders; State may, at its discretion, return any such items under subparagraph 11.17 or cancel any such Order under subparagraph 11.18, in either case being without obligation and at Contractor's expense. As used above, "off-contract item" refers to any product not included in the scope of the Contract and for which no price or compensation has been established contractually, and "excluded item" refers to any product expressly stated in the Contract as being excluded from the Contract.
11.3	**Compensation for Late Deliveries**	Contractor shall have clear, published policies in place regarding late delivery, order cancelation, discounts, or rebates given to compensate for late deliveries, etc., and make them readily available to those Eligible Agencies, and Co-Op Buyers if applicable, that are likely to need them.
11.4	**Indicate Shipping Costs on Order**	Contractor shall identify and provide the required substantiating documentation for the amount it intends to add for shipping in the Order acknowledgment if shipping is additional to the contracted price or rate for an item; otherwise, Contractor shall indicate that shipping is included in the Order price (in other words, every Order must indicate clearly whether or not shipping is included in the Order price, and if not included, how much is to be added and why that amount is the correct or appropriate one).
11.5	**Current Products**	Contractor shall keep all products being offered under the Contract: (a) in current and ongoing production; (b) in its advertised product lines; (c) as models or types that are actively functioning in other paying customer environments; and (d) in conformance to the requirements of the Contract.
11.6	**Maintain Comprehensive Selection**	Contractor shall provide at all times the comprehensive selection of products for which a price is established in the Commercial Document for ordering by Eligible Agencies, and Co-Op Buyers if applicable.
11.7	**Additional Products**	State, at its discretion, may modify the scope of the Contract by Contract Amendment to include additional products or product categories so long as they are within the general scope of the ones originally covered by the Contract. Once the Contract Amendment has been fully executed, Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. Either party may make the request to add products to the Contract; regardless of who makes the request, the parties shall negotiate in good faith a fair price for any additional products, but State may elect not to add some or all of the products in question if no agreement is reached on pricing in a timely manner. Contractor's request or proposal in response to State's request must include: (a) documentation demonstrating that the additional products meet or exceed the specifications for the original products while remaining in the same product groups as the original ones; and (b) documentation demonstrating that the proposed price for the additional products is both fair and reasonable and at the same level of discount relative to market price as were the original ones. Demonstration of *(b)* typically

requires showing how prices at which sales are currently or were last made to a significant number of buyers compare to the prices or discounts (as applicable) being proposed for the additional products.

11.8 Discontinued Products

If a product or groups of products covered by the Contract are discontinued by the manufacturer, Contractor shall notify State within 5 (five) business days after receiving the manufacturer's notification. State, at its discretion, will either allow Contractor to provide substitutes for the discontinued products or delete the products from the scope of the Contract, both of which will be accomplished by Contract Amendment. Contractor shall then update all applicable catalogs and price lists and make them available to all affected entities at no additional cost. The parties shall negotiate in good faith a fair price for any substitute product, but State may elect to delete the products from the scope of the Contract if no agreement is reached on substitute pricing in a timely manner. When notifying State of the discontinuance, Contractor shall provide: (a) manufacturer's announcement or documentation stating that the products have been discontinued, with identification by model/part number; (b) documentation demonstrating that the substitute products meet or exceed the specifications for the discontinued products while remaining in the same product groups as were the discontinued ones; and (c) documentation demonstrating that the proposed price for the substitute products is both fair and reasonable and at the same level of discount relative to market price as were the discontinued ones (with demonstration being as described in subparagraph 11.7).

11.9 Forced Substitutions

Forced substitutions will not be permitted; Contractor shall obtain State's prior written consent before making any discretionary substitution for any product covered by the Contract.

11.10 Recalls

In the event of a recall notice, technical service bulletin, or other important notification affecting a product offered under the Contract (collectively, "recalls" hereinafter), Contractor shall send timely notice to State for each applicable Order referencing the affected Order and product. Notwithstanding whatever protection Contractor might have under A.R.S. § 12-684 with respect to a manufacturer, Contractor shall handle recalls entirely and without obligation on State's part, other than to permit removal of installed products, retrieval of stored products, etc., as necessary to implement the recall.

11.11 Delivery

11.11.1 PRICING. Unless stated otherwise in the Commercial Document, all Materials prices set forth therein are FCA (seller's dock) Incoterms®2010, with "seller's dock" meaning the last place of manufacturing, assembly, integration, final packing, or warehousing before departure to designated point of delivery to State. For reference, the foregoing is to be construed as equivalent to "F.o.b. Origin, Contractor's Facility" under FAR 52.247-30.

11.11.2 LIABILITY. Unless stated otherwise in the Commercial Document or an Order, Contractor's liability for all Materials is DDP (State-designated receiving point per Order) Incoterms®2010, but with unloading at destination included. For reference, the foregoing is to be construed as equivalent to "F.o.b. Destination, Within Consignee's Premises" under FAR 52.247-35.

11.11.3 PAYMENT. Unless stated otherwise in the Commercial Document or an Order, State shall reimburse Contractor the costs of the difference between DDP (State-designated receiving point per Order) and FCA (seller's dock) with no mark-up, which Contractor shall itemize and invoice separately.

11.12 Delivery Time

Unless stated otherwise in the Commercial Document generally or in the applicable Order particularly, Contractor shall make delivery within 2 (two) business days after receiving each Order.

11.13 Delivery Locations

Contractor shall offer deliveries to every location served under the scope of the Contract, specifically:

1. if the Contract is for a single State agency in a single area, then Contractor shall deliver to any agency location in that area;
2. if the Contract is for a single State agency in all its locations, then Contractor shall deliver to any of that agency's location in Arizona;
3. if the Contract is for statewide use but excludes certain areas, then Contractor shall deliver to any Eligible Agency or Co-Op Buyer location that is not in the excluded areas; and
4. if the Contract is for unrestricted statewide use, then:

    a. Contractor shall deliver to any Eligible Agency or Co-Op Buyer anywhere in Arizona;

    b. if the Pricing Document indicates defined delivery areas and prices, those always apply unless the Order expressly states otherwise and Contractor accepts it.

11.14 Conditions at Delivery Location

Contractor shall verify receiving hours and conditions (i.e. height/weight restrictions, access control, etc.) with the relevant purchaser for the receiving site before scheduling or making a delivery. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the verification or comply with the applicable conditions. Contractor shall make each delivery to the specific location indicated in the Order, which Contractor acknowledges might be inside an industrial building, institutional building, low-rise office building, or high-rise office building instead of a normal receiving dock. Contractor might be required to make deliveries to locations inside a secured perimeter at certain institutional facilities such as prisons where prior clearances are required for each delivery and driver individually. Contractor shall contact each such facility directly to confirm its most-current security clearance procedures, allowable hours for deliveries, visitor dress code, and other applicable rules. State will neither allow extra charges for wait time, comebacks, or the like nor excuse late delivery if Contractor has failed to make the confirmation or comply with the applicable conditions.

11.15 Materials Acceptance

State has the right to make acceptance of Materials subject to a complete inspection on delivery and installation, if installation is Contractor's responsibility. State may apply as acceptance criteria conformity to the Contract, workmanship and quality, correctness of constituent materials, and any other matter for which the Contract or applicable laws state a requirement, whether stated directly or by reference to another document, standard, reference specification, etc. Contractor shall remove any rejected Materials from the delivery location, or from any immediate environs to which it might have been reasonably necessary to move it, carry it off the delivery premises, and subsequently deliver an equal number or quantity of conforming items. State will not owe Contractor any payment for rejected Materials, and State may, at its discretion, withhold or make partial payment for any rejected Materials that have been returned to Contractor in those instances where State has agreed to permit repair instead of demanding replacement.

11.16 Correcting Defects

Contractor shall, at no additional cost and without entitlement to extension of any delivery deadline or specified time for performance, remove or exchange and replace any defective or non-conforming delivered or installed Materials.

1. Contractor shall be solely responsible for the cost of any associated cutting and patching, temporary protection measures, packing and crating, hoisting and loading, transportation, unpacking, inspection, repacking, reshipping, and reinstallation if installation is within the scope of the Contract.
2. If Contractor fails to do so in a timely manner, State will be entitled to exercise its remedies under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

3. Whether State will permit Contractor to repair in place or demands that Contractor remove and replace is at State's discretion in each instance, provided that, State shall not apply that discretion punitively if repair in place is practicable and doing so would not create safety hazards, put property at risk, unreasonably interfere with operations, create public nuisance, or give rise to any other reasonable concern on State's part.

11.17 Returns

State may, at its discretion, return for full credit and with no restocking charges any delivered Materials unused in the original packaging, including any instruction manuals or other incidental item that accompanied the original shipment, within 30 (thirty) days after receipt. If State elects to return delivered Materials, then State shall pay all freight, delivery, and transit insurance costs to return the products to the place from which Contractor shipped them, provided that, if State returns delivered Materials because they are defective or non-conforming or for any other reason having to do with Contractor fault or error, then State will not be responsible for paying freight, delivery, or transit insurance costs to return the products and may, at its discretion, either have those billed directly to Contractor or offset them under paragraph 8.5 [*Right of Offset*] of the Uniform Terms and Conditions.

11.18 Order Cancellation

State may cancel Orders within a reasonable period after issuance and at its discretion. The same method as that used for ordering will be used for cancellation. If State cancels an Order, then State shall:

1. pay Contractor for any portion of the Materials and Services from that Order that have been properly delivered or performed as of the cancellation effective date plus 1 (one) additional business day;
2. reimburse Contractor for:
   a. its actual, documented costs incurred in fulfilling the Order up to the cancellation effective date plus 1 (one) additional business day; and
   b. the cost of any obligations it incurred as of the cancellation effective date plus 1 (one) additional business day that demonstrably cannot be canceled, or that have pre-established cancelation penalties specified in the relevant Subcontracts, to the extent the penalties are reasonable and customary for the work in question; and
3. Contractor shall not charge or be entitled to charge State for any new costs it incurs after receiving the cancelation notice plus 1 (one) business day or for any lost profits or opportunity.

By way of reminder, State is not liable for any products that were produced, shipped, or delivered or any services that were performed before Contractor had acknowledged the corresponding Order.

11.19 Product Safety

Materials as-shipped must comply with applicable safety regulations and standards. Unless expressly stated otherwise in the Scope of Work, State is not responsible for making any Materials safe or compliant following acceptance and is relying exclusively on Contractor to deliver only products that are already safe and compliant.

11.20 Hazardous Materials

Contractor shall timely provide State with any "Safety Data Sheets" (SDS) and any other hazard communication documentation required under the US Department of Labor's Occupational Safety and Health Administration (OSHA) "Hazard Communication Standard" (often referred to as the "HazCom 2012 Final Rule") that is reasonably necessary for State to comply with regulations when it or its other contractors install, handle, operate, repair, maintain or remove any Materials. Note that, in the past, those documents might have been referred to as "Material Safety Data Sheets" or "Product Safety Data Sheets", but State (and this Contract) use only the more up-to-date "SDS" reference. Contractor shall ensure that all its relevant personnel understand the nature of and hazards associated with, to the extent it they are Contractor's responsibility under the Contract, the design, shipping, handling, delivery, installation, repair and maintenance of any portion of the Work that is, contains or will become upon use a hazardous material, with "hazardous material" being any material or substance that is: (1) identified now or in the future as being hazardous, toxic or dangerous under applicable laws; or (2) subject to statutory or regulatory requirement governing special handling, disposal or cleanup.

12.0 Data and Information Handling

12.1 Applicability

Article 13 applies to the extent the Work includes handling of any (1) State's proprietary and sensitive data or (2) confidential or access-restricted information obtained from State or from others at State's behest.

12.2 Data Protection and Confidentiality of Information

Contractor warrants that it will establish and maintain procedures and controls acceptable to State for ensuring that State's proprietary and sensitive data is protected from unauthorized access and information obtained from State or others in performance of its contractual duties is not mishandled, misused, or inappropriately released or disclosed. For purposes of this paragraph, all data created by Contractor in any way related to the Contract, provided to Contractor by State, or prepared by others for State are proprietary to State, and all information by those same avenues is State's confidential information. To comply with the foregoing warrant:

1. Contractor shall: (a) notify State immediately of any unauthorized access or inappropriate disclosures, whether stemming from an external security breach, internal breach, system failure, or procedural lapse; (b) cooperate with State to identify the source or cause of and respond to each unauthorized access or inappropriate disclosure; and (c) notify State promptly of any security threat that could result in unauthorized access or inappropriate disclosures; and
2. Contractor shall not: (a) release any such data or allow it to be released or divulge any such information to anyone other than its employees or officers as needed for each person's individual performance of his or her duties under the Contract, unless State has agreed otherwise in advance and in writing; or (b) respond to any requests it receives from a third party for such data or information, and instead route all such requests to State's designated representative.

12.3 Personally Identifiable Information.

Without limiting the generality of paragraph 12.2, Contractor warrants that it will protect any personally identifiable information ("PII") belonging to State's employees' or other contractors or members of the general public that it receives from State or otherwise acquires in its performance under the Contract.

For purposes of this paragraph:

1. PII has the meaning given in the [federal] Office of Management and Budget (OMB) *Memorandum M-07-16 Safeguarding Against and Responding to the Breach of Personally Identifiable Information*; and

2. "protect" means taking measures to safeguard personally identifiable information and prevent its breach that are functionally equivalent to those called for in that OMB memorandum and elaborated on in the [federal] General Services Administration (GSA) *Directive CIO P* 2180*.1 GSA Rules of Behavior for Handling Personally Identifiable Information*.

NOTE (1): For convenience of reference only, the OMB memorandum is available at:

https://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf

NOTE (2): For convenience of reference only, the GSA directive is available at:

http://www.gsa.gov/portal/directive/d0/content/658222

12.4 Protected Health Information

Contractor warrants that, to the extent performance under the Contract involves individually identifiable health information (referred to hereinafter as protected health information ("PHI") and electronic PHI ("ePHI") as defined in the Privacy Rule referred to below), it:

1. is familiar with and will comply with the applicable aspects of the following collective regulatory requirements regarding patient information privacy protection: (a) the "Privacy Rule" in CFR 45 Part 160 and Part 164 pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996; (b) Arizona laws, rules, and regulations applicable to PHI/ePHI that are not preempted by CFR 45-160(B) or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and (c) State's current and published PHI/ePHI privacy and security policies and procedures;
2. will cooperate with State in the course of performing under the Contract so that both State and Contractor stay in compliance with the requirements in *(1)* above; and
3. will sign any documents that are reasonably necessary to keep both State and Contractor in compliance with the requirements in *(1)* above, in particular "Business Associate Agreements" in accordance with the Privacy Rule.

NOTE: For convenience of reference only, the Privacy Rule is available at:

http://www.hhs.gov/hipaa/for-professionals/privacy/index.html

12.5 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. § 18-131 and § 18-132 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.

End of Section 2-C

SECTION 2-D: Uniform Terms and Conditions

1.0 Definition of Terms

As used in the Contract, the terms listed below are defined as follows:

1.1	**Attachment**	"Attachment" means any item the solicitation requires the Offeror to submit as part of the Offer.
1.2	**Contract**	"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**	"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**	"Contractor" means any Person who has a Contract with the State.
1.5	**Days**	"Days" means calendar days unless otherwise specified.
1.6	**Exhibit**	"Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
1.7	**Gratuity**	"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**	"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**	"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**	"Services" has the meaning given in A.R.S. § 41-2503(35), which, for convenience of reference only, is "… the furnishing of labor, time, or effort by [the] [C]ontractor or [S}ubcontractor 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." Services includes Building Work and the service aspects of software described in paragraph 1.19.
1.11	**State**	"State" means the State of Arizona and Department or Agency of the State that executes the Contract.
1.12	**State Fiscal Year**	"State Fiscal Year" means the period beginning with July 1 and ending June 30.
1.13	**Subcontract**	"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.

2.0 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 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.

3.0 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

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

	and Materials Testing	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 noncompliance 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.

4.0 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

5.0 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.

6.0 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.

7.0 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 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.

8.0 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.

9.0 Contract Termination

9.1 Cancellation for Conflict of Interests

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.

10.0 Contract Claims

10.1 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.

11.0 Arbitration

11.1 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).

12.0 Comments Welcome

12.1 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 402, Phoenix, Arizona, 85007.

End of Section 2-D

End of Part 2

8. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Christine Cameron, Project Manager III
Date:	11/26/2019
Meeting Date:	12/03/2019

TITLE:

Consideration and Approval of Contract: City of Flagstaff Municipal Court Facility Project - Award of Amendment #3 to the Design-Build Services Agreement 2018-63. This amendment contains the Guaranteed Maximum Price #3 agreement for completion of construction.

STAFF RECOMMENDED ACTION:

1. Award the Design-Build Services Amendment #3 Guaranteed Maximum Price (GMP) #3 to Kinney Construction Services, Inc. (KCS) of Flagstaff, Arizona in an amount not to exceed $545,478 with a 45 calendar-day contract period; and
2. Authorize the City Manager to execute the necessary documents

Executive Summary:

- The recommended award of the Amendment #3, GMP #3 to KCS will authorize an agreement for completion of the Municipal Court Facility Project (Project).
- The scope of this contract is anticipated to be complete in September 2020.
- Design and construction contracts for the majority of the facility were awarded in July 2018, March 2019, and May 2019 at a sum of $18,668,897.
- Amendment #3, GMP #3 includes construction of the ADA parking adjacent to the facility, the fiber optic infrastructure installation, and facility furniture.

Financial Impact:

The Project is currently budgeted in the amount of $17,242,427 for FY 2019-2020 and is anticipated to be budgeted in the amount of $2,243,963 for FY 2020-2021. Project funding is in the Capital Project Fund, Account Number 408-09-426-3278-1.

The fiber optic infrastructure work will receive a funding contribution in the amount of $100,000 from Account 040-05-112-3043-6.

Policy Impact:

Award of Amendment #3, GMP #3 will allow KCS to continue with the construction of the Project as approved by Proposition 412 in the November 2016 ballot question.

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

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

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

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

Has There Been Previous Council Decision on This:

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

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

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

On May 21, 2019, City Council approved the GMP #2 Amendment to the original Design-Build Contract #2018-63.

Options and Alternatives:

1. Approve the Design-Build Services Amendment #3 GMP #3 to KCS as presented.
2. Reject the Design-Build Services Amendment #3 GMP #3 and direct staff to re-negotiate the terms and fee structure with KCS.

Background/History:

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

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

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

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

On July 3, 2018, City Council awarded the Design-Build contract to KCS, in the amount of $1,593,628 for design phase services. The design team completed the programming and developed the facility design in cooperation with Courts Administration, the City Prosecutor's Office, Flagstaff Police Department, City Manager's Office, and City Planning.

On March 5, 2019, City Council awarded the GMP #1 Amendment to the original contract for hazardous waste abatement, demolition and site work in the amount of $1,518,175.

On May 21, 2019, City Council awarded the GMP #2 Amendment to the original contract for the facility construction in the amount of $15,557,094.

Key Considerations:

The Project will be located on property owned by the City located at 101 W. Cherry Avenue. The existing buildings at this location have been demolished and removed in compliance with the GMP #1 amendment and project construction has begun in compliance with the GMP #2 amendment.

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

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

- Adherence to Resolution 2014-09 requiring all new City facilities to achieve sustainable certification - Green Globes level 3 certification is included for this project
- Drought resistant and pollinator plant species will be provided in the site landscaping
- Rainwater harvesting
- NAIPTA information kiosk in the new Court lobby
- Water bottle refill stations
- Diversion of demolition material for recycling.

Expanded Financial Considerations:

Total funding for the Project is as follows:

Prop 412 Voter-Approved Courts Project Funding

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

****Identified Funding**

Court Fees	$2,080,000
Sale of Fire Station #1	$ 520,000

Re-development Fund	$ 500,000
Capital Funding Transfer	$ 400,000
Capital Financing	$4,000,000
Total	$7,500,000

Future public parking associated with the 2016 bond language is funded in the amount of $2,000,000 through the sale or development of the existing Court Facility lots. In addition to the bond and identified funding, additional funding in the amount of $379,505 was designated for the facility in the FY 2020 budget from Police Department salary savings, debt service savings, and interest earnings credit. The fiber optic infrastructure work will receive a funding contribution in the amount of $100,000 from Account 040-05-112-3043-6 because this infrastructure will provide benefits for the city-wide traffic signal interconnect program. A Contractor's contingency of 5% in the amount of $19,230 and an Owner's contingency of 4.89% in the amount of $25,451 are included in this contract.

Community Benefits and Considerations:

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

Community Involvement:

There have been multiple Council meetings to discuss the Project over the course of the last three years, in addition to multiple public meetings prior to the ballot question of 2016. A Public Meeting was held on February 20, 2019, to engage the public on the Project design.

Expanded Options and Alternatives:

1. Approve the Design-Build Services GMP #3 Amendment to KCS as presented. Upon Council authorization, KCS will plan for including the scoped components of the amendment.
2. Reject the Design-Build Services GMP #3 Amendment and direct staff to re-negotiate the terms and fee structure with KCS.

Attachments:

Court GMP 3
Court Context Map
Court Vicinity Map
Court DB GMP1 GMP2 Contracts
Contingency Justification Form
Court PPT GMP3

AMENDMENT THREE

City of Flagstaff Court Facility
Design-Build Contract

Construction Services Phase – GMP 3

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

This Third Amendment ("Amendment") to the fully executed Design-Build Services Contract No. 2018-63 dated 11/11/2019 (the "Agreement") for the City of Flagstaff Court Facility (the "Project") is made and entered into this ____ day of _____, 2019, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona 86001, and Kinney Construction Services, Inc., an Arizona corporation with offices at 121 E. Birch Avenue, Flagstaff, Arizona 86001.

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

ARTICLE 5 – CONTRACT PRICE

5.3 – GMP

Design-Builder's GMP 3 for the construction phase services for the Phase 3 portion of (Construction) work of the Project shall be **five hundred forty-five thousand and four hundred seventy-eight dollars ($545,478.00).** The GMP shall be for the complete performance of Phase 3 portion of work in accordance with the Contract Documents and exhibits listed below, which are part of this Amendment, and which shall be incorporated into the Agreement by this Second Amendment as if fully set forth therein.

EXHIBIT A – GMP 3 Summary Sheet, dated 11/7/2019, 1 page(s).

EXHIBIT B – Basis of GMP 3 (Allowances, Assumptions and Clarifications on which the GMP is based), dated 11/7/2019, 3 page(s).

EXHIBIT C – Enumeration of Drawings and Specifications, including Addenda, if any, on which the GMP is based, 1 page(s).

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

The total Contract Price under the Agreement, as amended by this Amendment, shall be **nineteen million, two hundred and fourteen thousand, three hundred and seventy-five dollars ($19,214,375.00).**

ARTICLE 6 – CHANGES TO CONTRACT PRICE AND TIME

The Scheduled Date of Completion of the work for the City of Flagstaff Court Facility project under this Third Amendment is an additional 45 calendar days from the Notice to Proceed with a substantial completion date of 9/3/2020.

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

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

City of Flagstaff

By:_____
Greg Clifton, City Manager

Dated:_____

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

Kinney Construction Services, Inc.

By:_____

Title:_____

Dated:_____

PROJECT GMP PROPOSAL SUMMARY SHEET

COF Courts - Phase 3 GMP - Exhibit A 11/7/2019

ITEM NO.	BUILDING/CONSTRUCTION TYPE		TOTALS
	PROFESSIONAL SERVICES		
1	Professional Services		
2	Reimbursables		
3	Construction Administration (Architect & Engineers)		$0.00
	Total Professional Services		**$0.00**
	CONSTRUCTION		
4	Cost of Construction		$384,594.00
	ADA Parking at Cherry		*$73,424.00*
	Fiber Infrastructure at Beaver Street		*$100,900.00*
	Furniture & Workstations		*$210,270.00*
5	Design-Builder's Contingency	5.00%	$19,230.00
	Indirect Costs	**Rate**	
6	General Conditions	10.40%	$43,300.00
7	Payment & Performance Bond	1.50%	$6,707.00
8	Insurance	1.21%	$5,446.00
9	Construction Fee	7.00%	$32,149.00
10	Sales Taxes	5.82%	$28,601.00
	Total Construction Cost		**$520,027.00**
11	Owner's Contingency (4.89%)		$25,451.00
	Grand Total (Construction & Professtional Services)		**$545,478.00**

EXHIBIT 'B'
Statement of Clarifications and Assumptions
COF Courts Facility – Phase 3 GMP
11.07.2019

Purpose & Intent

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

Basis of Qualifications

Documents as outlined in Exhibit C – Enumeration of Drawings

General Clarifications

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

General Conditions

- KCS will provide adequate project management, supervision, tools, equipment, waste management containers and temporary construction facilities for the duration of this project.
- All necessary project documentation will be maintained from project start to closeout including paper / electronic copies of all plan iterations, ASIs, submittals, RFIs, weekly reports, meeting minutes, and safety logs. KCS intends on using Procore Construction Management Software as a tool to assist with this documentation management. COF staff will have access to this web-based software as well.
- KCS will provide necessary traffic and pedestrian signage and control. Sidewalks will be closed and proper signage will be placed at the nearest adjacent intersection directing pedestrian traffic to open walkways.

ADA Parking

- All materials and equipment necessary to construct the ADA parking along Cherry as noted in the plans.
- Saw-cut and demo existing concrete and asphalt at street
- Re-grade as necessary for new asphalt and concrete work
- Installation of new concrete paving, ramps, curb and gutter
- Installation of new asphalt paving and striping
- Install new signs and relocate kiosk
- Install salvaged street lights on new bases; re-work electrical conduit and wiring as required

Fiber Service Infrastructure

- All materials and equipment necessary to construct fiber infrastructure conduit and boxes. Fiver wiring is not included.
- Provide boring of new conduits from existing pull box in alley on East side of Beaver to existing pull box at NE corner of Beaver and Birch within paver walkway.
- Provide boring of new conduits from existing pull box on SE corner of Beaver and Cherry to new pull box location at SW corner of Beaver & Cherry on courts project site.
- KCS assumes existing pull boxes are sufficient for new work, but has included as allowance for one new pullbox if necessary.
- All concrete and paver patchback has been included. Street paving and asphalt work is not included.
- Boring work assumed to take one week total.

Furniture

- Per furniture plans by Goodmans and quote dated 11.05.19 including quantities and specifications.
- Final colors and fabric selections TBD
- Includes benches as outlined in quote
- Includes modifying existing workstations as outlined in floor plan including replacing end panels as necessary.
- Includes installation and set-up in new space
- Final lead time TBD based upon placement of order. Preliminary lead time on materials is 16 weeks.
- Exterior benches, trash cans, etc. are not included.

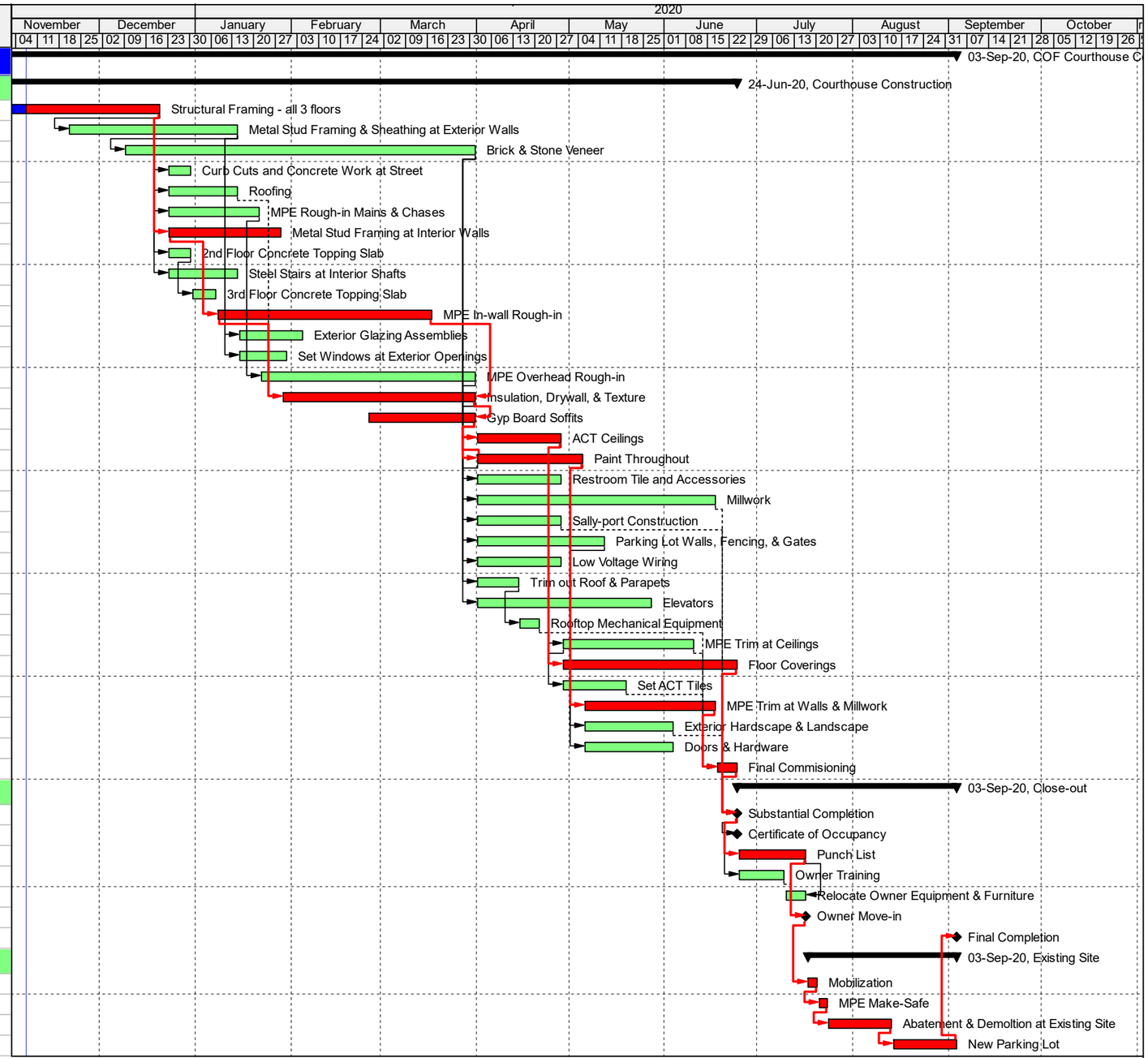
Exclusions

- Electrical Power Consumption Costs – KCS has included hook-up of temp power, but the assumption is that the meter will be in COF name and costs for electricity consumption will be by owner.
- 3rd Party Testing – assume costs by owner. KCS to coordinate inspections and providing copies of reports as necessary.
- Utility Impact Fees

Exhibit C - Enumeration of Documents
COF Courts - Phase 3 GMP

Number	Title	Date
	ADA Parking Plans by CGL & SWI	
DM01	DEMOLITION PLAN	10.16.19
IP01	CIVIL IMPROVEMENT PLAN	10.16.19
GD01	GRADING AND DRAINAGE PLAN	10.16.19
HC01	HORIZONTAL CONTROL PLAN	10.16.19
EC01	EROSION CONTROL PLAN	10.16.19
	Fiber Service Plans by SWI	
1	COVER	Sept 19
GN01	GENERAL NOTES & DETAILS	Sept 19
IP01	FIBER SERVICE PLAN	Sept 19
	Furniture by Goodmans	
1	FIRST FLOOR (3 total pages)	11.05.19
2	SECOND FLOOR (4 total pages)	11.05.19
3	THIRD FLOOR (3 total pages)	11.05.19

Activity ID	Activity Name	Original Duration	Remaining Duration	Start	Finish
COF Courthouse Construction Schedule		223	210	22-Oct-19 A	03-Sep-20
Courthouse Construction		173	160	22-Oct-19 A	24-Jun-20
A1110	Structural Framing - all 3 floors	40	30	22-Oct-19 A	20-Dec-19
A1620	Metal Stud Framing & Sheathing at Exterior Walls	35	35	21-Nov-19	14-Jan-20
A1610	Brick & Stone Veneer	80	80	09-Dec-19	31-Mar-20
A1510	Curb Cuts and Concrete Work at Street	5	5	23-Dec-19	30-Dec-19
A1600	Roofing	15	15	23-Dec-19	14-Jan-20
A1630	MPE Rough-in Mains & Chases	20	20	23-Dec-19	21-Jan-20
A1640	Metal Stud Framing at Interior Walls	25	25	23-Dec-19	28-Jan-20
A1650	2nd Floor Concrete Topping Slab	5	5	23-Dec-19	30-Dec-19
A1860	Steel Stairs at Interior Shafts	15	15	23-Dec-19	14-Jan-20
A1660	3rd Floor Concrete Topping Slab	5	5	31-Dec-19	07-Jan-20
A1700	MPE In-wall Rough-in	50	50	08-Jan-20	17-Mar-20
A1670	Exterior Glazing Assemblies	15	15	15-Jan-20	04-Feb-20
A1680	Set Windows at Exterior Openings	12	12	15-Jan-20	30-Jan-20
A1690	MPE Overhead Rough-in	50	50	22-Jan-20	31-Mar-20
A1710	Insulation, Drywall, & Texture	45	45	29-Jan-20	31-Mar-20
A1740	Gyp Board Soffits	25	25	26-Feb-20	31-Mar-20
A1720	ACT Ceilings	20	20	01-Apr-20	28-Apr-20
A1730	Paint Throughout	25	25	01-Apr-20	05-May-20
A1770	Restroom Tile and Accessories	20	20	01-Apr-20	28-Apr-20
A1780	Millwork	55	55	01-Apr-20	17-Jun-20
A1800	Sally-port Construction	20	20	01-Apr-20	28-Apr-20
A1810	Parking Lot Walls, Fencing, & Gates	30	30	01-Apr-20	12-May-20
A1820	Low Voltage Wiring	20	20	01-Apr-20	28-Apr-20
A1830	Trim out Roof & Parapets	10	10	01-Apr-20	14-Apr-20
A1870	Elevators	40	40	01-Apr-20	27-May-20
A1840	Rooftop Mechanical Equipment	5	5	15-Apr-20	21-Apr-20
A1750	MPE Trim at Ceilings	30	30	29-Apr-20	10-Jun-20
A1790	Floor Coverings	40	40	29-Apr-20	24-Jun-20
A1900	Set ACT Tiles	15	15	29-Apr-20	19-May-20
A1760	MPE Trim at Walls & Millwork	30	30	06-May-20	17-Jun-20
A1850	Exterior Hardscape & Landscape	20	20	06-May-20	03-Jun-20
A1890	Doors & Hardware	20	20	06-May-20	03-Jun-20
A1880	Final Commisioning	5	5	18-Jun-20	24-Jun-20
Close-out		50	50	24-Jun-20	03-Sep-20
A1090	Substantial Completion	0	0		24-Jun-20
A1320	Certificate of Occupancy	0	0		24-Jun-20
A1330	Punch List	15	15	25-Jun-20	16-Jul-20
A1370	Owner Training	10	10	25-Jun-20	09-Jul-20
A1340	Relocate Owner Equipment & Furniture	5	5	10-Jul-20	16-Jul-20
A1360	Owner Move-in	0	0		16-Jul-20
A1380	Final Completion	0	0		03-Sep-20
Existing Site		35	35	17-Jul-20	03-Sep-20
B1000	Mobilization	2	2	17-Jul-20	20-Jul-20
B1010	MPE Make-Safe	3	3	21-Jul-20	23-Jul-20
B1100	Abatement & Demoltion at Existing Site	15	15	24-Jul-20	13-Aug-20
B1020	New Parking Lot	15	15	14-Aug-20	03-Sep-20

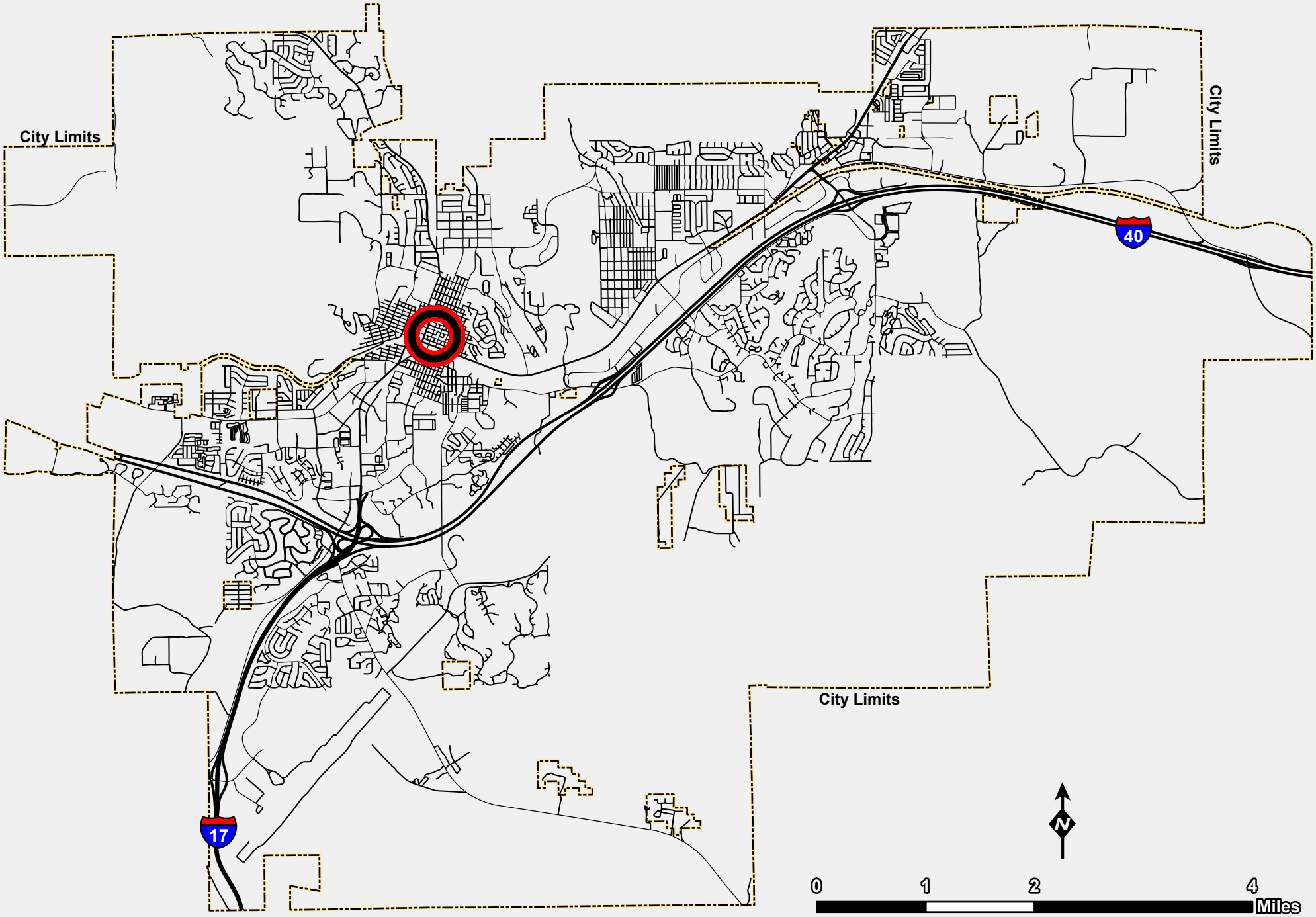


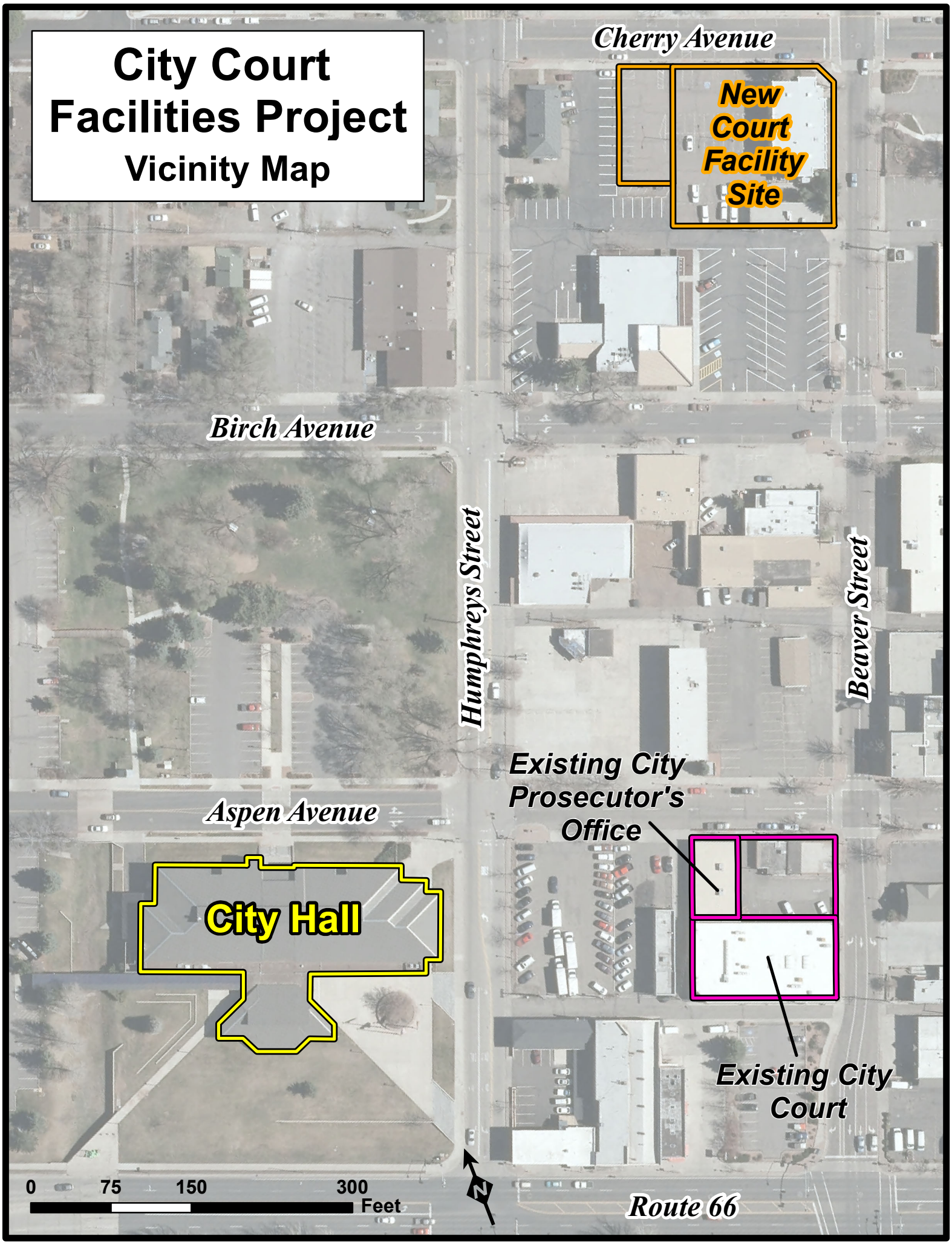
Actual Work
Remaining Work
Critical Remaining Work
Milestone
Summary

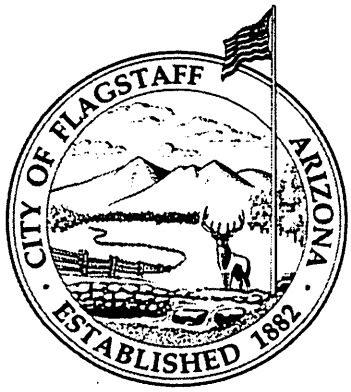
COF Courthouse Construction Schedule
Project Schedule

Kinney Construction Services, Inc.
07-Nov-19

City Court Facilities Project




City Court Facilities Project
Vicinity Map
Cherry Avenue
New Court Facility Site
Birch Avenue
Humphreys Street
Beaver Street
Existing City Prosecutor's Office
Aspen Avenue
City Hall
Existing City Court
0
75
150
300
Feet
N
Route 66



Kinney Construction Services

CITY OF FLAGSTAFF COURT FACILITY

PROJECT NUMBER: 03-18007

CONTRACT NO.: 2018-63

DESIGN-BUILD SERVICES AGREEMENT

Mayor
Coral Evans

Council

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

Interim City Manager
Barbara Goodrich

Water Services Director
Brad Hill

Community Development Director
Mark G. Landsiedel

Public Works Director
Andy Bertelsen

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CITY OF FLAGSTAFF COURT FACILITY PROJECT

DESIGN-BUILD SERVICES AGREEMENT
PROJECT NO. 03-18007

CONTRACT NO. 2018-63

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

RECITALS

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

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

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

AGREEMENT

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

ARTICLE 1 - DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 2 – DESIGN-BUILDER'S SERVICES AND RESPONSIBILITIES

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

2.1 General Services

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

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

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

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

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

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

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

2.2 Professional Services.

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

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

2.3 Standard of Care for Design Professional Services and Corrections

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

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

2.4 Project Schedule

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.4.6 Float time shall be as prescribed below:

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

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

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

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

2.5 Cost Estimates

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

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

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

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

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

2.6 Not Used

2.7 Construction Management Plan

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

2.7.2 The CMP shall include:

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

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

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

2.8 Design Services

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.9 Not Used

2.10 Government Approvals and Permits

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

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

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

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

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

2.11 Subcontractor Selection

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

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

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

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

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

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

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

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

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

2.12 General Construction Services

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

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

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

2.13 Pre-construction Conference

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

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

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

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

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

2.14 Supervision of Construction

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

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

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

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

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

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

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

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

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

2.15 Control of Construction Site

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

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

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

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

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

2.16 Shop Drawings, Product Data and Samples

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

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

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

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

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

2.17 Quality Control, Testing and Inspection

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.19 Project Record Documents

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

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

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

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

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

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

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

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

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

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

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

2.20 Project Safety

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

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

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

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

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

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

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

2.21 Commissioning

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

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

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

2.22 Design-Builder's Warranty

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

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

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

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

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

2.23 Correction of Defective Construction

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

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

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

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

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

ARTICLE 3 - CITY'S SERVICES AND RESPONSIBILITIES

3.1 Duty to Cooperate

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

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

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

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

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

3.2 Furnishing of Services and Information

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

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

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

3.2.1.3 Utility fees for permanent services.

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

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

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

3.2.2.3 A legal description of the Site.

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

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

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

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

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

3.3 Field Inspections

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

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

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

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

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

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

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

3.5 Project Management Services (if applicable to this Project)

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

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

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

3.5.3 The technical consultant may provide preprogramming and design standards.

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

3.5.4.1 Oversight of the construction.

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

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

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

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

3.5.4.6 Conduct inspections to determine Substantial Completion and Final Acceptance.

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

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

ARTICLE 4 – CONTRACT TIME

4.1 Contract Time.

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

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

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

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

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

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

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

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

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

4.3 **Substantial Completion**

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

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

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

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

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

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

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

complete.

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

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

ARTICLE 5 – CONTRACT PRICE

5.1 Contract Price.

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

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

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

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

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

5.2 Design

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

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

5.3 GMP

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

accordance with section 5.3.3.

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

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

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

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

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

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

5.3.3.3 The Construction Fee is a firm fixed lump sum.

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

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

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

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

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

5.4 GMP Proposal

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

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

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

5.4.2 The GMP proposal shall include:

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

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

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

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

PROJECT GMP PROPOSAL SUMMARY SHEET

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

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

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

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

5.4.2.8 A statement of proposed additional services, if any.

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

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

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

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

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

5.4.2.13 The updated CMP as prescribed in section 2.7.

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

5.5 GMP Approval

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

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

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

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

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

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

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

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

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

ARTICLE 6 – CHANGES TO CONTRACT PRICE AND TIME

6.1 Delays

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

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

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

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

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

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

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

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

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

6.2 Differing Site Conditions

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

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

Differing Site Condition has been substantially disturbed or altered.

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

6.4 **City Requested Change in Work.**

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

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

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

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

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

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

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

ARTICLE 7- PROCEDURE FOR PAYMENT

7.1 **Design Services**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.3 Progress Payment

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

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

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

7.4 Retention on Progress Payments

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

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

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

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

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

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

7.6 Final Payment

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

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

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

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

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

7.7 Payments To Subcontractors or Suppliers

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

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

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

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

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

7.7.2.4 Terminate this Agreement.

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

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

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

7.8 Record Keeping and Finance Controls

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

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

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

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

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

ARTICLE 8- CLAIMS AND DISPUTES

8.1 Requests for Contract Adjustments and Relief.

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

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

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

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

8.2 Dispute Avoidance and Resolution

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

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

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

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

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

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

8.4 **Representatives of the Parties**

8.4.1 City's Representatives

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

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

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

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

8.4.2 Design-Builder's Representatives

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

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

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

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

ARTICLE 9 – SUSPENSION AND TERMINATION

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

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

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

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

9.2 Termination for Convenience.

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

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

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

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

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

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

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

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

9.2.3.1 Stop Work as specified in the notice.

9.2.3.2 Place no further subcontracts or orders.

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

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

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

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

9.2.5 The City shall pay Design-Builder the following.

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

9.2.5.2 The reasonable costs and expenses attributable to such termination.

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

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

9.3 City's Right to Perform and Terminate for Cause

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

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

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

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

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

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

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

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

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

ARTICLE 10 – INSURANCE AND BONDS

10.1 Insurance Requirements

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

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

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

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

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

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

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

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

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

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

10.2.3 Worker's Compensation and Employers' Liability

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

10.2.4 Professional Liability

Each Claim	$1,000,000

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10.6 **Verification Of Coverage**

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

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

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

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

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

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

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

10.9 **Bonds and Other Performance Security.**

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

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

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

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

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

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

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

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

ARTICLE 11 - INDEMNIFICATION

11.1 Intellectual Property

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

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

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

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

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

11.2 General Indemnification.

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

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

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

ARTICLE 12 - GENERAL PROVISIONS

12.1 Interpretation and Intent

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

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

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

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

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

12.4 Work Product.

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

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

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

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

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

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

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

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

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

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

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

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

12.12 Notice.

12.12.1

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

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

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

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

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

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

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

12.14 Equal Opportunity/Affirmative Action

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

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

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

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

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

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

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

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

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

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

12.18 **Data Confidentiality**

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

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

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

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

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

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

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

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

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

12.19 Conflict Of Interest

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

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

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

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

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

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

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

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

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

12.21 Confidentiality of Plans and Specifications

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

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

12.22 Hazardous Materials

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

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

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

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

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

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

public health, safety and welfare.

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

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

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

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

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

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

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

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

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

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

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

12.29 The following exhibits are included in this Agreement:

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

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

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

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

CONTRACT NO. 2018-63

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

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

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

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

By: Barbara Goodrich
Barbara Goodrich
Interim City Manager

KINNEY CONSTRUCTION SERVICES, INC.
an Arizona Corporation

By:
Title: President

ATTEST:

Stacy Saltzburg
City Clerk

APPROVED AS TO FORM:

Christina Parsons for
City Attorney

EXHIBIT A – PROJECT DESCRIPTION

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

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

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

EXHIBIT B – SCOPE OF SERVICES

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

Design & Pre-Construction Services Proposal

06/10/2018

Mr. James Duval
Senior Project Manager
City of Flagstaff

Re: City of Flagstaff – Courts Facility

Dear Mr. Duval:

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

General Understanding of the Project

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

Scope of Services

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

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

Cost Breakdown by Discipline & Phase

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

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

Sincerely,

Michael Thomas
Vice President of Operations

CGL
2485 Natomas Park Drive, Suite 300
Sacramento CA 95833

7 June 2018

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

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

RE: Flagstaff Municipal Courthouse Scope of Services and Fee Proposal

Dear Mike:

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

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

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

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

BASIS OF SCOPE AND COST PROPOSAL

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

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

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

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

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

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

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

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

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

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

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

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

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

SCHEMATIC DESIGN

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

Data Collection - Review previous Space Program

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

Blocking and Stacking

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

Architectural

All scales will be per COF requirements

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

Structural

- See attached proposal

Civil/Landscape

- See attached proposal

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

- See attached proposal

Electronic Security/AV/Voice-Data/Fire Alarm

- See attached proposal

DESIGN DEVELOPMENT

Architectural

All scales will be per COF requirements

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

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

Structural
- See attached proposal

Civil/Landscape
- See attached proposal

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

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

CONSTRUCTION DOCUMENTS

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

All scales will be per COF requirements

Structural

- See attached proposal

Civil/Landscape

- See attached proposal

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

- See attached proposal

Electronic Security/AV/Voice-Data/Fire Alarm

- See attached proposal

BIDDING AND PERMITTING

General

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

Architect

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

All Architect Sub-consultants

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

CONSTRUCTION ADMINISTRATION

CA not part of this contract

General

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

Architect

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

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

All Architect Consultants

Structural
- See attached proposal

Civil/Landscape
- See attached proposal

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

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

OPTIONAL SUPPLEMENTAL SERVICES

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

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

Acoustics
- Acoustic consulting

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

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

permanent groundwater control, and soil/rock slope stabilization.

Subsurface Soil Borings — by KCS

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

Legal Survey — by KCS

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

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

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

Swing Space

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

Physical Model

- Provide physical professional scale model of proposed design.

Traffic Studies or Traffic Impact Analysis

Threat Assessment Studies

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

Publicity and Credit:

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

Fees:

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

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

CA not part of this contract

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

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

Sincerely,

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

Shephard ▲ Wesnitzer, Inc.
Engineering an environment of excellence

110 West Dale Avenue
Flagstaff, AZ 86001

928.773.0354
928.774.8923

www.swiaz.com

Engineering an environment of excellence.

PROPOSAL/ AGREEMENT FOR PROFESSIONAL SERVICES

Ref. No. 18073
June 1, 2018

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

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

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

The Client and SWI do hereby agree as follows:

2.0 DESCRIPTION OF PROJECT

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

2.0 PURPOSE

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

Client's Initials _____

3.0 SCOPE OF SERVICES

We propose to provide the following:

Survey Services:

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

Client's Initials _____

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

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

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

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

Client's Initials _____

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

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

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

KCS

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

Client's Initials _____

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

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

Provided by geotech; contracted directly by KCS

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

Client's Initials _____

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

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

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

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

Final Design and Construction Plan Subtotal: $31,900.00

Construction Staking:

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

Construction Staking Services Subtotal: $13,500.00

Client's Initials _____

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

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

Client's Initials _____

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

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

FEE SUMMARY

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

4.0 SCHEDULE

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

5.0 ASSUMPTIONS

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

Client's Initials _____

o. A bid schedule or construction contract documents are not included.
p. No offsite water or sewer mains need to be upsized or extended more than 100' to reach the subject parcel.
q. Offsite sewers adjacent to project are at sufficient depth to accept gravity sewers from the project.
r. Offsite water lines adjacent to the project are of sufficient size and capacity to adequately service the project utilizing only a system of internal looped pipe connections, and no offsite water main extensions are required.
s. Offsite stormwater lines adjacent to the project are of sufficient size and capacity to adequately serve the project and no off-site analysis is required.
t. Mechanical Electric Plumbing (MEP) engineer will provide the size and location of water and sewer services. MEP will also provide size of water meters.
u. Fee assumes single phase construction and therefore only one construction plan set is assumed.
v. Geotechnical investigation results and pavement structural section recommendations will be performed by others, will be received by SWI *prior to initiating site work*, and are not part of this Agreement.
w. The Client or Client's contractor is responsible for obtaining all applicable construction permits for this job.

6.0 MANNER OF PAYMENT

Billing for work in progress will be made on a monthly basis. Payment is due upon receipt of monthly billings. Late fees at the rate of 2% interest on balance owed will be assessed to client for delays in payments in excess of 30 days from the date of invoice. Services will be halted due to delays in payment. Final revisions to calculations and drawings will be released upon receipt of final payment.

7.0 FEES

The cost of Civil Engineering and Surveying services items 1 thru 12 is a lump sum fee of $92,600 plus reimbursable expenses. Reimbursable expenses includes FedEx charges, mileage, plan reproduction costs, and will be billed at cost plus 10% markup and are estimated at $3,000. Work which may be indicated by the discovery of unanticipated conditions in the field or revisions to the site plans instigated by others will be performed, only upon your authorization in writing in advance, in accordance with our current standard fee schedule. Current standard hourly rates are subject to change as current year expires. The estimated fee noted above is valid for 90 (ninety) calendar days after which time a review by SWI will be required.

8.0 STANDARD SWI TERMS AND CONDITIONS

Attached hereto and incorporated by the reference are the **SWI Standard Terms and Conditions**, which shall govern this agreement.

9.0 SERVICES NOT INCLUDED

Client's Initials _____

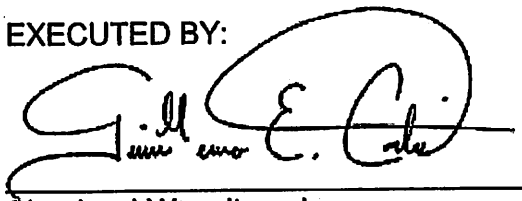
Traffic Impact Analysis (TIA), natural resource projection plan, cultural resource study, geotechnical investigations, environmental studies, archeological studies, architectural services, or any other work outside of the scope of the concept plan and not specifically identified in Section 3.0, Scope of Services.

This Proposal/Agreement, and the attached **Terms and Conditions,** contains the entire agreement between the parties, and supersedes all other agreements, either oral or written. No representations or warranties shall be valid or binding unless contained herein.

The signature below constitutes Shephard - Wesnitzer Inc.'s intention to be bound under the terms of this Proposal/Agreement, including the attached **Terms and Conditions**. The Client may accept by signing and returning to Shephard - Wesnitzer, Inc.

Any change to the **Terms and Conditions** of this Proposal/Agreement, or the tender of any contract documents in place of this Proposal/Agreement shall not be valid unless made in writing, dated and signed by all the parties.

EXECUTED BY:



Shephard-Wesnitzer, Inc. — June 1, 2018 Date

The foregoing AGREEMENT with its attached **Terms and Conditions** has been proposed by Shephard - Wesnitzer, Inc. and has been read, is understood, and is hereby accepted.

EXECUTED BY:

_____ Clients Authorized Representative

_____, 2018 Date

_____ Typed or Printed Name

_____ Title

Client's Initials _____

TERMS AND CONDITIONS

The captions of the sections herein are intended for convenience of reference only and shall not be used to interpret the content of each section.

1. **PROJECT INFORMATION**

1.1 In preparation of its Proposal, SWI has relied on certain information and documentation supplied by CLIENT or CLIENT's agents as being accurate, and CLIENT agrees that SWI has a right to rely on the said information or documentation.

1.2 CLIENT affirms that CLIENT has provided all documents, maps and other information in CLIENT's possession, relating to past, present and proposed future use of THE SITE and its surrounding area, to SWI before execution of this Agreement by SWI.

1.3 CLIENT confirms that the content of all documents, maps and other information which CLIENT has provided to SWI before SWI's execution of this Agreement is correctly addressed in the Scope of Services part of this Agreement.

1.4 CLIENT will designate in writing those persons, organizations or agencies to be contacted in the event conditions are revealed during the execution of SWI's services that would require possible alteration of the services hereunder.

2. **WARRANTY**

SWI warrants their services are performed, within the limits prescribed by this Agreement, with the usual thoroughness and competence of the professions practicing these services in the same or similar locality of THE SITE at the time of this Agreement. No other warranty or representation, either expressed or implied, is included or intended under this Agreement.

3. **SAFETY**

SWI will perform work under safe conditions. CLIENT may be charged additionally for safety or security measures required by dangerous job conditions, encountered during SWI's performance of the required services that could not be anticipated by review of the information available at the time the Agreement was executed.

4. **INSURANCE**

4.1 SWI will maintain the following insurance and amounts: Workman's Compensation, statutory limits; General Liability, $1,000,000; Professional Liability, $1,000,000.

4.2 No insurance, of whatever kind or type which may be carried by SWI, is to be considered in any way limiting the responsibility of others for damages resulting from their operations or for furnishing work and materials ON THE SITE.

5. **LIMITS OF LIABILITY**

For any damage, cost, expenses, or other liability, direct or indirect, resulting from any error, omission, or professional negligence in the performance of SWI's services, the liability of SWI, its employees, agents, officers, and consultants to all claimants with respect to THE PROJECT will be limited to an aggregate sum not to exceed $50,000 or SWI's total fee for the services rendered on THE PROJECT, whichever is greater.

6. **NOTIFICATION OF DEFECTS IN SERVICE**

CLIENT, CLIENT's personnel, and CLIENT's contractors and subcontractors shall promptly report in writing to SWI any defects or suspected defects in SWI's work or services, in order that SWI may take prompt, effective measures which in SWI's opinion will minimize the consequences of a defect in service.

7. **INDEPENDENT CONTRACTOR STATUS**

CLIENT confirms that SWI is employed as an independent contractor to perform the services required under this Agreement. SWI shall be free to exercise its discretion and independent judgment as to the methods and means of performance of these services, consistent with all other requirements of this Agreement.

8. **OWNERSHIP AND DISPOSITION OF DOCUMENTS**

8.1 CLIENTI agrees that all documents, calculations, studies, plans, maps, models, photographs, drawings, computer printouts, field notes, samples, logs, specimens, laboratory test data, and other products generated in the performance of services rendered under this agreement constitute work for hire and are and shall remain the property of the SWI.

8.2 SWI agrees that, during the performance of this Agreement, and thereafter it will <u>not</u> disclose to any persons, other than the CLIENT, CLIENT's authorized representatives, and those persons, organizations or agencies specifically designated in writing by CLIENT, any information pertaining to this Agreement or services rendered by SWI pursuant to this agreement except as follows:

8.3 In response to a valid subpoena or requirement under the law; however, SWI shall notify CLIENT upon receipt of the subpoena or other mandate in order to give CLIENT time to protect the confidentiality of the materials sought; and

8.2.2 Under circumstances where, in SWI's professional judgment, the performance of the duties under this agreement discloses a serious threat to the public health, safety of welfare, and the CLIENT after being notified of the threat refuses to, or does not take appropriate action within a reasonable time, then SWI has a professional obligation to notify the appropriate Regulatory Agency of the specific nature of the public threat.

9. **DELIVERY OF ELECTRONIC FILES**

In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by the Consultant, the Client agrees that all such electronic files are instruments of service of the Consultant, who shall be deemed the author, and shall retain all common law, statutory law and other rights, without limitation, including copyrights.

The Client agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The Client agrees not to transfer these electronic files to others without the prior written consent of the Consultant. The Client further agrees to waive all claims against the Consultant resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than the Consultant.

The Client and the Consultant agree that any electronic files furnished by either party shall conform to the specifications listed in Exhibit A. Any changes to the electronic specifications by either the Client or the Consultant are subject to review and acceptance by the other party. If the Consultant is required to expend additional effort to incorporate changes to the electronic file specifications made by the Client, these efforts shall be compensated for as Additional Services.

Electronic files furnished by either party shall be subject to an acceptance period of seven (7) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic files shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be

Client's Initials _____

accepted and neither party shall have any obligation to correct errors or maintain electronic files.

The Client is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the Consultant and electronic files, the signed or sealed hard-copy construction documents shall govern.

In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and sub-consultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than the Consultant or from any reuse of the electronic files without the prior written consent of the Consultant.

Under no circumstances shall delivery of electronic files for use by the Client be deemed a sale by the Consultant, and the Consultant makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the Consultant be liable for indirect or consequential damages as a result of the Client's use or reuse of the electronic files.

10. **ACTS OR OMISSIONS OF OTHERS**
SWI shall not be responsible for acts or omissions of any other party or parties involved in planning or designing of any project(s) for construction on THE SITE or the failure of any contractor or subcontractor to construct any item on THE SITE in accordance with recommendations contained in any issued by SWI. SWI, by the performance of services hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities with regard to any project(s) on THE SITE customarily vested in project architects, design engineers, or any other design agencies or authorities.

11. **RELIANCE ON PUBLIC RECORDS OR OTHER NON-SWI REPORTS AND DATA**
Unless otherwise described in "SCOPE OF SERVICES" , SWI accepts no responsibility for the correctness or accuracy of data or conclusions contained in public records, reports or other documents which were not published by SWI, but which are discovered by SWI in performance of the services required by this Agreement. CLIENT waives any claim against SWI, and agrees to defend, indemnify and hold SWI harmless from any claim or liability for injury or loss allegedly arising from errors, omissions or inaccuracies in such public records or in such other reports or documents.

12. **SITE ENTRY**
LIENT will furnish right of entry onto THE SITE for SWI to make the necessary field studies.

13. **MEDIATION**
In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and the Consultant agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

The Client and the Consultant further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, sub-consultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between the parties to all those agreements.

14. **LITIGATION BETWEEN AGREEMENT PARTIES**
In the event of litigation or arbitration between the parties to this Agreement, all reasonable costs and attorney's fees to enforce this Agreement incurred by the prevailing party shall be reimbursed by the non-prevailing party.

SWI and its subcontractors shall comply with all existing applicable laws and regulations under this Agreement; however, laws or ordinances enacted after the signing of this Agreement may increase SWI's cost of performing services included in this Agreement by requiring modifications of or additions to SWI's work, facilities or equipment. CLIENT shall reimburse SWI for such increased cost.

15. **SUBPOENAS**
CLIENT is responsible, after notification, for payment of time and expenses resulting from SWI's required response to subpoenas issued in conjunction with SWI's work. Compensation will be based on schedules in effect at the time the subpoena is served.

16. **COMPLIANCE WITH LAWS**
SWI and its subcontractors shall comply with all existing applicable laws and regulations under this Agreement; however, laws or ordinances enacted after the signing of this Agreement might increase SWI's cost of performing services included in this Agreement by requiring modifications of or additions to SWI's work, facilities or equipment. CLIENT shall reimburse SWI for such increased cost in proportion to the amount of the cost attributable to SWI's performance of services on THE PROJECT.

17. **INDEMNITY**
CLIENT and SWI do hereby indemnify and hold each other harmless from damage to property of whatsoever kind and nature, and injury to persons, including death, occasioned by the negligent or willful acts, errors or omissions of the indemnifying party, arising out of, or in any way connected to this Agreement.

18. **NOTIFICATION OF HAZARDOUS SUBSTANCES**
CLIENT hereby warrants that, if it knows or has any reason to assume or suspect that hazardous substances may exist at THE SITE, CLIENT has so informed SWI.

19. **DISCOVERY OF UNANTICIPATED HAZARDOUS SUBSTANCES**
SWI and CLIENT agree that the discovery of unanticipated hazardous substances constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. SWI agrees to notify CLIENT as soon as practically possible should unanticipated hazardous substances or suspected hazardous substances be encountered. SWI is hereby authorized to take such emergency measures, if any, that are necessary in SWI's professional opinion to immediately protect the health, safety and welfare of the public and SWI's personnel, and/or the environment and CLIENT agrees to compensate SWI for such emergency work. Thereafter, CLIENT and SWI will negotiate to change the scope of services hereunder to include said emergency work. In addition, CLIENT waives any claim against SWI, and agrees to indemnify, defend and hold SWI harmless from any claim or liability for injury or loss arising from SWI's encountering unanticipated hazardous substances or suspected hazardous substances. CLIENT also agrees to compensate SWI for any time spent and expenses incurred by SWI in defense of any such claim, with such compensation to be based upon SWI's prevailing fee schedule and expense reimbursement policy.

20. **PAYMENT**
CLIENT shall pay SWI in full for all services under the Agreement and executed written Change Orders, irrespective of any claim by CLIENT to third parties for compensation for additional work conducted by SWI. Any such claim shall in no respect delay payment of fees for services performed by SWI. Standard hourly rates are subject to change as current year expires.

Client's Initials _____

21. TERMINATION

21.1 This Agreement may be terminated by either party giving not less than ten (10) days written notice to the other party specifying a substantial failure to perform in accordance with the terms of the Agreement through no fault of the terminating party, provided that the terminating party is in full compliance with the Agreement at the time of the notice of termination.

21.2 Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice.

21.3 In the event of termination for any reason prior to completion of all reports contemplated by the Agreement, SWI reserves the right to complete such analyses and records as are necessary to place their files in order and, where considered necessary by them to protect their professional reputation, to complete a report on the services performed to date.

22. TERMINATION CHARGES

22.1 If this Agreement is terminated and the termination is due to substantial failure of CLIENT to perform in accordance with the Agreement through no fault of SWI, CLIENT shall pay SWI for services performed to the termination date plus termination charges.

22.2 Termination charges shall include personnel and equipment rescheduling and/or reassignment adjustments and all other related costs that are directly attributable to termination. At the option of SWI an additional termination charge, not to exceed thirty percent (30%) of all charges incurred up to the date of termination may be made to cover the cost of completing analyses, records and reports in accordance with 21.3 of these Terms and Conditions.

23. SUSPENSION OF SERVICES

23.1 CLIENT may, upon ten (10) days written notice, suspend further performance by SWI at any time.

23.2 If CLIENT's payment of statements is delinquent, SWI may, upon ten (10) days written notice, suspend further performance until such payment is restored to a current basis.

23.3 At the option of SWI, suspension for any reason exceeding thirty (30) days shall make this Agreement subject to termination or renegotiation.

23.4 All suspensions shall extend this Agreement's completion date commensurately.

23.5 In the event of suspension of services for any reason prior to completion of all reports contemplated by the Agreement, SWI reserves the right to complete such analyses and records as are necessary to place their files in order and, where considered necessary by them to protect their professional reputation, to complete a report on the services performed to date.

24. SUSPENSION CHARGES

24.1 If SWI's performance is suspended for any reason, CLIENT shall pay SWI for services performed to the suspension notice date plus suspension charges.

24.2 Suspension charges shall include personnel and equipment rescheduling and/or reassignment adjustments, all other related costs indirectly attributable to suspension, and charges for completing analyses, records and reports in accordance with 21.5 of these Terms and Conditions.

25. DELAYS

25.1 Delays resulting from acts of God or from factors beyond the reasonable control of the parties, or from the action or inaction of CLIENT shall extend this Agreement completion date commensurately.

25.2 CLIENT shall pay SWI for services performed to the delay commencement date plus delay charges. Delay charges shall include personnel and equipment rescheduling and/or reassignment adjustments and all other related costs indirectly attributable to such delays.

26. ASSIGNS

Neither CLIENT nor SWI may delegate, assign or transfer his duties or interest in this Agreement without the written consent of the other party.

27. BETTERMENT

If, due to SWI's error, any required item or component of the PROJECT is omitted from SWI's construction documents, SWI shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the PROJECT or otherwise adds value or betterment to the PROJECT. In no event shall SWI be responsible for any cost or expense that provides betterment, upgrade or enhancement of the PROJECT.

28. CONSTRUCTION OBSERVATION

28.1 SWII shall visit the site at intervals appropriate to the stage of construction, or as otherwise agreed to in writing by the Client and SWI, in order to observe the progress and quality of the Work completed by the Contractor. Such visits and observation are not intended to be an exhaustive check or a detailed inspection of the Contractor's work but rather are to allow SWI, as an experienced professional, to become generally familiar with the Work in progress and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.

Based on this general observation, SWI shall keep the Client informed about the progress of the Work and shall endeavor to guard the Client against deficiencies in the Work.

If the Client desires more extensive project observation or full-time project representation, the Client shall request that such services be provided by SWI as Additional Services in accordance with the terms of this Agreement.

SWI shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected neither by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor in accordance with the Contract Documents.

SWI shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. SWI does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

28.2 SWI shall not be responsible for as-built certifications requested by the CLIENT, regulatory agencies or other third parties unless SWI has conducted the as-built field surveys and has conducted adequate construction observation services to certify to the accuracy and quality of the construction.

Client's Initials _____

SHEPHARD-WESNITZER, INC. - 2017 HOURLY RATES

STANDARD RATE SCHEDULE

E-5	ENGINEER 5	$175/HOUR
E-4	ENGINEER 4	$160/HOUR
E-3	ENGINEER 3	$140/HOUR
E-2	ENGINEER 2	$125/HOUR
E-1	ENGINEER 1	$110/HOUR
EIT-4	ENGINEER IN TRAINING	$110/HOUR
EIT-3	ENGINEER IN TRAINING	$100/HOUR
EIT-2	ENGINEER IN TRAINING	$95/HOUR
EIT-1	ENGINEER IN TRAINING	$90/HOUR
CADD-4	CADD DESIGNER	$105/HOUR
CADD-3	CADD DESIGNER	$95/HOUR
CADD-2	CADD DESIGNER	$80/HOUR
CADD-1	CADD DESIGNER	$60/HOUR
CAD-4	CAD DRAFTER	$80/HOUR
CAD-3	CAD DRAFTER	$70/HOUR
CAD-2	CAD DRAFTER	$60/HOUR
CAD-1	CAD DRAFTER	$50/HOUR
A-1	CLERICAL	$65/HOUR
RLS	REGISTERED LAND SURVEYOR, PROJECT MANAGER	$135/HOUR
RLSPC	REGISTERED LAND SURVEYOR, PARTY CHIEF	$115/HOUR
LSIT	LAND SURVEYOR IN TRAINING, PARTY CHIEF	$85/HOUR
NRL	NON-REGISTERED LAND SURVEYOR, PARTY CHIEF	$95/HOUR
T-4	CONSTRUCTION INSPECTION TECHNICIAN	$105/HOUR
T-3	PROJECTCOORDINATOR	$90/HOUR
INT -1	INTERN	$50/HOUR
	MARKETING DIRECTOR	$64/HOUR
	GIS COORDINATOR	$95/HOUR
	INSTRUMENT PERSON	$60/HOUR
	GPS RECEIVER	$30/HOUR PER RECEIVER
	ROBOTIC TOTAL STATION	$25/HOUR
	ARCHIVE FILE RESEARCH	$60/HOUR, 1 HOUR MINIMUM

Outside Services.....COST + 10%

PRINTS

BOND	$2.75EACH
VELLUMS	$5.00EACH
MYLAR	$6.00EACH

PLOTS

BOND	$5.00EACH
VELLUM	$10.00EACH
MYLAR	$10.00EACH
COLOR PLOTS/BOND	$15.00EACH
XEROX	$.09EACH
CD'S	$5.00EACH

MILEAGE $0.65 PER MILE

For any and all services related to litigation or other legal proceedings two times our Standard rates

WORK OUTSIDE NORMAL BUSINESS HOURS WILL BE CHARGED AT 1½ TIMES HOURLY RATE. PAYMENT IS DUE UPON RECEIPT OF MONTHLY BILLINGS AND INVOICES ARE DELINQUENT THIRTY (30) DAYS AFTER DATE OF INVOICE. WORK IN PROGRESS WILL BE BILLED MONTHLY FOR PORTIONS COMPLETED AND UPON JOB COMPLETION FOR FINAL BALANCE. IF PAYMENTS ARE NOT MADE IN FULL PRIOR TO DELINQUENCY, THE CLIENT AGREES TO PAY INTEREST ON THE UNPAID AMOUNT AT THE RATE OF 2% PER MONTH FROM DELINQUENCY DATE. ALL PAYMENTS RECEIVED

Client's Initials _____

EXHIBIT A
SHEPHARD-WESNITZER, INC.
ELECTRONIC FILE SPECIFICATIONS

FILE TYPE	FILE FORMAT
Text Document	Microsoft Office Word 2010
Spreadsheet	Microsoft Office Excel 2010
Database	Microsoft Office Access 2010
Project Scheduling	Microsoft Office Project 2003
Meeting Notification	Microsoft Office Outlook 2010
Presentations	Microsoft Office PowerPoint 2010
Drawing Files	AutoCad 2012 or Microstation V8i
Geographic Information Systems	ESRI ArcInfo or AutoCad Map 2012
Storm Drain Analysis	Bentley StormCAD
Water System Analysis	Bentley WaterCAD
Sewer System Analysis	Bentley SewerCAD
Culvert Analysis	Bentley CulvertMaster
Open Channel Analysis	Bentley FlowMaster
Pond Routing Analysis	Bentley PondPack

Client's Initials _____

June 6, 2018

CLIENT INFORMATION:
CLIENT PROJECT NO.
PROJECT MANAGER
OTHER

Mr. Enrique Maciá
CGL COMPANIES
5200 Blue Lagoon Drive, Suite 430
Miami, FL
T: 786.409.7004
E: emacia@cglcompanies.com

RE: Flagstaff Courthouse New Building
101 W. Cherry Ave.
Flagstaff, AZ
CTS Job No.:

CARUSO TURLEY SCOTT
structural engineers

STRUCTURAL ENGINEERING EXPERTS

PARTNERS
Richard Turley, SE
Paul Scott, SE, PE
Sandra Herd, SE, PE, LEED AP
Chris Atkinson, SE, PE, LEED AP
Thomas Morris, SE, PE, LEED AP
Richard Dahlmann, SE, PE
Troy Turley, SE, PE, LEED AP
Brady Notbohm, SE, PE

PROFESSIONAL REGISTRATION

50 States
Washington D.C.
U.S. Virgin Islands
Puerto Rico
Guam

Dear Mr. Maciá:

This will confirm our fee to provide structural engineering and drafting services as required for the design of this new 40,000 SF courthouse with structural scope as follows:

- 40,000 SF, 2 to 3 story, with no basement
- Programming includes courtrooms (jury and non-jury), hearing rooms, judicial chambers, jury assembly, administrative and staff offices, security screening, conference and training rooms, court enforcement unit interview rooms, prison holding and staging areas, supply spaces.
- Anticipated steel or concrete construction
- 6 to 7 month design phase duration through CD's and 9 month construction schedule
- One submittal package including shell and TI
- Design Build delivery with Kinney Construction
- $15 M budget including land
- 3 design meetings in Flagstaff are included, remainder to be held via conference call
- 3 site visits during construction are included
- LEED Silver certification or Green Globes
- Construction Administration includes preparation of electronic as-builts
- Drawings will be prepared in REVIT.
- If basement is added within the 40,000 SF, or as additional square footage, additional fees will be requested
- Reimbursables for mileage and deliveries is included in the fee. No submittal printing is included, as electronic submittals are anticipated.

Doesn't include parking below grade

Our **Basic Services** will be billed at a Fixed Fee as follows:

Phase:	Fee:
Schematic Design (includes one Flagstaff meeting):	$8,400.00
Design Development (includes one Flagstaff meeting):	$20,900.00
Construction Documents (includes one Flagstaff meeting):	$36,000.00
Permitting:	$1,600.00
In House Construction Administration:	~~$13,100.00~~
On-Site Construction Administration (3 visits):	~~$3,600.00~~
Total:	**$83,600.00**
Additional site visits or meetings in Flagstaff:	$1,200 per meeting or visit including reimbursables

CA not included

Basic Services will include structural calculations, preparation of REVIT structural plans and details per the noted scope, and construction administration. Construction administration services include shop drawing review and responding to RFI type clarifications. Redesign and field repair engineering would be considered outside the scope of basic services. If the project entails multiple bid packages, phasing, or nonstandard foundations, the above budget shall be adjusted accordingly.

Reimbursable Expenses for mileage and deliveries are included in this fee.

1215 W. Rio Salado Pkwy.
Suite 200
Tempe, AZ 85281
T: (480) 774-1700
F: (480) 774-1701
www.ctsaz.com

In rendering professional services Caruso Turley Scott (CTS) shall apply the skill and care ordinarily exercised by structural engineers at the time and place the services are rendered. Schedules and timely available information from the architect, owner and other design consultants contribute to the completeness of the structural drawings. As such, all projects should carry a contingency for potential coordination and value added items. It is recommended that final bids not be taken until city review comments and coordination comments have been incorporated. If documents are bid prior to city and coordination comments, the owner assumes the risk for associated additional costs. Client agrees that the liability of CTS, its agents and employees, in connection with services hereunder to the Client and to all persons having contractual relationships with them, resulting from any negligent acts, errors, and/or omissions of CTS, its agents, and/or employees is limited to the total fees actually paid by the Client to CTS for services rendered by CTS hereunder. As a consultant we shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, since these are solely the Contractor's rights and responsibilities.

At the commencement of engineering services, a "Preliminary Notification" may be forwarded to the property owner and/or tenant. The "Preliminary Notification" is not a lien, but state law requires the distribution of a "Preliminary Notification" issued at the commencement of engineering services to maintain the option of filing a lien for nonpayment of engineering services at a future date. This "preliminary notification" is customary and routine in the construction industry and informs the recipient of their legal rights and obligations. Payments for Services as described above shall be made upon the presentation of the Engineer's invoice based on time expended. Interest at 1.5% per month, compounded monthly, will be paid on all invoices after 30 days from billing date. In the event any portion of an account remains unpaid 90 days after billing, the Client shall pay cost of collection, including reasonable attorney fees. In the event that any portion of the account remains unpaid 30 days after billing, this office may, without waiving any claim or right, and without liability whatsoever to the Client, suspend or terminate the performance of all services. **If this contract meets with your approval, please sign, date and e-mail (bkelly@ctsaz.com) back to our office for authorization to proceed.**

Respectfully Submitted By:
CARUSO TURLEY SCOTT INC.

Sandra J. Herd, SE, PE, LEED AP
Partner | Project Manager

Accepted By:
CGL COMPANIES

Name: _____
Title: _____
Date: _____

June 6, 2018

Rick Maciá
CGL Companies
5200 Blue Lagoon Drive, Suite 430
Miami, Florida 33126
P: 786.409.7004 C: 305.322.1423

Re: City Court Facility - City of Flagstaff, Arizona
(ESD P18-189R1)

Dear Rick:

Thank you for this opportunity to offer our mechanical, plumbing, and electrical engineering services for a new City Court Building through the design-build delivery method with Kinney Construction Services/CGL Companies. We understand ESD is to work directly for CGL Companies. The project description and scope of services is in accordance with the Project Definition and Scope of Services within the RFQ (RSOQ # 2018-63, Project No. 03-18007) prepared by the City of Flagstaff in March of 2018 and our phone conversation on May 31.

A. PROJECT DEFINITION:

1. Building Description:

   a. The project consists of a new 30,000 to 40,000 square foot City Court Building for the City of Flagstaff and associated site improvements and parking. The building will contain the following elements:
      (1) Courtrooms (jury and non-jury),
      (2) Hearing rooms,
      (3) Judicial chambers,
      (4) Jury assembly and deliberation space,
      (5) Court administration offices,
      (6) Supporting staff offices,
      (7) Security screening,
      (8) Customer service transaction area,
      (9) Lobby,
      (10) Conference room,
      (11) Training room,
      (12) Court enforcement unit with interview rooms,
      (13) Prisoner holding and staging areas,
      (14) Supporting spaces such as
         - Mail/copy room,
         - Janitorial closet,
         - IT/telephone closet,
         - Mechanical room,
         - Public and staff toilets.
      (15) Well-defined office space for the prosecution division of the City Attorney's Office.

2. On-grade parking. Stall amount to be determined.

3. The City of Flagstaff's total capital budget estimate for this project is currently $16 M, of which approximately $15M is available for construction.

4. This project is to be a LEED® Silver Certified minimum. or Green Globes

B. BASIS FOR PROPOSAL

1. The project will use a design-build delivery system. ESD will contract with CGL Companies who will in-turn contract with Kinney Construction Services, Inc. (KCS).
2. Building sanitary and rainwater drain piping, and natural gas and domestic water piping shall extend to a point approximately 5'-0" outside the building. Continuation of that piping, on the site, is not the responsibility of ESD.
3. All existing utilities serving the site are presumed adequate for the new building(s) (e.g. no booster pumps are required, etc.)
4. ESD has no obligation to prepare estimates of probable construction costs.
5. The design and installation of security, data, telephone and audio-visual systems is the responsibility of others. ESD is responsible only for designs related to accommodations for these systems (no wiring) – i.e. empty conduits, outlet boxes, power, based on device locations and related input being furnished to ESD. Low voltage design by CGL
6. There will be no food preparation, so no kitchen hoods are included in the design.
7. The design phase and construction documents completion dates are TBD.
8. The Architect will furnish to ESD surveys of existing utilities at the site.
9. ESD has not included any work related to relocation of existing on-site facilities, nor the demolition of existing installations on the site.
10. The Architect will furnish to ESD all special lighting design input, including related controls and specifications.
11. ESD will provide preliminary coordination with APS for early design parameters and service. KCS has the responsibility for final coordination with the electric power, telephone and natural gas utility companies, and will provide required design input to ESD.
12. The Architect will furnish all necessary electronic drawing (CADD) files as required for ESD to complete its design and preparation of mechanical, electrical and plumbing drawings and specifications. Typically, drawing files required by ESD include but are not limited to floor plans, elevations, reflected ceiling plans, and building sections. All electronic drawing files provided to ESD shall be in a format that is readily usable by ESD without extensive modifications. ESD will furnish information regarding its CADD standards, layering conventions, etc.
13. Design documents for critical locations shall be prepared in REVIT format (Version 200) which shall be issued for coordination on "major" items of equipment and installations. Construction Documents will be prepared in AutoCAD format.
14. There is no requirement to prepare demolition drawings.

C. SYSTEMS DESCRIPTIONS

1. Mechanical
   a. Building Systems
      (1) VRF Split System

- Variable Refrigerant Flow Air-cooled DX heat-pump systems with multiple indoor fan-coil units and remote condensing units, interconnecting refrigerant piping, and complete air distribution; with energy recovery units for outside air introduction.

b. Computer Room Environmental Units if required for data IDF rooms.

c. Heating boiler for outside air system.

d. Exhaust ventilation systems for toilet rooms as required.

e. Mechanical equipment room refrigerant leak detection and ventilation system where required.

f. Metering for Measurement and Verification per LEED® requirements.

g. Controls

- Energy management and control system, with communication between all system components, and with Operator Work Station, standard and project specific software, programming, graphics, and all required controllers, etc. Specific features to be confirmed in discussions with the Owner/system operator.

2. Plumbing

a. Sanitary waste and vent piping system(s).

b. Roof rainwater drainage piping system.

c. Domestic water distribution piping system.

d. Domestic water heating equipment consisting of electric water heaters for restrooms coffee bars and other tenant needs.

e. Metering for Measurement and Verification per LEED® requirements including water, gas and solar hot water.

f. Plumbing fixtures and water coolers.

3. Fire Protection

a. Performance specification for automatic fire sprinkler system(s) throughout the building which will include design criteria requirements for design by contractor, and submittal requirements. ESD drawings will indicate locations for sprinkler riser, standpipes, and other specific system design features.

4. Electrical

a. Service entrance and metering, and electrical power distribution throughout the site originating at the secondary terminals of the transformer(s) which are provided by the utility company.

b. Metering for Measurement and Verification per LEED® requirements including in gear metering, panels, plug loads, lighting loads and mechanical loads.

c. Complete building lighting and power systems for general purpose outlets, and accommodations for equipment.

d. Complete building lighting systems, including emergency lighting and control, with non-building standard lighting design input provided by your office.

e. Site lighting including parking lot walkways/hardscape, on-building and signage.

f. Site security lighting with photometric evaluations for selected fixtures.

g. Power accommodations for IDF room and any Owner-furnished equipment.

h. Power quality (i.e. non-linear loading K-rated transformers, TVSS) features as defined by the City of Flagstaff.

i. Power for fire alarm control panel. All fire alarm design is by others.

j. Empty conduit and provisions (power, junction boxes, panels, etc.) for telephone, security, data, MCTV, paging, and audio-visual systems. System equipment and cabling is the responsibility of other than ESD. by CGL

k. Accommodations only for data and telephone system installations, consisting of conduits into the main telephone room from a point 5'-0" outside of the building, to local distribution rooms, and from distribution rooms into ceiling space (no cabling). Owner will provide site conduit bank definitions for inclusion in ESD site plan.

l. Special grounding as required for the telecommunications systems.

m. SES and main conduit pathway for turnkey design and installation of photovoltaic solar at roof and parking canopies.

D. SCOPE OF SERVICES

1. General
   a. Compliance with current interpretation of applicable codes during the project design phase.
   b. Coordinate with you and other design team members.
2. Programming & Concept Plan Refinements
   a. Participate in development of Preliminary LEED® Score Card.
   b. Participate in Design Builder Estimate Support And VE Participation.
3. Schematic Design
   a. Provide MP&E (System Narratives, Major Equipment Locations on Plan, ID APS Power Needs).
   b. Assist with Dry Utilities - Site Power and Telecom Diverse Feed Concepts.
   c. Provide MP&E Basis of Design Narrative.
   d. Provide VRF and 100% OA Unit Evaluations.
   e. One team meeting is included.

4. Design Development
   a. Develop Specifications
   b. Develop Special Systems design to Schematic Level.
   c. Refine MP&E Basis of Design Narrative.
   d. Participate in LEED® Score Card Update.
   e. Preliminary Energy Model.
   f. One team meeting is included.
5. Construction Documents
   a. Specifications – Push Balance of Specs to 100%, Owner Participates In Edits of Controls sequences.
   b. Finalize Energy Model.
   c. Participate in LEED® Score Card Update.
   d. Prepare MPE sections of Design Phase LEED® Submittal.
   e. Final coordination with other design team members.
   f. Prepare 95% Construction Document package for coordination and Owner's review.
   g. Complete construction documents consisting of drawings and specifications for submission to the Building Department and for bidding, including compliance documentation for energy codes, etc. Documents shall have professional engineers' seals.
6. Construction Phase ← CA not included
   a. Make scheduled periodic visits to the site of the construction to observe the progress of the work, and its compliance with the Contract Documents. The result of all site visits shall be documented in observation reports. We have allowed for 4 man-visits by mechanical/plumbing, 4 man-visits by electrical engineer including a final punchlist walk. This totals to 8 man-visits. These visits will be scheduled as appropriate to the phase of the work and as pre-agreed upon by the Design Builder and Owner with field observation reports.
   b. RFIs, submittals, LEED® documentation support alongside Design Builder's Project Engineer.
   c. No O&M review.
   d. MPE punch list development & management (Bluebeam encouraged).
   e. Review requested submittals and shop drawings, including fire protection system design drawings, for general conformance to the Contract Documents.
   f. In-office activities related to communication with contractors, responding to proposal requests, requests for information, etc.
   g. Incorporate contractor markups ("Record Drawings") of the completed work into Contract Document drawings, and issue record drawings.

      Note: ESD has no responsibility relative to the accuracy or thoroughness of the contractor mark-ups. ESD can perform activities to confirm the accuracy of the record drawing contractor markups for an additional services fee.

E. BASIC SERVICES FEES

1.	Schematic Design Phase	$ 50,000
2.	Design Development Phase	$ 85,000
3.	Construction Document Phase	$ 85,000
4.	Construction Phase	~~$ 30,000~~
	TOTAL	~~**$ 250,000**~~

or Green Globes

F. LEED® SERVICES

1.	Energy Modeling/Analysis	$ 15,000
2.	Templating/Required Submittal Information	$ 5,000
	TOTAL	**$ 20,000**

3. Additional site visits during construction with field reports are to be billed at $1,800 per visit plus $150 trip charge for a total of $1,950 per visit.

4. Expenses
   a. The following expenses are included in the above fees: In-house coordination reproduction, and reproduction to facilitate design coordination with out-of-house members of the design team (i.e. architect, structural and civil engineers).
   b. All other costs are reimbursable at the rates outlined in the Additional Services section below.

G. ADDITIONAL SERVICES

1. ESD will submit a written description of all work with an estimated fee, which is not specifically defined as a part of Scope of Services, including requested revisions to work which has previously been completed. These additional services will be performed only after ESD has received written authorization from you to proceed with this work as defined.
2. The following items are considered as additional services:
   a. Survey of existing conditions (as-measured investigation).
   b. Analysis and/or design of alternate systems, after initial evaluation has been completed, and designs of selected systems have been commenced.
   c. Application and presentation of variances to the Building Department.
   d. Review of prior approvals during the Bidding Phase, to determine if alternate equipment is equal to specified items.
   e. Estimates of probable construction costs.
   f. Work related to demolition or modification of existing installations at the site.
   g. Revisions and/or redesign to work which has already been completed (in the Construction Document phase).
   h. Revisions in scope of work, as previously defined.
   i. "Value Engineering", involving the evaluation of alternative materials and methods of construction.
   j. Studies.
   k. Evaluation and response to design review by another owner's consultant.

l. Additional meetings, beyond which is previously stated.

m. Exterior on-site plumbing and fire protection utility systems (from a point approximately 5'-0" outside the building) including the following:

(1) Storm water drainage and provisions for on-site retention.

(2) Sanitary sewer.

(3) Domestic water.

(4) Landscape irrigation.

(5) Fire protection water and fire hydrants.

(6) Natural gas.

n. On-site storm water retention pumping system, and related electrical power (even if within the building).

o. Any other systems, features and services not specifically defined in the preceding "Systems Descriptions" and "Scope of Services" sections.

p. Additional site visits and involvement during the construction phase, due to extension of duration of construction, beyond which is previously stated.

q. Redesign to reduce construction costs, unless otherwise agreed to in writing.

r. Instruction of owner and operating personnel after or during the construction phase.

s. Preparation of operating and maintenance manuals.

t. Preparation of record drawings with associated CAD costs.

CA services will be part of GMP

u. Systems commissioning – performance verification.

v. "Fast Track" multiple construction document package approach.

w. Street Lighting.

x. If extensive modifications by ESD are required to reconfigure required electronic drawing files into a format that is usable by ESD, such work will be considered additional services and billed on an hourly basis. *(Note: extensive drawing file modifications may result in delay of project schedule.)*

3. Where the fee arrangement is based upon an hourly basis, or extra work is required due to a change in project scope, the hourly rates shall be those that prevail at the time services are rendered. Current calendar year rates for this agreement are as follows:

HOURLY RATES

Sr. Principal Engineer	$ 260.00/hour
Principal Engineer	$ 200.00/hour
Sr. Project Engineer	$ 180.00/hour
Project Engineer	$ 160.00/hour
Designer III	$ 140.00/hour
Designer II	$ 105.00/hour
Designer I	$ 90.00/hour
Testing/Balancing Technician	$ 85.00/hour
Administrative	$ 85.00/hour

Printing, deliveries, subcontractor fees, and other reimbursable expense will be billed at cost plus 15%

Plotting Charges	$ 1.00 per sf
Mileage	$ .50 per mile
Edited CAD Disks	$25.00 per sheet

H. CONDITIONS OF AGREEMENT

Note: *A purchase order (only) is not acceptable. The Owner/Client must sign an agreement for professional services with ESD, with specifically defined scope of services, and terms of payment, etc.*

1. General
   a. ESD does not, either by entering into this Agreement or otherwise, make any warranty, either express or implied, as to any findings, recommendations, evaluations, assessments, observations, plans, specifications, pre-qualification efforts, performance verifications, or advice of ESD or to inspections, if any, performed by ESD. As to ESD, there are no warranties, express or implied, including, but not limited to, any warranties of merchantability or fitness for a particular purpose or system integration, except as may be separately agreed by ESD in writing, for any services provided pursuant to this Agreement. The Owner/Client shall be solely responsible for the use, efficiency, and suitability of such services, as ESD shall have no liability therefore. Owner/Client further acknowledges that Owner/Client has worked collaboratively with ESD concerning ESD's provision of services pursuant to this agreement and has been active in all decisions concerning such services.
   b. For projects involving multiple design phases, it is mandatory that the Owner/Client provide a formal written approval of each phase and the authorization to proceed to the next phase, before ESD will proceed. This written approval signifies that the represented design approaches are appropriate, and that the related construction costs are within their budget.
   c. The Owner/Client shall provide a construction budget, and an explanation of the construction cost control process shall be provided to ESD at the beginning of the project's design phase so as to avoid any necessity for redesign.
   d. It is mandatory that all Owner/Client and design team members be responsible for their respective obligation relative to furnishing required input to ESD in a timely manner, so as to enable ESD to comply with project milestone completion dates. A project activity schedule with milestone dates shall be developed with input and agreement from ESD and all other team members at the beginning of the design phase(s) to establish responsibilities of all participants.
   e. ESD will endeavor to meet the defined design phase milestone dates, however because factors beyond ESD's control may affect ESD's work process, ESD makes no warranty hat the design phase services will be completed on the defined milestone dates nor that the construction work will commence as originally scheduled.
   f. You will furnish a copy of any "prime" agreements/contracts (i.e. Owner/ Architect, Owner/Contractor).
   g. ESD's services will represent the care and skill ordinarily used by members of ESD's profession, when practicing under similar conditions, at that time, and in the same geographic locality, which is stated as the "Standard of Care".

h. ESD's responsibilities are only as specifically hereinbefore defined and stated, and are not undefined "expectations" of the Owner and/or Architect.

i. When the plans and specifications of this project are delivered to the Owner upon completion of work, the Owner agrees to hold harmless, indemnify and defend the design professional against all damages, claims and losses, including defense costs arising out of the reuse of the plans and specifications, without the written authorization of ESD. ESD agrees to be responsible for our own or our employee's negligent acts, errors or omissions.

j. ESD agrees that its use of electronic drawings files, furnished by the Architect, shall be limited to design and preparation of mechanical, electrical, and plumbing drawings for this project and that the files will not be used for any other purposes.

k. All drawings, specifications, and other work produced for this project are instruments of services for this project only, and shall remain the property of Energy Systems Design, Inc.

l. ESD shall be furnished with one complete set of documents for each project phase, within 5 days after they have been submitted to you.

m. Sealed original reproducible drawings are the contract documents, and instruments of services for this project.

n. ESD's Electronic files shall not be edited by other than ESD. You agree to indemnify and hold harmless ESD for any subsequent use and/or modification of electronic files, for other than the original intent, as indicated on the sealed original reproducible drawings.

o. Other General Terms:

Attorneys' Fees. In the event suit is brought (or arbitration instituted) or an attorney is retained by any party to this Agreement to enforce the terms of this Agreement or to collect any money due hereunder, or to collect money damages for breach hereof, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith.

Notices. Any notice to any party under this Agreement shall be in writing and shall be effective on the earlier of (i) the date when received by such party, or (ii) the date which is three (3) days after mailing (postage prepaid) by certified or registered mail, return receipt requested, to the address of such party set forth herein, or to such other address as shall have previously been specified in writing by such party to all parties hereto.

Governing Law. This Agreement shall be deemed to be made under and shall be construed in accordance with and shall be governed by the laws of the State of Arizona and (subject to any provision in this Agreement providing for mandatory arbitration) to enforce any provision of this Agreement or to obtain any remedy with respect hereto may be brought in Superior Court, Maricopa County, Arizona, and for this purpose each party hereby expressly and irrevocably consents to the jurisdiction of said court.

Construction of Agreement. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly for nor against any party. The neuter gender includes the masculine and feminine. It is mutually agreed that in the event any term, covenant or condition herein contained is held to be invalid or void by any court of competent jurisdiction, the invalidity of any

such term, covenant or condition shall in no way affect any other term, covenant or condition herein contained.

Captions. Captions and paragraph headings used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall not be deemed relevant in construing this Agreement.

Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement; and the remaining portions of the Agreement shall remain in full force and effect.

Additional Acts and Documents. Each party hereto agrees to do all such things and take all such actions and to make, execute and deliver such other documents and instruments as shall be reasonably requested to carry out the provisions, intent and purpose of this Agreement.

Authority. Each of the parties hereto represents and warrants to each other party hereto that this Agreement has been duly authorized by all necessary action and that this Agreement constitutes and will constitute a binding obligation of each such party.

Integration Clause; Oral Modification. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all agreements entered into prior hereto are revoked and superseded by this Agreement, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed, modified or rescinded except in writing signed by all parties hereto, and any attempt at oral modifications of this Agreement shall be void and of no effect.

Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest and assigns, but in no event shall any party be relieved of its obligations hereunder without the express written consent of each other party.

I. INSURANCE AND RISK ALLOCATION

1. General Risk Insurance: ESD agrees to maintain insurance as will protect CGL Companies from claims under the Worker's Compensation Laws and from General Liability claims for bodily injury, or death, or property damage which may arise from the negligent performance by its employees in the functions and services required under this Agreement.
2. Standard of Care: ESD will provide in connection with the services contemplated herein the standards of care, skill and diligence normally provided by a professional engineer in the performance of the same or similar services. In the event ESD fails to provide such standards of care, skill and diligence, ESD will correct any such deficient services. In no event shall ESD have any liability for other damages including those as outlined below. ESD shall not be responsible for the methods, acts or omissions of CGL Companies personnel, nor for construction means, methods or safety precautions in connection with the work.
3. Professional Liability Insurance: ESD agrees to maintain Professional Liability Insurance to protect CGL Companies from ESD's negligent acts, errors or omissions of a professional nature.
4. The Client and ESD mutually agree, to the fullest extent permitted by law, to indemnify and hold each other (and each other's employees, agents, consultants, and anyone whose acts may be attributable to them) harmless against any and all damages, liabilities, injuries, claims, or costs, including reasonable attorneys' fees and defense costs, arising from their

own negligent acts in the performance of their services under this Agreement, but only to the extent that each party is found responsible for such damages, liabilities and costs on a comparative basis of fault by a court or arbitrator of competent jurisdiction.

5. In recognition of the relative risks, rewards and benefits of the project to both the Client and ESD, the risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, ESD's total liability to the Client for any and all injuries, claims, losses, expenses, damages or claim expenses, including any attorneys' fees, costs, expert witness fees and costs, and other costs of defense arising out of this Agreement from any cause or causes, shall not exceed ESD's fee or $1,000,000, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

I. PAYMENT TERMS AND CONDITIONS

1. Invoices will be submitted to you monthly so that you may readily relate our charges to the work performed. If you have any questions regarding an invoice or services rendered, please contact our office. If you do not comment within 10 days of invoice date, we will assume that you have received the invoice and found it acceptable.
2. Accounts past due will incur a finance charge of 1.5% per month (18% APR). All payments received will be applied first to interest with the balance applied to the outstanding invoice amount. Any costs incurred for collection including reasonable attorneys' fees, shall be borne by you.
3. Payment shall be received by ESD within 30 days after the invoice date.

J. TERMINATION OF AGREEMENT

1. If the project is abandoned by the Architect because of the Owner's abandonment of the project for more than 90 consecutive days, ESD may terminate this Agreement by giving written notice.
2. This Agreement may be terminated by either party upon not less than seven (7) days written notice, should the other part fail substantially to perform in accordance with the terms of this Agreement.

Please sign below, indicating your agreement to the statements and conditions of this proposal, and return a copy to ESD.

Sincerely,

Energy Systems Design, Inc.

Mo Ardebili, PE, LEED® AP

CEO | Founder

ACCEPTED:

For:_____

By:_____

Title:_____

Date:_____

EXHIBIT C – PERFORMANCE STANDARDS REQUIREMENTS

Not Applicable to this contract.

EXHIBIT D – MONTHLY ANTICIPATED ADVERSE WEATHER DAYS

The Contractor will be entitled to a Contract Time extension if the actual adverse weather Days experienced during the Work exceed the anticipated adverse weather Days shown in Table 108.7. Table 108.7 as follows is the monthly schedule of adverse weather Days that shall be anticipated by the Contractor in scheduling the Work:

TABLE 108.7 – MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS

MONTH	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS	**7 days**	**7 days**	**8 days**	**6 days**	**4 days**	**3 days**
AVERAGE MONTHLY PRECIPITATION	1.98"	1.96"	2.05"	1.84"	0.68"	0.51"
MONTHLY DAILY HIGH TEMPERATURE ≤32° F	5 days	3 days	2 days	0 days	0 days	0 days
MONTH	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS	**12 day**	**11 days**	**7 days**	**5 days**	**5 days**	**6 days**
AVERAGE MONTHLY PRECIPITATION	2.78"	2.68"	1.82"	1.52"	1.49"	1.90"
MONTHLY DAILY HIGH TEMPERATURE ≤ 32° F	0 days	0 days	0 days	0 days	1 day	5 days

The above schedule of anticipated adverse weather days establishes the base line for the project's monthly weather impacts, based on historical records, as recorded by the National Weather Service at Pulliam Airport, for precipitation in excess of 0.01 inch and daily high temperatures below 32° Fahrenheit.

AMENDMENT ONE

City of Flagstaff Court Facility
Design-Build Contract

Construction Services Phase – GMP 1

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

This First Amendment ("Amendment") to the fully executed Design-Build Services Contract No. 2018-63 dated 7/17/18 (the "Agreement") for the City of Flagstaff Court Facility (the "Project") is made and entered into this 1ST day of APRIL, 2019, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona 86001, and Kinney Construction Services, Inc., an Arizona corporation with offices at 121 E. Birch Avenue, Flagstaff, Arizona 86001.

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

ARTICLE 5 – CONTRACT PRICE

5.3 – GMP

Design-Builder's GMP 1 for the construction phase services for the Phase 1 portion of (Demolition) work of the Project shall be **one million, five hundred eighteen thousand, one hundred and seventy-five dollars ($1,518,175.00).** The GMP shall be for the complete performance of Phase 1 portion of work in accordance with the Contract Documents and exhibits listed below, which are part of this Amendment, and which shall be incorporated into the Agreement by this First Amendment as if fully set forth therein.

EXHIBIT A – GMP 1 Summary Sheet, dated 2/11/19, 3 page(s).

EXHIBIT B – Basis of GMP 1 (Allowances, Assumptions and Clarifications on which the GMP is based), dated 2/11/19, 6 page(s).

EXHIBIT C – Enumeration of Drawings and Specifications, including Addenda, if any, on which the GMP is based, 1 page(s).

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

The total Contract Price under the Agreement, as amended by this Amendment, shall be **three million, one hundred eleven thousand, eight hundred and three dollars ($3,111,803.00).**

ARTICLE 6 – CHANGES TO CONTRACT PRICE AND TIME

The Scheduled Date of Completion of the work for the City of Flagstaff Court Facility project under this First Amendment is an additional 148 calendar days from the Notice to Proceed with a substantial completion date of 8/27/2019.

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

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

City of Flagstaff

By: Barbara Goodrich

Barbara Goodrich, City Manager

Dated: 3/29/19

Kinney Construction Services, Inc.

By: _____

Title: PRESIDENT

Dated: 3-28-19

Attest:

Stacy Saltzburg

City Clerk

Approved as to form:

City Attorney

PROJECT GMP PROPOSAL SUMMARY SHEET
COF Courts - Phase 1 GMP - Exhibit A

ITEM NO.	BUILDING/CONSTRUCTION TYPE		TOTALS
	PROFESSIONAL SERVICES		
1	Professional Services		
2	Reimbursables		
3	Construction Administration (Architect & Engineers)		$51,782.00
	Total Professional Services		**$51,782.00**
	CONSTRUCTION		
4	Cost of Construction		$1,031,605.00
5	Design-Builder's Contingency	5.00%	$54,169.00
	Indirect Costs	**Rate**	
6	General Conditions	12.50%	$142,190.00
7	Payment & Performance Bond	1.50%	$19,196.00
8	Insurance	1.21%	$15,587.00
9	Construction Fee	7.00%	$92,017.00
10	Sales Taxes	5.82%	$81,861.00
	Total Construction Cost		**$1,436,625.00**
11	Owner's Contingency (2%)		$29,768.00
	Grand Total (Construction & Professional Services)		**$1,518,175.00**

Dated: 02.11.2019

COF Courts GMP 1 Estimate 021119
Building Detail

DESCRIPTION	QUANTITY (UNITS)	UNIT	UNIT COST	TOTAL
DEMOLITION & ABATEMENT - CHERRY ST				**$135,210.00**
Building Abatement	1.00	ls	$33,400.00	$33,400.00
Building Demolition	1.00	ls	$59,400.00	$59,400.00
Private Utility Locating	16.00	hrs	$220.00	$3,520.00
Electrical Make-safe	40.00	hrs	$75.00	$3,000.00
Mechanical Make-safe	24.00	hrs	$75.00	$1,800.00
Plumbing Make-safe	40.00	hrs	$75.00	$3,000.00
Misc salvage prior to demolition	24.00	hrs	$35.00	$840.00
Additional demo of concrete footings/caissons	1.00	ls	$15,000.00	$15,000.00
Traffic Control	1.00	ls	$6,200.00	$6,200.00
Temp fencing	1.00	ls	$6,500.00	$6,500.00
Remove and salvage light fixtures at street	5.00	ea	$350.00	$1,750.00
Remove and salvage signage at street	10.00	ea	$80.00	$800.00
DEMOLITION & ABATEMENT - BEAVER ST				**$174,660.00**
Building Abatement	1.00	ls	$54,100.00	$54,100.00
Building Demolition	1.00	ls	$77,200.00	$77,200.00
Private Utility Locating	16.00	hrs	$220.00	$3,520.00
Electrical Make-safe	40.00	hrs	$75.00	$3,000.00
Mechanical Make-safe	24.00	hrs	$75.00	$1,800.00
Plumbing Make-safe	40.00	hrs	$75.00	$3,000.00
Misc salvage prior to demolition	24.00	hrs	$35.00	$840.00
Additional demo of concrete footings	1.00	ls	$25,000.00	$25,000.00
Traffic Control	1.00	ls	$1,500.00	$1,500.00
Temp fencing	1.00	ls	$4,700.00	$4,700.00

COF Courts GMP 1 Estimate 021119
Building Detail

DESCRIPTION	QUANTITY (UNITS)	UNIT	UNIT COST	TOTAL
SITEWORK - PHASE 1 ONLY - CHERRY ST SITE				**$721,735.00**
Sitework Demo & SWPPP				
SWPPP (construction entrance, wattles, and washout)	1.00	ls	$8,893.00	$8,893.00
ADEQ NOI	1.00	ls	$500.00	$500.00
Mobilization	1.00	ls	$8,384.00	$8,384.00
Survey	1.00	ls	$10,000.00	$10,000.00
Street Cleaning & Clean-up	13.00	wks	$729.31	$9,481.00
Demo Aspahlt, Concrete Sidewalk and Curb for utility work	1.00	ls	$16,104.08	$16,104.08
Demo Existing UG utilities (Gas & Electrical)	190.00	lf	$17.45	$3,315.50
Utilities				
Private utility locating & potholing	8.00	hrs	$389.00	$3,112.00
Water Service - 2" with tapping sleeve	65.00	lf	$59.65	$3,877.00
Fire Line - 8" with tapping sleeve & riser	63.00	lf	$336.64	$21,208.62
Remote FDC Assembly, riser, & 4" Line	24.00	lf	$302.46	$7,258.92
Hydrant Assembly including bollards	1.00	ls	$7,341.00	$7,341.00
Backflow Assembly & Hot Box - does not include irrigation	1.00	ea	$7,480.00	$7,480.00
Cap & Abandon Existing Services	2.00	ea	$1,732.00	$3,464.00
Sleeves for irrigation	300.00	lf	$15.00	$4,500.00
Sewer Service	20.00	lf	$73.00	$1,460.00
Gas Service - trenching and backfill only	80.00	lf	$20.00	$1,600.00
Relocate OH Electrical to UG - primary	1.00	ls	$200,000.00	$200,000.00
Electrical UG Conduits - secondary	290.00	lf	$45.00	$13,050.00
Concrete Equip Pad	2.00	ea	$900.00	$1,800.00
Fiber Conduits - includes road crossings & borings - not included	0.00	ls	$0.00	$0.00
Earthwork & Grading				
Grading & Excavation	1850.00	sy	$1.81	$3,348.50
Import of Soils for Backfill	1481.00	cy	$52.56	$77,841.36
Finde Grade & Subgrade Prep for Hardscape - Offsite only	1.00	ls	$21,561.22	$21,561.22
Rock-excavation Allowance	1.00	ls	$50,000.00	$50,000.00
Temporary Water - Construction Water	1.00	ls	$4,423.00	$4,423.00
Geo Piers	1.00	ls	$125,000.00	$125,000.00
Haul-off Geo-pier Spoils	1.00	ls	$12,922.00	$12,922.00
Off-Site Concrete & Asphalt				
Sidewalks (Pavers) - salvage existing and reinstall	2852.00	sf	$10.00	$28,520.00
Tree wells & Ribbon Curb - existing & protect	8.00	ea	$175.00	$1,400.00
Tree wells & Ribbon Curb - new	4.00	ea	$950.00	$3,800.00
Concrete Driveways	375.00	sf	$25.00	$9,375.00
Curb & Gutter	83.00	lf	$58.00	$4,814.00
Concrete Sidewalks	2400.00	sf	$8.00	$19,200.00
Asphalt Patching at Street	152.00	sy	$85.00	$12,920.00
Striping & Paint Curb	1.00	ls	$13,781.00	$13,781.00
GENERAL CONDITIONS & REQUIREMENTS				**$142,190.00**
Project Director (part time)	104.00	hr	$ 142.00	$ 14,768.00
Project Manager (part time)	208.00	hr	$ 120.00	$ 24,960.00
Superintendent (full time)	520.00	hr	$ 112.00	$ 58,240.00
Assistant Project Manager (part time)	208.00	hr	$ 95.00	$ 19,760.00
Project Accountant	52.00	hr	$ 96.00	$ 4,992.00
Plans & Specifications Reproductions (paper)	4.00	sets	$100.00	$400.00
Job Site Office (include set-up & 3 months rental) and supplies	1.00	ls	$5,000.00	$5,000.00
Temporary Electric - hook-up only (electrical costs by owner)	1.00	ls	$2,500.00	$2,500.00
Temporary Sanitary Facilities	3.00	mths	$180.00	$540.00
Temp laydown yard across street	3.00	mths	$1,200.00	$3,600.00
Safety Requirements , First Aid, & Fes	1.00	ls	$1,800.00	$1,800.00
Barricades, Protection, and traffic Control - included in each phase				$0.00
Project Identification & Signs (Safety & Wayfinding)	1.00	ls	$1,800.00	$1,800.00
Testing Laboratory Services & Inspections - by owner				$0.00
Expendables, Small Tools, & Drinking Water	1.00	ls	$1,830.00	$1,830.00
Construction Software/Equipment/Management (Procore)	1.00	ls	$2,000.00	$2,000.00
CONSTRUCTION ADMINISTRATION	3.00	mths	17,261.00	**$51,782.00**

EXHIBIT 'B'
Statement of Clarifications and Assumptions
COF Courts Facility – Phase 1 GMP
02.11.2019

Purpose & Intent

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

Basis of Qualifications

Documents as outlined in Exhibit C – Enumeration of Drawings

General Clarifications

1. Pricing is based on an approximate 15 month total duration starting April 1st, 2019. Phase 1 GMP only includes a portion of this schedule for the scope of work outlined below and in Exhibit A with a duration of 13 weeks total.
2. A payment and performance bond for Kinney Construction Services, Inc. is included.
3. Any costs associated with a building permit or reviews are not included. Permits and fees required by City of Flagstaff (COF) are to be paid for by the owner including all water and sewer impact feeds.
4. All temporary utility consumption costs are assumed to be by the Owner and are therefore not included.
5. Costs for preconstruction and design services are not included as part of this GMP.
6. Material testing and special inspections are not included. COF to procure & provide all special inspections. Contractor to coordinate with COF and 3rd Party Testing representative to schedule required testing and inspection during construction.
7. A (1) one-year warranty from date of substantial completion has been included.
8. All work is intended on being performed during normal business hours, Monday thru Friday.
9. KCS has registered this project with GreenGlobes with the intent of reaching 3 Globes certification. KCS will provide necessary documentation to achieve this certification.
10. All work will abide by MAG specs with COF modifications as required.
11. Construction Administration by CGL and it's consultants will be provided for Phase 1 including RFI response, submittal review, attending meetings via teleconference, and one site visit (if necessary).

General Conditions

- KCS will provide adequate project management, supervision, tools, equipment, waste management containers and temporary construction facilities for the duration of this project.
- A temporary construction office will be provided at the site or adjacent laydown area. KCS intends on leasing the property across the street from FSL for the duration of the project for contractor parking and laydown. No public parking is included.
- All necessary project documentation will be maintained from project start to closeout including paper / electronic copies of all plan iterations, ASIs, submittals, RFIs, weekly reports, meeting minutes, and safety logs. KCS intends on using Procore Construction Management Software as a tool to assist with this documentation management. COF staff will have access to this web-based software as well.
- KCS will provide protection of existing site and necessary traffic and pedestrian signage and control. A temporary chainlink fence with screening will be installed around the entire property including the sidewalks, but will not be installed in the street impeding traffic. Sidewalks will be closed and proper signage will be placed at the nearest adjacent intersection directing pedestrian traffic to open walkways.

Abatement

- Prior to abatement activities, COF staff shall remove all FF&E from building – this is to include any stationary items not fixed to the building such as furniture and shelving.
- KCS will provide necessary ADEQ notices prior to beginning work.
- Asbestos removal will occur in two phases. Abatement of the existing APS buildings - 101 W Cherry (2 buildings) will occur first to make room for the new facility. Once the new facility is built and existing tenants have been moved into new building, abatement of the existing court - 15 N Beaver (1 building) and prosecutor's office - 107 W Aspen (1 building) can occur. GMP #1 includes all necessary costs for a second mobilization for phase 2 demo and abatement activities.
- 107 W Aspen asbestos containing materials - 3,300 sf of drop grid ceiling tiles including asbestos containing debris in and above ceiling area.
- 15 N Beaver asbestos containing materials - 9,900 sf of roofing material including duct sealant at existing RTU's, 5 sf caulking compound in equipment/computer room, 231 sf of drywall texture, 30 fire doors, 1 vault door, 125 sf of FRP mastic, 20 sf of cove base mastic, anchoring mastic from up to 4 mirrors, and 4 sf of window caulking and putty from 4 window units.
- 101 W Cherry (Main Building) asbestos containing materials - 32 fire doors, 200 sf of window base plate including caulking attached to each, and 14,800 sf of mastic under carpet and VFT.
- 101 W Cherry (Annex Building) asbestos containing materials - 8 windows with caulking and glazing, 1,500 sf of roofing, and 8 fire doors.

- Abatement scope is based on the following reports and adjacent addendums by Four Corners - 107 W Aspen (1 building), 101 W Cherry (2 buildings), and 15 N Beaver (1 building) per the current consolidated hazardous material reports including addendums prepared by Four Corners Environmental, Inc. dated 12.17.18 - 101 West Cherry Ave, 12.31.18-15 N Beaver, and 12.31.18-107 W Aspen Ave.
- All quantities listed above are approximate and taken from reports provided to KCS and listed in Exhibit C.
- No additional material testing has been included.
- No lead based paint abatement has been included. LBP disposal is included in demolition scope as approved by COF. It is understood that LBP materials meet the TCLP standards and can be properly disposed of at the Cinder Lakes Landfill.
- No 3rd party monitoring or specification has been included.
- No underground utility abatement has been included.
- No additional asbestos removal other than what has been identified within the reports mentioned above.

Demolition

- All materials and equipment necessary to demolish a total of 4 buildings at 3 locations - 107 W Aspen (1 building), 101 W Cherry (2 buildings), and 15 N Beaver (1 building).
- Items to be demolished include but are not limited to the following: exterior walls (concrete and masonry), interior walls including any insulation (concrete, masonry, drywall steel/wood framed), all flooring, concrete slab on grade, cast in place concrete floors/columns/beams, steel columns and beams, ACT and drywall ceilings, electrical/fixtures/conduit/wire/panels/equipment, mechanical fixtures/duct/trim/insulation/roof top units/equipment, plumbing fixtures/pipe/insulation/trim/equipment, roofing materials including all metal fascia trim/gutters/downspouts, brick, stone veneer, interior furniture, interior and exterior glazing and storefronts, doors, door frames, door hardware, accessories, exterior asphalt paving, exterior trees and grates, exterior sidewalk and curb attached to building entrances, exterior escape ladders, sprinkler system, fire alarm system, etc.
- KCS will salvage building signage as directed by owner prior to demolition.
- KCS will salvage light fixtures, tree grates, and pavers as necessary during course of construction for reinstallation along Beaver and Cherry Streets.
- KCS will provide MPE make-safe prior to demolition of existing facilities.
- Includes removal of footings as required to accommodate new construction.
- Includes removal and disposal of all lead-based paint materials. All LBP's to be disposed of at cinder lakes landfill.
- Includes dumpsters and sorting for all metal, concrete, drywall (optional), masonry, asphalt, and stone. This project will be Green Globes certified to receive 3 Green

Globes. Includes weight tickets from waste facility including all other necessary Green Globes sustainability documentation as it relates to this scope of work.

- Existing stone on exterior and interior of buildings will not be salvaged.
- Includes complete haul off from site.
- Includes removal of all parking signage and wheel stops within demo limits.
- Includes all temporary protection necessary in order to protect above ground and underground utilities to remain, light poles, power poles, adjacent buildings and structures to remain, existing adjacent sidewalk and roadways to remain, existing adjacent parking areas to remain, etc.
- Demolition of the existing APS buildings - 101 W Cherry (2 buildings) will occur first to make room for the new facility. Once the new facility is built, demolition of the existing court - 15 N Beaver (1 building) and prosecutor's office - 107 W Aspen (1 building) can be demoed after the existing tenants have moved into the new building. Includes all necessary cost for a second mobilization.
- KCS will provide all dust control as necessary using water during demolition activities.
- Does not include provisions for unforeseen removals.
- Does not include contaminated soil removal.

Sitework

Sitework Demo & SWPPP

- KCS to provide ADEQ NOI and proper SWPPP protection during demolition and sitework at Cherry St site. This includes a construction entrance off of Cherry St. and maintenance during this scope of work. A portion of the site is within the 100-year floodplain limit. KCS will abide by regulations pertaining to this limit including not storing materials or stockpiling materials overnight.
- Construction surveying will be provided to indicate demolition limits, grading limits, building layout for grading, and location of geo-piers.
- KCS will provide street cleaning as necessary during the duration of this scope of work.
- Existing underground utilities for APS and Unisource will be removed once these entities disconnect, cap, and make-safe these areas.

Utilities

- New utilities will be provided for new facility including connection to existing sewer, new 8" fire line, new 2" water assembly, gas service, and electrical service.
- KCS has included necessary traffic control and protection while working in the street for tie-in of these utilities.
- KCS will patch back asphalt, concrete sidewalk, and concrete curb after installation of new utilities.
- A new backflow preventor for the domestic water service will be provided including a hotbox.

- A remote fire department connection (FDC) will be provided as shown on plans including a 4" line to riser room.
- A new fire hydrant assembly will be provided at the SE corner of the building as shown on the plans. KCS has included bollards at this assembly.
- KCS assumes sewer service will be tied in as show on the plans and a main line tap and work within the street will not be required.
- KCS has included relocation of the overhead electrical service to underground. This allowance of $200,000 includes APS fees for new primary service and equipment necessary to place these lines underground.
- KCS has included 2 equipment pads; one for a new APS transformer and switching cabinet.

Earthwork & Grading

- Once site demolition has occurred, KCS will provide general grading work for new building pad and parking lot.
- KCS has included necessary import of fill material as necessary to establish building pad grades
- KCS has included an allowance of $50,000 for rock excavation associated with utility trenching and building excavations.
- KCS will provide geo-pier foundations at new building foundation prior to installation of concrete foundations and Phase 2 GMP scope of work.
- All additional spoils from geo-pier installation will be hauled off from site.

Off-site Concrete & Asphalt

- Off-site concrete and asphalt work will be provided as shown on plans including new concrete driveways, curb & gutter, sidewalks, and asphalt patching at street.
- Salvaged pavers will be re-installed at parkway adjacent to Beaver and Cherry Streets to accommodate new work.
- Existing trees and tree wells will be protected during the course of construction. New tree wells including ribbon curb will be provided at parkway as indicated on plans.
- New concrete driveway will be provided off of Cherry St to new parking lot.
- Off-site curb and gutter will be provided at abandoned driveway locations and utility tie-in locations.
- Asphalt patching will be provided at driveway and curb tie-ins along with utility work at street. All asphalt patching will include necessary t-top. It assumes that existing subgrade and base are suitable at existing streets. Remediation of unsuitable soils at street is not included.
- KCS will include new off-site concrete sidewalks at perimeter of new courts facility.
- KCS will provide re-striping of adjacent off-street parking spaces at new facility including curb markings as necessary. It is assumed that the markings will be epoxy based paint.

Exclusions

- Electrical Power Consumption Costs – KCS has included hook-up of temp power, but the assumption is that the meter will be in COF name and costs for electricity consumption will be by owner.
- 3rd Party Testing – assume costs by owner. KCS to coordinate inspections and providing copies of reports as necessary.
- On-site concrete and asphalt
- Structural concrete
- Parking Lot improvements at existing site
- Landscaping & Irrigation
- Fiber & Conduit Installation
- Gas Service – Unisource will bill COF direct for the actual installation of the UG pipe; KCS to provide trenching and backfill only
- 3rd Party Oversight for Abatement Activities
- Utility Impact Fees

Exhibit C - Enumeration of Documents
COF Courts - Phase 1 GMP

Number	Title	Date
	Asbestos & LCP Re-survey - 101 W Cherry	12.17.2018
	Asbestos & LCP Re-survey - 107 W Aspen	12.17.2018
	Asbestos & LCP Re-survey - 15 N Beaver	12.31.2018
	Asbestos Addendum - 101 W Cherry	1.11.2019
	Asbestos Addendum - 107 W Aspen	12.31.2018
	Asbestos Addendum - 15 N Beaver	12.31.2018
**All documents above created by Four Corners Environmental, Inc.*		
	Preliminary Drainage Report	2.7.2019
AS-100	Site Plan	2.5.2019
A-111	Floor Plan - Level 1	12.11.2018
A-112	Floor Plan - Level 2	12.11.2018
A-113	Floor Plan - Level 3	12.11.2018
A-131	Roof Plan	12.11.2018
A-211	Perspective Views	2.5.2019
A-221	Elevations - Exterior	2.5.2019
A-222	Elevations - Exterior	2.5.2019
A-223	Elevations - Exterior	2.5.2019
A-224	Elevations - Exterior	2.5.2019
A-310	Schematic Section	2.5.2019
A-501	Exterior Details - Signage Plan	2.5.2019
M-100	Materials	2.5.2019
ES-100	Electrical Site Plan	11.21.2019
ES-200	Lighting Fixture Cut Sheets	11.21.2019
10	Landscape Plan	2.7.2019
11	Landscape Plan	2.7.2019
12	Landscape Plan	2.7.2019
CVR	Cover Sheet	Feb, 2019
SP01	Civil Site Plan	Feb, 2019
GD01	Grading and Drainage	Feb, 2019
**All documents above created by CGL & SWI*		

AMENDMENT TWO

City of Flagstaff Court Facility
Design-Build Contract

Construction Services Phase – GMP 2

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

This Second Amendment ("Amendment") to the fully executed Design-Build Services Contract No. 2018-63 dated 7/17/18 (the "Agreement") for the City of Flagstaff Court Facility (the "Project") is made and entered into this 11th day of JUNE, 2019, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona 86001, and Kinney Construction Services, Inc., an Arizona corporation with offices at 121 E. Birch Avenue, Flagstaff, Arizona 86001.

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

ARTICLE 5 – CONTRACT PRICE

5.3 – GMP

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

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

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

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

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

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

ARTICLE 6 – CHANGES TO CONTRACT PRICE AND TIME

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

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

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

City of Flagstaff

By: Barbara Goodrich

Barbara Goodrich, City Manager

Dated: 6/17/19

Kinney Construction Services, Inc.

By: [signature]

MICHAEL THOMAS

Title: PRESIDENT

Dated: 6-11-19

Attest:

Stacy Saltzburg
City Clerk

Approved as to form:

Christa Paar for
City Attorney

PROJECT GMP PROPOSAL SUMMARY SHEET

COF Courts - Phase 2 GMP - Exhibit A

4/24/2019

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

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

Purpose & Intent

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

Basis of Qualifications

Documents as outlined in Exhibit C – Enumeration of Drawings

General Clarifications

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

General Conditions

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

Foundations, Structural Concrete, & Miscellaneous Concrete

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

Structural Steel

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

Structural Masonry & Brick/Stone Veneer

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

Metal Stud Framing, Drywall, & Exterior Sheathing

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

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

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

Millwork

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

Storefront & Glazing

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

Stucco

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

Painting

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

Flooring & ACT Ceilings

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

Doors & Hardware

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

Conveying Systems

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

Mechanical

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

Plumbing

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

Electrical

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

Fire Protection

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

Fire Alarm

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

Communications, Data, Security, & A/V

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

Landscaping & Irrigation

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

Exterior Ornamental Fencing & Gates

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

Specialties, Signage, & Restroom Accessories

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

Exclusions

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

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

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

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

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

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

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

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

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

CITY OF FLAGSTAFF
CONTRACT SUPPLEMENTARY JUSTIFICATION
Design-Build OR CMAR Contracts

PROJECT NO. GG3278 **PROJECT NAME:** City of Flagstaff Municipal Court Facility

FILE NO. 03-18007 **Project Manager:** Christine Cameron

CONTRACTOR/CONSULTANT: Kinney Construction Services, Inc.

PROJECT DESCRIPTION: Construction of a 40,000 square-foot facility to contain the Municipal Court, Court Administration, and the City Prosecutor's office.

JUSTIFICATION FOR USE AND AMOUNT:

Contractor's Contingency Amount: $19,230, 5% of construction costs.

Justification: The Contractor's contingency is included to cover future construction issues that may arise, changes in specifications, plan constructability issues, and unknowns.

Owner's Contingency Amount: $25,451, 4.89% of total costs.

Owner's Contingency Justification and Amount: The Owner's Contingency is included to cover future added scope that is requested from the Project Owners during construction.

COST/BUDGET/FUNDING SOURCE ANALYSIS:

Contractor's Contingency: $19,230, 5% of construction costs. This amount is budgeted within the total project budget.

Owner's Contingency: $25,451, 4.89% of total costs. This amount is budgeted within the total project budget.

APPROVAL:	**Signature**		**Date:**
Project Manager		**Approval Recommended**	11-12-19
Program Manager		**Approval Recommended**	11/12/19
Section Head	Richard A. Barnett	**Approval Recommended**	11/12/19
Division Head		**Approval Recommended**	11/13/19

Definitions

Owner's Contingency (Design/Build or Construction Manager at Risk)

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

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

Contractor's Contingency (Design/Build or Construction Manager at Risk)

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

Use and management of the Design-Builder's/CMAR Contingency:

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

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

Flagstaff City Council

City Court Facility Project

Design-Build Amendment GMP #3

December 3, 2019

TEAM FLAGSTAFF

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TOPICS

- General Project Information
- Budget and Schedule
- Design-Build Contract Amendment, Guaranteed Maximum Price (GMP) #3

Project Location

101 West Cherry Avenue

TEAM FLAGSTAFF
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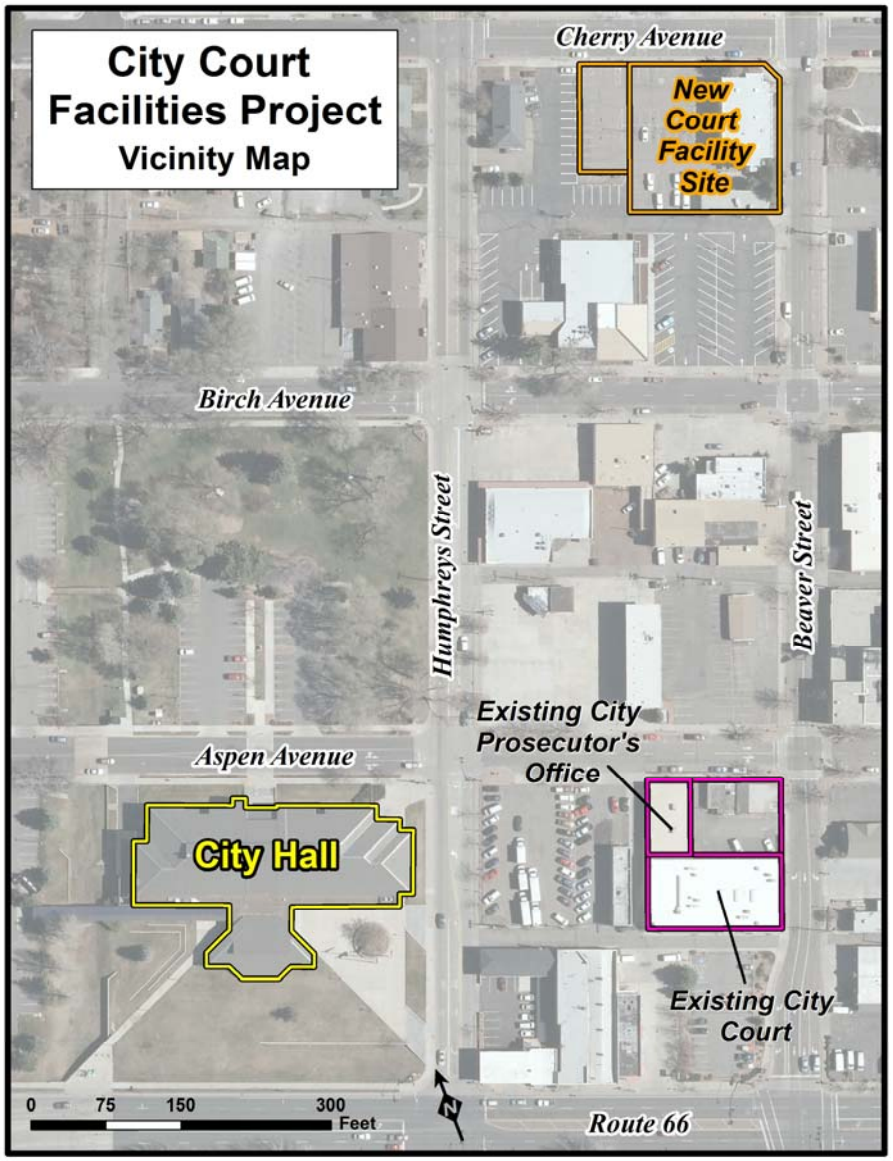

PROJECT INFORMATION

- Facility is approximately 40,000 SF and three stories tall
- Will contain the City Municipal Courts and the City Prosecutor's office.
- Courts facilities include 4 court rooms, 1 hearing room, 1 jury assembly room, and customer processing center for the City Courts

Project Elevation Drawing

N-E Perspective (Looking south towards SW corner Beaver/Cherry)

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PROJECT BUDGET

- Total project budget for the facility - $19,879,505
- Original design contract - $1,593,628
  - GMP #1 - $1,518,175
  - GMP #2 - $15,557,094
  - GMP #3 - $545,478
- Total contracts - $19,214,375

PROJECT SCHEDULE

- Groundbreaking – May 2019
- Masonry and Structural Steel Install – October/November 2019
- Second and third level concrete floor – December 2019 and January 2020
- Courts facility relocation – July 2020
- Project completion – September 2020

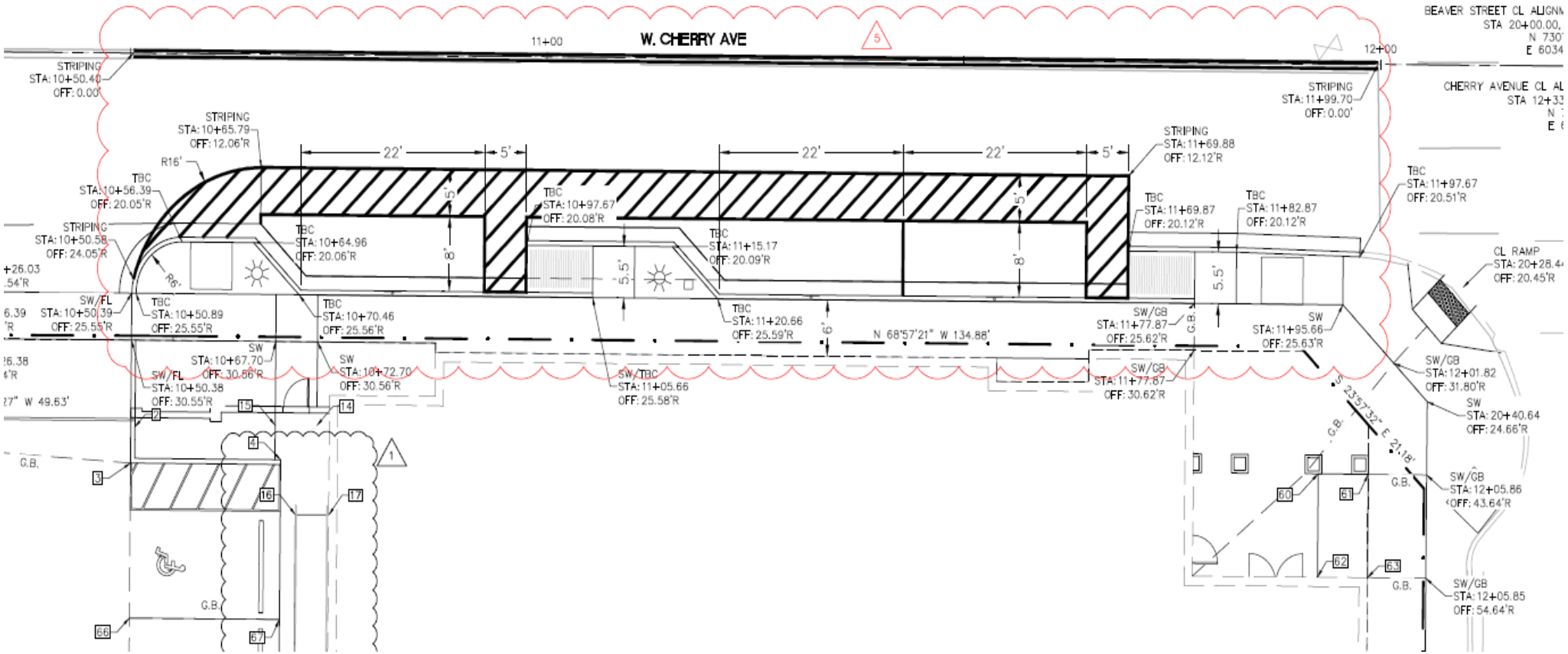
AMENDMENT #3 GMP #3

- GMP #3 Total - $545,478
  - ADA Parking, Fiber Optic Infrastructure, Furniture

- Contractor's Contingency (5%) - $19,230
  - Changes in specifications, plan constructability issues and conflicts, unknowns.

- Owner's Contingency (4.8%) - $25,451
  - Additional scope for the facility that is requested by the Project owners.

ADA Parking Design



Questions

13. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

:

Co-Submitter: Christina Parry

Co-Submitter: Andy Bertelsen

Date: 11/26/2019

Meeting Date: 12/03/2019

TITLE:

Consideration and Adoption of Resolution No. 2019-60: A resolution approving an Intergovernmental Agreement between the City of Flagstaff and Coconino County for the acceptance of household and small business hazardous wastes at the City's Hazardous Products Center.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-60 by title only
2) City Clerk reads Resolution No. 2019-60 by title only (if approved above)
3) Adopt Resolution No. 2019-60

Executive Summary:

This Intergovernmental Agreement (IGA) between the City of Flagstaff and Coconino County will allow the City of Flagstaff to accept hazardous waste at the Hazardous Products Center (HPC) at Cinder Lakes Landfill without direct payment from households and small businesses within Coconino County. This IGA provides Coconino County with a hazardous waste disposal option available to all County households and qualifying small businesses, based on quantities of hazardous material generated, which promotes preventing these hazardous materials from being dumped or disposed of inappropriately and in inappropriate locations throughout our forested communities.

Under the IGA, the City will receive a $50,000 flat fee per fiscal year. Additionally, given the proximity of the Cinder Lakes Landfill to existing County road inventory, the Coconino County Public Works Department will plow the road to the Cinder Lake Landfill to access the HPC during winter storm events and on an "as needed" basis. Further, the County has proposed a contribution of $1.68 million dollars regarding the reconstruction and "Turnback" (i.e. transfer of responsibility) of the Landfill Road as described in the attached letter.

Financial Impact:

While anticipated costs to the City for the operation of the HPC are expected to remain similar to recent fiscal year costs, and the Coconino County portion of the hazardous wastes received at the HPC are anticipated to remain steady, this agreement is for a flat fee from the Coconino County to the City of Flagstaff of $50,000 per year for the ten (10)-year period of the IGA. Last fiscal year (FY2018-2019), Coconino County was invoiced a total of approximately $114,383 for use of the HPC.

Coconino County is proposing to contribute $1.68 million to the reconstruction and Turnback of Landfill Road, which provides the only commercial and public access point to the Landfill. The roadway is in significant need of repair and realignment in some safety zones, to provide a long term viable and safe access point to the City's Landfill and the HPC. While the details of this contribution and financial agreement with Coconino County have not been completely formalized in the form of an agreement, the City has assurances from Coconino County for the contributions to the roadway reconstruction Turnback and that the funding has been budgeted for the project by Coconino County. The Landfill is a major asset to all City and Coconino County residents and both organizations remain committed to the Landfill and HPC viability.

If all terms and conditions are not met by the Coconino County with this IGA for Coconino County residents and small businesses to utilize the HPC, the City can terminate the IGA with a sixty (60)-day written notice.

Policy Impact:

N/A

Connection to Council Goal, Regional Plan:

Actively manage and protect all environmental resources by diverting hazardous material from the Landfill, forests and waterways.

Has There Been Previous Council Decision on This:

There have been various versions of agreements authorizing use of the HPC by Coconino County residents and businesses since it opened in October 2002.

Options and Alternatives:

1. Authorize the Intergovernmental Agreement with Coconino County; or
2. Reject authorization of the Intergovernmental Agreement with Coconino County; however, this would result in a lack of disposal options for residential and small business hazardous wastes in northern Arizona.

Background/History:

The City’s HPC opened in October 2002 and has been accepting and invoicing Coconino County for hazardous wastes from households in Coconino County since that time. Small businesses within Coconino County have been allowed to use the HPC since 2007. Businesses pay for the disposal of their hazardous wastes.

Key Considerations:

Under the terms of the ten (10) year IGA, Coconino County agrees to pay the City a flat fee of $50,000 for use of the HPC. Coconino County will plow the access road to the Center on an “as needed” basis. In return, the City shall permit households and small businesses within the County to dispose of hazardous wastes at the Center.

Expanded Financial Considerations:

N/A

Community Benefits and Considerations:

The City benefits when there are increased disposal options for hazardous wastes in Northern Arizona which reduces the potential disposal of hazardous wastes to the environment.

Community Involvement:

N/A

Expanded Options and Alternatives:

1. Authorize the Intergovernmental Agreement with Coconino County; or
2. Reject authorization of the Intergovernmental Agreement with Coconino County; however, this would result in a lack of disposal options for residential and small business hazardous wastes in northern Arizona.

Attachments: Res. 2019-60
IGA Document
Landfill Letter

RESOLUTION NO. 2019-60

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN COCONINO COUNTY AND THE CITY OF FLAGSTAFF FOR HAZARDOUS WASTE SERVICES

RECITALS:

WHEREAS, Coconino County and City of Flagstaff desire to enter into an intergovernmental agreement for Hazardous Waste Services; and

WHEREAS, the City of Flagstaff ("City"), through its Public Works Division, operates, manages and maintains the Hazardous Products Center ("Center"); and

WHEREAS, Coconino County ("County") desires to have the City permit households and small businesses within the County to bring hazardous wastes to the Center for safe and proper disposal; and

WHEREAS, the City and County are empowered by Arizona Revised Statutes §§ 11-952 to enter into this Agreement; and

WHEREAS, in November 2018 the City and County entered into a short-term intergovernmental agreement and wish to enter into a new Intergovernmental Agreement regarding the use of the Center.

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.

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 December, 2019.

_____

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
IGA

When recorded, mail to:
Clerk's Office
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF FLAGSTAFF
AND
COCONINO COUNTY

This Intergovernmental Agreement ("2019 Agreement") is made as of this _____ of _____, 20___ by and between the City of Flagstaff ("City"), a political subdivision of the State of Arizona and Coconino County ("County"). The City and the County may be referred to in this 2019 Agreement collectively as the "Parties" and singularly as a "Party."

RECITALS

A. The Parties have had prior Intergovernmental Agreements wherein the Parties agreed that households and small businesses within the County were permitted to bring hazardous wastes to the City of Flagstaff's Hazardous Products Center ("Center") for safe and proper disposal; and

B. The Parties wish to enter into this 2019 Agreement terms under terms where the County agrees pay the City a flat fee of $50,000.00 per Fiscal Year for a period of ten (10)-years for use of the Center, in addition to plowing the access road to the Center on an "as needed" basis. In return, the City shall permit households and small businesses within the County to dispose of hazardous wastes at the Center. Additionally, the City will allow small businesses to use the Center when they contribute a fifty-dollar ($50.00) yearly registration fee and disposal fee at the time of delivery.

NOW, THEREFORE, pursuant to A.R.S. § 11-952, authorizing contracts between public agencies for services for the joint exercise of powers to both the City and the County and in consideration of the premises and the mutual covenants contained in this 2019 Agreement, the Parties agree as follows:

1. THE CITY'S ACCEPTANCE OF HAZARDOUS WASTES

The City agrees to accept hazardous wastes from County households and small businesses located within the County at the Center.

A. Hours of Operation

The County shall be responsible for informing its residents of the Center's hours of operation. Operational hours are Monday to Saturday from 8:00 AM to 3:00 PM. Hazardous wastes will not be accepted outside the Center's designated hours of operation. The City shall

have the right to modify the days and hours during which the Center will operate. The City shall immediately notify the County of any changes in the Center's hours of operation. Notwithstanding this subsection, the Center shall not operate on any official state holidays.

B. Household Residency Requirements

Residential households within the County may deposit hazardous wastes at the Center free of charge and will be required to show proof of residency within the County. Proof of residency or domicile within the County shall be shown by a valid Arizona Driver's License, state-issued identification card, or a current utility bill which reasonably substantiates current residence or domicile within the County.

C. Small Businesses

i. Small businesses using the Center shall provide proof of business residency within the County by a verifiable business license issued by the County or a City within the County. In addition, small businesses must be qualified as a Conditionally Exempt Small Quantity Generator ("CESQG") according to the United States Environmental Protection Agency. According to the Code of Federal Regulations (40 CFR 261.5), a CESQG is a generator (business owner) that meets the following criteria:

1) Generates less than 220 pounds of hazardous waste (defined by the Resources and Conservation Recovery Act ["RCRA"]) in a calendar month; and

2) Accumulates at any time or generates less than 2.2 pounds of acute hazardous waste in a calendar month (acute hazardous waste begins with an Environmental Protection Code of "P" or the following "F" codes F020, F021, F022, F026, and F027); and

3) Accumulates no more than 2,200 pounds of hazardous waste (defined by RCRA) at any one time.

2. EXPENDITURES AND ACCOUNTING

A. Reimbursement from the County

The County shall pay the City a fixed cost of $50,000.00 per Fiscal Year for use of the Center. Additionally, the County shall plow the road providing access to the Center on an "as needed" basis. The City shall submit to the County reports which include, but are not limited to, the number of County households that use the Center, total number of small businesses using the Center. The City shall provide reports generated pursuant to this section to the County on a quarterly basis including total amounts of hazardous waste generated. Said reports shall be submitted quarterly.

B. Contributions from Small Businesses

Small businesses located within Coconino County that qualify as a CESQG using the Center shall pay a yearly registration fee in the amount of fifty dollars ($50.00) due when hazardous waste is initially brought to the Center. The fee will be valid for one year after the date of payment. In addition, small businesses using the Center shall pay a disposal fee at the time of delivery. Disposal fees shall reflect the actual cost of disposal plus related operational expenses. Disposal fees for small businesses shall be posted on the City's website and made available at both the Center and Flagstaff City Hall.

3. AUTHORITY TO CONTRACT

Each Party represents and warrants that it has full power and authority to enter into this 2019 Agreement and perform its obligations hereunder and has taken all required acts or actions necessary to authorize the same.

4. NOTICES

Unless otherwise specified herein, any notice or other communication required or permitted to be given under this 2019 Agreement will 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 compliance with this Section:

If to the City:	If to Coconino County:
Public Works Director City of Flagstaff 211 West Aspen Flagstaff, AZ 86001	Solid Waste Manager Coconino County Public Works Department 5600 East Commerce Avenue Flagstaff, AZ 86004

5. TERM

This 2019 Agreement shall be effective on the date first set forth above and shall continue in force and effect for a period of ten (10)-years from the date of its execution unless otherwise terminated prior to that date by either Party. This 2019 Agreement may be terminated by either Party upon sixty (60) days written notice of termination delivered to the other Party.

6. INTEGRATION; MODIFICATION

Each of the Parties acknowledges and agrees that it has not relied upon any statements, representations, agreements or warranties, except as expressed herein, and that this 2019 Agreement constitutes the parties' entire agreement with respect to the matters addressed in the 2019 Agreement. All prior or contemporaneous agreements and understandings, oral or written, with respect to such matters are hereby superseded and merged in the 2019 Agreement. This 2019 Agreement may be modified or amended only by written agreement executed by both of

the Parties and duly filed with the Coconino County Recorder. Any such modification or amendment will become effective no earlier than the date of such filing.

7. WAIVER

No failure to enforce any condition or covenant of this 2019 Agreement will imply or constitute a waiver of the right to insist upon performance of such condition or covenant, or of any other provision, nor will any waiver by either Party of any branch of any one or more conditions or covenants of this 2019 Agreement constitute a waiver of any succeeding or other breach.

8. SEVERABILITY

In the event that a court of competent jurisdiction holds any part or provision of this 2019 Agreement void or of no effect, the remaining provisions of this 2019 Agreement will remain in full force and effect to the extent that the continued enforcement of the remaining terms continue to reflect substantially the intent of the Parties.

9. GOVERNING LAW

This 2019 Agreement will be governed, interpreted and enforced in accordance with the laws of the State of Arizona. Coconino County shall be the venue for any litigation arising out of this Agreement.

10. DISPUTE RESOLUTION

The Parties may seek appropriate remedies at law or in equity. Disputes under this 2019 Agreement will be resolved pursuant to A.R.S. § 12-1518 and the use of arbitration when subject to mandatory arbitration pursuant to A.R.S. § 12-133. The cost of arbitration will be shared equally by the Parties, however, each Party shall bear its own attorney fees and costs.

11. NON-DISCRIMINATION

The Parties agree to comply with Arizona State Executive Order No. 2009-09 and all other Federal, State and City laws, rules and regulations, including the Americans with Disabilities Act.

12. CONFLICT OF INTEREST

The Parties agree that this 2019 Agreement may be cancelled for a conflict of interest in accordance with A.R.S. § 38-511.

13. INDEMINIFICATION

To the fullest extent permitted by law, each Party to this 2019 Agreement shall indemnify, defend and hold harmless the other Party, their members, directors, officers, employees, agents, attorneys and assigns from and against any and all claims, losses, liability, costs or expenses, of whatever kind and nature whatsoever, that may arise or result from any act,

action, or omission of the other under this 2019 Agreement. This indemnification shall survive any termination of this 2019 Agreement or the termination of the participation of any of its Parties.

IN WITNESS WHEREOF, the Parties have caused this 2019 Agreement to be executed as of the day and year written below.

City of Flagstaff	**Coconino County Board of Supervisors**
By: _____, Mayor	By: _____, Chairman
ATTEST:	ATTEST:
City Clerk	Clerk of the Board
APPROVED AS TO FORM:	APPROVED AS TO FORM:
City Attorney	Deputy County Attorney

COCONINO
COUNTY ARIZONA
PUBLIC WORKS

April 9, 2019

Lucinda Andreani
Director

Mike Lopker
Deputy Director

Christopher Tressler
PE, CFM
County Engineer

Carl Fuller
Road Maintenance
Division Manager

Byron Browning
Fleet Services Manager

Jeremy Floyd, MPA
Administrative Services
Division Manager

Allie Stender, MPA
Program Manager III

Ron Hollamon
Solid Waste Manager

Marc Della Rocca
Community Relations
Manager

Andy Bertelsen, Director
City of Flagstaff Public Works
211 W. Aspen Avenue
Flagstaff, AZ 86001

RE: Cinder Lakes Landfill Road

Dear Mr. ~~Bertelsen~~, Andy

Thank you for your efforts and cooperation in the "Turnback" of Cinder Lakes Landfill Road to the City of Flagstaff. It is the County's understanding that the City of Flagstaff is working with the United States Forest Service (USFS) to realign and reconstruct the road to accommodate larger and heavier trucks. While the road is currently maintained by Coconino County, it is the County's understanding that upon completion of this project the City will take over perpetual maintenance of Cinder Lakes Landfill Road except snowplowing, which will be performed by the County as a courtesy to the City. In return for the snowplowing courtesy, the County would appreciate consideration in our current negotiations for County residents utilizing the HPC.

In support of this project, Coconino County has budgeted $1.68M towards the reconstruction/turnback effort, with said funds to be disbursed to the City of Flagstaff equally between two fiscal years, $840k in FY22 and $840k in FY23. While the funding is currently budgeted for FY's 22-23, timing of the actual disbursements will be dictated by accomplishment of the project's major milestones as well as approval by the Board of Supervisors. The first disbursement will be made after the USFS has approved the project and issued all relevant permits and approvals to the City of Flagstaff for the uses, clearances, construction, perpetual maintenance, and all other activities necessary for the legal and safe operation of Cinder Lakes Landfill Road. The second disbursement will be made after the Turnback is formally approved by the Flagstaff City Council and County Board of Supervisors. Please keep us informed as to the status of this project so that we can budget the County's contributions accordingly.

Again, thank you for your efforts towards the upgrade and Turnback of Cinder Lakes Landfill Road. Please let us know if there is anything we can do to assist with this project and we look forward to continuing our partnership in serving the citizens of Flagstaff and Coconino County.

Sincerely,

Thanks!

Lucinda Andreani, Director
Coconino County Public Works

Attachment: Letter to Laura Jo West, Forest Supervisor (dtd 3-2-17)

C: Matt Morales, City of Flagstaff

13. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacey Brechler-Knaggs, Grants and Contracts Manager
Date:	11/26/2019
Meeting Date:	12/03/2019

TITLE:

Consideration of and Adoption of Resolution No. 2019-52: Approve the designation of an applicant agent and authorizing the agent to apply for and sign on behalf of the City of Flagstaff for the receipt of funds from the Arizona Division of Emergency Management and Military Affairs Public Assistance Program.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-52 by title only
2) City Clerk reads Resolution No. 2019-52 by title only (if approved above)
3) Adopt Resolution No. 2019-52

Executive Summary:

Designate Applicant Agent and Primary Point of Contact for the Arizona Department of Emergency Management and Military Affairs Public Assistance Program.
- Designate Greg Clifton, City Manager as the Applicant Agent
- Designate Stacey Brechler-Knaggs, Grants and Contracts Manager/Public Assistance Recovery Manager as the Primary Point of Contact

Financial Impact:

When a disaster occurs, the City of Flagstaff is to respond, recover from the impact, and mitigate future damages. The Federal Emergency Management Administration (FEMA) and the Arizona Division of Emergency Management and Military Affairs (ADEMA) provide recovery funding through its Public Assistance Program. The program provides assistance for Debris Removal, Emergency Protective Measures, Roads and Bridges, Water Control Facilities, Buildings and Equipment, Utilities, and Parks, Recreational Facilities and Other Items.

The Public Assistance Program provides for a Federal declaration, 75% Federal Share, 15% State Share, and 10% City Share and for a State declaration, 75% State Share and 25% City Share.

Policy Impact:

None

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

Regional Plan - Public Buildings, Services, Facilities, & Safety
Public Safety - Goal PF.3. Provide high-quality emergency response and public safety services including law enforcement, fire, medical, and ambulance transport service.

Previous Council Decision on This:

Yes, on November 16, 2010.

Options and Alternatives:

- Approve the Designated Applicant Agent and Primary Point of Contact.
- Not Approve the Designated Applicant Agent and Primary Point of Contact which will risk emergency funding.

Background/History:

The Public Assistance Program provides support to state agencies and political subdivisions of the State in repairing damaged public infrastructure when recovering from any State-declared disaster. The Governor may proclaim a state of emergency after a political subdivision(s) has passed a resolution stating that an emergency exists within their jurisdiction(s) AND have been able to demonstrate that the incident is above and beyond their capability to recover from without assistance from the State. Through a proclamation, the Governor may provide Public Assistance to the affected Political Subdivision(s) of the state (counties, cities, towns, state agencies). Public Assistance is provided through the Governor's Emergency Fund which is allocated $4 million dollars annually to cover the costs of emergencies and disasters. Emergency Management's Grant Administration administers this fund. When a disaster is beyond the capability of the State and local governments, the Governor will request federal assistance from FEMA through the President of the United States. The recovery process for a single event is not complete until all work has been completed, inspected, documentation audited and final payment disbursed. Once the recovery process for a single event is complete the declared disaster is terminated.

Key Considerations:

The City of Flagstaff is legally responsible for the performance of emergency services and for the repair of damaged public infrastructure during and following a disaster.

Community Benefits and Considerations:

The Public Assistance Program provides much-needed financial assistance following a disaster to help restore a sense of normalcy to our community.

Community Involvement:

This action is required by the Arizona Department of Emergency Management and Military Affairs.

Attachments: Res. 2019-52
Designation of Applicant Agent Form

RESOLUTION NO. 2019-52

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING THE DESIGNATION OF AN APPLICANT AGENT AND PRIMARY POINT OF CONTACT

RECITALS:

WHEREAS, the Arizona Department of Emergency and Military Affairs requires the City of Flagstaff to designate and applicant agent for the Recovery Public Assistance Program; and,

WHEREAS, the Public Assistance Program provides support to state agencies and political subdivisions of the State in repairing damaged public infrastructure when recovering from any State declared disaster; and,

WHEREAS, The City of Flagstaff is legally responsible for the performance of emergency services and for the repair of damaged public infrastructure during and following a disaster.

ENACTMENTS:

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

SECTION 1. The Flagstaff Council hereby authorizes the Mayor to execute the Resolution to designate Greg Clifton, City Manager as the Applicant Agent and designate Stacey Brechler-Knaggs, Grants and Contracts Manager/Public Assistance Recovery Manager as the Primary Point of Contact.

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 December, 2019.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

ARIZONA DIVISION OF EMERGENCY MANAGEMENT
DESIGNATION OF APPLICANT'S AGENT FORM

The intent of this **DESIGNATION** is to appoint an **APPLICANT'S AGENT** for the following term:

☐ For PCA No. _____ only ☐ For the period of ____ to____ ☐ Until further notice

☐ Until further notice for HAZMAT incident

Applicant Name:_____

CERTIFICATION

I, _____, duly appointed and _____ of
(Authorizing Official's Name) (Title)

_____, do hereby certify that the information below is true
(Applicant Name)

and correct, based on a resolution passed and approved by the _____
(Governing Body)

of _____ on the _____ day of _____, _____.
(Applicant Name) (day) (month) (year)

_____ has been designated as the Applicant Agent
(Name of Designated Applicant Agent)

to act on behalf of _____ .
(Applicant Name)

_____ _____ _____
(Authorizing Official's Signature) (Title) (Date)

Designated Applicant's Agent

Name _____

Title/Official Position _____

Mailing Address _____

City, State, Zip _____

Daytime Telephone Number _____ Fax _____
(Please include area code and extension if not a direct number)

E-mail Address _____ Pager/Cell _____

For ADEM Use Only

Received By: _____ July 2000 Form # AZ PA 204-4
(Initials & Date)

13. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

:

Date: 11/26/2019

Meeting Date: 12/03/2019

TITLE:

Consideration and Adoption of Resolution No. 2019-58: A resolution of the Flagstaff City Council, approving an Intergovernmental Agreement between the Summit Fire and Medical District; the Highlands Fire District; and the City of Flagstaff to participate in automatic aid.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2019-58 by title only
2) City Clerk reads Resolution No. 2019-58 by title only (if approved above)
3) Adopt Resolution No. 2019-58

Executive Summary:

The participants of this intergovernmental agreement (IGA) create an automatic aid consortium whereupon the participants agree to act as one operational entity for the purpose of improved fire/rescue/emergency medical services and improved firefighter safety. Automatic aid is the most advanced and effective form of mutual aid whereupon improved levels of service and capacity are achieved by all the participating agencies.

Financial Impact:

None.

Policy Impact:

No policy impacts.

Connection to Council Goal, Regional Plan:

Team Flagstaff Strategic Plan 2017

- Strategic priority #1: Provide exceptional service.
- Strategic priority #4: Work in partnership to enhance a safe and livable community.

General Plan

- Goal PF.I. Work across all government operations and services to prepare for the impacts of natural and human caused hazards.
- Goal PF.3. Provide high-quality emergency response and public safety services including

law enforcement, fire, medical, and ambulance transport service.

Has There Been Previous Council Decision on This:

City Council has entered into cooperative agreements and mutual aid agreements in the past, however, the City Council has not previously considered automatic aid.

Background/History:

The participants of this automatic aid IGA agree to operationally act as one agency for the purpose of improved fire/rescue/emergency medical services. The basis of the agreement is that the closest most appropriate fire service resource will be dispatched regardless of jurisdictional boundaries.

Automatic Aid is often cited as the gold standard for an emergency service delivery model. The model provides added value for smaller and larger agencies. Larger agencies such as Flagstaff benefit by having additional units capable of responding to multiple single unit responses that occur in the City. The smaller agencies Highlands and Summit benefit by having additional units capable of responding to large incidents that occur in their districts.

When an emergency occurs in the "system" (Flagstaff Highlands Summit Jurisdictions), the firefighter paramedics that are closest to the emergency will respond to provide service, regardless of jurisdiction.

Key Considerations:

For automatic aid to be successful, the following key elements should be in place to ensure the best service and highest margins of safety for firefighters:

- A central dispatch center with shared tactical radio channels. All three participants are currently dispatched by the City of Flagstaff Regional Fire Dispatch Center (Dispatch Center).
- A shared set of standard operational procedures (SOPs). The three entities have developed joint SOPs for high hazard operations to include shared incident management SOPs.
- Common training for firefighters and command officers. The participants have been participating in joint company level training for approximately 5 years and have participated in regional recruit fire training academies for 3 years. Additionally, each of the agency's command officers have all been trained and certified under the Blue Card incident management system.

Community Benefits and Considerations:

ISO (Insurance Services Office)

ISO's Fire Suppression Rating Schedule (FSRS), evaluates four primary categories of fire suppression — fire department, emergency communications, water supply, and community risk reduction. The FSRS includes standards set by the National Fire Protection Association (NFPA). A community's investment in fire mitigation is a proven and reliable predicator of future fire losses. Insurance companies use PPC information to help establish fair premiums for fire insurance — generally offering lower premiums in communities with better protection. By offering economic benefits for communities that invest in their firefighting services, the program provides an additional incentive for improving and maintaining public fire protection.
The participating agencies anticipate improved ISO ratings as Automatic Aid is recognized as a fire protection enhancement for the local jurisdiction. No additional credit is given for mutual aid. Improved ISO classifications will result in savings to insurance rate payers within the participating jurisdictions.

Community Involvement:
Inform

Attachments: Res. 2019-58
IGA AA

RESOLUTION NO. 2019-58

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE SUMMIT FIRE AND MEDICAL DISTRICT, THE HIGHLANDS FIRE DISTRICT AND THE CITY OF FLAGSTAFF TO PARTICIPATE IN AUTOMATIC AID.

RECITALS:

WHEREAS, the Highlands Fire District, the Summit Fire and Medical District and City of Flagstaff desire to enter into an intergovernmental agreement for automatic aid; and

WHEREAS, agreements for assistance in fire protection and response to other emergencies have existed between specific municipalities and governmental jurisdictions; and;

WHEREAS, Automatic Aid provides the highest levels of services in conjunction with the most effective use of local fire department resources working collaboratively through intergovernmental cooperation, and;

WHEREAS, the participating cities, towns and fire districts of the Automatic Aid Consortium seek to provide the most efficient, safe, and effective fire, rescue, emergency medical services to their communities, and;

WHEREAS, the Automatic Aid Consortium participants are committed to demonstrate public equity through the reasonable commitment and distribution of resources within their jurisdiction to ensure that no participant unfairly benefits at the expense of the other participants, and;

WHEREAS, it is the desire of the Automatic Aid Consortium participants joining in this agreement to continue and improve the nature and coordination of emergency assistance to incidents that threaten loss of life or property within the geographic boundaries of their respective jurisdictions; and

WHEREAS, it is further the determination of each of the parties hereto that the decision to enter into this Automatic Aid Agreement constitutes a fundamental governmental policy of the parties hereto which is automatic in nature, and includes the determination of the proper use of the resources available with respect to the providing of governmental services and the utilization of existing resources of each of the parties hereto, including the use of equipment and personnel; and

WHEREAS, it is the desire of these municipalities and governmental jurisdictions to initiate and/or renew an "Automatic Aid Agreement" for fire department services; and

WHEREAS, the parties hereto acknowledge that this Agreement is being entered into pursuant to the Intergovernmental Agreement Statute, Section 11-952, Arizona Revised Statutes.

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 Highlands Fire District; the Summit Fire and Medical District; 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 December, 2019.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
IGA

GREATER FLAGSTAFF REGIONAL
AUTOMATIC AID
CONSORTIUM AGREEMENT
FOR FIRE PROTECTION, EMERGENCY MEDICAL AND RESCUE SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, _____, by and between the Cities, Towns, Fire Districts, and governmental jurisdictions as listed in Appendix "A" Automatic Aid System Participants (hereinafter referred to as Automatic Aid System Participants) through their duly authorized Mayor, City Manager, Fire Board or Board Director, to provide for automatic assistance for fires and other types of emergency incidents as described under the terms of this agreement. The participants collectively form a Greater Flagstaff Regional Automatic Aid Consortium, hereinafter referred to as the Automatic Aid Consortium.

W I T N E S S E T H:

WHEREAS, agreements for assistance in fire protection and response to other emergencies have existed between specific municipalities and governmental jurisdictions; and;

WHEREAS, Automatic Aid provides the highest levels of services in conjunction with the most effective use of local fire department resources working collaboratively through intergovernmental cooperation, and;

WHEREAS, the participating cities, towns and fire districts of the Automatic Aid Consortium seek to provide the most efficient, safe, and effective fire, rescue, emergency

medical services to their communities, and;

WHEREAS, the Automatic Aid Consortium participants are committed to demonstrate public equity through the reasonable commitment and distribution of resources within their jurisdiction to ensure that no participant unfairly benefits at the expense of the other participants, and;

WHEREAS, it is the desire of the Automatic Aid Consortium participants joining in this agreement to continue and improve the nature and coordination of emergency assistance to incidents that threaten loss of life or property within the geographic boundaries of their respective jurisdictions; and

WHEREAS, it is further the determination of each of the parties hereto that the decision to enter into this Automatic Aid Agreement constitutes a fundamental governmental policy of the parties hereto which is automatic in nature, and includes the determination of the proper use of the resources available with respect to the providing of governmental services and the utilization of existing resources of each of the parties hereto, including the use of equipment and personnel; and

WHEREAS, it is the desire of these municipalities and governmental jurisdictions to initiate and/or renew an "Automatic Aid Agreement" for fire department services; and

WHEREAS, the parties hereto acknowledge that this Agreement is being entered into pursuant to the Intergovernmental Agreement Statute, Section 11-952, Arizona Revised Statutes.

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 the inherent powers of each party 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:

AGREEMENT

I. PURPOSE

A. The Automatic Aid Consortium participants executing this agreement agree to the dispatch and deployment of their assigned fire department/district units on an automatic basis. The Computer Aided Dispatch and Automatic Vehicle Locator system will automatically determine the closest available, most appropriate unit(s) regardless of jurisdictional boundaries. Each jurisdiction agrees that such unit(s) will respond.

B. ADDITIONALLY: This agreement shall encourage the development of cooperative procedures and protocols, including but not limited to, the possibility of joint purchasing, communications coordination, training, health and safety, fire prevention, public education, fire investigations and other activities that will enhance the ability of the fire departments to fulfill their missions, which may require the parties to develop additional agreements.

II. SCOPE

It is agreed that the scope of this agreement includes automatic assistance in responding to fires, medical emergencies, hazardous materials incidents, rescue and extrication situations and other types of emergency incidents that are within the standard scope of services provided by fire departments in the Automatic Aid Consortium.

III. IMPLEMENTATION

A. OPERATIONAL CONSISTENCY

a. Definitions:

i. Participants shall define "time of dispatch" as the point in time at which the Dispatch Center has notified the station or (responding unit if out of station) of the call through the station alert system, radio, or MCT.

ii. Participants shall measure "response time" from the time of dispatch to time of arrival on-scene.

iii. The Automatic Aid Consortium will use a Computer Aided Dispatch (CAD) system that automatically selects the closest, most appropriate unit(s) for dispatch. The CAD system is a centralized, totally integrated unit dispatch/status keeping system.

iv. NFPA means National Fire Protection Association.

v. DFFM means Department of Forestry and Fire Management, an agency of the State Of Arizona.

vi. NWCG means the National Wildfire Coordinating Group.

vii. ISO means Insurance Services Office.

b. All participants will use Blue Card incident management procedures. A standardized Blue Card system provides for efficient management of the emergency and for the safety of firefighters through the use of standard terminology, reporting relationships, and support structures. The Blue Card System and associated standard operating procedures adopted for use by all Automatic Aid participants is the Greater Flagstaff Regional Standard Operating Procedures.

c. Participants shall use the same set of procedures for operations and

Minimum Company Standards (basic evolutions used by the fire service). Battalion Chiefs and other designated command officers will attend at least 75% of joint command officer training for responders. Participants shall explore other opportunities for joint training.

d. To ensure compatibility of equipment, participants shall maintain a mutually agreed upon inventory of equipment (based upon minimum NFPA, DFFM, and NWCG standards), including hoses, couplings, pump capacity, communications equipment, and will maintain the minimum standard amount of equipment on each type of apparatus (as recommended by the standards listed above in this section.

e. Participants shall utilize the Greater Flagstaff Region (GFR) apparatus numbering system and standardized terminology for apparatus and fire stations.

f. Participants shall use standardized response criteria (i.e. pre-established type and number of apparatus that will be automatically dispatched based on type of call as per standard NFPA and ISO recommendations). The dispatch system can tailor the response to specific types of incidents by jurisdiction or part of a jurisdiction. This includes the capability to automatically dispatch selected specialty units.

g. To ensure safety, all participants agree that their standard operating procedures and command procedures shall match those adopted by the Automatic Aid Consortium participants. Departments shall use safety officers that will follow standardized procedures as recommended by NFPA. Staff filling the role of safety officer shall participate in joint training.

h. Participants agree to the use of specialized unit resources. The assignment

of a specialized unit to an incident relies on predefined response levels to specific types of incidents, the closest specialized unit to the call, and/or any special call for resources made by an incident commander that is not pre-programmed in the CAD system. This includes, but is not limited to, hazardous materials support, technical rescue support, loss control, rehab, command, utility, wildland engines (Type III & VI), Utility Vehicles (UTVs), wildland crews, and water tenders.

i. Calls outside the response boundaries of the Automatic Aid Consortium will be considered mutual aid where such written agreements exist. Requests for and responses to mutual aid will be at the sole discretion of the departments involved based upon the terms of any existing mutual aid agreements.

B. DISPATCH

a. The Greater Flagstaff Automatic Aid Consortium will be dispatched by the City of Flagstaff Regional Fire Dispatch Center (Dispatch Center) operated by the City of Flagstaff Police Department. The services of the Dispatch Center are provided for under a separate intergovernmental Agreement (IGA).

b. The Automatic Aid Consortium allows the closest, most appropriate emergency response unit to an emergency to be dispatched automatically - regardless of the jurisdiction where the emergency occurs or the jurisdictional affiliation of the response unit. The dispatch system utilizes Automatic Vehicle Location (AVL) equipment to discern the location of emergency response units and a computerized Geographic Information System (GIS) to discern the location of the emergency call. The AVL and GIS systems allow the dispatch

system to match the closest response unit to the emergency and recommend it for dispatch within the Automatic Aid Consortium boundaries. All Automatic Aid Consortium participants shall ensure its rescues, engines, ladders and ladder tenders are equipped with AVL's.

c. The Automatic Aid Consortium utilizes a preplanned system of communications. Communications support for participants includes the provision of a main dispatch and multiple tactical radio frequencies, a Mobile Data Computer (MDC) system, a station alerting system, and a notification system. These systems are in place and supported by the Dispatch Center.

C. SYSTEM GOVERNANCE/POLICY DEVELOPMENT

a. Each Automatic Aid Consortium participant shall be a member of the Greater Flagstaff Regional Automatic Aid Consortium Committee. The Fire Chief or his/her designee will be the department's representative on the Committee. The Committee shall meet regularly to discuss issues of mutual concern and to develop policy positions on these issues.

D. SERVICE AREA IMPACTS

a. If at any time while this Automatic Aid Agreement is in effect, a party to the Automatic Aid Agreement closes a fire station, or reduces the level of fire, medical or emergency services provided within its municipal or jurisdictional boundaries, the party closing said fire station or reducing services will give a minimum of 120 days' notice to all other parties to this Automatic Aid Agreement.

b. If at any time while this Automatic Aid Agreement is in effect, a party to the Automatic Aid Agreement increases its service area due to annexation or contracting, the party annexing or contracting will notify to all other parties to

this agreement ten (10) days prior to the contract or annexation.

c. If a party to this agreement contracts with a parcel or fire district that would be normally served by another party to this agreement due to proximity in the Automatic Aid Consortium, the contracting party agrees to compensate the responding party in accordance with out-of-district fee schedules established by each jurisdiction. A billable response requires that a unit is dispatched, arrived on scene, and rendered services to a customer.

IV. ADDITIONAL TERMS

A. Each participating municipality or fire district shall retain ownership of any equipment or property it brings to the performance of this agreement and shall retain ultimate control of its employees. If at any time it is determined that communications infrastructure is necessary to meet the operational requirements of the Automatic Aid Consortium, the jurisdiction's fire department will assist the City of Flagstaff in facilitating all necessary steps to implement sufficient communications infrastructure, including the authorizations, agreements, access, etc.

B. Except as specifically agreed to by the parties or herein specified, for an incident, neither party shall be reimbursed by the other party for any costs incurred pursuant to this agreement. In the event of Declared Disasters, participants may apply for reimbursements from County, State and Federal agencies.

C. Participants agree that automatic aid is reciprocal. While automatic aid does not ensure that a community will receive the exact same amount of assistance as it gives, it does mean that all participants will provide assistance outside its jurisdictional boundaries and that the level of service delivered within the Automatic Aid Consortium will be comparable.

D. No term or provision of this Agreement is intended to, or shall, create any rights in any person, firm, corporation or other entity not a party hereto, and no such person or entity shall have any cause of action hereunder.

E. No term or provision in this agreement is intended to create a partnership, joint venture or agency arrangement between any of the parties.

F. The parties to this agreement hereby agree that other departments dispatched by the City of Flagstaff Regional Fire Dispatch Center and added to the Automatic Aid Response Consortium may be added to this Automatic Aid Agreement upon approval of their governing body and the filing of its signature page with this agreement at the Coconino County Recorder's Office.

V. INDEMNIFICATION

Each PARTY to this Agreement shall indemnify, defend and hold harmless the other PARTIES, their members, directors, officers, employees, agents, attorneys and assigns from and against any and all claims, losses, liability, costs or expenses resulting from the negligence or willful misconduct of the indemnifying PARTY or PARTIES, provided however, nothing herein shall be construed to expand the liability of any PARTY or its employees beyond the gross negligence/intentional misconduct standard applicable to emergency medical technicians or paramedics providing emergency medical aid as provided for in A.R.S. §48-818. This indemnification shall survive termination of this Agreement or the termination of the participation of any of its PARTIES.

VI. WORKER'S COMPENSATION CLAIMS

The Parties shall comply with the provisions of A.R.S. § 23-1022(E) by posting the public notice required. As provided for in A.R.S. § 23-1022(D), an employee of a public agency who works under the jurisdiction or control of or within the jurisdictional boundaries of another public agency pursuant to a specific intergovernmental agreement or contract

entered into between the public agencies is deemed to be an employee of both public agencies. However, the primary employer is solely liable for the payment of Workers' Compensation benefits. As such, each Party shall maintain Workers' Compensation insurance coverage on all of its own employees providing services pursuant to this Agreement.

VII. LIABILITY INSURANCE

Each PARTY shall bear the risk of its own actions and shall determine for itself an appropriate level of liability insurance coverage and maintain such coverage. Nothing in this Agreement shall be construed as a waiver of any limitation on liability that may apply to a PARTY.

VIII. WAIVER OF POTENTIAL CONFLICT

The HIGHLANDS FIRE DISTRICT and the SUMMIT FIRE & MEDICAL DISTRICT (these foregoing hereafter collectively referred to as the "jointly-represented parties") consent to the Coconino County Attorney's Office representing all of them jointly, and acknowledge that they have all been advised of the potential for conflicts of interest, including the specific advantages and risks involved with joint representation, and potential consequences that would be created by future conflicts, if any should arise. For instance, these jointly-represented parties were instructed that although joint representation could yield a cost savings on attorneys' fees and also result in easier coordination, no one party's interests could be advocated above that of the others by the attorney. It was explained to all of the jointly-represented parties that this could result in less favorable terms for either one or another of them, because negotiations could not be conducted in a partisan manner with the assistance of counsel as between and amongst the jointly-represented parties. It was further explained to the jointly-represented parties that as amongst them only, joint representation would result in the loss of confidentiality as to each other with regard to the subject matter of the joint representation. It was further explained that if the joint representation should result in an irreconcilable conflict in the future, which either

required or resulted in one or more of their number filing a lawsuit against one or more of the others with respect to the subject matter of the joint representation, or else resulted from another non-waivable conflict, then the Coconino County Attorney's Office would be required to withdraw from representing all parties involved with the irreconcilable and non-waivable conflict, and all such parties involved therewith would have to incur the expense of retaining new replacement counsel. The jointly-represented parties additionally acknowledge that they have been advised and are aware that the Coconino County Attorney does represent several fire districts, including the undersigned. The jointly-represented parties additionally acknowledge that they have the right to have independent counsel review this Agreement and/or the Coconino County Attorney's Office's joint representation in this matter, and all of the jointly-represented parties hereby acknowledge that they have consulted such counsel or have waived the right to consult such counsel. The jointly-represented parties further acknowledge that they understand their rights, and notwithstanding this disclosure, do hereby confirm their waiver any conflict of interest that may arise by reason of the Coconino County Attorney's Office's representation of the undersigned in this matter, and consent to the joint representation of all of the jointly-represented parties by the Coconino County Attorney's Office.

IX. CANCELLATION FOR CONFLICT OF INTEREST

This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511.

X. COMPLIANCE WITH ALL LAWS

Each PARTY shall comply with all federal, state, and local laws, rules and regulations.

XI. EXECUTION PROCEDURE

This Agreement will be executed in counterparts by the governing body of each PARTY.

XII. NON-DISCRIMINATION

Each PARTY warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, pregnancy, religion, sex, sexual

orientation, gender identify, genetic information, age, national origin, disability, veterans status, care-giving responsibilities, or familial status shall have equal access to employment opportunities. Each PARTY shall take affirmative action to ensure that it will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Pregnancy Discrimination Act of 1978, Americans with Disabilities Act of 2008 as amended, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, Age Discrimination and Employment Act of 1967 as amended, Genetic Information Nondiscrimination Act of 2008.

XIII. Legal Arizona Workers Act Compliance

PARTIES are required to comply with A.R.S. §41-4401, and hereby warrants that they will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to the employment of their respective employees, the requirements of A.R.S. §41-4401, and with the e-verification requirements of A.R.S. §23-214(A) (together the "state and federal immigration laws"). Parties further agree to ensure that each subcontractor that performs any work under this Agreement likewise complies with the state and federal immigration laws.

A breach of a warranty regarding compliance with the state and federal immigration laws shall be deemed a material breach of the Agreement and the Party who breaches may be subject to penalties up to and including termination of the Agreement.

Each Party retains the legal right to inspect the papers of any contractor or subcontract employee working under the terms of the Agreement to ensure that the other Party is complying with the warranties regarding compliance with the state and federal immigration laws.

XIV. NO THIRD PARTY BENEFICIARIES

The PARTIES acknowledge and agree that the terms, provisions, conditions, and obligations of this Agreement are for the sole benefit of, and may be enforceable solely by, the PARTIES, and

none of the terms, provisions, conditions, and obligations of this Agreement are for the benefit of, or may be enforced by, any person or entity not a PARTY to this Agreement.

XV. RIGHT TO ENTER INTO ADDITIONAL AGREEMENTS

Nothing in this agreement shall limit the ability of any or all of the parties from agreeing to participate in more specific contracts for services, mutual assistance or automatic response; nor shall this prohibit any party from providing emergency assistance to another jurisdiction which is not a participant in this agreement.

XVI. EFFECTIVE DATE; TERM; EFFECT OF TERMINATION ON REMAINING PARTIES; RENEWAL

A. Effective Date. This Agreement will become effective for each PARTY after approval by its governing body (the “Effective Date”).

B. Term. Except as otherwise provided in this Agreement, this Agreement will remain in effect for a period of five years, unless extended or terminated by action of the PARTIES.

C. Termination. Any PARTY may terminate its participation in this Agreement by providing the other PARTY (or PARTIES) one hundred and twenty (120) days written notice. Termination by one or more of the PARTIES to this agreement shall not affect the operation of the agreement as between the other PARTIES thereto.

D. Renewal. This Agreement may be renewed for two (2) additional five (5) year periods, subject to agreement by the PARTIES. For the City of Flagstaff, the City Manager shall be authorized to approve such renewals.

IN WITNESS WHEREOF, this Agreement is executed on the year and date first above written.

City of Flagstaff

_____
Mayor

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

Date of formal approval by governing body:

_____

GREATER FLAGSTAFF REGIONAL
AUTOMATIC AID
CONSORTIUM AGREEMENT
FOR FIRE PROTECTION, EMERGENCY MEDICAL AND RESCUE SERVICES

IN WITNESS WHEREOF, the PARTIES each sign this Intergovernmental Agreement on a separate signature page. The signatories warrant that they have been duly authorized to bind the jurisdiction to the terms and conditions in this Agreement by formal approval of the jurisdiction's governing body.

PARTY:

_____

Authorized signatory:

_____
Name: _____
Title: _____

Attest:

_____ Date of formal approval by governing body:
Name: _____
Title: _____
_____

Attorney's Approval:

_____
Name: Brian Y. Furuya,
Title: Attorney for Highlands Fire District and Summit Fire and Medical District

Appendix A

Participating Agencies

City of Flagstaff
Highlands Fire District
Summit Fire & Medical District

14. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Stacey Brechler-Knaggs, Grants and Contracts Manager

Co-Submitter: Martin Ince

Date: 11/26/2019

Meeting Date: 12/03/2019

TITLE:

Update and Review: Flagstaff Trails Initiative and Draft Flagstaff Regional Trail Strategy

STAFF RECOMMENDED ACTION:

Provide an update on Flagstaff Trails Initiative (FTI) and discuss the Draft Flagstaff Regional Trail Strategy and trail plan.

Executive Summary:

In August 2017, a collaboration of local agencies – the City of Flagstaff, Coconino County, Coconino National Forest, Flagstaff Area National Monuments, and Flagstaff Biking Organization – received a grant for planning assistance via the National Park Service's Rivers, Trails, and Conservation Assistance Program to support a multi-agency regional trail planning process referred
to as the Flagstaff Trails Initiative (FTI). The group of core collaborators has since expanded to include Coconino Trail Riders, Sierra Club, American Conservation Experience, R2R Hiking, and others.

The purpose of FTI is to develop and implement a collaborative, cross-jurisdictional strategy for recreational trails in the Flagstaff region. This effort seeks to improve the quality, connectivity and community support for a sustainable trail system that balances the demand for recreation with the community's vision for conservation, development, and health. The overall goal is to elevate Flagstaff's trails from good to extraordinary.

The project has reached an important juncture with the release of the Draft Flagstaff Regional Trail Strategy after two years of public engagement and collaboration. The core team has been meeting since 2017 working on the following activities;

- Secured support for our goals (see attached) from agency leadership, elected officials and partners
- Prepared and adopted an FTI Collaborative Work Plan
- Created an FTI website, https://flagstafftrailsinitiative.org
- Created subgroups to work on Trail System Planning, Financial Sustainability, Education &

Outreach, and Conservation & Restoration
- Held full-day retreats and mini-workshops
- Engaged over 40 community organizations who helped shape FTI and identify trends
- Solicited 570 responses and over 2,000 comments about what users value along with hundreds of tangible ideas for improving the system through the FTI Trail Survey
- Created new regional, interactive trail map, the first-of-its-kind in Flagstaff
- Hosted over 125 at our October 2018 public workshop
- Discover Flagstaff embraced the FTI program and helped support and promote FTI through the "Pledge for the Wild" campaign, https://www.pledgewild.com. The Pledge for the Wild is a multi-mountain town platform that is defining a shared set of common values, language and tools to support responsible tourism in wild places
- Drafted Articles of Incorporation and By-Laws
- Submitted a proposal and were accepted by United Way of Northern Arizona to be our Fiscal Sponsor while FTI is working towards creating a 501c3
- Drafted Regional Trail Strategy

The staff presentation will be attached to the staff summary with the final agenda.

Financial Impact:

- Continued staff time and resources for the FTI program.
- There is a growing interest among participating agencies to go in together to fund, one-time, a contract FTI Coordinator position going forward. Should this partnership take shape and should Council action be needed to participate in the partnership staff will prepare a recommendation for Council's consideration at a future council meeting.

Policy Impact:

Support and participation in of the FTI published 10 distinct goals and 30+ proposed strategies, such as:

- Protection and construction of key trail connections
- Creation of a Flagstaff Trail Fund and new 501c3 organization
- A shared interagency financial agreement to allow for the sharing of resources
- New Flagstaff Trail Academy to recruit and train skilled volunteers
- Restoration of unauthorized trails
- Trail etiquette and "share the trails" campaign
- Launch of a trails planning effort specific to Observatory Mesa

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

Council Goals: Actively manage and protect all environmental and natural resources.

Regional Plan:
Goal REC.1. Maintain and grow the region's healthy system of convenient and accessible parks, recreation facilities, and trails.
Policy Rec.1.2. Promote public and private partnerships to offer parks, recreation facilities, and resources.
Policy Rec.1.3. Coordinate City, County, and Forest Service recreational planning to best serve the community.
Policy Rec.1.4. Design new or updated public facilities to include parks, open space, and/or recreational opportunities where feasible.

Policy Rec.1.5. Incorporate sustainable building and maintenance technologies and universal design into parks and recreation facilities.
Goal OS.1. The region has a system of open lands, such as undeveloped natural areas, wildlife corridors and habitat areas, trails, access to public lands, and greenways to support the natural environment that sustains our quality of life, cultural heritage, and ecosystem health.
Goal LU.3. Continue to enhance the region's unique sense of place within the urban, suburban, and rural context (Policy LU.3.3).
Goal ED.7. Continue to promote and enhance Flagstaff's unique sense of place as an economic driver.

TRANSPORTATION & PUBLIC INFRASTRUCTURE: Deliver quality community assets and continue to advocate and implement a highly performing multi-modal transportation system.

Previous Council Decision on This:

On February 26, 2018 staff presented about the Flagstaff Trails Initiative

Background/History:

Trails and access to open space and the forest help make Flagstaff a better place to live and visit. They contribute to the quality of life, wellness, and economic development of our community by providing opportunities for residents and visitors to recreate within and experience our natural environment.

The City, Coconino National Forest, Coconino County, and Flagstaff Area National Monuments collectively manage more than 350 miles of non-motorized recreational and commuter trails, including FUTS and single-track trails, in the region. Flagstaff's trails receive a significant amount of use from residents and visitors and are one of our most prominent community assets. Unfortunately, there are relatively few dedicated resources available for trail construction, stewardship or maintenance.

Every regional plan for the Flagstaff area – including City, County, and National Forest plans – identify trails as an important community asset that should be enhanced. However, there has not been a holistic and strategic effort specifically to address trails planning for nearly 20 years. The FTI provides an inclusive process to assess Flagstaff's existing trail system and plan for improvements. The contents of the Draft Flagstaff Regional Trail Strategy were developed through a full consensus decision making model. The Strategy outlines a vision for the future of the trail system around Flagstaff and identified nearly 100 trail connections, new trails and access facilities throughout the region on land managed by the City, County and US Forest Service. The recommendations were developed through an extensive, citizen-driven collaborative process that included considered. These recommendations are prioritized regionally to allow for coordination in funding and implementation.

Additionally, the strategy outlines an approach to address the challenging financial situation surrounding recreational trails. A new Flagstaff Trails Initiative 501c3 nonprofit that is focused on raising resources and an interagency financial agreement are key elements of this approach.

Key Considerations:

Trails are part of what make Flagstaff what it is – a place that embraces its extraordinary setting on the Colorado Plateau. Trail providers, users, and other stakeholders have come together to make sure that the Flagstaff trail system is not just good, but incredible. The project has experienced enthusiastic public participation.

The Initiative has taken a holistic approach that balances recreational demand with environmental quality considerations. Each recommended project requires additional planning, environmental analysis and on-the-ground design to ensure the projects are appropriate given the area's cultural and natural resources and recreational uses. Inclusion on this list does imply formal approval for any of the individual projects. Instead, the list of recommendations represents the view of FTI partners on where the region should move next as a trail community.

Community Benefits and Considerations:

This project will focus on non-motorized and motorized trails inside the boundary of the Flagstaff Metropolitan Planning Organization, which extends from Bellemont to the west, Winona to the east, Sunset Crater to the north and Mountainaire to the south. It includes trails managed by the City of Flagstaff, Coconino National Forest, National Park Service and Coconino County.

Our trails give us something fun to do with our time. They make us healthy and strong. They generate connections to nature. They create business opportunities. They improve our mental health. They give our kids places to run around. They draw visitors, who spend money and generate jobs. They help us get to work. They help us better understand our environment. They let us test ourselves. They limit environmental impact.

Attachments: DRAFT Flagstaff Regional Trail Strategy
Flagstaff Trail Initiative Executive Summary
Presentation

Flagstaff Regional Trail Strategy

Draft - November 2019

FLAGSTAFF TRAILS INITIATIVE

Trails are part of what make Flagstaff what it is – a place that embraces its extraordinary setting on the Colorado Plateau.

Trail providers, users, conservation advocates and other stakeholders have come together to prepare the draft *Flagstaff Regional Trail Strategy*, a plan for the region's recreational trail system and a set of actions to get there. The Flagstaff Trails Initiative (FTI) represents the most sustained, broad-based attempt to bring together everyone who cares about trails to answer the question: how can we elevate our trails from good to extraordinary?

More than ever, we think people need places to pedal, ride, run and walk. The work of FTI comes amidst a backdrop of growth in Northern Arizona – growth in residents, visitors, interest in outdoor recreation and concern for the environment. The greater Flagstaff area is expected to surpass 100,000 residents by 2030 and already welcomes millions of overnight visitors each and every year. We think this growth requires a matching level of foresight, care and stewardship.

The landscape has a deep history that we strive to respect. For generations of native people, the canyons and parks surrounding Flagstaff were more than just a place for recreation. They remain home, places of tremendous significance.

Plants and animals that reside here face their own pressures, many of them of our making. As people who play in the outdoors, we must play an active and constructive role in limiting our impact and restoring areas that need it.

So here is our first attempt, crafted together, to balance these important considerations.

Front Page Photo Courtesy of WH Waters

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Head to flagstafftrailsinitaitive.org for more information and an interactive trail map.

WHAT IS THE FLAGSTAFF TRAILS INITIATIVE?

The Flagstaff Trails Initiative (FTI) is a community building project that's looking to take Flagstaff's trails from good to extraordinary. The diverse organizations that make up the FTI team have come together as partners to lay out a shared vision for the region's recreational trails.

Our Purpose

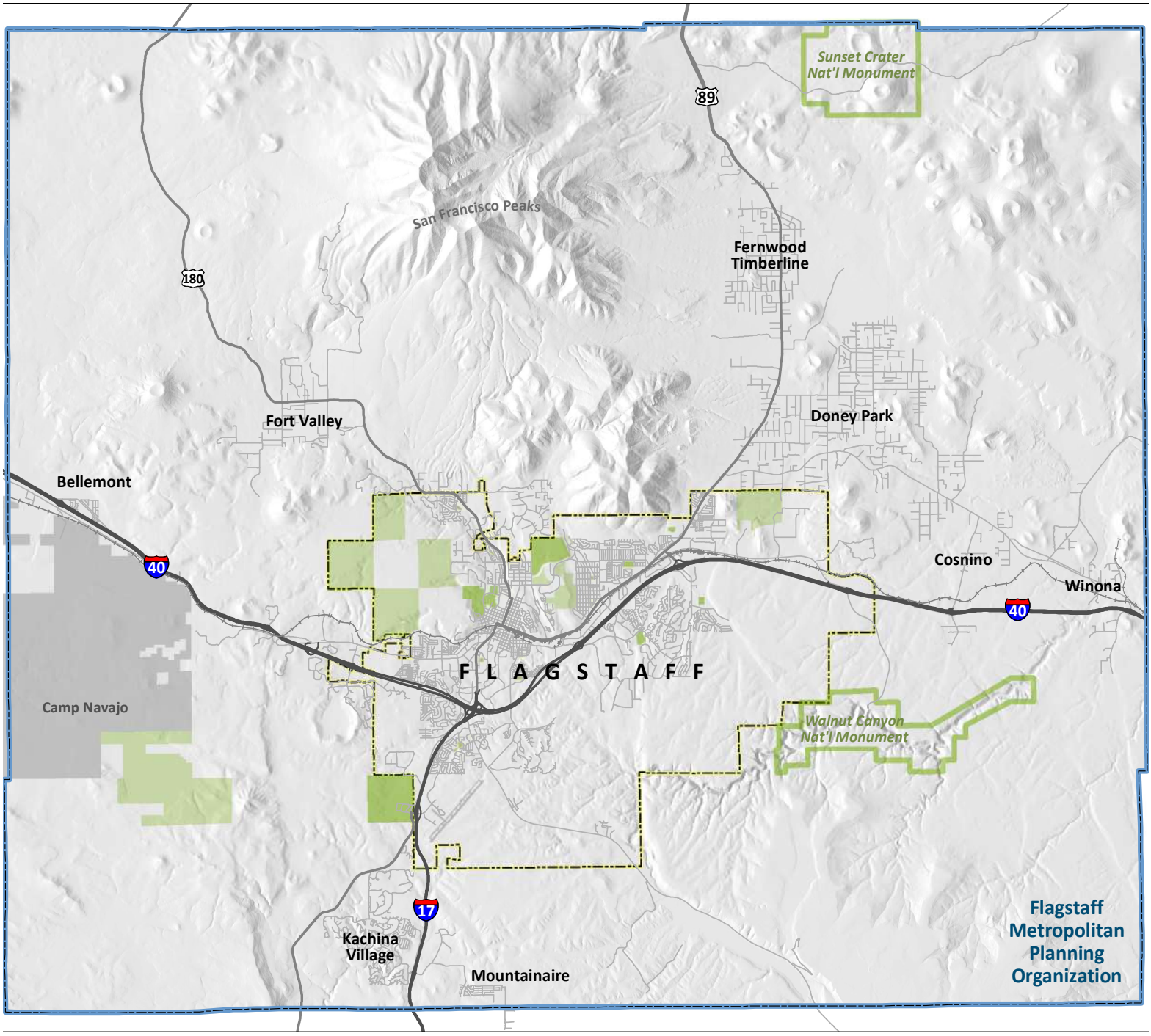
Develop and implement a collaborative, cross-jurisdictional **Flagstaff Regional Trail Strategy.** The strategy will improve the quality, connectivity and community support for a sustainable trail system that balances the demand for recreation with the community's vision for conservation, development, and health.

FLAGSTAFF TRAILS INITIATIVE

"The word I think of is* adaptive*...the strategy should be a living document that changes to reflect what the community wants" - *FTI Core Team Member*

Scope

The Strategy contains proposals for the trails in and around Flagstaff, Arizona. Our study area includes the area of Coconino County inside the Flagstaff Metropolitan Planning Organization boundary, which extends from Bellemont to the west, Winona to the east, Sunset Crater Volcano National Monument to the north and Mountainaire to the south. It includes trails managed by the City of Flagstaff, Coconino National Forest, National Park Service and Coconino County Parks and Recreation.



Partners

Anyone and everyone who cares about trails in Flagstaff can be part of FTI.

The FTI core team includes a diverse mix of public and nonprofit organizations: City of Flagstaff, Coconino National Forest, Coconino County, Flagstaff Biking Organization, Coconino Trail Riders, R2R Hiking Club, American Conservation Experience, National Park Service Flagstaff Area National Monuments, and Sierra Club. The project was launched in fall 2017 after securing technical assistance from the National Park Service Rivers, Trails and Conservation Assistance program.

STRATEGY HIGHLIGHTS

Photo Courtesy of WH Waters

Overall Goal

Elevate Flagstaff's trail system from good to extraordinary

- ✓ Use the ***Flagstaff Regional Trail Strategy*** to consolidate trail plans, proposals and concepts into a single regional document and conceptual map
- ✓ Prioritize a set of shared actions and investments for the next 5 years
- ✓ Take a collaborative and integrative approach to trail development - "Plan+Build=Balance"

Our Ten Goals

Trail Planning

A Improve trail quality and sustainability

B Address the current and future demand for non-motorized and motorized trail activities

C Improve connectivity between Flagstaff and the Flagstaff Urban Trails System (FUTS), regional open space and outlying Coconino County communities

Conservation and Restoration

D Balance trail development and management with community conservation and natural resource goals with an emphasis on restoration

E Ensure historic and prehistoric sites, including known American Indian sacred places and traditional cultural properties, are preserved and protected for their cultural importance

Education and Outreach

F Create a safe and fun experience for all trail users

G Educate, inform and involve the community in trail stewardship

H Use trails to build the next generation of youth stewards

Financial Sustainability

I Improve the financial sustainability of trail management

J Integrate trail planning and management with tourism and economic goals

what comes first

Our Near-Term Priorities

- ✓ Complete the trail projects and plans currently in the works
- ✓ Focus on elevating trail quality by launching three projects that realign unsustainable trail segments: Humphrey's Trail; Arizona National Scenic Trail on Anderson Mesa, and Rocky Moto Trail
- ✓ Use the new Flagstaff Trail Fund and 501c3 organization to raise funding and resources
- ✓ Launch a trail etiquette, "share the trails" and Leave No Trace education campaign
- ✓ Establish a volunteer restoration program and hold several events in 2020 to rehabilitate closed and unauthorized trails, clean up graffiti, and remove trash, litter and old fencing.
- ✓ Launch formal planning processes for the top two areas in need:

  Mount Elden/Dry Lake Hills and Observatory Mesa

All projects contained in the Regional Trail Strategy are subject to available resources including staff, volunteers and funding.

HISTORY, BACKGROUND & CONTEXT

Photo Courtesy of WH Waters

Why Trails?

Trails help make Flagstaff a better place to live and visit. Every regional plan for the Flagstaff area including the Flagstaff Regional Plan 2030 and the Coconino National Forest Management Plan highlights trails as an asset that should be enhanced. Despite their value, there hasn't been a holistic effort specific to trails for over 20 years.

Connection with Nature. Trails allow young and old to indulge in the discovery of the beauty of nature. They allow us to traverse landscapes free from development and experience adventure, exploration or relaxation. Out-the-back door access from Flagstaff and outlying communities to the forest is prized among residents and visitors alike. Four out of five respondents to a fall 2018 FTI survey said they value the feeling of solitude and peace trails offer. Trails can serve as more than a way to spend a few hours in the woods; they inspire a lifelong connection to nature and a forum for meaningful education. We believe these connections are stronger and more likely when "every doorstep is a trailhead".

Physical and Mental Health. Trails improve our quality of life and personal wellness. A whopping 92% of survey respondents cited exercise as a reason to value to trails. Trails provide healthy recreation and transportation opportunities by providing people of all ages with attractive, safe, accessible and environmentally sustainable places to cycle, walk, hike, run, or ride a horse. They help people of all ages incorporate exercise into their daily routines. The benefits are measurable: over 100 studies have found a link between improved mental health and time spent outside, often decreasing symptoms of depression and anxiety. Communities that encourage residents to use trails and engage in physical activity often report substantial health benefits.

Want to learn more? Headwaters Institute maintains an excellent reference library of studies on the positive impacts of trails on businesses, public health, and quality of life.

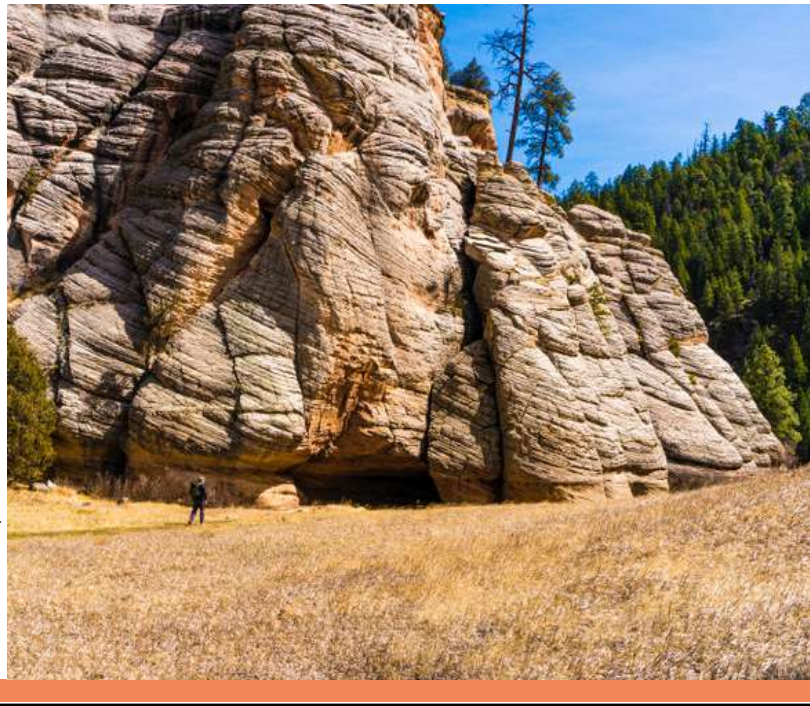


Photo Courtesy of WH Waters

Why Trails?

A Strong Economy. The economic effects of trails and urban pathways such as the FUTS are obvious at a business that depends directly on recreation. The effects can be more subtle, like when an employer moves to a community because of amenities like trails. An inviting trail network has helped countless communities across America undergo an economic revitalization. Tourists are increasingly coming to Flagstaff and Northern Arizona to experience nature and spend time outside. According to a recent NAU/Discover Flagstaff study, over 40% of visitors identified trails and recreating on the national forest as an important reason for their visit. Studies have also shown that neighborhoods that are physically connected by urban pathways see increased rates of use for commuting and transportation, reducing traffic and the strain on the road system.

Conserving Open Space and Wild Places. Trail users know landscapes need to be protected to safeguard the experience and preserve natural resource character. Urban systems like FUTS help preserve linear open space and create needed links between fragmented habitats. More people on trails with an associated decrease in cars on roads leads to the improvement of air and water quality. Trails help protect plant and animal species and can also help wetland preservation by keeping people out of sensitive areas. In addition, they can allow humans to experience nature with minimal environmental impact.

Check out our FTI survey report to see what hundreds of users said they value about trails.

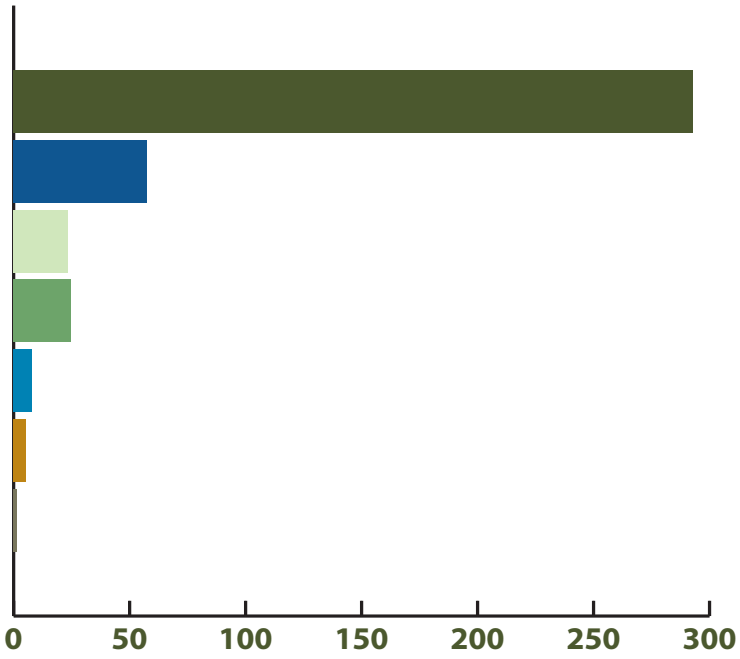
Photo Courtesy of Northern Arizona Trail Runners Association

"One of the reasons I moved back to Flagstaff was because of the ability to interact almost immediately with nature. I can leave my house on foot and within ten minutes be on a trail and then out in nature for hours." - *FTI Trail Survey Respondent*

"It needs to be recognized that Flagstaff is a destination for millions of people from across the state and out of it." - *FTI Trail Survey Respondent*

The Current System

Total System Trails: 413 Miles



Provider (miles managed)

- Arizona Game and Fish Department (1.3)
- National Park Service (5.2)
- City of Flagstaff Open Space (7.9)
- Coconino County (24.6)
- Private (23.5)
- City of Flagstaff - FUTS (57.5)
- Coconino National Forest (293)

A Diversity of Trail Types

Wider, surfaced trails that link destinations via the Flagstaff Urban Trail System (FUTS)

Narrower singletrack available for multiple uses

Trails in desginated Wilderness available only for non-mechanized use

Photos Courtesy of WH Waters

The Current System (contd)

What is an "unauthorized trail"?
Unauthorized trails are purposefully or incidentally created by users without the approval of the land manager or owner. They can be the result of purposeful construction or through incidental regular use that creates a visible travel route for others to follow. Also referred to as "user-created", "wildcat", "non-system" or "social" trails.

Unlike system trails, unauthorized trails do not receive regular, formal maintenance from the land manager and are not listed on formal trail maps because they are not part of the authorized trail system. However, unauthorized trails are often included in user-generated or third party maps, leading to confusion among users about the acceptability of their use.

The presence of an unauthorized trail often reflects a past or present demand for recreation use or access. An unauthorized trail or system of trails often serves a recreational function that authorized trails do not.

Potential Effects of Unauthorized Trails
A variety of resource impacts have been tied to use or presence of recreational trails of any kind. These include vegetation loss, soil erosion/loss, wildlife disturbance, water quality impacts and the spread of invasive species. Unauthorized trails do not receive the same level of design and analysis as authorized trails, which make these unintended impacts more likely.

Estimated unauthorized trail mileage in the FTI planning area is approximate based on multiple data sources including the tracking app Strava and several inventories that are several years old. This estimate has not been fully field checked.

Unauthorized Trails	Miles
Major trails/high levels of use	93
Minor trails/lower levels of use	241
Total	***334***

Options for Addressing Unauthorized Trails

- ***No action***
- ***Adoption in place***
- ***Adoption with modifications or re-routes***
- ***Closure and naturalization***

Users often don't know whether the trail they are using is an official system trail or not.

Brief History of Flagstaff Trails

The trail system that surrounds Flagstaff was born for reasons much different than outdoor recreation. Trails were blazed by generations of people connecting places of significance or utility. Later, after the establishment of what is now the Coconino National Forest, they become critical transportation links for forest management. Much of the trail system on forest lands is made up of pack and saddle routes or closed roads, many of which simply represented the shortest route between two points, rather than a system of sustainably designed and constructed trails.

The Flagstaff Urban Trails System (or FUTS) is a point of pride that grew from modest beginnings. A report prepared by a group of forward-looking citizens in 1988 saw the "… great potential to enhance the recreational opportunities and alternative transportation options for Flagstaff citizens and visitors." They proposed a 3.2 mile system of trails on city land. Their vision has expanded into a nearly 60- mile system of trails that connect everyday destinations like neighborhoods, shopping, jobs, schools and parks. A long-term vision for FUTS envisions a 130 mile network that will ultimately comprise a pleasant melding of recreation and transportation.

The trail system on the National Forest seen a number of important events, including the designation of the San Francisco Peaks Wilderness in 1984. The nonmotorized Mount Elden-Dry Lake Hills system was dedicated soon after in 1987. Little Elden Spring Horse Camp, created in 2009 with 15 campsites, now allows easy access for vehicles pulling horse trailers. The approval of the Fort Valley system in 2000 and the Kelly Trail system in 2012 marked major steps in providing close-to-home access for motorized users.

The Flagstaff Area Open Spaces and Greenways Plan, finalized in 1998, captured a recognition of the intertwined nature of open space conservation, trails and public access. Successes like the acquisition of Picture Canyon and subsequent trail development endure as a legacy of this effort.

The Flagstaff Loop Trail represents another ambitious vision that became a reality. Nearly complete at 44 miles, the trail is the "outer wheel" that circumnavigates Flagstaff by using city, county and forest trails. Connecting trails acting as spokes entering the city and extending to the forest beyond.

More recent projects like the formal designation of the Arizona National Scenic Trail, development of trails and a bike park at Fort Tuthill and new trail construction at Sunset Crater National Monument represent yet more chapters in the history of trails in the area. These projects help meet the demand for increasing specialization in trail use, from long distance backpacking to riding on full suspension mountain bikes, all while immersing visitors in the unique landscape of Northern Arizona.

Trail Use

Understanding how people use recreational trails helps provide one piece of the puzzle for decision making - what types of trail activities do residents and visitors enjoy in Coconino County? How many people participate and how frequently do they do so?

This information – when combined with strong community engagement and common sense - allows providers and users to make more informed decisions about community needs and equitable access in times of scarce resources.

FTI took two primary steps to better understand trail use in the area: preparation of a white paper, Recreation Trail Use in Flagstaff (March 2018) that reviewed existing regional surveys and the implementation of a trail survey specific to FTI that drew approximately 550 responses (October-December 2018).

Photo Courtesy of WH Waters

Our Key Findings:

- Flagstaff is a community of dedicated trail users. Nearly two thirds of survey respondents use trails more than twice per week.
- Over 58% of Coconino County residents report hiking, backpacking, mountain biking, and horseback riding at least once each year. Hiking is the most popular trail activity, accounting for more than half of all trips.
- Over 20% of County residents participate in motorized trail activities, including driving a 4x4 vehicle, side-by-side, dirt bike or quad/ATV each year. The vast majority of motorized users also participate in non-motorized activities.
- Different trail users - from backpackers to dirt bike riders - place value on different aspects of the trail experience.
- Over 40% of respondents to a 2018 Flagstaff Visitor Survey reported that hiking, biking and recreating on national forest lands was a reason for their visit to Flagstaff.
- Over 40% of County residents do not utilize recreational trails.
- The five most commonly used trails according to users are the Arizona National Scenic Trail, Schultz Creek Trail, Sunset Trail, Flagstaff Loop Trail and the Nate Avery Trail.

Trends and Challenges

FTI partners undertook an extensive effort to better understand the current situation and its driving factors. Using a mix of trail surveys, partnership meetings and public open houses, the team identified some key trends and challenges for the strategy to address.

Recreation & Trail Trends

- Increasing popularity of trail events like races and organized walks
- Growing diversity and specialization in trail uses and technology are leading to a desire for new trails intended for certain uses, such as technical mountain biking
- Flagstaff has grown into a trail running "mecca"
- Conflict between users can be acute in certain locations, but conflict and crowding weren't rated as major barriers to trail use
- Upsurge in social media and online information related to trails and recreation
- New organizations like Latino Outdoors have formed to expand participation and promote inclusion
- Capacity to manage recreation is declining at the federal level, encouraging a move towards more partnership-based efforts like the National Strategy for a Sustainable Trail System

Challenges for the Trail Community

> Ensuring equitable use of and access to the trails by geographic area and socioeconomic status

> Ensuring a diversity of trail experiences is available - options for the mobility impaired were rated the least adequate in the FTI trail survey

> Tackling the trail maintenance backlog

> Resolving conflicts and misunderstandings between user groups

> Limiting displacement of regular users by trail events

> Ensuring accurate trail information is available

> Providing adequate infrastructure like signs, trailheads and restrooms

> Protecting user safety

Trends and Challenges (contd)

Environmental Trends

- Climate change and its associated effects on temperature, precipitation, soils and vegetation
- Concern over wildlife impacts including habitat fragmentation and displacement due to development, recreation and other forest activities
- Increase in forest wildfire activity
- Rising investment in forest treatment and restoration
- Pressures on threatened, endangered and rare species

Challenges for the Trail Community

> Understanding and addressing the proliferation of unauthorized trails (nearly equal to the total authorized trail miles) and associated impacts

> Wildfire leading to limited forest access and ongoing loss of trails

> Keeping a minimum impact and Leave No Trace ethos alive

> Effectively coordinating with thinning and forest management projects

> Stopping the impacts of trail widening and rutting

Community and Economic Trends

- Growth and urbanization of Flagstaff along with development in outlying communities like Bellemont
- Increase in visitors, especially international, many of whom are less centralized due to a rise in alternative lodging like AirBnb
- Increasing racial and ethnic diversity
- Growth in enrollment and the physical footprint of Northern Arizona University
- Influx of new residents motivated by lifestyle factors like recreation
- Increasing competition for limited public funds from sources like the Bed, Board and Beverage tax

Challenges for the Trail Community

> Overcoming jurisdictional challenges between city, county and federal lands

> Finding reliable funding for maintenance, construction, and education

> Recruiting sufficient volunteers, especially among students and new arrivals

> Ensuring active community engagement and dialogue

> Responding to uncertainty surrounding the future of State Trust lands

FLAGSTAFF REGIONAL TRAIL PLAN

Photo Courtesy of WH Waters

"The Kelly system has been a great start to answer motorized needs. The only two options for dirt biking in the area for single track is part of the Fort Valley system and the Kelly system. Fort Valley is packed on the weekends and is not safe for motorized use. That leaves dirt bikers the option for Kelly or illegal social trails on the weekend." - *FTI Trail Survey Respondent*

"The primary objective should be to distribute use throughout the forest. Areas south of I-40 are underutilized, in part because of access, but also because they lack technically challenging trails." - *FTI Trail Survey Respondent*

"...locals and regular users seeking a more peaceful experience will turn elsewhere...the key to success here is diversity." - *FTI Trail Survey Respondent*

Trail Planning Goals and Strategies

Below are a series of trail development and management goals meant to provide a well-balanced, high quality trail system that offers opportunities for short meanders or long treks, trails that connect important sites and multi-use corridors to accommodate diverse ways of moving through nature so that all can connect to the great outdoors.

A Improve trail quality and sustainability

Strategies

- Ensure that modern, sustainable trail planning and building techniques are applied to all trail projects to reduce future maintenance needs
- Prioritize maintenance and realignment efforts based on known backlogs or up-to-date inventories, increasing the percentage of trails in the system identified as in good condition
- Re-route, decommission, restore or replace unsustainable trails

Head to the FTI Interactive Trail Map for an inventory of current maintenance needs

Photo Courtesy of WH Waters

Trail Planning Goals and Strategies (contd)

B Address the current and future demand for non-motorized and motorized trail activities

Strategies

- Develop an inclusive, user friendly trail system that provides valued experiences for multiple uses and varying skill levels
- Address unauthorized trails through closure and restoration, replacement or adoption
- Identify the areas or trail systems most in need of comprehensive site-specific planning
- Minimize the potential for ongoing unauthorized trail creation through targeted trail development and improvements to trail quality
- Provide a range of trail experiences through trail modification or development and address gaps in the current system: mobility-impaired/accessible; hiker intended, multi-use trails that provide opportunities for solitude; technical and flow mountain biking trails and motorized singletrack
- Consider adaptive management strategies - such as dispersal and segregation of uses, alternating days for various users, non-exclusive "preferred use" designations and trail directionality - where appropriate to minimize conflict and address overcrowding while keeping the vast majority of trails multi-use

C Improve connectivity between Flagstaff and the Flagstaff Urban Trails System (FUTS), regional open space and outlying Coconino County communities

Strategies

- Complete the Flagstaff Loop Trail
- Connect the regional trail system by working on the connections listed in the recommendations below
- Implement needed enhancements to existing trailheads, staging areas and less formal public access points around the perimeter of Flagstaff and other communities, listed below
- Prevent loss of public access by pursuing legal access to important, legally unsecured trail access points as development occurs or opportunities arise

What's in the Works Right Now (as of Fall 2019)

The following projects are being led by FTI organizations:

Name	Status	Scope	Trail Provider
Heart Trail and Little Elden Re-route	Planning and environmental compliance completed 2018. Re-route underway. Expected completion late 2019.	7.5 miles realigned, 3 miles decommissioned	Coconino National Forest
Schultz Y Trailhead	Public survey completed and funding approved. City Council briefing Fall 2019.	Phased parking area	City of Flagstaff
Fort Tuthill Bike Park	Expected completion Fall 2019	7 acre park with pump tracks and skill development areas	Coconino County
Mount Elden-Dry Lake Hills Planning	Scoping completed 2013; to re-initiate 2019	Mt. Elden-Dry Lake Hills (MEDL) area	Coconino National Forest
Kelly Trail System Completion	Approved and construction progressing through Coconino Trail Riders/USFS partnership	95 miles of motorized singletrack planned	Coconino National Forest
FUTS Master Plan/ Active Transportation Plan	Expected completion early 2020	Total of 130 miles	City of Flagstaff

Related Trail Projects

Arizona Snowbowl operates under a Special Use Permit with the Coconino National Forest. The resort announced in 2019 it would propose a variety of infrastructure enhancements that promote year round use including new trails for mountain biking. Since the project is not being undertaken by an FTI core team member, the collaborative does not take a position for or against the proposed developments. However, Snowbowl was identified by some FTI meeting and survey participants as a place to meet demand for advanced mountain biking. The proposals will be evaluated by the US Forest Service through the Master Development Plan process.

The **Sun Corridor Trail** is new statewide nonmotorized trail proposed by a variety of local government agencies. The trail seeks to connect the US/Mexico border to Las Vegas through Flagstaff and the FTI planning area. A specific alignment has not been identified. Coconino County Parks and Recreation is the primary point of contact for the region.

Regional Trail Recommendations
Flagstaff's Trail System in 2020 and beyond

The full list of recommendations can be seen on the FTI Interactive Trail Map. Use the filter feature to sort based on project type and priority level.

How do these recommendations fit in formal agency planning and compliance?

The list below serves as a guide for future trail development and planning across jurisdictions. Each project requires additional planning, environmental analysis and on-the-ground design to ensure the projects are appropriate given the area's cultural and natural resources and recreational uses. Inclusion on this list does imply formal approval for any of the individual projects. Instead, the list of recommendations represents the view of FTI partners on where the region should move next as a trail community.

It's important to note that this does *not* include projects within the FUTS or the Mount Elden Dry Lake Hills area. Each of these areas have their own, site-specific formal planning process underway. Both are expected to be completed in 2020. As these and other future plans are completed, projects identified within them may be compared with established priorities as part of an annual, collaborative review process.

While the list is prioritized, it doesn't preclude lower priority projects from occurring if the right opportunity presents itself. Based on what we know now, they all have value and would help elevate the region's trail system.

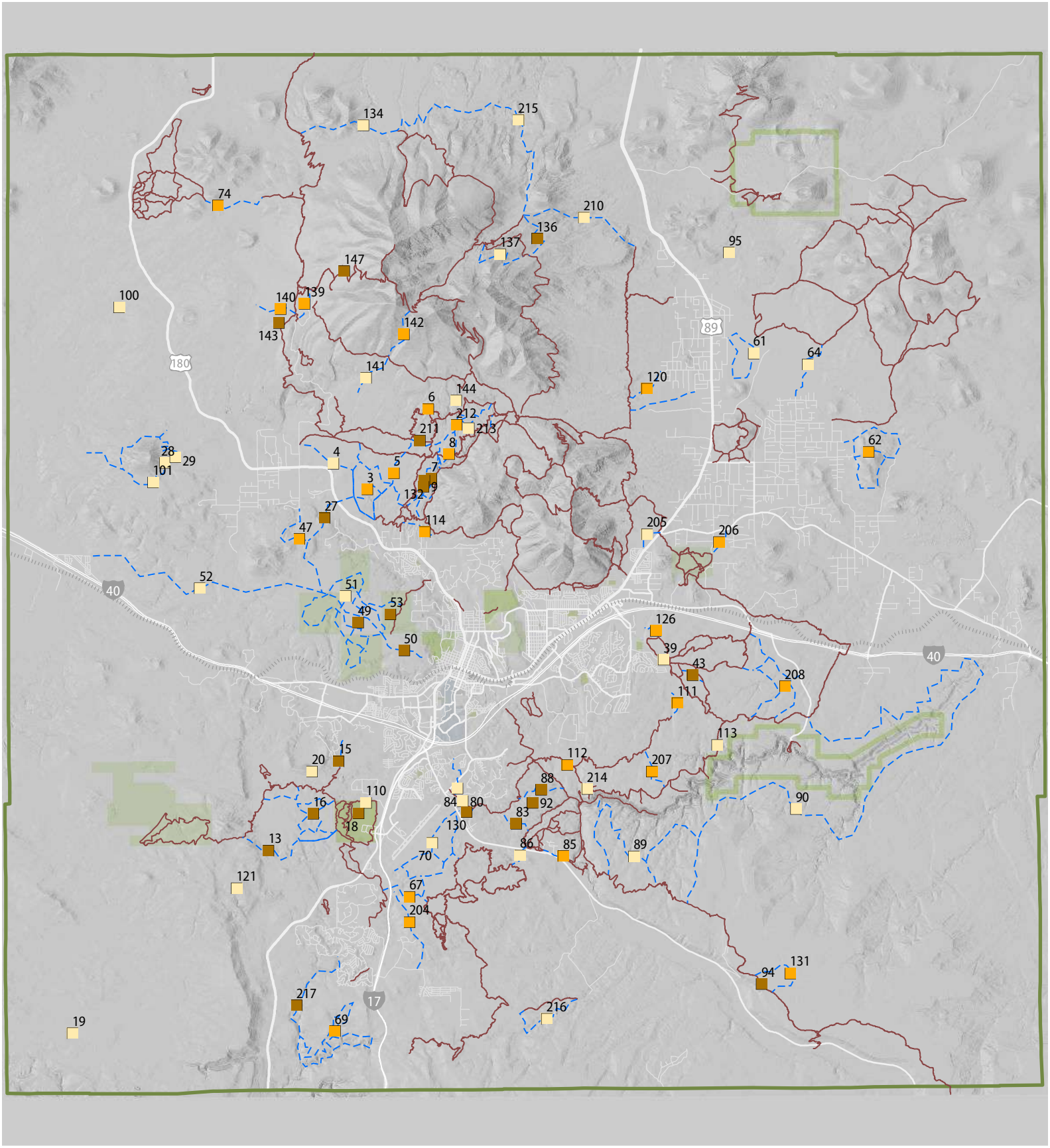
A handful of the recommendations did not receive consensus from the teams who participated, primarily in the Observatory Mesa and Fort Valley areas. These projects are indicated as such below and received reduced scores as a result.

How this list was developed?

The recommendations in the following tables and displayed on the interactive trail map were crafted by a voluntary subcommittee of "citizen planners", volunteers and agency staff. Head to the "How We Produced This" for a full description of the FTI planning process, the hundreds of trail users who weighed in the research that went into crafting ideas.

Each of the recommendations was weighted using a set of criteria that reflect FTI's overall purpose and goals. Head here for a full explanation of the trail scoring criteria.

Criteria	Weight
Network and Connectivity	12
Environmental Sensitivity and Beneficial Resource Effects	10
Level of Public Support	8
Demonstrated Demand or Expected Popularity	8
Unique or Destination Trail Experience	6
Cost and Complexity	6
POSSIBLE SCORE	50



FLAGSTAFF TRAILS INITIATIVE

Trail development and connectivity recommendations

Trail projects - priority

- 1 High
- 2 Medium
- 3 Low
- Proposed trails
- Existing trails

3 Miles

November 2019

Trail Development and Connectivity Recommendations

This category includes 77 recommendations for new trails, realignments, connections between existing trails and adoption or restoration of unauthorized trails

Notes: 1) Projects that did not receive consensus from the planning team for that area are indicated by an asterisk*. 2) Estimated trail miles per priority level are entirely conceptual. If projects move forward additional on-the-ground design and evaluation are needed.

Priority	ID#	Trail Recommendation Description
HIGH	16	Construct a new stacked loop system of directional, mountain bike-preferred trails west of Fort Tuthill to meet regional need and bolster the site as an event venue
	18	Construct a new accessible trail in Fort Tuthill County Park to address a regional shortcoming
	49	Construct a new stacked loop system on Observatory Mesa accessible from downtown Flagstaff and Thorpe Park to help address local demand and unauthorized trails
	13	Construct a new shared use trail connection from Fort Tuthill/Soldiers Trail to Rogers Lake to create longer loop opportunities
	15	Connect Woody Mountain Road/Forest Road 532 trailhead and south end of planned FUTS as part of Loop Trail
	27	Connect Fort Valley and Observatory Mesa to help link two popular areas
	83	Connect Loop Trail and Fay Canyon trail to provide loop opportunties and enhance usability of in area south of town
	130	Connect the Loop Trail and existing, de facto trailhead on Lake Mary Road recommended for development
	136	Connect Inner Basin, Lockett Meadow, and Waterline Road to help enable an "around the peaks" loop opportunity as well as improve access to Lockett Meadow
	9	Evaluate unauthorized trails in upper Fort Valley for closure and restoration to reduce impacts
	94	Realign the Arizona Trail from the top of Anderson Mesa to just below the rim to improve sustainability
	147	Realign Humphreys Trail where grades and conditions are unsustainable to reduce erosion and accommodate visitor use
	211	Realign Rocky Moto Trail off of pipeline between Moto and Secret Trails to improve sustainability

Trail Development and Connectivity Recommendations (pg 2 of 4)

Priority	ID#	Trail Recommendation Description
HIGH	7	Adopt Dogfood Engineer as a shared use nonmotorized system trail to help disperse use in the Schultz/Fort Valley
	43	Adopt a short segment of unauthorized trail between Sinagua and Walnut Meadows Loop to improve the overall Campbell Mesa network
	50	Adopt unauthorized trails on Lowell Observatory property as part of Observatory Mesa system improvement
	88	Adopt Skunk Canyon as a system trail to provide loop opportunties and enhance usability in area south of town
	132	Adopt Easter Island as a directional, mountain-bike preferred system trail to provide technical mountain biking opportunities and disperse use
	217	Adopt Pumphouse Wash as a system trail and improve sustainability where needed
	53	Evaluate unauthorized trails on Observatory Mesa for closure and restoration to reduce impacts and reduce redundancy
	92	Evaluate unauthorized trails in the Walnut Canyon area for closure and restoration to reduce impacts and redundancy
		Estimated Mileage of High Priority Trail Recommendations: 51 miles
MEDIUM	3	Construct new shared use, stacked loops north and west of the Fort Valley Trailhead to easy to access beginner opportunities
	131	Construct new trail around Vail Lake primarily though adopting existing road
	5	Connect Secret Trail and Fort Valley Trailead to allow more motorized loop opportunities*
	6	Connect Secret Trail and Friedlein Prarie Road to allow more motorized loop opportunities*
	67	Connect Highland Trail and the Kelly Trail System with a nonmotorized trail under Interstate 17
	74	Connect the Nordic Village and Bismark Lake Trail to link two high elevation systems
	85	Connect Hitchin Post Trails with Sandys Canyon Trail to provide loops and enhance usability in area south of town
	114	Connect Schultz Creek and Chimney Trail to help disperse use in the Schultz/Fort Valley system
	139	Connect Aspen Corner directly to Humphreys Trail to allow for loops
	8	Realign the Arizona Trail off of an unsustainable old road bed just west of Schultz Creek Trail
	140	Connect Arizona Trail near Aspen Corner and Hart Prairie Road to allow for loops
	142	Connect Kachina Trail with Weatherford Trail at Doyle Saddle to improve access and allow for loops

Trail Development and Connectivity Recommendations (pg 3 of 4)

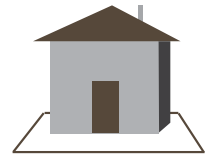
Priority	ID#	Trail Recommendation Description
MEDIUM	207	Connect Arizona Trail and Loop Trail near Walnut Canyon to provide loops and enhance usability of easily access southside area
	62	Construct new loop trails east of Doney Park to provide close-to-home access
	120	Construct and/or adopt connections from Timberline to Deer Hill Trail to provide close-to-home access
	47	Connect Fort Valley to FUTS with a commuter route on Observatory Mesa that partially uses existing roads
	204	Connect Mountainire Rd to planned FUTS extension with a commuter route that partially uses existing roads
	206	Connect Doney Park at Townsend-Winona Road to Picture Canyon with a planned FUTS extension
	111	Realign Loop Trail north of Walnut Canyon away from old road onto national forest
	112	Realign Loop Trail north of Fisher Point off of old roads to enhance user experience
	69	Adopt existing unauthorized trails in and near Kelly Canyon as part of a new shared use system to manage existing and expected demand
	126	Adopt unauthorized trail from Campbell Mesa to planned Peaceful Valley FUTS trail to improve neighborhood access
	208	Adopt unauthorized trails on eastern Campbell Mesa to expand and improve the system
	212	Consider adoption of unauthorized trails such La Bamba to allow for loops and disperse use
	143	Evaluate unuathorized trails west of Aspen Corner and the Arizona Trail for closure and restoration to reduce impacts
		Estimated Mileage of Medium Priority Trail Recommendations: 84 miles
LOW	19	Consider trail construction parallel to the road to Casner Mountain to allow for motorized loops
	51	Construct a new FUTS-standard multi use trail along the perimeter of Observatory Mesa*
	89	Construct shared use loop trails south of Walnut Canyon to provide new, longer and more remote opportunities
	90	Construct a new loop trail around Walnut Canyon to provice new, longer and more remote opportunities
	100	Construct a new motorized trail around the perimeter of the Peaks, referred to as the Pines to Prairies project, to expand destination motorized opportunities*
	137	Construct loop trails in the wilderness near the Inner Basin Trailhead to create new loops and disperse use in the popular area
	4	Connect Fort Valley Trailhead and Rocky Moto Trail with a motorized connection and create new loops*
	64	Formalize OHV access from Doney Park to the Cinder Hills
	86	Connect Fay Canyon and the Kelly Trail System across Lake Mary Rd to link two existing systems
	95	Connect Timberline and Cinder Hills to improve neighborhood access

Trail Development and Connectivity Recommendations (pg 4 of 4)

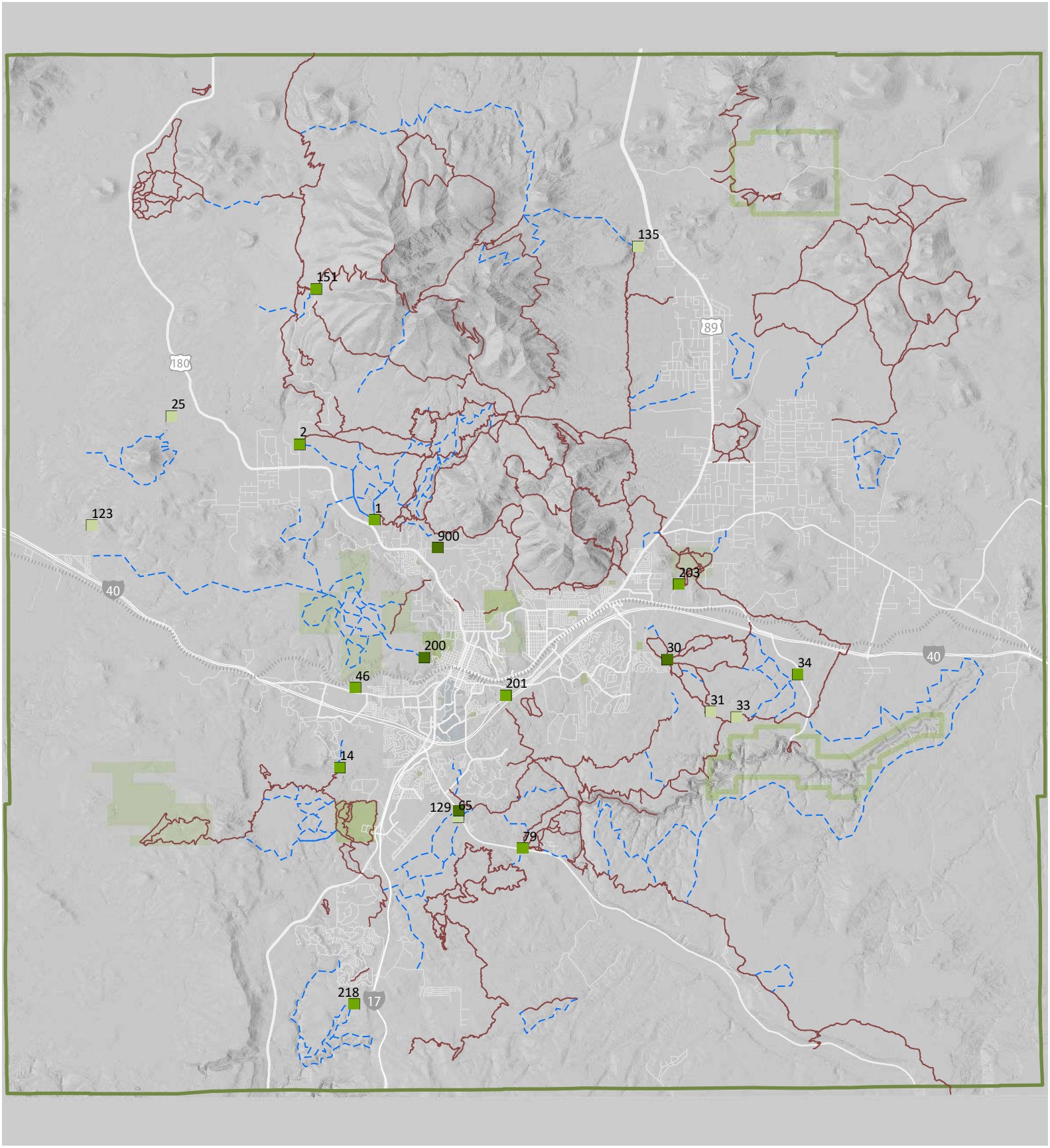
Priority	ID#	Trail Recommendation Description
LOW	134	Connect the Arizona Trail with the Abineau/Bear Jaw Trailhead through the White Horse Hills
	210	Connect Deer Hill Trail and Lockett Meadow to create an additional way to access Inner Basin
	215	Connect Inner Basin Trailhead/Lockett Meadow with Bear Jaw/Abineau Trailhead to enanble an "Around the Peaks" nonmotorized opportunity
	61	Construct neighborhood loop trails east of Timberline and north of Doney park
	84	Construct a neighborhood connection to the Loop near JW Powell Blvd
	52	Connect Bellemont to Flagstaff with a commuter route that partially uses existing roads
	205	Connect Timberline to North 89 FUTS trail
	80	Realign the Loop Trail off of old roads near Walnut Canyon to improve user experience
	113	Realign the Arizona Trail off of old roads near Walnut Canyon to improve user experience
	214	Realign the Arizona Trail between Fisher Point and Walnut Canyon to improve sustainability and user experience*
	28	Adopt Wing Mountain shooting pit as a hill climb challenge for motorized users
	70	Adopt unauthorized trails south of airport to create new shared use nonmotorized system
	101	Adopt Wing Mountain unauthorized trails to create a designated motorized system
	141	Adopt and realign unauthorized connection from Friedlein Prairie Road to Kachina Trail to create new way to access high elevation system
	216	Adopt unauthorized trail in Howard Draw to recognize ongoing access to this popular climbing area
	20	Close and restore unauthorized trail on rim of Dry Lake to reduce impacts and discourage further use
	29	Evaluate unauthorized trails at Wing Mountain for closure and restoration to reduce impact
	39	Evaluate unauthorized trails on Campbell Mesa for closure and restoration to reduce impacts
	121	Evaluate unauthorized trails at Woody Ridge for closure and restoration to reduce impacts
	144	Evaluate unauthorized trails in the area of Secret Trail for closure and restoration to reduce impacts
		Estimated Mileage of Low Priority Trail Recommendations: 114 miles

Trailheads and Trail Access

This category includes improvement of existing trailheads and construction of new ones.



Priority	ID#	Trailhead and Access Recommendation Description
HIGH	30	Enhance and expand existing Campbell Mesa Trailhead on Old Walnut Canyon Rd and/or consider nearby alternatives to help accommodate current and expected demand
	900	Construct a trailhead at the "Y" intersection of Schultz Pass Road and Elden Lookout Road to access the popular Schultz Creek area trail system
	129	Construct a new trailhead for the Loop Trail along Lake Mary Road immediately south of the water treatment plant to accommodate current and expected demand
	200	Construct a new trailhead at Lowell Observatory to access improved Observatory Mesa trails
MEDIUM	1	Enhance Fort Valley Trailhead with toilets and trash service
	14	Enhance existing Woody Mountain Rd/Forest Road 532 trailhead with toilets and trash service
	151	Enhance existing Humprheys Trailhead with toilets and trash service
	203	Enhance existing Picture Canyon Trailhead with additional parking
	2	Construct new trailhead for Rocky Moto Trail along Snowbowl Rd
	34	Construct new trailhead for Arizona Trail/Cambell Mesa along Monument Rd
	46	Construct new trailhead at the City's Core Services Facilty to access the southside of Observatory Mesa and Tunnel Springs Trail
	79	Construct new trailhead for Fay Canyon Trail access along Lake Mary Rd to improve southside access
	201	Construct new trailhead at the end of Babbit Dr to improve Fisher Point access
	218	Construct new trailhead at Kelly Pocket along FR 237 to improve access if system is adopted
LOW	25	Construct a new trailhead at Wing Mountain to access proposed new trails
	33	Enhance and enlarge existing Arizona Trail trailhead just north of Walnut Canyon National Monument
	31	Construct a new trailhead along Old Walnut Canyon Road to improve access to Campbell Mesa system
	65	Construct a new trailhead on the east side of Lake Mary Road east of the airport to improve access in conjunction with a proposed new trail system (#70)
	123	Construct a new trailhead north of Bellemont to improve access in this growing area
	135	Construct a new trailhead along Schultz Creek Road at the north end of Deer Hill Trail to improve access



FLAGSTAFF TRAILS INITIATIVE

Trailheads and trail access recommendations

Trailheads - priority
- 1 High
- 2 Medium
- 3 Low

Proposed trails

Existing trails

N

3
Miles

November 2019

Signs and Wayfinding

These areas were identified as priority needs for signs and wayfinding improvements.

Area	Signs and Wayfinding Recommendation
Doney Park	Better wayfinding on Old Caves Crater Trail and the Dan Moody Trail through cinder sections
Fort Tuthill - Woody Mountain	Improved trailheads and wayfinding at Fort Tuthill and connections with Soldiers Trail and FUTS
San Francisco Peaks	More signs are needed for education on Wilderness Act and Leave No Trace
Fort Valley	Improved signing for Fort Valley Trails - combination map and wayfinding signs
Kachina - Mountainaire	Better wayfinding on Highland Trail through Kachina Wetlands
Observatory Mesa	Improved wayfinding and additional interpretive signs
Walnut Canyon	Information kiosks with maps and trail signs at junctions
Hochderfer Hills	Better wayfinding for trails outside of Nordic Village

Future Planning Needs

These areas were identified as trail systems most in need of site-specific and formal planning.

Area	Managing Agency	Rationale
Observatory Mesa	City of Flagstaff Open Space	Proximity to city center; high density of unauthorized trails
Fort Valley	Coconino National Forest	Potential to meet regional demand and disperse use from high sensitivity areas; high density of unauthorized trails
San Francisco Peaks	Coconino National Forest	Regional and statewide importance; high natural and cultural resources values

Benefits of the Trail Plan

Projects recommended in the trail plan benefit…..

…All trail users by moving towards a more cohesive and connected system that enhances access from neighborhoods to the forest. It will help consolidate a sometimes confusing system by adopting certain unauthorized trails and restoring others. An emphasis on maintenance and realignment will help ensure trails are in reliably good condition.

…Hikers by creating an improved system of connections and trail linkages that allow for loops of varying lengths and difficulty levels, often in areas of relative quiet and solitude. Several recommended projects are relatively short segments that form missing links in the existing system. One the state's top hiking destinations will be improved by projects within and near the San Francisco Peaks Wilderness including a more sustainable alignment for Humphrey's Trail and bolstered options from the Inner Basin Trailhead. The trail plan also looks to mitigate conflicts between hikers and mountain bikers by dispersing and distributing use.

….Trail Runners by ensuring that access from Flagstaff and other communities is as seamless as possible, allowing runners a myriad of choices of loops and training routes. Proposed enhancements to Observatory Mesa and the forest areas along Lake Mary Road will improve already popular destinations.

…Mountain Bikers by improving the existing inventory of quality beginner to intermediate cross country riding, especially on the relatively underutilized southside, and developing trails to meet the substantial demand for mountain bike-specific experiences while limiting impacts to other users. It reinforces the role of Fort Tuthill as a riding and event hub to complement the Dry Lake Hills by adding longer connections and creating some of the only flow trails in Arizona. Adoption and realignment of trails in Fort Valley allow for a more technical and challenging riding experience.

…Motorized Dirt Bikers by increasing the number of loop opportunities in areas like Fort Valley and beginning the process of planning and evaluating the Pines to Prairies concept, a destination-level motorized singletrack project.

…Equestrians by protecting and expanding system access in areas like Timberline and Doney Park where horse ownership is common. The equestrian enjoyment of the Fort Tuthill area will also be enriched through the creation of a longer loop that incorporates the Rogers Lake connector.

….the Environment by reducing erosion through sustainable maintenance and construction techniques, including realignment of poorly located trails. The chronic issue of unauthorized trails will be addressed by pairing any trail improvements or construction with the restoration of nearby unauthorized trails. Diverting recreational use to more resilient, lower sensitivity areas will help reduce effects on wildlife in important activity centers and movement corridors.

CONSERVATION & RESTORATION

Photo Courtesy of WH Waters

"While recreation opportunities are important, it's also really important to keep certain areas more pristine and without trails...natural value is degraded when biota has no refeuge from human impact." - *FTI Trail Survey Respondent*

"We need to recognize right off the bat that the landscape is not just a playground." - *FTI Meeting Participant*

D

Balance trail development and management with community conservation and natural resource goals with an emphasis on restoration

Strategies

- Focus unauthorized trail closure and restoration efforts in the areas with the highest resource and cultural sensitivity, setting annual targets for miles of trail restored
- Evaluate the use of site specific and limited seasonal closures to reduce wildlife disturbance
- Use new trail development, improved access and trail information to disperse heavy recreation use from areas of high resource sensitivity to areas of lower resource sensitivity

E

Ensure historic and prehistoric sites, including known American Indian sacred places and traditional cultural properties, are preserved and protected for their cultural importance

Strategies

- Interpret locations of cultural or historical significance, using trails as a means to connect people to the land and its history
- Take action to protect site stability and integrity where trail use is a threat
- Proactively work with American Indian tribes on trail and outdoor recreation projects
- Deepen trail-related partnership with organizations like the Ancestral Lands Program and NAU Native American Center

Conservation Considerations

Members of the FTI trail planning subcommittee were asked to evaluate natural and cultural resources before crafting trail recommendations. Large swaths of the planning area – from Anderson Mesa to portions of the San Francisco volcanic field – were identified as not being suitable for new trails.

Additionally, a number of conservation measures and considerations were raised during the preparation of FTI trail recommendations. These measures reinforce existing formal guidance in city, county, state and USFS and US Fish and Wildlife Service policy to protect natural vegetation, wildlife and soil resources:

- Be mindful of important wildlife corridors during trail planning and avoid where possible
- Assess the potential effects of various recreational uses, and minimize those effects through trail closure, trail use restrictions, and other measures as needed.
- Monitor recreation-related resource impacts
- Avoid sensitive locations such as springs, highly erodible soils and riparian areas
- Avoid Mexican Spotted Owl habitat and Northern Goshawk post-fledgling areas, while updating these locations based on the best available data
- Seek out and implement opportunities to restore old roads

Recommendations for Future Work

The Strategy recommends that a working group of conservationists, professional biologists, cultural resource specialists and trail users be formed to help guide the implementation of the Regional Trail Strategy and ensure dissemination of the best available science. Areas of potential collaborative work include:

- **Identify locations of high educational potential**. Dynamic forest processes along trails make for excellent open air educational opportunities. As the climate changes and the landscape evolves, areas of high recreation use are well suited to help tell the unfolding story.
- **Gather data to help inform trail planning and management.** Adequate data that links recreation use with wildlife behavior and habitat quality is limited. A program to collect information would help inform trail layout and management measures like seasonal closures to avoid breeding, nesting or important foraging locations for important species.
- **Develop a Field Guidebook for Restoring Unauthorized Trails.** A simple how-to guide would assist in completing unauthorized trail restoration projects. The guide would address re-establishing cross slopes, decompacting soils, blocking ongoing use and reestablishing native vegetation.

EDUCATION & OUTREACH

Photo Courtesy of WH Waters

"It would also be good to see more folks volunteering to protect these special resources…to give back by assisting with trail maintenance days, and helping to spread the word about how these places are there for us to enjoy and respect" - *FTI Trail Survey Respondent*

"Although most trail users are courteous and have good intentions, it is difficult to share trails between mountain biking and hiking due to the disparity in speed" - *FTI Survey Respondent*

The Role of Education & Outreach

Urban trails provide entry to spaces that may be difficult to see or access otherwise. These areas are special to many residents and often inspire stewardship efforts from people who live in nearby neighborhoods, members of local outdoor clubs and organizations. We hope that, through focused education and outreach programs, we can build a community of trail stewards who will take on the responsibility of building and maintaining the trails they use on a day-to-day basis.

Engaging the Community

Once a trail system is in place, there is still more to be done: on-going trail maintenance, construction of new trails and promoting the use of trail systems through community events. Trail-related events and celebrations are particularly important to the community. These functions bring residents together not only for fund-raisers such as the annual Climb the Mountain to Conquer Cancer, but also through a variety of bicycle and foot races, man versus horse competitions, and much more. Other highlights including the Native Americans for Community Action hiking series and Picture Canyon tours offered by Willow Bend Environmental Education Center.

Volunteerism is already strong in Flagstaff, thanks to organizations like Flagstaff Biking Organization and Coconino Trail Riders who host regular trail work days. The Arizona Trail Association's well respected Trail Stewards program leverages partnerships with REI, the Coconino National Forest and others help make sure our own statewide gem stays in good shape.

Flagstaff is a hotbed for youth corps programs. Both American Conservation Experience and the Arizona Conservation Corps have local offices that connect youth and adults with stewardship opportunities statewide and beyond.

Getting the Word Out

The way trail users get information is rapidly evolving. There's a competitive marketplace that includes user-specific apps, agency websites and online and printed maps. Old fashioned word of mouth still reigns, though – it was rated as the most common way people get their trail information in our online survey.

All in all, Flagstaff isn't doing too badly in this arena – 95% of survey respondents rated the quality and accuracy of trail information either high or medium. That didn't stop nearly 90% from saying they would use a Flagstaff-specific trail system website if it were available. Yet more remains to be done. Education was repeatedly identified as a top priority throughout the FTI engagement process. Numerous commenters complained of feeling unsafe due to interactions with bikers and hikers. Others pointed out confusing trail systems that could be improved.

Photo Courtesy of WH Waters

Education & Outreach Goals and Strategies

F Create a safe and fun experience for trail users

Strategies

- Launch a new trail user etiquette campaign to promote awareness of "share the trail" principles and low impact recreation behavior
- Improve visitor information and wayfinding by adopting shared or complimentary sign standards between trail providers
- Work with organizations like Latino Outdoors to ensure that Flagstaff-area trail systems are welcoming to all people, regardless of cultural background or ability

G Educate, inform and involve the community in trail stewardship

Strategies

- Promote shared stewardship by offering trail-related volunteer opportunities
- Increase the number of trail volunteers and hours contributed to trail stewardship, encouraging all user groups to volunteer for monthly trail maintenance and construction events
- Launch the Flagstaff Trail Academy, a new trail skills training program to teach skills of trail design, building and maintenance to cultivate a cadre of dedicated trail stewards able to work across systems and jurisdictions through "adopt-a-trail" programs
- Increase the number of trail and recreation-related educational programs to reach all members of the Flagstaff community
- Elevate understanding of trail opportunities, issues and accomplishments among local leaders, stakeholders, policy makers and elected officials

H Use trails to build the next generation of youth stewards

Strategies

- Work with organizations like Alpine Leadership Academy to identify meaningful trail stewardship and education service projects for youth

Education & Outreach (contd)

Program Spotlight: Trail Etiquette Campaign

Nearly all of Flagstaff's trails are shared by multiple users. Different but related sets of trail ethics and user guidelines have been adopted across the country to help ease conflicts and encourage low impact recreation behavior. Tips like "yield to climbing bike traffic" or "ask how the person on the horse would like you to pass" might seem intuitive but often aren't well understood.

A trail etiquette campaign will package these tips - along with encouragement to follow Leave No Trace principles – in a fresh, easy to understand format that reaches all users. Kiosks, signs, videos and social media content will help amplify and reinforce the messages. Funding sources like the Arizona State Parks and Trails Safety and Education grants exist for just this purpose. The Durango Shares the Trail campaign and Bend, Oregon's Trail Love video series are excellent examples to follow.

FINANCIAL SUSTAINABILITY

Photo Courtesy of WH Waters

What Do Trails Cost?

Trail costs will vary depending on soil type, side slope grade, density of vegetation, need for structures and other factors.

Maintenance includes removing downed trees, improving trail tread, clearing and brushing vegetation in the trail corridor, and improving drainage features. Estimates are based on a 5 person crew.

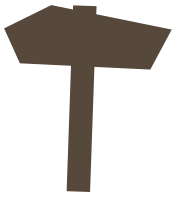
Construction includes design and layout, trail corridor clearing and tread establishment using hand and machine mixed construction for natural surface trails. FUTS trail are constructed with heavy machinery.

Natural Surface Singletrack Trail

Aggregate Surface Flagstaff Urban Trail

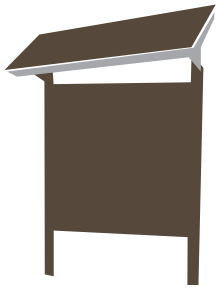
Paved Surface Flagstaff Urban Trail

Construction per mile	$25,000 to $56,000	$350,000 to $500,000	$1,000,000 to $1,200,000
Maintenance per mile	$2,500 to $5,000 (each time, completed every 5 years)	$4,200 (per year)	$2,800 (per year)



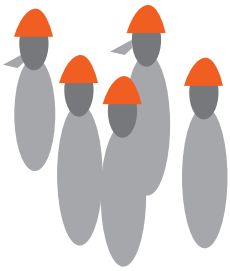
Trail Sign

$75 to $250 each



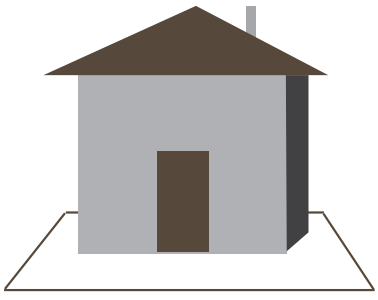
Kiosk

$4,000 to $9,500 each



5 Member Trail Crew

$4,500 per week



Vault Restroom

$50,000 to $100,000 each

The Financial Side of Trails

The Asset

Replacement Value of All Natural Surface Trails in Planning Area (355 miles)*:

$8.9 to $14.2 million

The Impact

Average Spending of Visitors Using Trails

$203 to $278 per day

Share of Flagstaff visitors who report coming for outdoor recreation and trails:

40+%

*based on per mile construction and maintnenace estimates

The Issue

Annual Maintenance Funding Required for 293 miles of Coconino National Forest trails (up to standard, 5 year maintenance cycle):

$146,500 to $199,000

Existing Annual Maintenance Shortfall:

$101,500 to $144,000

Estimated Cost of High Priority Trail Development Recommendations**:

$1.4 to $3.0 million

** based on conceptual mileage totals and per mile estimates

How much is spent on trails now?
Expenditures for trail management vary year to year. The largest shortfall is on federal forest lands. The average budget annual allocation from 2010 to 2019 for trail maintenance on the Flagstaff Ranger District of the Coconino National Forest is approximately $45,000. This covers personnel, vehicles, materials, supplies, and trail volunteer support. The District employs one staff member with a part time responsibility for several hundred miles of trail.

The City of Flagstaff has responsibility for maintenance of FUTS and trails on City-managed open space. The average annual FUTS maintenance budget, allocated and overseen by the Parks Section, is $200,000. The City's Open Space program does not have dedicated trail funding or staff.

Coconino County Parks and Recreation has responsibility for maintenance of trails at Fort Tuthill, Rogers Lake and Pumphouse Wash. The County's trail budget is grant dependent. The County employs one Trades II worker that oversees trails and numerous other facilities.

How do trail costs compare to other projects in the community?
Constructing the Lone Tree Railroad Overpass project is equivalent to building 400 miles of new natural surface trail and maintaining them for the next 330 years.

Constructing the Aquaplex is equivalent to adding 40 miles of FUTS trails with aggregate surfacing, or 15 miles of paved trail, to the system.

Financial Sustainability Goals and Strategies

Realizing the system of sustainable trails envisioned in this strategy will require raising the bar of community support for trails.

Photo Courtesy of M. Loseth

Proper stewardship takes resources: money, people and equipment. A shortage of resources can be traced to several of the identified challenges including a backlog of trail maintenance, proliferation of unauthorized trails and inadequate wayfinding.

Much of the shortfall is on the Coconino National Forest; no surprise, as the agency is struggling with a $300 million trail maintenance backlog nationwide. Resources are also limited for trail development and management on the City's newly acquired open space and for development of FUTS.

F Improve the financial sustainability of trail management

Strategies

- Create a new Flagstaff Trail Fund to collect and distribute funds – utilize the United Way of Northern Arizona as an interim fiscal agent while transitioning to a new 501(c)(3) non-profit organization
- Pursue suitable federal, state and private grant opportunities
- Cultivate new sources of funding and in-kind resources for trail maintenance, education, planning, and development
- Establish a partnership mechanism that allows agencies and organizations to share funding, personnel and other resources
- Actively seek out opportunities for trail providers to pool investment, such as a shared Flagstaff Trails Corps
- Develop a trail system that is within the capacity of the community and providers to manage

Financial Sustainability Goals and Strategies (contd)

H Integrate trail planning and management with tourism and economic goals

Strategies

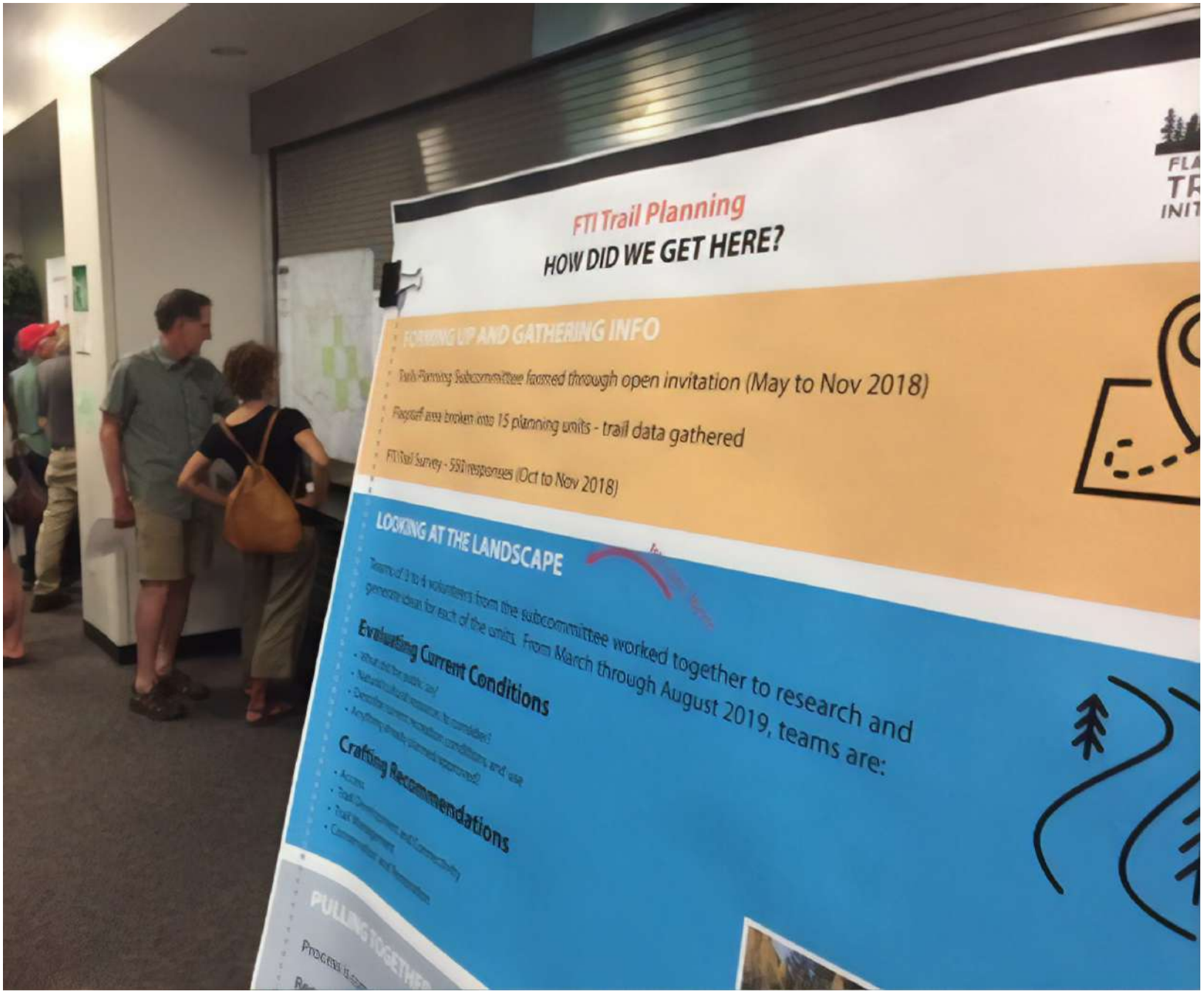
- Encourage suitable locations, or construct new ones, for trail events
- Develop, enhance and promote certain trails within the system as destination trails for visitors
- Increase the engagement of local businesses and Discover Flagstaff in trail promotion and management
- Leverage marketing efforts like Pledge the Wild to educate visiting trail users on low impact and safe recreation practices

Program Spotlight: A new non-profit for Flagstaff trails

The new 501c3 nonprofit organization is a key part of tackling identified financial needs. The proposed organization would use an organizational membership model, composed of FTI core team members and other partner governmental and nonprofit groups in the region. These member organizations would elect a five to ten member board of directors to oversee the operations of the new Flagstaff Trails Initiative 501c3 and a part-time paid coordinator.

The initial emphasis of the new organization would be on fundraising. Use of these funds would be guided by the Regional Trail Strategy for use on restoration, education, planning, construction and maintenance projects. The intent of the organization is to complement and elevate, rather than compete with, existing FTI partners.

HOW WE PRODUCED THE STRATEGY



Forming Up

FTI is a voluntary, partnership-driven effort rather than a formal public body.

It operates under a collaborative work plan mutually agreed to by all parties available for public review at flagstafftrailsinitiative.org. The effort relies on a structure of a representative core team that included the organizations most committed to and affected by the Initiative including trail providers, users and conservation advocates. Several organizations were added to the core team throughout the project in an effort to ensure representation and diverse perspectives.

The project was officially launched in 2017 when a subset of what is now the FTI core team submitted an application to the National Park Service Rivers, Trails and Conservation Assistance (RTCA) program. RTCA staff based in Arizona provided facilitation, technical assistance and process design on behalf of core team members. Southwest Decision Resources, a consulting firm based in Arizona, served as co-facilitator throughout the development of the Regional Trail Strategy.

A group of three subcommittees (also referred to as focus teams) were formed by open invitation during workshops and public meetings. These subcommittees (Trail Planning, Education and Outreach, and Financial Sustainability) often included core team members and received support from the facilitation team.

Decision Making

The FTI core team adopted a consensus-based decision making process, which was defined as the willingness of team members to support a particular outcome, even if the outcome is not wholly satisfactory. When seeking consensus, four levels of support outlined in the collaborative work plan were utilized.

Each of FTI core team organizations was provided a single vote at important junctures. For release of the Draft Flagstaff Regional Trail Strategy, consensus was ambitiously defined by the core team as 100% of organizations indicating they support the contents of the document.

NOTE: The Sierra Club has been a member of the FTI core team since December 2017 and helped with the development of the Strategy and organization of the planning process. They have requested their members review the draft Strategy during the public feedback period (December 2019 to February 2020) before taking a final position on the goals, strategies and recommendations contained within.

Engagement and Outreach

Repeated public and stakeholder engagement was central to the development of the Regional Trail Strategy.

These efforts began in February 2018 when FTI members briefed elected officials on the Flagstaff City Council and Coconino County Board of Supervisors about the intent of the project during open sessions.

A project website (flagstafftrailsinitaitive.org) was established soon to serve as accessible location for all project documents such as meeting notes and public meeting summaries. An email list serve was built to distribute quarterly updates and meeting notifications.

Two workshops held in the spring of 2018 engaged interested organizations and agencies. Dozens of organizations were invited to attend and shape the goals, approach and outcome of the process. Approximately 50 participants at the first workshop completed a context mapping exercise that helped inform the "Trends and Challenges" portion of the Strategy. Those present offered general support and constructive criticism for the goals of FTI; many original attendees would go on to volunteer on one of the three subcommittees.

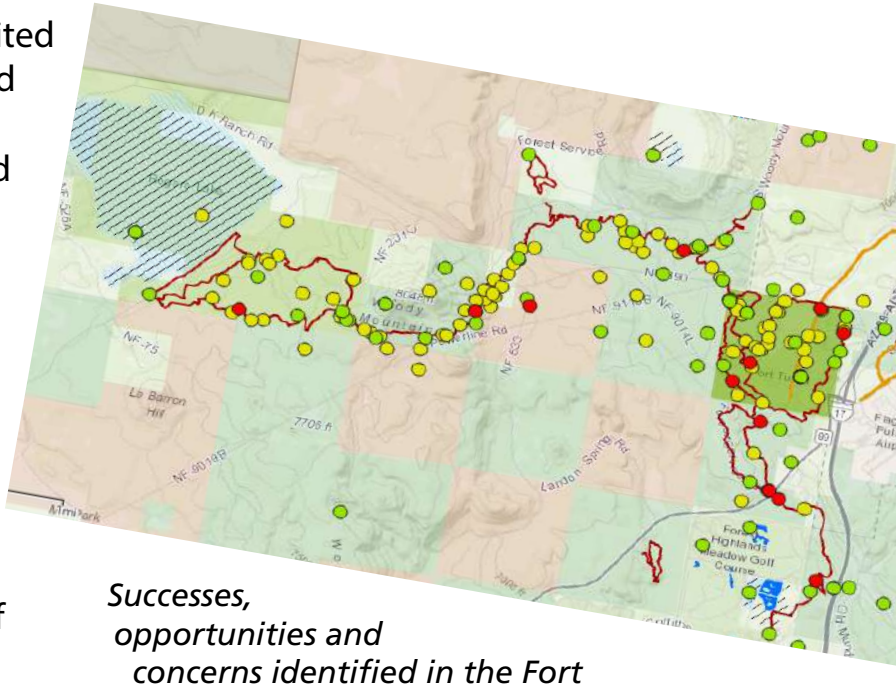
Broader public engagement took place from the fall of 2018 through the summer of 2019. The first public meeting took place in October 2018 and was attended by 125 people.

Participants took part in an exercise to identify successful outcomes of a collaborative strategy, as well as outline pressing challenges and possible solutions. The second public meeting was held in June 2019 to provide a check-in on FTI progress and an opportunity for the public to shape the priorities contained in the Strategy.

The various Councils and Commissions in the area also served as important conduit to the community. FTI representatives presented to the Coconino Inter-tribal Advisory Council, Coconino County Tri-Diversity Council, Open Spaces Commission and Bicycle Advisory Committee.

A Flagstaff Trails Initiative Facebook page was created in June 2019, primarily as a means to distribute information about upcoming meetings and FTI events.

Two open-invitation "Walk and Talk" events were held to educate the public on the topics of trail erosion and user experience.



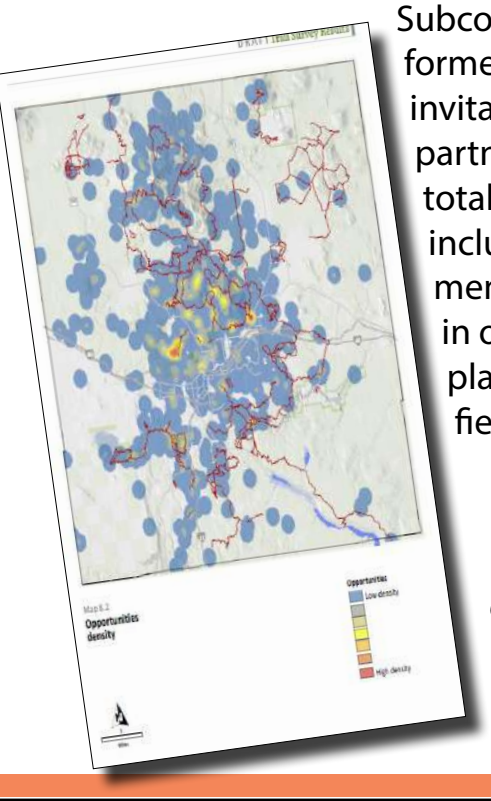
Successes, opportunities and concerns identified in the Fort Tuthill/Rogers Lake area

Information Gathering

The FTI survey was hosted on the Flagstaff Community Forum on the City of Flagstaff website (www.flagstaff.az.gov/FCF) during October and November of 2018. A total of 570 responses were received. The survey instrument included a mapping exercise that allowed participants to place dots on an online map to indicate locations where we have achieved successes in the trail system, where we have opportunities to enhance the trail system, and where there are concerns about trails. The mapping dot exercise was also conducted via paper maps at three of the public and partner meetings. Results from these paper mapping exercises – which included 141 comments from the partner meetings and 243 comments from the public open house – were folded into the online survey results.

Trail Planning

The trail planning process represented the deepest and most sustained citizen involvement in FTI. A Trails Planning Subcommittee was formed through open invitation from the first partner meeting. In total, over 30 people including core team members took part in one or more trail planning meetings or field visits.



Density of public comments in the FTI survey

To organize the effort of evaluating conditions and crafting recommendations, the area within the FMPO boundary was broken into 15 planning units. From March to September 2019 following an initial meeting and information sharing session, teams of two to six "citizen planners", volunteers and agency staff from the subcommittee worked together to understand the situation on the ground.

These teams used a common form to review public input, access several reports and review geospatial information to agree on and document current resource and recreational conditions before crafting recommendations.

Using this foundation, each team identified the unique "niche" each of the planning units should play in the region and crafted recommendations related to access, trail development and connectivity, and restoration. The teams aimed for full consensus on each recommendation. While consensus was achieved for 95% of the trail recommendations, that was not possible in all cases. The areas of disagreement were noted. These projects are indicated with an asterick* in the trail plan and received a lower score as a result.

The recommendations were then reviewed by planners on the core team and facilitation team to ensure feasibility and limit duplication. They were consolidated, organized and then scored by some of the trail planning subcommittee members. Trail scoring criteria were developed collaboratively and used to prioritize projects based on their merit to establish the high, medium and low priority tiers in the trail plan.

Trail Weighting Criteria

The following criteria were developed by the FTI Core Team and facilitators with input from the trail planning subcommittee. **The system includes six criteria and possible score of 50. Members of the trail planning subcommittee scored each individual project. The resulting scores were used to categorize the projects based on prioirty level.**

A. Network & Connectivity (up to 12 pts)

- Helps connect existing trail systems (including FUTS, Flagstaff Loop Trail or Arizona Trail), neighborhoods, parks and/or community centers.
- A high degree of integration is indicated by frequent points of connection to other trails or access points.
- Special consideration should be given to those that are accessible from current or expected residences by foot, bike or other mode of travel that are not currently well served by trails.

(0=no connections or network to 12=connects significant locations and forms a key part of the trail network)

B. Environmental Sensitivity and Beneficial Resource Effects (up to 10 pts)

- Located in an area of low environmental sensitivity, as indicated by the Flagstaff Regional Plan map.
- Expected to improve natural or cultural resource conditions by fixing an environmental impact such as trail erosion.
- Expected to draw use from a sensitive area, for example by dispersing use away from overtaxed areas to less used, but suitable areas for recreation.

(0=project is in a highly sensitive area and impacts are known to 10=project is in a low sensitivity area or has known beneficial effects)

C. Level of Public Support (up to 8 pts)

- Has strong support from the public, as evidenced by the FTI trail survey (specifically "opportunities" identified) and comments during public forums.
- Recommendations that did not get consensus of the Trails Planning Subcommittee should be reduced by 4 points.

(0=project is not mentioned in the FTI survey to 8=one of the most frequently mentioned

Photo Courtesy of WH Waters

D. Demonstrated Demand or Expected Popularity (up to 8 pts).

- A demand for the trail or facility is demonstrated by observation of frequent use.
- New projects or trails are expected to be highly popular or well used should also score high.

(0=little evidence of recreational demand to 8=expected frequent and heavy use)

E. Unique or Destination Trail Experience (up to 6 pts).

- Fills an important role by providing a unique trail experience for one or more uses that may not be currently available. May be indicated by residents and visitors going of their way to use it.

(0=project is similar to existing opportunities to 6=fills an important gap and does not duplicate existing opportunities)

F. Cost & Complexity (6 pts)

- The overall level of resources needed to complete the project including direct funding, staff time, planning and permitting.
- Existing approval in a planning document lowers complexity.

(0=project is highly complex and costly and no planning and has been completed to 6=project is planned and cost/ complexity is well known and reasonable for the scope of the project)

Preparers and Participants

FTI Core Team

Mark Loseth (American Conservation Experience)
Justin Inglis (Flagstaff resident)
Matthew Roberts (Flagline Trails Inc)
Debbie McMahon (R2R Hiking Club)
Kenny Schipper (Coconino Trail Riders)
Anthony Quintile (Flagstaff Biking Organization)
Joe Hazel (Flagstaff Biking Organization
Mike Popejoy (Sierra Club)
Brian Grube (Coconino County Parks and Recreation)
Keith Chamberlain (City of Flagstaff)
Sara Dechter (City of Flagstaff)
Stacey Brechler-Knaggs (City of Flagstaff)
Martin Ince (Flagstaff Metropolitan Planning Organization)
Carlton Johnson (City of Flagstaff)
Robert Wallace (City of Flagstaff Open Space)
Kevin Lehto (Coconino National Forest, Flagstaff Ranger District)
Brian Poturalski (Coconino National Forest)
Jonathan Hardes (National Park Service, Flagstaff Area National Monuments)

Facilitation Team

Adam Milnor (National Park Service Rivers, Trails and Conservation Assistance)
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Carrie Eberly (Southwest Decision Resources)

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Wrriten and produced with technical support from Adam Milnor, Community Planner National Park Service Rivers, Trails and Conservation Assistance program

FLAGSTAFF TRAILS INITIATIVE

What happens next?

We invite you to review the Draft *Flagstaff Regional Trail Strategy* and provide your feedback from **December 2019 through Feburary 2020.**

After the review period, we will craft a final version and a related interorganizational agreement that will be presented in full to the organizations and agencies on the FTI core team including the Flagstaff City Council and Coconino County Board of Supervisors. The purpose of the agreement will be to document support for the recommendations contained within the Strategy and outline steps for their consideration and implementation.

Draft **Flagstaff Regional Trail Strategy**

Executive Summary

The **Flagstaff Trails Initiative** (FTI) is a community building project that's looking to take Flagstaff's trails from good to extraordinary. The diverse organizations that make up the FTI team have come together as partners to lay out a shared vision for the region's recreational trails.

FLAGSTAFF TRAILS INITIATIVE

Learn more about the Initiative and find the full strategy at **flagstafftrailsinitiative.org**

Our Purpose

Develop and implement a collaborative, cross-jurisdictional Flagstaff Regional Trail Strategy. The strategy will improve the **quality, connectivity and community support** for a sustainable trail system that balances the demand for recreation with the community's vision for conservation, development, and health.

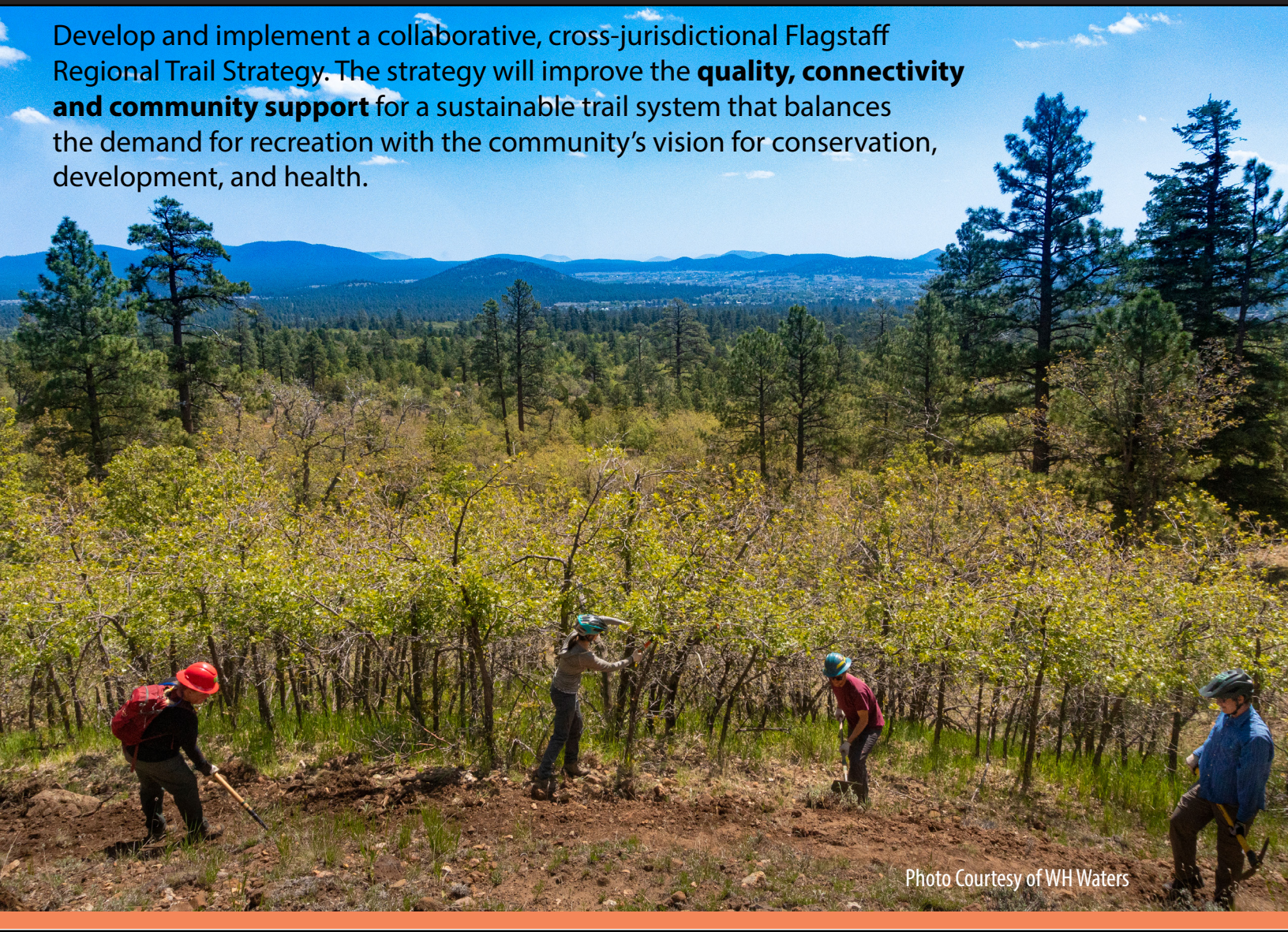


Photo Courtesy of WH Waters

November 2019

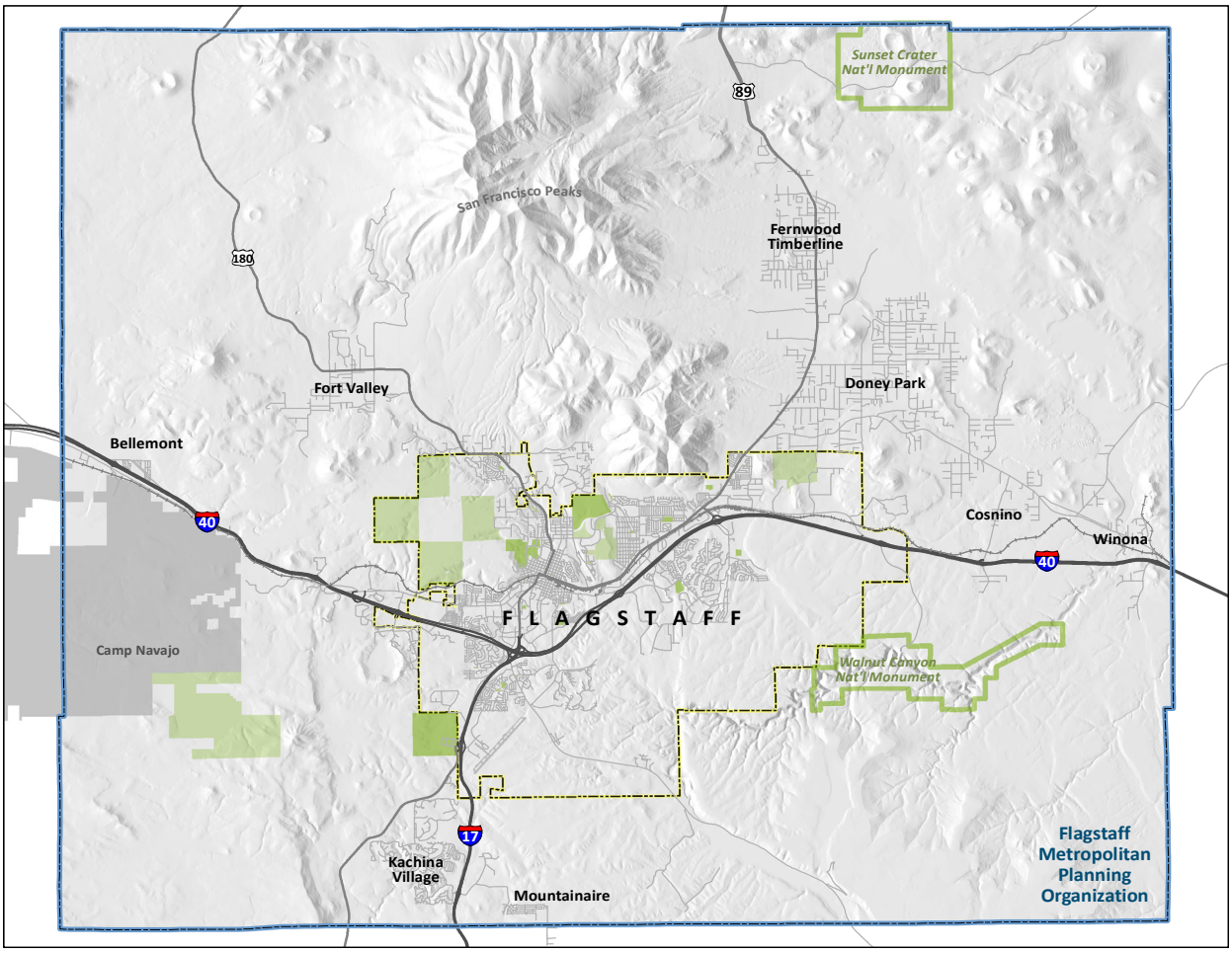
Who is leading the Flagstaff Trails Initiative?

Anyone and everyone who cares about trails in Flagstaff can be part of FTI. Dozens of volunteers and hundreds of survey participants have helped shape the project.

FTI is a collaborative with a core team that includes a mix of public and nonprofit organizations: City of Flagstaff, Coconino National Forest, Coconino County, Flagstaff Biking Organization, Coconino Trail Riders, R2R Hiking Club, American Conservation Experience, National Park Service Flagstaff Area National Monuments, and Sierra Club. The project was launched in fall 2017 after securing technical assistance from the National Park Service Rivers, Trails and Conservation Assistance program.

What area does the *Flagstaff Regional Trail Strategy* cover?

The Strategy focuses on trails in and around Flagstaff, Arizona. The planning area extends from Bellemont to the west, Winona to the east, Sunset Crater Volcano National Monument to the north and Mountainaire to the south. It includes trails managed by the City of Flagstaff, Coconino National Forest, National Park Service and Coconino County Parks and Recreation. The area includes over 400 miles of official trails and roughly 330 miles of unauthorized trails that are not part of the formal system.



Overall Goal

Elevate Flagstaff's trail system from good to extraordinary

- ✓ Use the ***Flagstaff Regional Trail Strategy*** to consolidate trail plans, proposals and concepts into a single regional document and conceptual map
- ✓ Prioritize a set of shared actions and investments for the next 5 years
- ✓ Take a collaborative and integrative approach to trail development - "Plan+Build=Balance"

We have ten goals, each with specific strategies:

Trail Planning

A Improve trail quality and sustainability

B Address the current and future demand for non-motorized and motorized trail activities

C Improve connectivity between Flagstaff and the Flagstaff Urban Trails System (FUTS), regional open space and outlying Coconino County communities

Conservation and Restoration

D Balance trail development and management with community conservation and natural resource goals with an emphasis on restoration

E Ensure historic and prehistoric sites, including known American Indian sacred places and traditional cultural properties, are preserved and protected for their cultural importance

Education and Outreach

F Create a safe and fun experience for all trail users

G Educate, inform and involve the community in trail stewardship

H Use trails to build the next generation of youth stewards

Financial Sustainability

I Improve the financial sustainability of trail management

J Integrate trail planning and management with tourism and economic goals

What does the strategy propose?

Photo Courtesy of WH Waters

what comes first

- ✓ Complete the trail **projects and plans currently in the works**
- ✓ Focus on elevating trail quality by **launching three projects that realign unsustainable trail segments**: Humphrey's Trail; Arizona National Scenic Trail on Anderson Mesa, and Rocky Moto Trail
- ✓ Use the **new Flagstaff Trail Fund and 501c3 nonprofit to raise funding and resources**
- ✓ Launch a **trail ettiquette, "share the trails" and Leave No Trace education campaign**
- ✓ Establish a **volunteer restoration program** and hold several events in 2020
- ✓ Launch formal planning processes for the top two areas in need: **Mount Elden/Dry Lake Hills and Observatory Mesa**

A Trail Plan for the Future

Teams of "citizen planners" worked alongside trail professionals during the planning process. They combed through public feedback before recommending a future for the region's trail system that was sensitive to important natural and cultural resources. From improved trailheads to missing connections and new trails, these projects seek to elevate the trail system for users of all types.

Visit the FTI Interactive Map and proposed strategy for a full project listing.

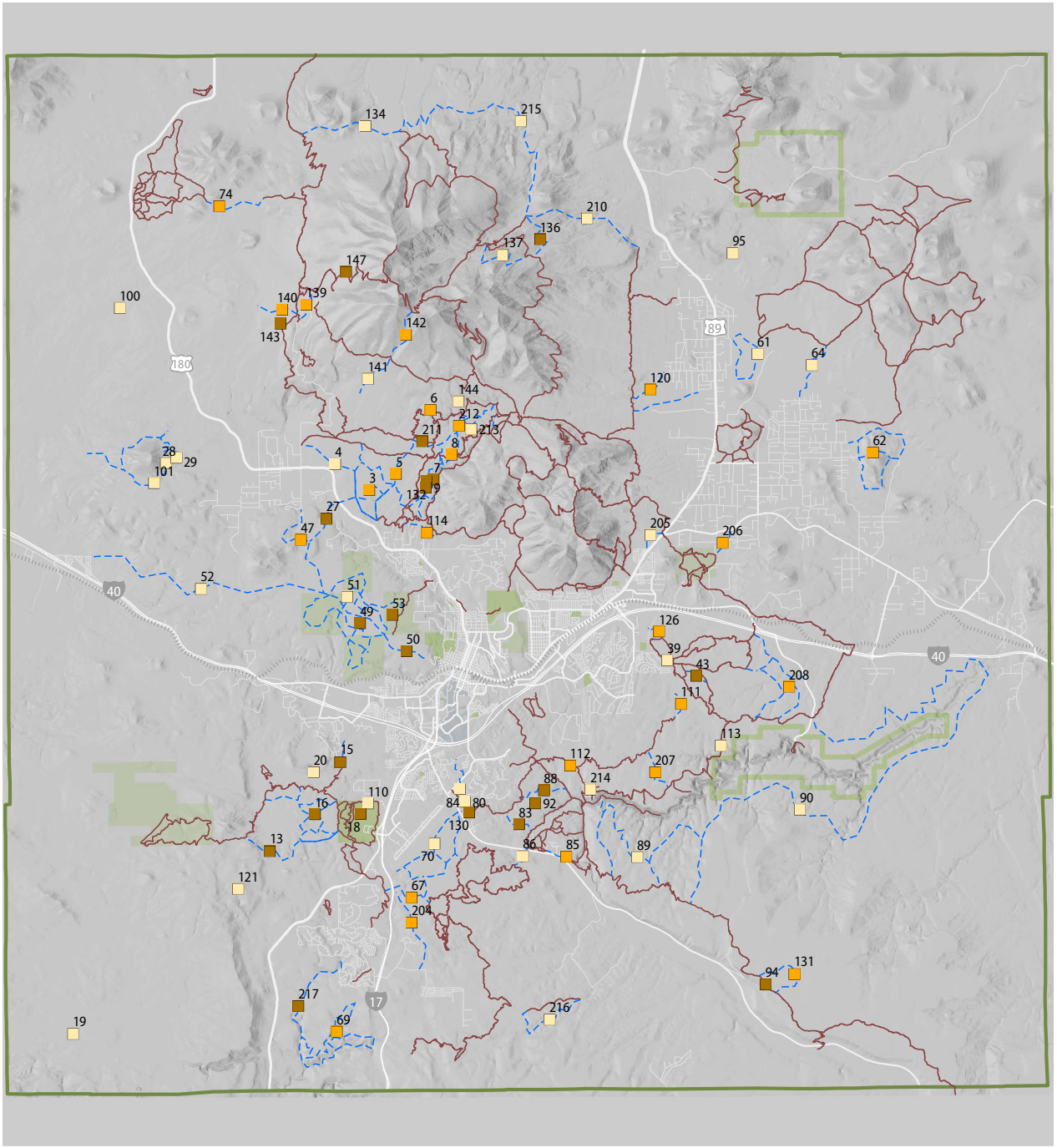
PLAN HIGHLIGHTS

77
distinct trail projects, ranked by priority

51
miles of high priority trails and connections

4
high priority trailheads

4
areas identified as priorities for tackling unauthorized trails



FLAGSTAFF TRAILS INITIATIVE

Trail development and connectivity recommendations

Trail projects - priority
- 1 High
- 2 Medium
- 3 Low
- Proposed trails
- Existing trails

N

3 Miles

November 2019

FLAGSTAFF TRAILS INITIATIVE

How was the strategy produced?

We emphasized engagement, welcoming anyone to join and participate. Over the course of two years, beginning in late 2017, we reached out to engage trail users, interested organizations and the public at large. We used surveys, workshops and open hosues to learn about the issues and get early feedback on our ideas.

To pull it all together in the strategy, our team relied on a decision making approach that used consensus and dialogue.

What's next?

We invite you to review the draft *Flagstaff Regional Trail Strategy* and provide your feedback from **December 2019 through February 2020.**

After the review period, we will craft a final version and a related interorganizational agreement that will be presented o the organizations and agencies on the FTI core team including the Flagstaff City Council and Coconino County Board of Supervisors. The agreement will document support for the recommendations contained within the strategy and outline steps for their consideration and implementation.

info@flagstafftrailsinitiative.org

Flagstaff Trails Initiative

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

FLAGSTAFF TRAILS INITIATIVE

Project Summary

…elevating Flagstaff's trails from good to extraordinary

CITY OF FLAGSTAFF · ARIZONA · ESTABLISHED 1882 ·

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

FLAGSTAFF TRAILS INITIATIVE

Why Trails?

Trails are a core part of the Flagstaff's region identity

and

…every regional plan and vision identifies trails as an important community asset that should be enhanced…

yet

…no holistic and strategic effort to specifically address trails for nearly 20 years…

but

…there are few dedicated resources available for trail stewardship or maintenance

WHO?

Trail Providers

Trail Users

Conservation Advocates

come together to frame up the…

FLAGSTAFF TRAILS INITIATIVE

…as a means to broaden collaboration and working relationships with health, business, tourism, youth, tribal, conservation and community interests

WHO?

FLAGSTAFF TRAILS INITIATIVE

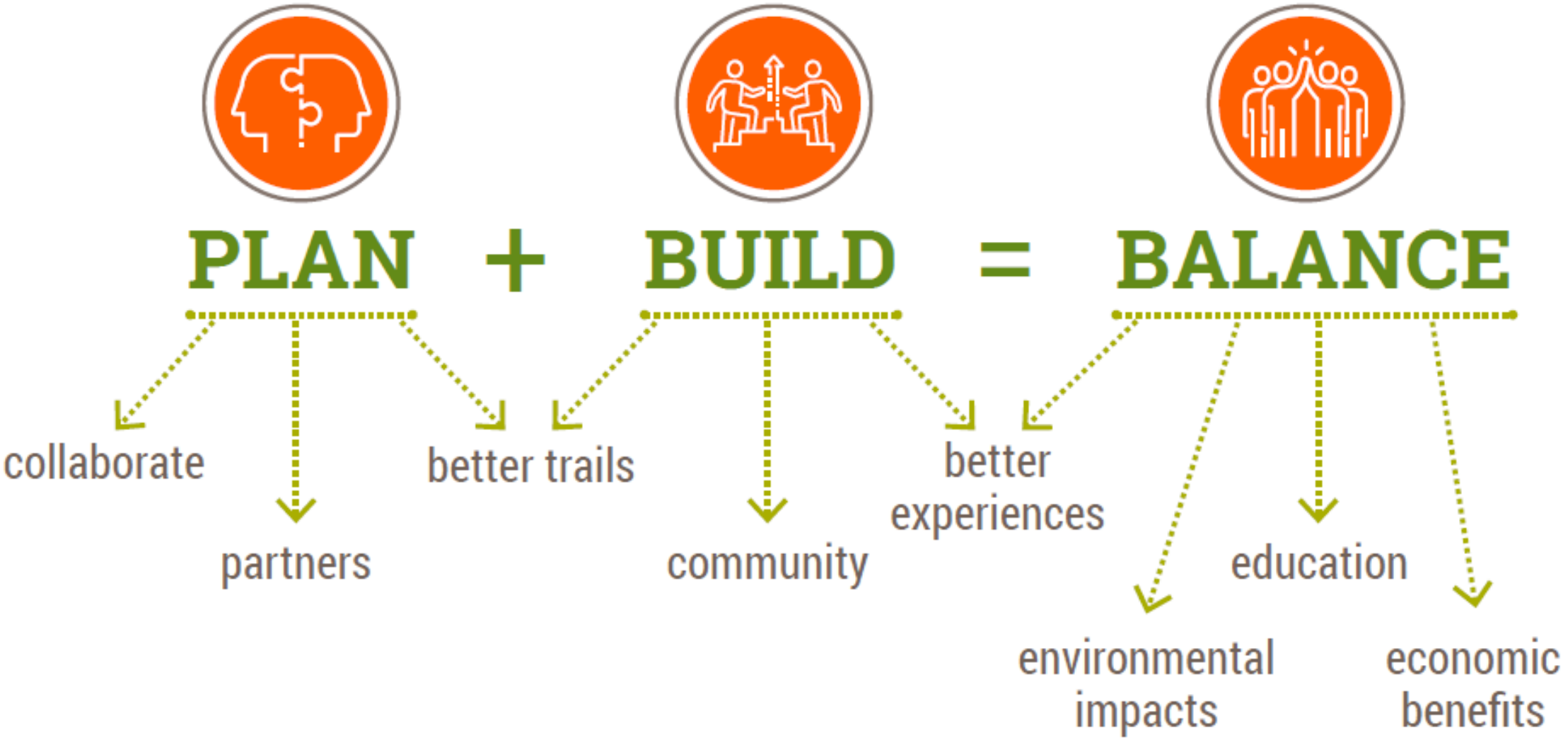
=

Core Team

SIERRA CLUB

R2R Hiking Club

FTI VISION


PLAN + BUILD = BALANCE
collaborate
partners
better trails
community
better experiences
environmental impacts
education
economic benefits

SO WHAT IS IT?

collaborative
multi-jurisdictional
all hands - all lands
inclusive
planning initiative
working to improve the region's recreational trails

PURPOSE OF FTI

PURPOSE

improve the quality, connectivity and community support for a sustainable trail system that balances the demand for recreation with the community's vision for conservation, development, and health.

OVERALL GOAL

Elevate the region's trails from "good to extraordinary"

OUTPUT

A **Flagstaff Regional Trail Strategy** that consolidates a variety of trail ideas and concepts into a single regional document. The Strategy will guide projects and stewardship across multiple jurisdictions

WHEN?

September 2017 Project launched with technical assistance award from the National Park Service

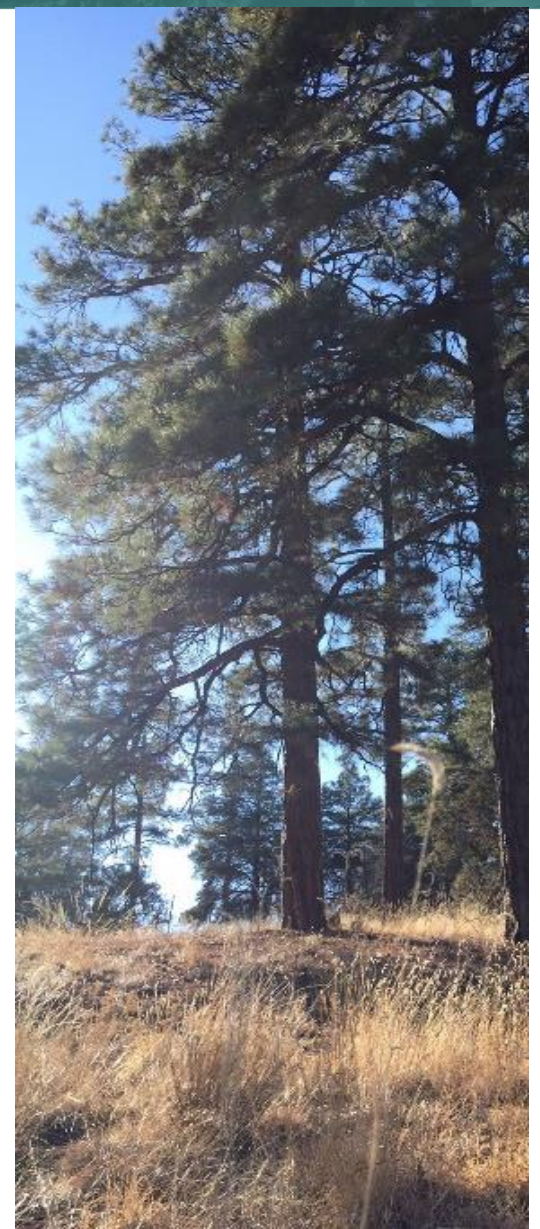
February 2018 Briefings to Flagstaff City Council and Coconino County Board of Supervisors

March 26, 2018 First Partner Workshop – focus topics identified

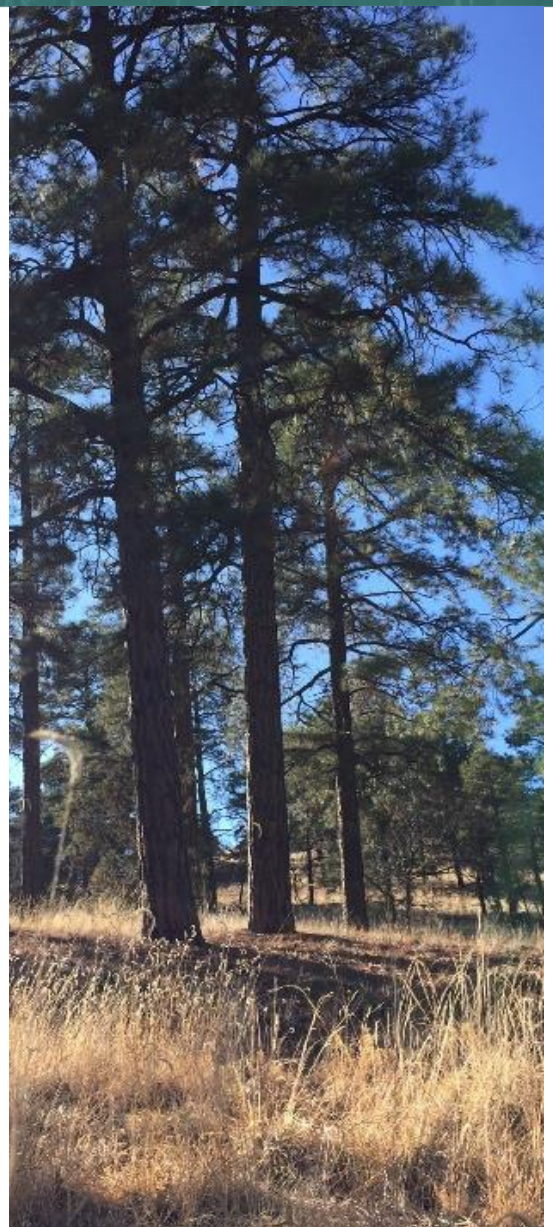
May 31, 2018 Second Partner Workshop

October 10, 2018 Kick-off Public Meeting

October to November 2018. FTI Trail Survey Open (550+ responses)



WHEN?



March 2019 Trail planning teams begin work

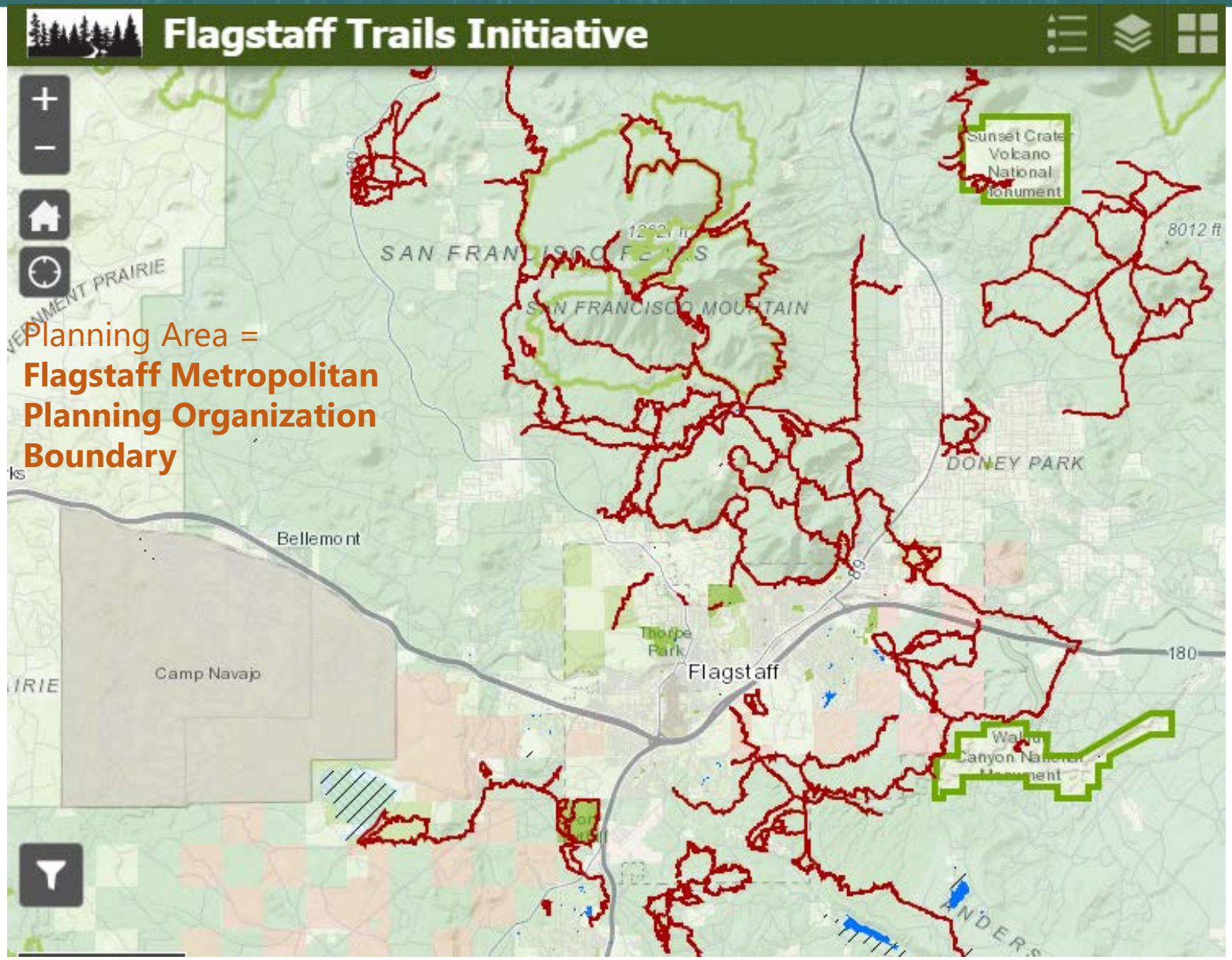
June 19, 2019 Public Open House

November 30, 2019 Draft Flagstaff Regional Trails Strategy released for public review

January 2020 Public meeting to present strategy and solicit feedback

March 2020 Final Flagstaff Regional Trail Strategy submitted to Council, County and federal agency leadership

FTI INTERACTIVE MAP



Total Miles of System Trails: **413 miles**

Estimated Miles of Unauthorized Trail: **335 miles**

Coconino National Forest	**292.9**
City of Flagstaff - FUTS	**57.5**
Coconino County	**24.6**
Private	**23.5**
City of Flagstaff – Open Space	**7.9**
National Park Service Monuments	**5.2**
Arizona Game and Fish Dept	**1.3**

WHAT WE HEARD…

Trail use is on the rise and will continue in a growing Flagstaff – needs management and care for natural setting

Existing trail system is good, but need to supplement for full range of experiences and protect key connections

Be inclusive when engaging the public

Limited funding is a concern ($100k shortfall on Nat'l Forest)

TRAIL SURVEY

550+ Respondents **1,700 comments and ideas**
Mapped successes/opportunities/concerns

"Flagstaff's trail system is a remarkable asset…it is one of the primary reasons my husband and I chose to live here"

"Other mountain towns have much better systems that appeal to many user groups and skill levels…we are literally 20-30 years behind"

"Better maintenance is needed on so many trails"

"My vision…is to have a safe, comprehensive, interconnected, easy to access network of trails"

HOW WE ARE ORGANIZED

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Focus Topics.....

- Education & Outreach
- Trail System Planning
- Financial Sustainability
- Conservation & Restoration

WHAT WE ARE PROPOSING

FTI has published **10 distinct goals and 30+ proposed strategies**, such as:

- Protection and construction of key trail connections
- Creation of a Flagstaff Trail Fund and new 501c3 organization
- A trail etiquette and “Share the Trails” education campaign
- Restoration of unauthorized trails and best practices

WHAT WE ARE PROPOSING

Contains the Flagstaff Regional Trail Plan

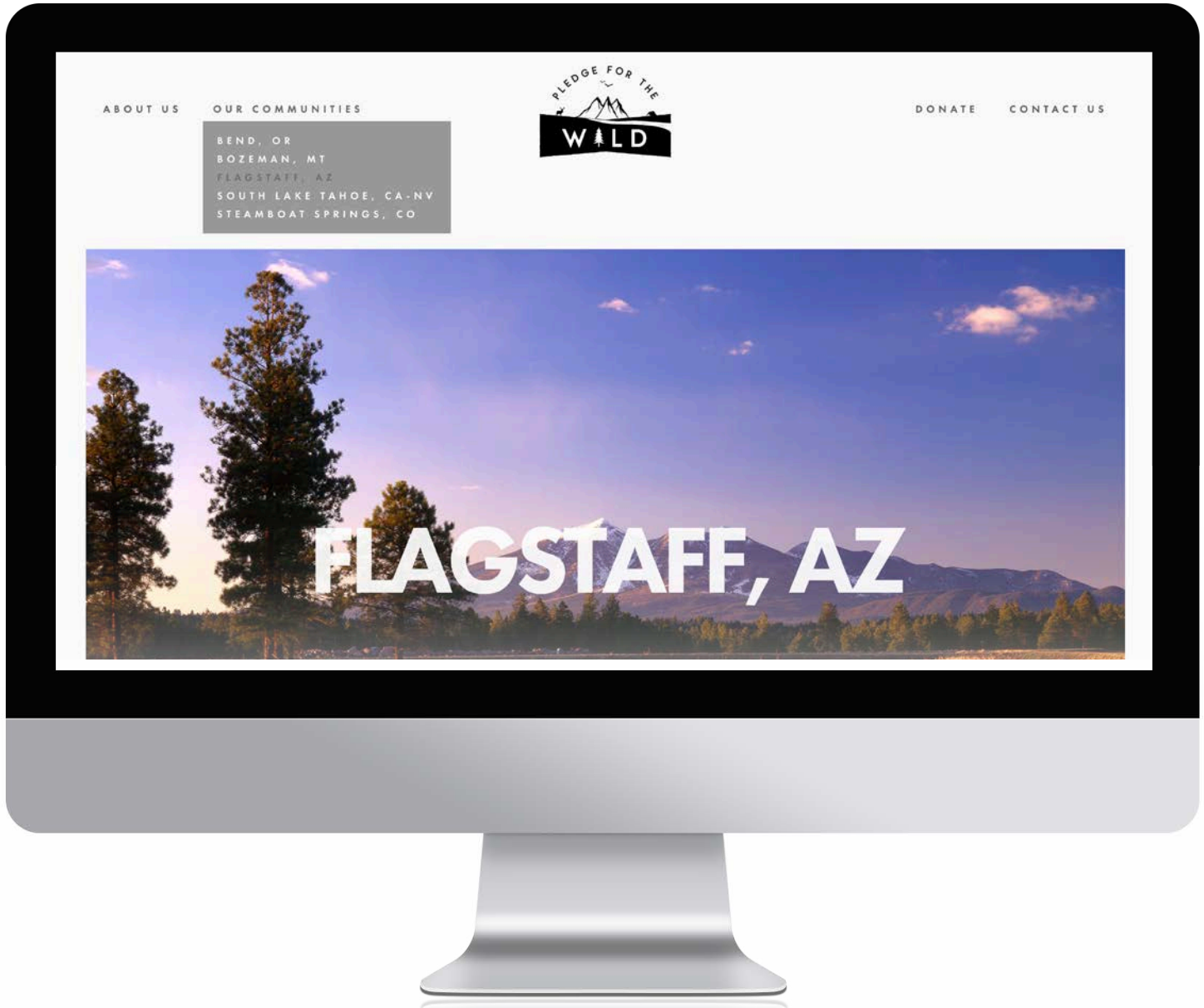
- Nearly 100 projects generated by "citizen planners" through research-based, consensus driven process across all land ownerships and jurisdictions
- Prioritized in three tiers
- Approximately 51 miles of "high priority" trail and 3 trailheads

WAYS TO ENGAGE

1. Review the Regional Trail Strategy
2. Submit comments through the online engagement tool
3. Attend the January 2020 Open House
4. Donate

PLEDGE FOR THE WILD

- Bend, OR
- Bozeman, MT
- **Flagstaff, AZ**
- South Lake Tahoe, CA-NV
- Steamboat Springs, CO



pledgewild.com

NEXT STEPS

- Proposal accepted by United Way of Northern AZ to be the Fiscal Sponsor for FTI
- Collect one-time matching funds to support an Interim FTI Coordinator
- Select an Interim FTI Coordinator
- Finalize Articles of Incorporation and By-Laws
- File for 501c3 status
- Recruit Board of Directors
- Continue efforts towards Financial and Organizational Sustainability, and Outreach and Communication
- Create a Flagstaff Trail Fund

QUESTIONS ?

FLAGSTAFF TRAILS INITIATIVE

14. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Tamara Lawless, Water Conservation Manager
Date:	11/26/2019
Meeting Date:	12/03/2019

TITLE

Discussion: Water Conservation Strategic Plan Draft

STAFF RECOMMENDED ACTION:

Water Conservation staff are seeking direction and input from City Council on the Draft Strategic Plan that contains a proposed program change, known as "Optimized Conservation Program". If implemented, this new program would provide the best return on investment for conservation dollars spent, save the city money by avoiding future water production/new supply costs and accomplishes the Council's goal of being a leader in water conservation. This new proposed program would also position the City of Flagstaff to receive a higher level of recognition of water conservation through the Alliance for Water Efficiency's G480 Standard and Leaderboard.

EXECUTIVE SUMMARY:

In 2016 City Council gave staff direction to develop an innovative Water Conservation plan, which was funded in FY18. The plan aims to find the balance of investment in water savings that can be achieved through conservation programming with offsetting more costly water supplies and infrastructure.

The Water Conservation Program has been working with Maddaus Water Management (MWM) on a Water Conservation Strategic Plan. The Plan provides an assessment of current and future water conservation actions in order to ensure that conservation dollars and staff time are invested in strategies that provide the best return on investment and coverage of all sectors of the Flagstaff customer base. To this end, all current Water Conservation Program activities were assessed for return on investment using MWM's quantitative cost-benefit computational model. In addition, the Water Conservation staff worked with community stakeholders to select ten additional conservation strategies that the program could consider for the future. These additional activities were also processed through the model.

After considering several combinations of current and future conservation activities, the Water Conservation Program and MWM compiled a selection that provided both good returns on investment and coverage of all customer classes. MWM is recommending proposed changes to

the Water Conservation Program, known as the Optimized Conservation Program. If implemented, this new program would provide the best return on investment for conservation dollars spent, save the city money by avoiding future water production/new supply costs and accomplishes the Council's goal of being a leader in water conservation.

INFORMATION:

In 2016, the Water Resources & Conservation Section collaborated with the Sustainability Section to propose reframing the Water Conservation Program in order to transform Flagstaff into a water-wise leader. One proposed output of this collaboration was the development of an innovative water efficiency plan to guide both the City and the Community. In many cases, water conservation can be a community's most economical water source. In fact, the current conservation program has been successful in delaying the need for an additional water supply for at least four years, which has provided significant financial savings for the City of Flagstaff. To continue to develop and advance these gains, the City Council awarded funds in FY18 to create a Water Conservation Strategic Plan to assess and improve the Water Conservation Program in order to meet the following goals:

1. Become a national leader in water conservation in all sectors (Council Goal)
2. Generate quantitative water conservation savings projections for use in Water Resources Master Plan
3. Provide conservation guidance for next water rate study
4. Ensure water conservation program expenditures result in broad community participation and return on investment

The Water Conservation Program partnered with Maddaus Water Management (MWM) to build a quantitative computational model that utilizes inputs from Flagstaff (such as water consumption and production, production costs, economic trends, and climate data) to generate predictions on future water savings and expenses for various water conservation actions. The model provides outputs such as water-saving projections and cost-benefit analyses for various conservation actions and projected demand as the Flagstaff community continues to grow. The modeling effort aligns with the nationally accepted American Water Works Association's M52 Water Conservation Program Planning Manual.

An important aspect of the strategic planning process was the inclusion of stakeholder collaboration during all essential planning stages. Public participation included representatives from local nonprofits (ex: Sierra Club, Terra BIRDS, Master Gardeners), neighborhood associations (ex: Southside, La Plaza Vieja), commercial interests (ex: Warner's, Flagstaff Lodging, Restaurant, and Tourism Association), and also members of the general public. Engagement opportunities included general outreach at the 2018 and 2019 Flagstaff Festival of Science, routine engagement with our Water Conservation Strategic Plan Advisory Committee, the selection and consultation of a broader stakeholder group, and an online survey. These interactions provided us with invaluable assistance in the process of narrowing down the original list of potential conservation actions, along with insight on the customization of these actions for best application in the Flagstaff community. In addition, the stakeholder groups provided feedback on the Optimized Conservation Program and on water conservation in Flagstaff from a broader lens.

After the first several rounds of stakeholder collaboration, staff from COF and MWM evaluated current conservation activities using the model. This initial assessment indicated that there was room to improve the return on investment in the current conservation program initiatives. As an example, two initiatives that were selected for improvement were the current rainwater container

and toilet rebate programs. The toilet rebate program can be optimized by only incentivizing more efficient toilets with efficiencies that exceed the local code of 1.28 gallons per flush and by lowering the total rebate amount provided and the rainwater container measure can be absorbed into general outreach activities while reducing staff time investment by forging community partnerships.

Along with modeling the current conservation program activities, conservation staff and MWM also modeled 10 activities to be considered in the future, which were selected with assistance from the community stakeholder groups. When building the Optimized Conservation Program, staff and MWM considered both returns on investment and coverage of community customer categories. The new actions that were selected included Smart metering, outdoor water budgeting, school retrofits, and two code proposals: a revision of the landscaping code and a new code to require EPA WaterSense approved toilets, showerheads and faucets in new developments in the City of Flagstaff. These new actions, when added to the current conservation programming, improved the cost-benefit analysis score from 1.67 to 1.83.

Supplementary details about these additions to the conservation program are as follows:

- Smart Meters
    - Investment into full utilization of the SmartMeters that are already being installed around the Flagstaff community. This would include the capture and utilization of daily, or even real-time water use data for each meter, first making this information available for staff to beta-test, and then available to customers
- Landscape Code Update
    - Revision of the code to revisit the plant list, irrigation requirements, and rainwater capture on new developments (either by active or passive means) for any efficiency improvements. This would require collaboration with other COF departments as well as community stakeholders.
- WaterSense fixtures in the plumbing code
    - New code to propose EPA WaterSense certified showerheads and faucets in all new buildings. There would be an option to require pressure adjustment for showers. This would also be an appropriate time to revise Flagstaff's high-efficiency toilet amendment to include EPA WaterSense certification as a requirement.
- School Retrofits
    - Partnerships with K-12 and higher education institutions to engage in an annual efficiency project, such as fixture retrofits or cooling tower adjustments.
- Outdoor Water Budgeting
    - Effort to collaborate with several large irrigated fields (K-12, COF parks, NAU, etc) to create and adhere to a water budget. This initiative is a multi-year commitment in which the irrigation manager and the water conservation staff work together to create and meet an irrigation budget through use of Flagstaff evaporation, transpiration, and precipitation data.

An additional benefit of the Optimized Conservation Program is better alignment with the requirements for the American Water Works Association G480 Standard, which describes the critical elements of establishing, implementing, and evaluating an effective water conservation program. Meeting this standard allows a water utility to apply for recognition through the Alliance for Water Efficiency's Leaderboard, which is a nationally recognized standard for excellence in water conservation. Achieving recognition through this certification would improve Flagstaff's standing as a national leader in water conservation. For these reasons, Water Conservation

staff are recommending adopting the Water Conservation Strategic Plan draft, with the selection of the Optimized Conservation Program as a workplan for the Water Conservation Program. The additional initiatives included in the optimized program will require an additional investment of $45,000 annually, assuming all new initiatives are implemented at once. Of this investment, approximately $15,000 would be directed toward additional staffing, either through the addition of one more part-time employee or through converting existing part-time funds and these additional funds into the creation of one more full-time conservation employee.

It is important to note that several of the proposed additions to the conservation program would require time and investment from other areas of municipal organization. For example, to fully utilize and benefit from the new Smart meters that are getting installed across the Flagstaff community, the conservation program will need buy-in and cooperation from the customer service team to troubleshoot issues with data collection from the meters. Currently, data is only collected once a month, and only the total sum of usage from the month period is recorded. To receive the full benefits of these meters, more frequent data access is necessary, as is more detailed data from the meter itself. Conservation-oriented behavior-change is improved if real-time water use data is available to the customers. Another example would be the two code revisions proposed. Water Conservation staff will need assistance from personnel in Community Development (planning and inspections) to draft the necessary code and to ensure compliance with the same. These investments from other areas of the organization are not accounted for in terms of the additional budget requested for the Optimized Conservation Program, though there are rough estimates for the total hours needed in the computational model.

Next steps for the Water Conservation Strategic Plan (following council discussion) include the adoption of the final plan by the City Council and the creation of an implementation strategy by Water Conservation staff. The FY21 budget process would include the initial stages of this implementation strategy.

Attachments: Presentation

Water Conservation Strategic Plan

Tamara Lawless, Water Conservation Manager, Water Services Division

Lisa Maddaus, Maddaus Water Management

December 3rd, 2019

Planning Process Overview

Impetus for the plan

- 2016 Program "reframing" with Water Resources & Sustainability – develop a plan
  - Transform Flagstaff into a Water Wise Leader
  - Develop innovative water efficiency plan to inform staff and community
- 2017 Council goal – national leader in conservation across all sectors
- 2017 budgetary increase: additional staff, programming, plan
- Quantify water conservation as a water supply

Planning Process Overview

Plan outcomes

- Goal setting for Water Conservation Program
- Assess conservation actions for water savings and costs
- Revise conservation program work plan to maximize economic and community benefits
- Align program actions with Alliance for Water Efficiency leaderboard requirements
- Context for future rate study

Planning Process Overview

Modeling Flagstaff's water conservation

- City's first numerical quantification of conservation program
- Input examples
  - Past water consumption and production
  - Historic weather data
  - Economic trends
- Output examples
  - Water saving projections and cost benefit analyses for various conservation actions
  - Projected water demand

Stakeholder engagement

- Participants:
  - Local nonprofits (Sierra Club, Terra BIRDS, Master Gardeners)
  - Neighborhood associations (Southside, La Plaza Vieja)
  - Commercial interests (Warner's, FLRTA)
  - General public
- Engagement opportunities
  - Flagstaff Festival of Science
  - Advisory Committee
  - Stakeholder group
  - Surveys

Stakeholder engagement

- Outcomes & Insights
  - Narrow down large list of potential conservation actions (measures)
  - Provide insight on customization of conservation actions for specific application in Flagstaff
  - Provide feedback on Optimized Conservation Program
  - Provide general feedback on desire for conservation in Flagstaff

Current Conservation Program

- Public outreach/education
- Watering code enforcement
- Low water landscape
- Rainwater containers
- Commercial rebates
- Residential consultations
- Efficient fixture giveaways
- Efficient toilet rebate

Personnel: 2 full time, 3 part time
Cost benefit score to the City: 1.67
Total Program FY20 On-Going Budget: $373k

Proposed Optimized Conservation Program

- Public outreach/education
- Watering code enforcement
- Low water landscape
- Rainwater containers
- Commercial rebates
- Residential consultations
- Efficient fixture giveaways
- Efficient toilet rebate

Proposed Optimized Conservation Program

- Public outreach/education
- Watering code enforcement
- Low water landscape
- Smart metering
- Outdoor water budgeting
- Landscape rainwater code
- Commercial rebates
- Residential consultations
- Efficient fixture giveaways
- Revised toilet rebate
- School retrofits
- Showerhead faucet code

Personnel: 2 full time & 4 part time (or 3 full time)
Additional budget: $45k
Cost benefit score to the City: 1.83

New initiative examples

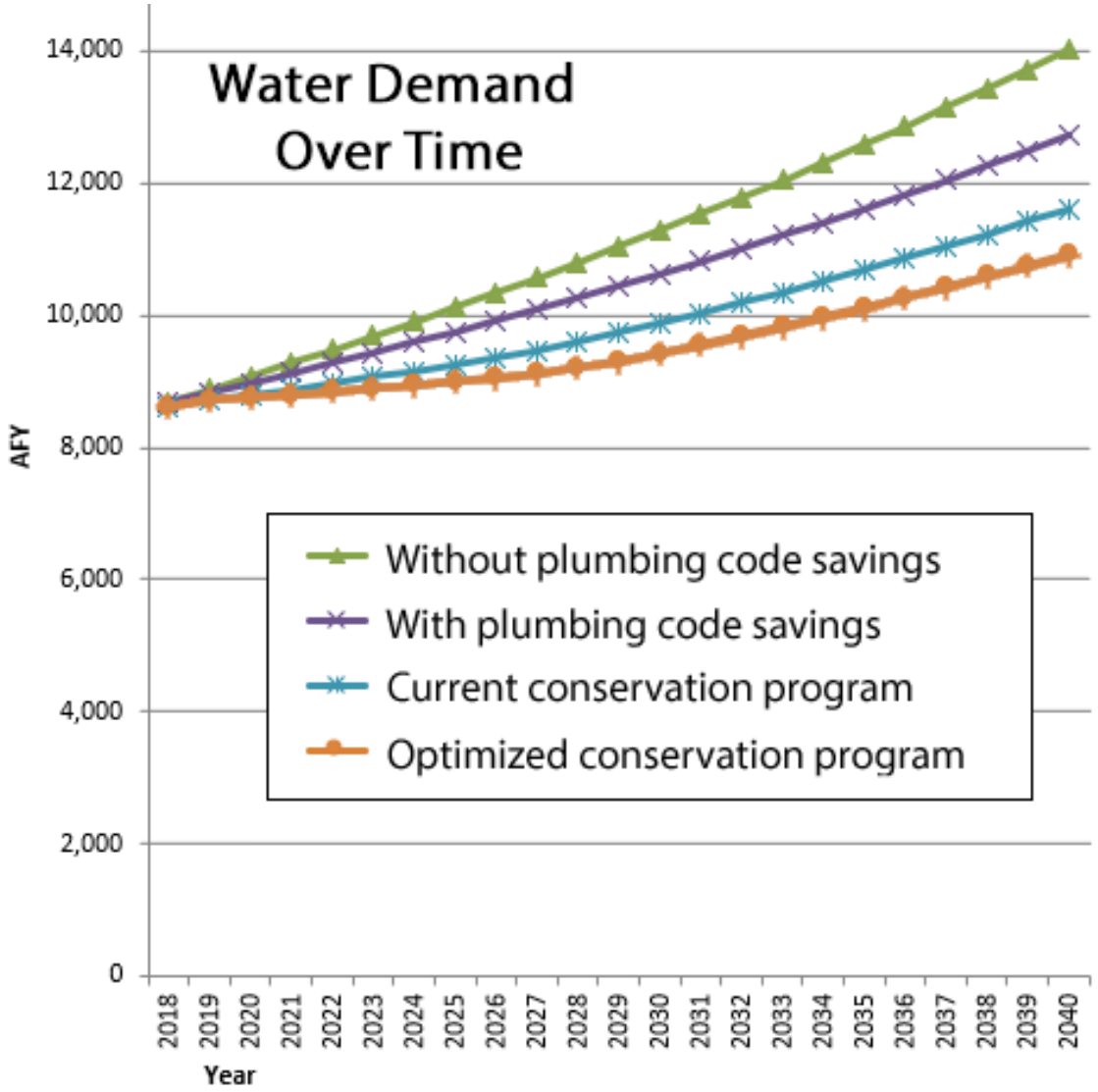
- School retrofits
  - Partner on one K-12 and one higher education institution annually
  - Projects may include fixture retrofits, cooling tower efficiencies, landscape retrofits, etc
  - K-12 schools: $10,000 annually with no financial match required
  - Higher ed: $10,000 annually with matching funds required

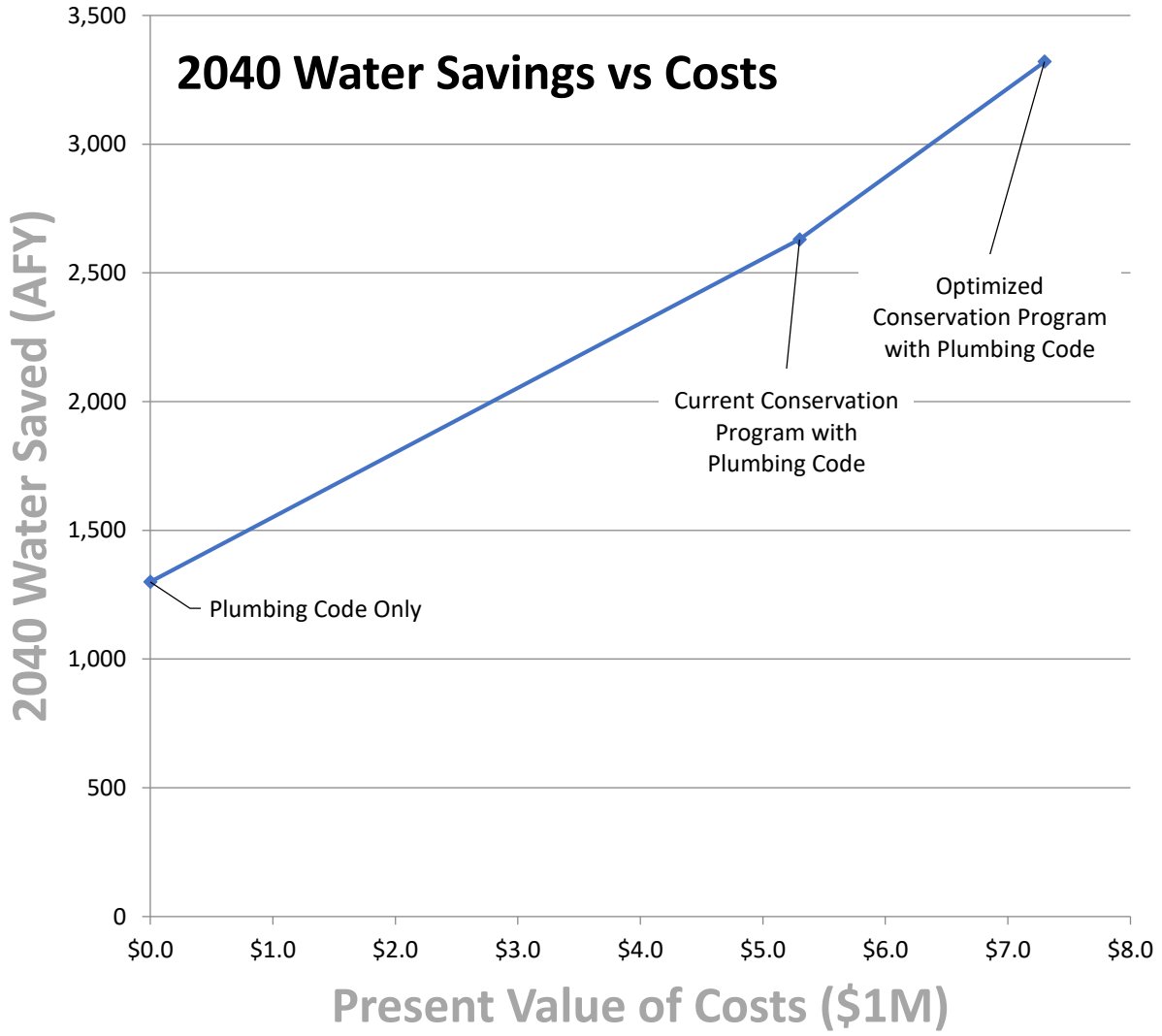
- Outdoor water budgeting
  - Work with up to 5 large irrigated lawns annually (examples: COF parks, athletic fields, HOAs)
  - Create water budget based on Flagstaff evaporation, transpiration, and precipitation trends
  - Meet regularly to assist customer in meeting budget

Impacts across organization

- Water Loss Control Program
  - Requires collaboration across organization to track and report certain data
- Smart Meters
  - Requires collaboration with Customer Service to address challenges with data collection and utilization for new meters
- New and revised codes
  - Landscape code will require participation from COF and community stakeholders
  - Plumbing code amendments – EPA WaterSense certification for showerheads, faucets, and toilets
    - Will require assistance from Community Development to write and enforce new and revised codes

Demand & Savings vs Costs





Proposed Optimized Conservation Program

- Potential water savings of an additional 690 acre-feet over existing program over the next ~20 years.
  - Estimated decrease of ~20 Total GPCD, mostly outdoors

- Estimated delay in need for new supply
  - Plumbing code delays new water supply from ~2033 to 2037
  - Current program delays new water supply by 5-years from ~2037 to 2042
  - Optimized program delays new water supply by 6 additional years to ~2048

- Significant deferred financial investment from reduced water production/new supply costs over the next ~30 years
  - Approximately $160 million in deferred costs
  - $448 per acre foot avoided costs

Water Resources Master Plan

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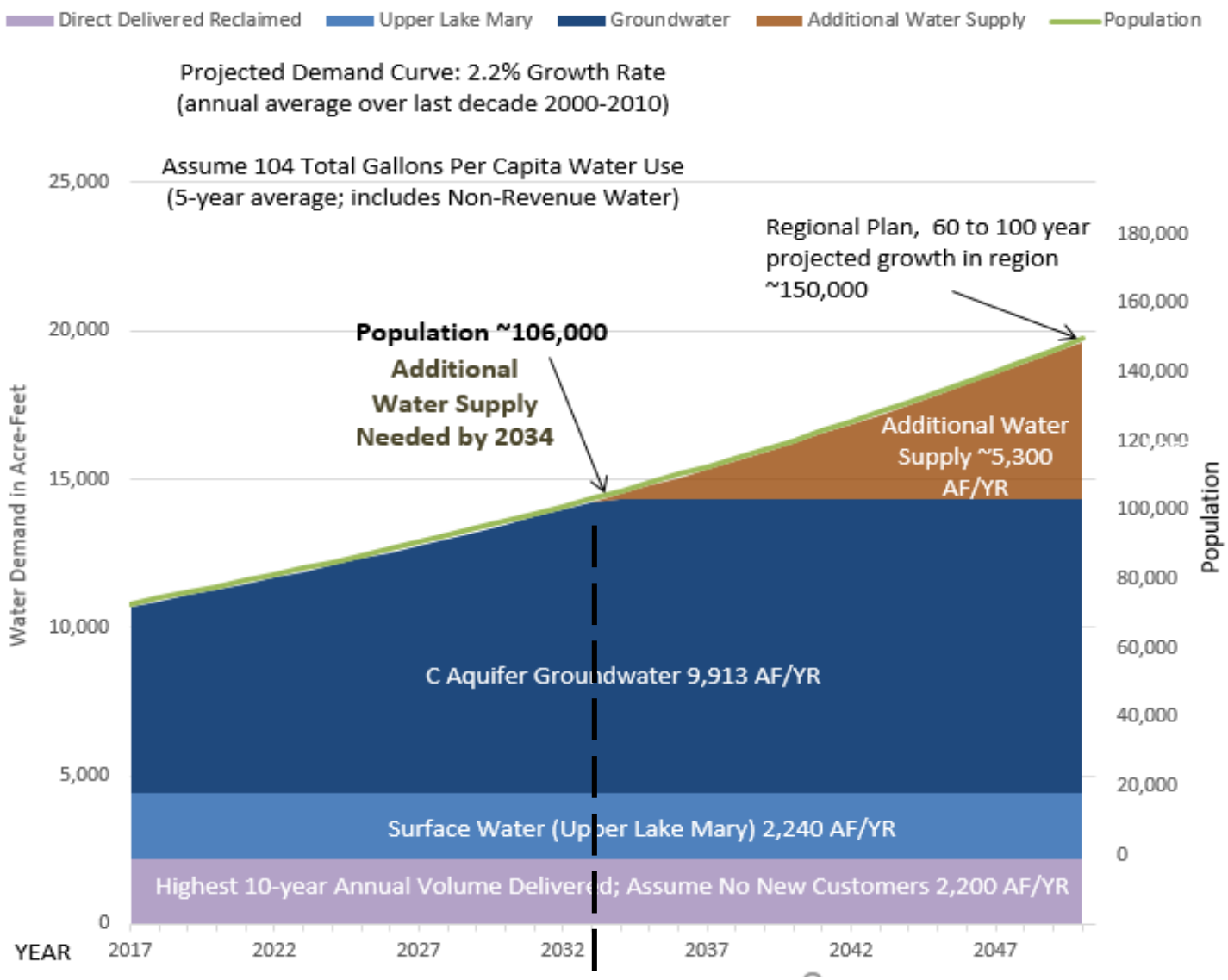
Water supply needs & avoided costs



Water Resources Master Plan

TEAM FLAGSTAFF
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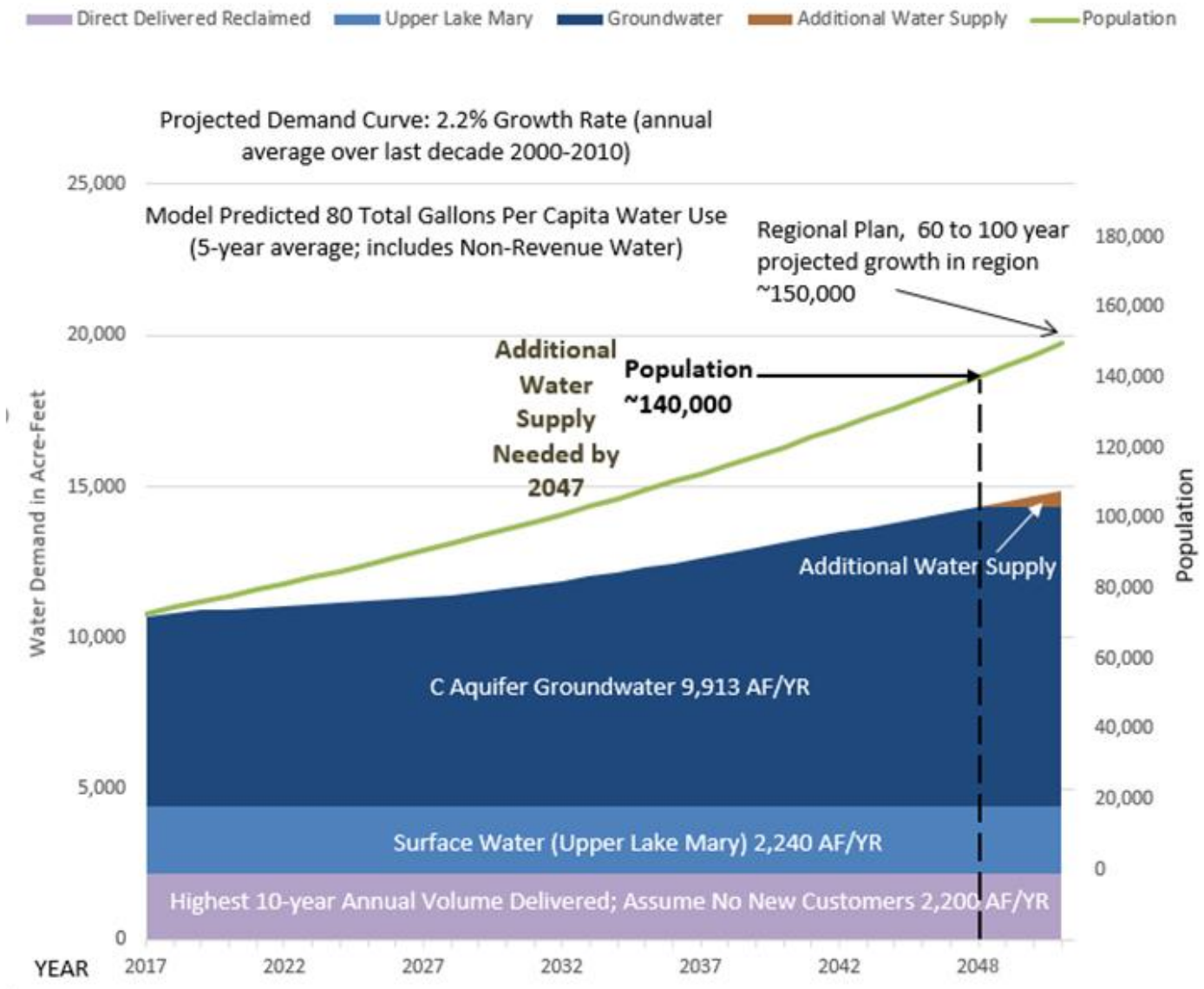
Impact of proposed Conservation Program on water supply needs & avoided costs



Staff Recommendation

- Council to provide guidance and direction on the Proposed Optimized Conservation Program
  - Higher level AWE Leaderboard eligible
  - Limited additional investment for improved return on investment

- Next steps:
  - Staff will include Council's direction and come back in early 2020 for consideration and approval of the Final Plan
  - Staff to create Implementation Plan
  - FY21 budget process to seek an additional $45,000 funding

Discussion

Council input and questions

Thank you!

14. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	11/26/2019
Meeting Date:	12/03/2019

TITLE

Discussion and Possible Direction: 2020 August Election

STAFF RECOMMENDED ACTION:

Discussion and direction.

EXECUTIVE SUMMARY:

Earlier this year staff reported that an election to authorize an adjustment to the City's permanent base expenditure limitation could only be done at a November election of even-numbered years. It has been determined that this type of election can be held at the August primary election. Staff wanted to notify the Council of this opportunity and share that it is our desire to place a question on the August 2020 ballot seeking authorization from the voters to increase the City's base expenditure limitation. There are statutory deadlines associated with a base expenditure limitation adjustment, the first of which occurs in March 2020. It is important for staff to begin preparing for this deadline should Council wish to move forward with the ballot question.

****A PowerPoint Presentation will be included in the Final Agenda****

INFORMATION:

The educational outreach for an expenditure limitation adjustment can be significant and the benefit to having the adjustment on the August ballot is that there are not a number of other issues that also require similar outreach.

UniSource has also requested a franchise election in August 2020 to seek voter approval for the renewal of their existing franchise agreement which is set to expire in October 2020. The renewal of the franchise agreement will allow UniSource to continue operations within the City of Flagstaff. It is also a possibility that there will need to be a Primary Election in August. The need for a Primary Election will not be known until the first part of April.

This is not a request to call the August election. Should Council provide direction to move forward with the August election for an expenditure limitation increase, a request to call the election will happen in April 2020.

There is a financial component associated with adding a City question or Primary election to the August ballot along with the franchise question. Per state law, UniSource is responsible for the cost of conducting a franchise election, should the City need a Primary election or choose to add the expenditure limitation adjustment, the cost of the election would then be shared between the City and UniSource, this would reduce the financial impact of holding a City only election.

Expenditure limitations for cities and other governmental agencies were established by legislation in 1980. The City of Flagstaff has received 2 permanent base adjustments. One when the BBB tax was approved by the voters in 1988 and the 2nd in 2006. The alternative to Expenditure Limitation is Alternative Expenditure Control or Home Rule that requires municipalities to receive voter approval every 4 years. In accordance with ARS 41-1279.07(H), a city or town that exceeds its expenditure limitation without authorization will have the following amount of State income tax (urban revenue sharing monies) withheld based on the percentage of the excess expenditures:

- If the excess expenditures are less than 5 percent of the limitation, the amount withheld is equal to the excess expenditures.
- If the excess expenditures are between 5 percent and 10 percent of the limitation or are less than 5 percent of the limitation but it is at least the second consecutive instance of excess expenditures, the amount withheld is equal to 3 times the excess expenditures.
- If the excess expenditures are equal to 10 percent or more of the limitation, the amount withheld is equal to 5 times the excess expenditures or one-third of its allocation of State income tax, whichever is less.

The expenditure limitation is updated annually for inflation and population growth. The City expenditure limitation for FY2019-2020 is $162,133,141. In FY 2017-2018, the City was $19M below the limitation. However, with the increased pay-as-you-go capital improvement program and other increased programming and costs, the City budget has been consistently closer to the expenditure limitation over the past several years, and we have had to carefully consider the timing of major pay as you go capital projects. The task of assuring the City budget is below the expenditure limitation has become more difficult each year.

The last expenditure limitation was in May 2006. Voters approved a permanent base adjustment of $25M due to:

- A 49.8% increase in primary property tax collections ($1.3 M)
- A 26.4% increase in City sales tax ($2.9 M)
- A 34.1% increase in auto lieu tax ($650 K)
- An $8 M increase in transportation tax, and A 37.4% increase in pay-as-you-go capital ($13.2 M)

Since 2006 the City has adopted the following new revenues and taxes or experienced significant increases in expenditures:

- RR & SS taxes - $7M
- Parking District - $1.5M
- Stormwater - $3.6M (since FY 2005-2006)
- Water Service Rate increases $14.1M (since FY 2005-2006)
- FHA - $1.9M
- Butler/Route 66 Bridge $4.8M
- Pension cost increase $13M (since FY 2005-2006)

These increases total approximately $45.9M. City staff will analyze the impacts of these increases on the City expenditure limitation and will come back to Council in the spring with this analysis, further education on expenditure limitation and our recommendation on the permanent base adjustment. Our preliminary estimate for the permanent base adjustment is between $20M and $35M.

Attachments: Presentation

2020 August Election Update

December 3, 2019

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2020 Election Dates

- Primary Election – August 4, 2020
  - Franchise – UniSource is seeking voter approval for the renewal of their Franchise Agreement
  - Candidate Primary – If there are more than 2 candidates for each seat
  - Staff is recommending an adjustment to the **City's Permanent Base Expenditure Limitation**
- General Election – November 3, 2020
  - Candidate election
  - Other City questions

What is a Base Expenditure Limitation?

- Established by legislation in 1980
- Places a limitation on how much cities are allowed to spend each year
- Flagstaff permanently adjusted the State imposed expenditure limitation in 1988 and again in 2006
- If a city exceeds their allowed expenditure limitation without authorization, State income taxes are withheld

Why Now?

- Current Expenditure Limitation is $162,133,141
- In FY 2017-2018 the City was $19M below the limitation
  - The budget has been consistently closer to the limitation each year
- New revenues have been added or significant increases in expenses:
  - Road Repair and Street Safety Taxes - $7M
  - Parking District - $1.5M
  - Stormwater - $3.6M (since FY 2005-2006)
  - Water Service Rate Increases - $14.1M (since FY 2005-2006)
  - FHA - $1.9M
  - Butler/Route 66 Bridge - $4.8M
  - Pension Cost Increase - $13M (since FY 2005-2006)

Why August Instead of November?

- Education and outreach is extensive
- The question will not be competing with other City questions
- Other possible November ballot questions:
  - Affordable Housing
  - Parks, Recreation, Open Space
  - City General Sales Tax Renewal
  - Save Shultz Meadows Initiative
  - Other Community Questions
    - CCC
    - FUSD
    - County

2020 Election Timeline

- Should the Expenditure Limitation Adjustment be added to the August ballot, financial analysis needs to begin now
- Council approval of the analysis must be done in March
- August Election would be called in April
- Election Date: August 4, 2020

- November Election would be called in July
- Election Date: November 3, 2020

Financial Considerations

- Coconino County Elections conducts the City Elections
- Costs are based on registered voters.
  - 40,000 registered voters at last election
  - $2.00/registered voter
- UniSource is responsible for the cost of the August election unless a City issue is also included on the ballot
  - Cost would be split if Primary is needed or Expenditure Limitation Adjustment is added

Financial Considerations

- Other Election Related Costs for City Questions
  - Publicity Pamphlet
  - Outreach / Education Materials

Council Options

1. Prepare for an Expenditure Limitation Adjustment ballot question for August 2020

2. Prepare for an Expenditure Limitation Adjustment ballot question for November 2020

3. Do not move forward with an Expenditure Limitation Adjustment at this time

16. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	11/26/2019
Meeting Date:	12/03/2019

TITLE

Future Agenda Item Request (F.A.I.R.): A request by Councilmember Salas to have a Work Session discussion with the Arizona Commerce Authority to learn more and pursue possibilities and opportunities on economic development and housing on Flagstaff's opportunity zones.

STAFF RECOMMENDED ACTION:

Council direction.

EXECUTIVE SUMMARY:

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Councilmember Salas 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:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	11/27/2019
Meeting Date:	12/03/2019

TITLE

City Manager Report

STAFF RECOMMENDED ACTION:

Information Only

EXECUTIVE SUMMARY:

These reports will be included in the City Council packet for regularly scheduled Council meetings, excluding Work Session meetings. The reports are intended to be informational, covering miscellaneous events and topics involving the City organization.

INFORMATION:

Attachments: City Manager Report

City Manager's Report

November 27, 2019

Council and Colleagues, Happy Thanksgiving!

These reports will be included in the City Council packet for regularly scheduled Council meetings, excluding Work Session meetings. The reports are intended to be informational, covering miscellaneous events and topics involving the City organization. In no particular order …

Composting and Solid Waste Diversion

On November 8th there was a nice tour of the NAU composting facility, followed by an onsite tour of our City Landfill operation. Gratitude is extended to Todd Hanson – City Solid Waste & Fleet Director, Matthew Muchna – NAU Sustainability Manager, and Dylan Lenzen – City Sustainability Specialist for being a part of a very informative tour. This report will focus upon the composting operation, with more on the landfill in the next report.

The Council received a recent summary of the composting operations at NAU, the details of which will not be belabored here. Some additional points of interest are noted below (thanks to Matt Muchna for assisting with the factual data):

1. NAU composts over 300,000 pounds of food waste and other material every year, which prevents over 250 metric tons of carbon dioxide from entering the atmosphere. NAU Composting operations started at NAU in 2012 led by a Facility Service employee, Howard Codwell, NAU Grounds, and NAU Campus Dining. The focus was and is still to reduce waste going to the landfill and repurpose that waste into compost for landscaping and gardens across campus. The operations have grown since its conception and now is able to sell excess compost soil through NAU Property Surplus at $18/yd.

2. In the spring of 2015, NAU Campus Dining implemented a post-consumer composting machine in the HotSpot Dining Location in the Student Union, exponentially increasing the amount of compostable food waste. The success of the first composting machine lead to a second composting unit at the DüB Dining District during its 2017 remodel on South Campus. Together, these two composting systems permitted the removal of all trash-bins from both Dining Facilities. This effort has repurposed over 90% of the food waste experienced every day on campus! The image of this product may not be too impressive, but what is noteworthy is that the food scrap product is entirely innocuous…there is no odor and there is no attraction for birds and animals.

3. Just last month, NAU and the City of Flagstaff officially launch a one-year pilot IGA to process City of Flagstaff Parks and Recreation grass-clippings and pine needles. NAU and the City currently meet monthly to track the progress of the pilot program and ensure its success. The end goal is to solidify a strong working relationship between the City and NAU with the hope of expanding to other waste streams in the future. This goal will help the City divert thousands of pounds of waste from the landfill, reduce the amount $C0^2$ emissions released into the atmosphere, and provide further educational experiences for NAU students. It is an impressive operation ideally located, and the opportunities for innovative growth and application are evident.

Miscellaneous Updates

- The City of Flagstaff received 52 applications in the City's second recruitment for HR Director. After a competitive onsite interview process, the City has selected Jeanie Gallagher to be the next HR Director. Jeanie brings with her over 40 years of knowledge and expertise. She has a degree in Organizational Management and was most recently the Regional Vice President of Human Resources for Steward Health. We are excited to welcome Jeanie to Team Flagstaff as she begins her new role on December 30, 2019.

- Public Works has the Winter Snow Play Volunteers and dumpsters ready. They began monitoring designated locations last week with the snow to take a baseline assessment. They will be going out again today to determine if we need a Winter Snow Play Cleanup Event. Dumpsters for snow play areas have also been place at Peak View, Walker Lake, the lot across from Snowbowl Road, Thorpe Park, and Lone Tree Road.

- Flagstaff Trail Initiative is getting attention from the AZ Daily Sun. The regional strategy is being presented to Council on December 3rd and there is a public meeting scheduled for January 15th at Flagstaff High School from 4:30 to 6:30 p.m. Stay tuned.

- The roof has been replaced at the Cogdill center. On a related note, we do look forward to the eventual leak repairs here at City Hall…the orange buckets adorning our lobby are in full display with the arrival of wet weather.

- The Flagstaff Fire Department had Goodyear Fire Department up to review their Organization Collaborative Process which is a process that guides their department committee work.

- Coconino High School, Summit High School and Flagstaff High School sent over students to the Law Enforcement facility for first ever High School career day. There were 37 students

who participated in the two days. On the subject of Law Enforcement, our Police Aides are still working grave shifts with a dozen parking tickets issued in the Southside last week.

- Jennifer Schaber, Convention & Visitors Bureau Creative Specialist, received a WOW award for her extensive 18-month long creative work for LUNAR LEGACY. This was a huge and very successful campaign that brought a lot of recognition to Flagstaff and NASA, and that received a number of awards in the industry.

- Building Official Amy Palmer completed the Certified Public Manager program and graduated on November 12th. Congratulations Amy!

Stuff the Bus …

It was a grand event at the Plaza Safeway entrance two weeks ago, involving frozen turkeys, whiskered mascots, and elected officials. In the end, the City prevailed in this fierce competition, notwithstanding some antics by the rival Board of Supervisors. Props to all…everyone wins!

City Hall Hours of Operation

There has been discussion at the Leadership Team regarding our need to streamline, and make consistent, the hours of operation here at City Hall. These are basically the hours in which the public may access the administrative offices at City Hall and seek assistance. With differing ranges between the departments, and some fluctuation between the seasons of the year, the decision was collaboratively made to establish the hours, officially, as 8:00 a.m. to 4:30 p.m. All departments will adhere to these hours, and the summer/winter fluctuation will end. The effective date will be January 1st, and it will be posted on the website and front door of City Hall.

While it is understood that many employees will be working prior to **8:00 a.m. and after 4:30 p.m.**, the off-hours will allow for catch-up work that is generally set aside during busy periods during the workday.

Budget Nomenclature

There is no easy way to articulate a budget year that spans two calendar years. This has been a source of confusion which culminated in a recent Council suggestion to clarify it. We agreed. After much deliberation over this complex problem, there is now a solution. The nomenclature will now hyphenate the two calendar years. For example, the upcoming budget will be entitled…wait for it…

The 2020-21 Budget

Some variations of the above may occur, such as "The 2020-2021 Budget", or more simply, "The 20-21 Budget", but the hyphenated format should eliminate any confusion going forward.

Recent Meetings to Note…

The Alliance Meeting of November 15th was hosted by FUSD and was well attended. Discussion focused upon current (and pending) state and federal policy objectives. With the City of Flagstaff recently formalizing its policy agenda, there will be a continued discussion of this at the December 6th Alliance Meeting. Additionally, Shane Dille provided a nice summary of the airport parking arrangements that are now in place, which will significantly increase parking capacity on a temporary lot, while providing more barriers, literally, to eliminate the unlawful off-site parking that has been occurring over recent months. There will be an update to the City Council regarding this on December 10th.

The Housing Commission had an introductory meeting on November 13th at the NACET campus. There are twelve members on this Commission and arranging a schedule for meetings has been a bit challenging simply because of the large number (a quorum issue).

The first meeting spanned six hours and included introductory education, open meeting law discussion, and other foundational work. The room was full, and the agenda was well formulated. Councilmember McCarthy attended the entire meeting and may want to share his thoughts. There is an ongoing attempt to schedule another meeting prior to the meeting in January.

Finally, and in the 'now this is interesting' category, the NAU School of Hotel & Restaurant Management hosted a *Taste of the 20s Speakeasy* event. It was well attended, and the food was of course superb. The event was attended by Councilmember Whelan and others from the City.

Weather Protocol

With the arrival of winter, there has been much effort, behind the scenes, to make sure that good coordination and collaboration between the local governments and schools is occurring. On days where snowfall (with accumulation) is expected, the City, County, National Weather Service, NAIPTA, FUSD and NAU participate in a joint call at 5:15 a.m. to determine operating status for the day. The call covers a weather forecast, snowfall totals, road conditions, and accident numbers. If a delay or cancellation is agreed on, the respective PIOs put out notice to the media, community, and employees. Our first call occurred last week, quite successfully. At that particular time of the morning, it is not a chatty group.

That's all for now. Again, Happy Thanksgiving!