

REGULAR COUNCIL MEETING
TUESDAY
JULY 7, 2020

STAFF CONFERENCE ROOM
SECOND FLOOR - CITY HALL
211 WEST ASPEN AVENUE
3:00 P.M.

ATTENTION

IN-PERSON AUDIENCES AT CITY COUNCIL MEETINGS HAVE BEEN SUSPENDED UNTIL FURTHER NOTICE

The meetings will continue to be live streamed on the city's website (<https://www.flagstaff.az.gov/1461/Streaming-City-Council-Meetings>)

PUBLIC COMMENT PROTOCOL

The process for submitting a public comment has changed and public comments will no longer be read by staff during the Council Meetings.

All public comments will be taken either telephonically or accepted as a written comment.

Public comments may be submitted to publiccomment@flagstaffaz.gov

If you wish to address the City Council with a public comment by phone you must submit the following information:

First and Last Name
Phone Number
Agenda Item number you wish to speak on

If any of this information is missing, you will not be called. We will attempt to call you only one time. We are unable to provide a time when you may be called.

All comments submitted otherwise will be considered written comments and will be documented into the record as such.

If you wish to email Mayor and Council directly you may do so at council@flagstaffaz.gov.

AGENDA A M E N D E D

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 ODEGAARD
COUNCILMEMBER ASLAN	COUNCILMEMBER SALAS
COUNCILMEMBER MCCARTHY	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: Brad Hill, Water Resources Director

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: Planning and Zoning Commission.

STAFF RECOMMENDED ACTION:

Make one appointment to a term expiring December 2022.

- B. **Consideration of Appointments:** Tourism Commission.

STAFF RECOMMENDED ACTION:

Make three appointments to terms expiring January 2023.

7. **LIQUOR LICENSE PUBLIC HEARINGS**

- A. **Consideration and Action on Liquor License Application:** Nicholas Guttilla, Safeway #1225, 1500 E. Cedar Ave., Series 9S (liquor store), Sampling Privileges.

STAFF RECOMMENDED ACTION:

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

The City Council has the option to:

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

- B. **Consideration and Action on Liquor License Application:** Craig Allen Bouchard, "Southside Tavern," 117 S. San Francisco, Series 06, Location/Owner Transfer.

STAFF RECOMMENDED ACTION:

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

The City Council has the option to:

- 1) Forward the application to the State with a recommendation for approval;
- 2) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

8. **CONSENT ITEMS**

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

- A. **Consideration and Approval of Municipal Services Accounts, Miscellaneous Account Receivable, Transaction Privilege Tax and Insufficient Funds Write-offs:** Delinquency and Uncollectible Accounts for Fiscal Year 2019-20.

STAFF RECOMMENDED ACTION:

Approve the write-off of delinquent and uncollectible Municipal Services accounts, Miscellaneous Account Receivables, Transaction Privilege Tax accounts and Insufficient Funds in the combined amount of \$198,972.57.

- B. Consideration of Appointments:** On-Call Magistrates for the Flagstaff Municipal Court.

STAFF RECOMMENDED ACTION:

Approve the appointments of Honorable Charles Adornetto, Honorable Gerald McCafferty, and Honorable Susan Slasor as On-Call Magistrates.

- C. Consideration and Approval of Contract:** Joint Funding Agreement Renewal with United States Geological Survey for a streamflow gauge at Newman Canyon in the amount of \$99,100.

STAFF RECOMMENDED ACTION:

1. Approve the Joint Funding Agreement with the U.S. Geological Survey (USGS) to contribute \$99,100 from July 1, 2020, to September 30, 2024; and
2. Authorize the City Manager to execute the necessary documents.

- D. Consideration and Approval of AZCares Grant Agreement:** Approve the agreement between the State of Arizona, acting through the Governor's Office and the City of Flagstaff for the AZCares Grant.

STAFF RECOMMENDED ACTION:

Approve the Grant Agreement with the State of Arizona, acting through the Governor's Office for AZCares funds for Public Safety Salary and Employee-Related-Expenses for the period of March 1, 2020, to December 30, 2020, in the amount of \$8,614,855.

- E. Consideration and Approval of Grant Award:** Approve the Grant Agreement between the Arizona Criminal Justice Commission and the City of Flagstaff for the AZ Coronavirus Emergency Supplemental Funding Program.

STAFF RECOMMENDED ACTION:

Approve the grant agreement with Arizona Criminal Justice Commission (ACJC) for the AZ Coronavirus Emergency Supplemental Funding in the amount of \$144,486.

- F. Consideration and Approval of Grant Agreement:** To the U.S. Department of Justice, through the Arizona Criminal Justice Commission, for the Edward Byrne Justice Assistance Grant funds in the amount of \$283,494.00 for the Northern Arizona Street Crimes Task Force (METRO unit).

STAFF RECOMMENDED ACTION:

Approve the acceptance of the grant from the U.S. Department of Justice, through the Arizona Criminal Justice Commission, Edward Byrne Justice Assistance Grant funds in the amount of \$283,494.00 for FY2020-2021.

- G. Consideration and Approval of Cooperative Purchase Contract:** With ABM Electrical Power Services, LLC in the amount of \$57,830 for an Arc Flash Electrical Study at the Water Reclamation Facilities.

STAFF RECOMMENDED ACTION:

1. Approve a Cooperative Purchase Contract in the amount of \$57,830.00 with ABM Electrical Power Services, LLC for an Arc Flash Electrical Study that has already been completed through the Maricopa County Cooperative contract #171017-S; and
2. Authorize the City Manager to execute the necessary documents.

- H. **Consideration and Approval of Contract:** Annual Master Agreement for Software Maintenance with Hexagon for software utilized by the City Police Department in the amount of \$256,619.12.

STAFF RECOMMENDED ACTION:

- 1.) Approve the Annual Master Agreement for Software Maintenance with Hexagon in the amount of \$256,619.12; and
- 2.) Authorize the City Manager to execute all necessary documents.

9. **ROUTINE ITEMS**

- A. **Consideration and Approval of Preliminary Plat**Ponderosa Parkway LLC requests Preliminary Plat approval for Ponderosa Parkway Condominiums—a 169-unit residential condominium subdivision at 1650 E. Ponderosa Parkway on 11.97 acres in the HR (High Density Residential) Zone.

STAFF RECOMMENDED ACTION:

The Planning and Zoning Commission recommends (by 5-0 vote on June 10, 2020) the City Council approve the Preliminary Plat.

- B. **Consideration and Approval of Contract:** Professional Architectural Design Services Contract for the Airport Snow Removal Equipment Building in the amount of \$859,977.

STAFF RECOMMENDED ACTION:

1. Approve a Professional Architectural Design Services Contract with APMI, Inc. for the programming and design phased services in the amount of \$859,977 with a contract time of 365 calendar days; and
2. Authorize the City Manager to execute the necessary documents.

- C. **Consideration and Adoption of Ordinance No. 2020-16:** An ordinance levying upon the assessed valuation of the property within the City of Flagstaff, Arizona, subject to taxation a certain sum upon each one hundred dollars (\$100.00) of valuation sufficient to raise the amount estimated to be required in the Annual Budget, less the amount estimated to be received from other sources of revenue; providing funds for various bond redemptions, for the purpose of paying interest upon bonded indebtedness and providing funds for general municipal expenses, all for the Fiscal Year ending the 30th day of June, 2021. **(Primary and secondary property tax levies for FY 2020-2021)**

STAFF RECOMMENDED ACTION:

- 1) Read Ordinance No. 2020-16 by title only for the final time
- 2) City Clerk reads Ordinance No. 2020-16 by title only (if approved above)
- 3) Adopt Ordinance No. 2020-16

- D. **Consideration and Adoption of Ordinance No. 2020-18:** An ordinance amending Flagstaff City Code Title 9, Traffic, Chapter 9-05, Bicycles.

STAFF RECOMMENDED ACTION:

- 1) Read Ordinance No. 2020-18 by title only for the final time
- 2) City Clerk reads Ordinance No. 2020-18 by title only (if approved above)
- 3) Adopt Ordinance No. 2020-18

10. **REGULAR AGENDA**

- A. **Consideration and Adoption of Resolution No. 2020-42:** A resolution approving an Amendment to an Intergovernmental/Third-Party Agreement between the City of Flagstaff, Coconino County and Paw Placement of Northern Arizona (PPNAZ) for Animal Sheltering Services.

STAFF RECOMMENDED ACTION:

- 1) Read Resolution No. 2020-42 by title only
- 2) City Clerk reads Resolution No. 2020-42 by title only (if approved above)
- 3) Adopt Resolution No. 2020-42

- B. **Consideration and Adoption of Resolution No. 2020-43:** A resolution of the Flagstaff City Council adopting a Flagstaff Automotive Sales Tax Rebate Program to further the City's climate action goals and to support local automotive dealers (***Flagstaff Automotive Sales Tax Rebate Program***)

Consideration and Adoption of Resolution No. 2020-44: A resolution of the Flagstaff City Council adopting a Flagstaff Business Attraction Job Creation Incentive Program to assist in attracting new businesses that will provide high wage jobs in specific industry sectors (***Flagstaff Business Attraction Job Creation Incentive Program***)

Consideration and Adoption of Resolution No. 2020-45: A resolution of the Flagstaff City Council adopting a Development Reinvestment Incentive Program to assist in attracting new businesses that will provide high wage jobs in targeted industry sectors (***Flagstaff Business Attraction Development Reinvestment Incentive Program***)

STAFF RECOMMENDED ACTION:

Flagstaff Automotive Sales Tax Rebate Program:

- 1) Read Resolution No. 2020-43 by title only
- 2) City Clerk reads Resolution No. 2020-43 by title only (if approved above)
- 3) Adopt Resolution No. 2020-43

Flagstaff Business Attraction Job Creation Incentive Program:

- 1) Read Resolution No. 2020-44 by title only
- 2) City Clerk reads Resolution No. 2020-44 by title only (if approved above)
- 3) Adopt Resolution No. 2020-44

Flagstaff Business Attraction Development Reinvestment Incentive Program:

- 1) Read Resolution No. 2020-45 by title only
- 2) City Clerk reads Resolution No. 2020-45 by title only (if approved above)
- 3) Adopt Resolution No. 2020-45

- C. **Consideration and Adoption of Resolution No. 2020-46:** A resolution adopting the Management Plan for Legally-Designated Open Space Properties.

STAFF RECOMMENDED ACTION:

- 1) Read Resolution No. 2020-46 by title only
- 2) City Clerk reads Resolution No. 2020-46 by title only (if approved above)
- 3) Adopt Resolution No. 2020-46

- D. Consideration and Adoption of Resolution No. 2020-38:** A resolution of the Flagstaff City Council authorizing the acquisition of real property interests necessary for the Rio de Flag Flood Control Project, a public use, providing for delegation of authority, condemnation authority, prior approval of purchases, and establishing an effective date.

STAFF RECOMMENDED ACTION:

- 1) Read Resolution No. 2020-38 by title only
- 2) City Clerk reads Resolution No. 2020-38 by title only (if approved above)
- 3) Adopt Resolution No. 2020-38

- E. Consideration and Adoption of Ordinance No. 2020-20:** An ordinance of the Flagstaff City Council authorizing the acquisition of approximately .082 acres of real property located at 424 East Butler Avenue, Coconino County Assessor Parcel Number 104-01-023, for the Lone Tree Overpass Project, providing for delegation of authority; and establishing an effective date.

STAFF RECOMMENDED ACTION:

At the July 7, 2020 Council Meeting:

- 1) Read Ordinance No. 2020-20 by title only for the first time
- 2) City Clerk reads Ordinance No. 2020-20 by title only (if approved above)

At the August 18, 2020 Council Meeting:

- 3) Read Ordinance No. 2020-20 by title only for the final time
- 4) City Clerk reads Ordinance No. 2020-20 by title only (if approved above)
- 5) Adopt Ordinance No. 2020-20

- F. Consideration and Adoption of Ordinance No. 2020-19:** An Ordinance of the Flagstaff City Council authorizing the abandonment of a parking easement across real property located along the west side of Woodlands Village Boulevard north of McConnell Drive in exchange for a Flagstaff Urban Trails System easement; delegating authority, approving forms, and establishing an effective date

STAFF RECOMMENDED ACTION:

At the July 7, 2020 Council Meeting:

- 1) Read Ordinance No. 2020-19 by title only for the first time
- 2) City Clerk reads Ordinance No. 2020-19 by title only (if approved above)

At the August 18, 2020 Council Meeting:

- 3) Read Ordinance No. 2020-19 by title only for the final time
- 4) City Clerk reads Ordinance No. 2020-19 by title only (if approved above)
- 5) Adopt Ordinance No. 2020-19

- G. Consideration and Adoption of Resolution No. 2020-47:** A resolution approving Amendment Three to lease agreement between the City of Flagstaff and Theatrikos, Inc.

STAFF RECOMMENDED ACTION:

- 1) Read Resolution No. 2020-47 by title only
- 2) City Clerk reads Resolution No. 2020-47 by title only (if approved above)
- 3) Adopt Resolution No. 2020-47

11. DISCUSSION ITEMS

- A. Indigenous Commission / Committee & Youth Commission / Committee**

B. Follow-up Discussion: Partial lane and partial alley closures in Downtown

12. COUNCIL LIAISON REPORTS

13. 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 Citizens' Petition requesting that the Council "review and reform our Flagstaff Police Department's use-of-force policies, funding allocations, and community engagement policies."

14. CITY MANAGER REPORT

A. City Manager Report

i. Manager's Budget Memo

15. COVID-19 UPDATES

A. Discussion of Re-Entry Plan and Monitoring Criteria

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

17. ADJOURNMENT

CERTIFICATE OF POSTING OF NOTICE

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

Dated this _____ day of _____, 2020.

Stacy Saltzburg, MMC, City Clerk

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacy Fobar, Deputy City Clerk
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration of Appointments: Planning and Zoning Commission.

STAFF RECOMMENDED ACTION:

Make one appointment to a term expiring December 2022.

Executive Summary:

The Planning and Zoning Commission consists of seven citizen members and serves as an advisory board to the Council on matters relating to the growth and physical development of the City. The commission also conducts hearings on amendments to the Zoning Map, tentative subdivision plats, and Development Review Board appeals. There is currently one seat available due to a resignation. 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 two applications currently on file, they are as follows:

Richard Becher (new applicant)
P. Lloyd Paul (new applicant)

Richard Becher is currently a commissioner on the Board of Adjustment. Upon review of Mr. Becher's background, staff recommended that he apply for the Planning and Zoning Commission. If appointed, Mr. Becher would resign from the Board of Adjustment and would be assigned as the new Planning and Zoning Representative for the Board of Adjustment. Mr. Becher's appointment to the Planning and Zoning Commission is contingent on his resignation from the Board of Adjustment.

Staff recommends filling the vacant seat as soon as possible to ensure that a quorum of members will be available to conduct hearings on amendments to the Zoning Map, tentative subdivision plats, and Development Review Board appeals. In an effort to reduce exposure to personal information the applicant roster and applications will be submitted to the City Council separately.

Council Appointment Assignment: Councilmember Aslan

Financial Impact:

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

Policy Impact:

None

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

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

Has There Been Previous Council Decision on This:

None

Options and Alternatives:

- 1) Appoint one Commissioner; by appointing a Commissioner at this time, the Planning and Zoning Commission will be at full membership.
- 2) Table the action to allow for further discussion or expand the list of candidates.

Community Benefits and Considerations:

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

Community Involvement:

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

Attachments: P&Z Authority

**CHAPTER 2-01
PLANNING AND ZONING COMMISSION**

SECTIONS:

- 2-01-001-0001 CREATION OF COMMISSION
- 2-01-001-0002 INTENT AND PURPOSE
- 2-01-001-0003 MEMBERSHIP
- 2-01-001-0004 MEETINGS
- 2-01-001-0005 DUTIES AND FUNCTIONS

Prior legislation: Ords. 339, 859, 1427, 1826 and 2007-09.

2-01-001-0001 CREATION OF COMMISSION

There is hereby established a Planning and Zoning Commission for the City of Flagstaff under the provisions of A.R.S. § 9-461.02. (Ord. 339, 10-8-45; Ord. 2010-35, Amended, 11/16/2010)

2-01-001-0002 INTENT AND PURPOSE

The purpose of the Planning and Zoning Commission is to direct the growth and physical development of the City in a sound and orderly fashion for the prosperity, health, safety, convenience, and general welfare of the citizens of Flagstaff. (Ord. 2010-35, 11/16/2010)

2-01-001-0003 MEMBERSHIP

The Planning and Zoning Commission shall consist of seven (7) members appointed by the Mayor and Council.

The term of each citizen member shall be three (3) years or until his successor takes office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired portion of the term.

A. A Chairperson and Vice-Chairperson shall be elected from and by the voting membership of the Commission to serve one (1) year terms. A Chairperson may serve no more than two (2) consecutive terms as Chairperson (exclusive of a term as Vice-Chairperson). Upon the conclusion of a second, consecutive term as Chairperson, such Commission member shall be ineligible to serve as either Chairperson or Vice-Chairperson until a calendar year has expired.

B. In addition to the causes for removal set out in the Board and Commission Members' Rules and Operations Manual, a member accumulating eight (8) absences from regularly scheduled meetings in any given calendar year will be automatically removed from the Commission and a replacement appointed by the City Council. An unexcused absence is defined as the failure of the member to notify the Planning and Development Services Section of his or her inability to attend a regularly scheduled meeting. (Ord. 2010-35, 11/16/2010; Ord. 2014-28, Amended, 11/18/2014)

2-01-001-0004 MEETINGS

Unless there are no matters to be considered, the Commission shall hold at least one meeting each month and may schedule additional special meetings as needed. A special meeting may serve as the minimum one meeting per month. (Ord. 2010-35, 11/16/2010)

2-01-001-0005 DUTIES AND FUNCTIONS

The Planning and Zoning Commission created in this chapter shall be and act as the Zoning Commission of the City, and all duties and powers granted to zoning commissions under State law shall be exercised by the Planning and Zoning Commission. In addition to any authority granted to the Planning and Zoning Commission by State law or other ordinances of the City, the Planning and Zoning Commission shall have the following duties and functions under the provisions of these regulations:

- A. To review and recommend to the City Council adoption of a comprehensive general plan adopted in compliance with the authority provided in A.R.S. Section 9-461.05 for the orderly growth and development of the City and for any land outside the City which, in the opinion of the Planning and Zoning Commission, bears a relation to the planning of the City.
- B. To hear, review, and make recommendations to the City Council regarding applications for amendments to the General Plan or any other plan in accordance with the provisions of Chapter 11-10 (General Plans).
- C. To serve as an advisory body to the City Council and furnish the Council through the Planning Director the facts concerning the adoption of any report or recommendation.
- D. To make its special knowledge and expertise available upon reasonable written request and authorization of the City Council to any official, department, board, commission or agency of the State or Federal governments.
- E. To hear and review amendments to the Zoning Map and to the text of the Zoning Code in accordance with the provisions of Title 10, Zoning Code, Division 10-20.50 (Amendments to the Zoning Code Text and the Zoning Map).
- F. To confer with and advise other similar City or County commissions.
- G. To make investigations, maps, reports, and recommendations to the City Council in regard to the physical development of the City.
- H. To hear, review and make recommendations to the City Council regarding preliminary subdivision plats after recommendation from the Planning Director and City Engineer in accordance with Chapter 11-20, Subdivision and Land Split Regulations.
- I. To take such other action as authorized in Title 10 (Zoning Code) and Title 11 (General Plan and Subdivisions) as necessary to implement the provisions of those titles and the General Plan.
- J. To consider, review and approve Conditional Use Permits, pursuant to the provisions of Section 10-

20.40.050 (Conditional Use Permits).

K. The Commission shall carry out other such duties as determined by the City Council and present other recommendations the City Council deems pertinent. (Ord. 859, 10-24-72; Ord. 2010-35, Amended, 11/16/2010; Ord. 2014-28, Amended, 11/18/2014)

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacy Fobar, Deputy City Clerk
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration of Appointments: Tourism Commission.

STAFF RECOMMENDED ACTION:

Make three appointments to terms expiring January 2023.

Executive Summary:

The mission of the Tourism Commission is to develop, promote, and maintain Flagstaff as a year-round visitor destination with professional visitor services that will benefit the community economically, environmentally, and socially. The Tourism Commission makes recommendations to the Council concerning expenditure of the tourism portion of the Bed, Board and Booze ("BBB") tax, a 2% local transaction privilege tax. The Tourism Commission consists of seven citizens serving three-year terms. There are currently three seats available. It is important to fill vacancies on Boards and Commissions quickly to allow the Commission to continue meeting on a regular basis.

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

- Jennifer Grogan (new applicant)
- Lynda Fleischer (current commissioner)
- Joe O'Donnell (current commissioner)

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

COUNCIL APPOINTMENT ASSIGNMENT: Councilmember Odegaard, Councilmember Whelan, and Councilmember McCarthy.

Financial Impact:

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

Policy Impact:

None

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

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

Has There Been Previous Council Decision on This:

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Options and Alternatives:

- 1) Appoint three Commissioners: By appointing members at this time, the Tourism Commission will be at full membership, allowing the group to meet and provide recommendations to the City Council.
- 2) Table the action to allow for further discussion or expand the list of candidates.

Community Benefits and Considerations:

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

Community Involvement:

INFORM: The vacancies are posted on the City's website and individual recruitment and mention of the opening by Commission members and City staff has occurred, informing others of this vacancy through word of mouth.

Attachments: Tourism Commission Authority

**CHAPTER 2-13
TOURISM COMMISSION**

SECTIONS:

- 2-13-001-0001 CREATION OF THE COMMISSION:
- 2-13-001-0002 COMPOSITION AND TERM OF OFFICE:
- 2-13-001-0003 COMPENSATION OF COMMISSION MEMBERS:
- 2-13-001-0004 ORGANIZATION:
- 2-13-001-0005 MEETINGS:
- 2-13-001-0006 DUTIES:

2-13-001-0001 CREATION OF THE COMMISSION:

There is hereby established a City Tourism Commission. There shall be seven (7) voting members of said Commission who shall meet as hereinafter provided to consider and recommend programs for the expenditure of the tourism portion of the Bed, Board and Booze Tax allocated under Chapter 3-06, Hospitality Industry Tax Revenues.

“Tourism” means the guidance, management, marketing, accommodation, promotion and encouragement of tourists (same meaning as set forth in Section 3-06-001-0001). (Ord. No. 1579, Enacted, 08/02/88; Ord. 2001-27, Amended, 11/20/2001; Ord. 2014-28, Amended, 11/18/2014; Ord. 2015-22, Amended, 01/05/2016)

2-13-001-0002 COMPOSITION AND TERM OF OFFICE:

The composition of the membership shall consist of:

- A. Seven (7) members to be appointed by the City Council. Each member shall serve for three (3) years, on a staggered term basis.
- B. The City Manager or the Manager’s designee shall be an ex officio member of the Commission. The member shall have no voting privileges.

The City Manager shall be responsible for staff support of the Tourism Commission.

The Council shall fill vacancies for the unexpired term of any of the members of the Commission.

A member’s term in office shall commence with the first regular Commission meeting following the appointment and terminate with the regular Commission meeting at which the successor takes office. No voting member of the Commission may be appointed to more than two (2) consecutive full terms. (Ord. No. 1579, Enacted, 08/02/88; Ord. No. 1674, Amended, 09/18/90; Ord. 2001-27, Amended, 11/20/2001; Ord. No. 2006-09, Amended 04/10/2006; Ord. 2014-28, Amended, 11/18/2014; Ord. 2015-22, Amended, 01/05/2016)

2-13-001-0003 COMPENSATION OF COMMISSION MEMBERS:

Members of the Commission shall serve without compensation.

(Ord. No. 1579, Enacted, 08/02/88)

2-13-001-0004 ORGANIZATION:

The Commission shall elect a Chairperson from among its members. The term of the Chairperson shall be one year with eligibility for reelection. Commission members may not serve more than two (2) consecutive terms as Chairperson. The Council representative shall not be eligible for the Chair.

(Ord. No. 1579, Enacted, 08/02/88)

2-13-001-0005 MEETINGS:

A. The Commission shall hold at least one (1) regular meeting per month, which shall at all times be open to the public. The time and place of said meeting shall be posted in accordance with the applicable Arizona State Statutes.

A quorum consisting of a minimum of four (4) voting members shall be required to conduct business.

B. The Chairperson of the Commission shall meet with the Chairpersons of the Economic Development Commission and the Beautification Commission at least once per month. The purpose of the meeting is for coordination of the three (3) commissions only. The intent is not to create another commission. The meeting shall at all times be open to the public. The time and place of said meeting shall be posted in accordance with applicable Arizona State Statutes.

C. If a member is absent for three (3) meetings within a twelve (12) month period, excused or unexcused, that member may be replaced by the City Council. (Ord. No. 1579, Enacted, 08/02/88; Ord. 2001-27, Amended, 11/20/2001; Ord. 2014-28, Amended, 11/18/2014)

2-13-001-0006 DUTIES:

The duties of the Commission shall be to:

A. Prepare a Five (5) Year Master Plan. The Five (5) Year Plan shall be used as a guideline for future programs. Said Plan shall be presented to the Council prior to April 1st of each year.

B. Develop and present to City Council an Annual Plan outlining the Commission's program recommendations for the upcoming fiscal year. Said plan shall be presented to the Council prior to April 1st of each year.

C. Make recommendations to the City Council concerning the annual budgetary allocation of the tourism portion of the Bed, Board and Booze Tax to include, but not be limited to:

1. Providing funding to the qualified, established public or private agency to administer, on a contract basis, tourism programs as required.
2. Developing and implementing a marketing plan. Major elements of the marketing plan will include, but not be limited to, developing a specific image for Flagstaff, identifying target market segments, and implementing a promotional plan directed to target market segments.
3. Establishing visitor information center(s) to include, but not be limited to, a high profile location, easy visitor access, adequate staffing, a toll-free telephone number for visitor information, and develop other facilities as needed to benefit visitors and the community.

4. Establishing an educational program to include, but not be limited to, scholarships for hospitality education at Northern Arizona University.
5. Promoting activities that enhance the community's image and the overall quality of life.
6. Retaining of appropriate staff to implement approved programs.

D. Perform any additional duties as determined by the City Council related to tourism activities. (Ord. No. 1579, Enacted, 08/02/88; Ord. 2015-22, Amended, 01/05/2016)

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacy Fobar, Deputy City Clerk
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Action on Liquor License Application: Nicholas Guttilla, Safeway #1225, 1500 E. Cedar Ave., Series 9S (liquor store), Sampling Privileges.

STAFF RECOMMENDED ACTION:

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

The City Council has the option to:

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

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. Series 9S licenses are an addition to an existing license. Nicholas Guttilla, the agent for Safeway #1225, has submitted a liquor license application for the addition of a Series 9 (liquor store) sampling privileges to the existing liquor license at this location. To view surrounding liquor licenses, please refer to the online interactive [Liquor License Map](#).

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

Financial Impact:

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

Policy Impact:

Not applicable.

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

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

Has There Been Previous Council Decision on This:

OFFICE OF THE CITY CLERK

June 22, 2020

Nicholas Guttilla
Safeway #1225
c/o Guttilla Murphy Anderson
5415 E. High St. #200
Phoenix, AZ 85054

Dear Mr. Guittilla:

The application for a new Series 9 Sampling Privileges Liquor License for Safeway #1225 located at 1500 E. Cedar Avenue in Flagstaff, AZ was posted on June 15, 2020. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, July 7, 2020 which will begin at 3:00 p.m.**

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

The twenty-day posting period for your liquor license application is set to expire on July 6, 2020 and the application may be removed from the premises at that time.

There is no application fee for this series of license.

If you have any questions, please feel free to call me at 928-213-2077 or email me at stacy.fobar@flagstaffaz.gov.

Sincerely,

Stacy M. Fobar
Deputy City Clerk

Enclosure



City of Flagstaff

Liquor License Application Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.
2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.
3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.
4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.
5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.
6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.
7. The presiding officer will then close the public hearing.
8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

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

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
 2. Number and types of licenses within one mile of the proposed premises;
 3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
 4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
 5. Residential and commercial population density within one mile of the proposed premises;
 6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
 7. Effect on vehicular traffic within one mile of the proposed premises;
 8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
 9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
 10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
 11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
 12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.
- B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 09 Liquor Store License (All spirituous liquors)

Transferable (From person to person and/or location to location within the same county only)

Off-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the [glossary](#).

PURPOSE:

Allows a spirituous liquor store retailer to sell all spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

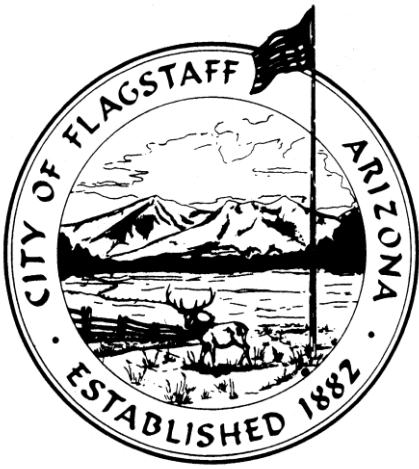
ADDITIONAL RIGHTS AND RESPONSIBILITIES:

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

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

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

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



FLAGSTAFF POLICE DEPARTMENT

911 SAWMILL RD • FLAGSTAFF, ARIZONA 86001 • (928) 779-3646

ADMIN FAX (928)213-3372

TDD 1-800-842-4681



Chief of Police
Kevin D. Treadway

MEMORANDUM

Memo #20-042

TO: Chief Kevin Treadway

FROM: Sgt. Ryan Turley

DATE: June 17th 2020

**RE: LIQUOR LICENSE APPLICATION – Sampling Privileges Series 9
“Safeway Cedar”**

On May 29th, I initiated an investigation into an application for a sampling privilege liquor license filed by Nicholas Guttilla (Agent), The Application number is 110279 and it is for the Safeway located at 1500 E. Cedar Ave.

Mr. Guttilla is legal counsel and liquor agent for Safeways in Arizona. There are no current liquor violations for this particular Safeway and a historic search for violations only found one violation which occurred in 1996. I found no derogatory records on Mr. Guttilla.

I made contact with Mr. Guttilla through email. He advised that many Safeways throughout Arizona currently provide liquor sampling. There are no set hours when the sampling would be taking place but Safeways do not typically serve samples early in the morning or near closing time. The hours for Safeway are 6am to 9pm. There is no set place where the sampling would occur in the store and the Safeway staff who would be serving the alcohol are trained in checking identifications to ensure no one under 21 will be receiving alcohol.



Planning and Development Services Memorandum

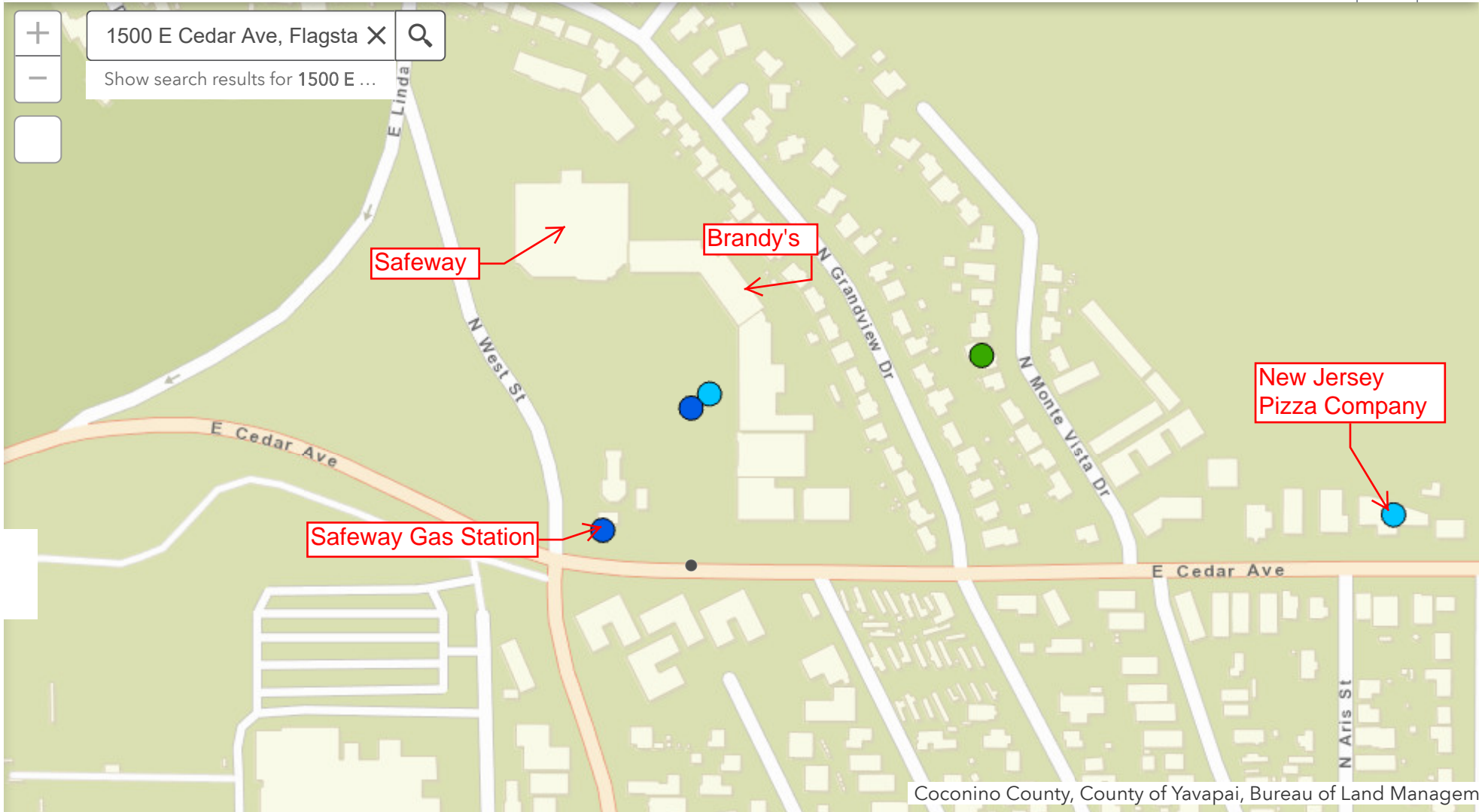
To: Stacy Fobar, Deputy City Clerk
From: Reggie Eccleston, Code Compliance Manager
CC: Tiffany Antol, Planning Director
Date: June 3, 2020
Re: Application for Sampling Privileges #09030025
1500 E. Cedar Ave., Flagstaff, Arizona 86004
Assessor's Parcel Number 109-05-081A
Nicholas Carl Guttilla on behalf of Safeway #1225

This application is a request for a new Series 9s Sampling Privileges license by Nicholas Carl Guttilla on behalf of Safeway #1225. This business is located within the Community Commercial district. This district does allow for this use.

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



+ 1500 E Cedar Ave, Flagsta X Q
- Show search results for 1500 E ...
□



7. B.

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacy Fobar, Deputy City Clerk
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Action on Liquor License Application: Craig Allen Bouchard, "Southside Tavern," 117 S. San Francisco, Series 06, Location/Owner Transfer.

STAFF RECOMMENDED ACTION:

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

The City Council has the option to:

- 1) Forward the application to the State with a recommendation for approval;
- 2) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

Executive Summary:

The liquor license process begins at the State level and applications are then forwarded to the respective municipality for posting of the property and holding a public hearing, after which the Council recommendation is forwarded back to the State. The applicant is requesting to stack two licenses at this location: a Series 06 (bar) and a Series 12 (restaurant) that was approved by Council on April 21, 2020.

A Series 06 license allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises. Series 06 (bar- all spirituous liquor) licenses are obtained through the person and/or location transfer of an existing license from another business. This transfer is from Redwood Inn which was located in Flagstaff. Southside Tavern is an existing business in Flagstaff, AZ and has purchased the license from Joyce Meade, the Controlling Officer for the Estate of Charles Coules, deceased. If approved, this license will be one of the 20 active series 06 licenses.

To view surrounding liquor licenses, please refer to the online interactive [Liquor License Map](#).

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

Financial Impact:

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

Policy Impact:

Not applicable.

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

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

Has There Been Previous Council Decision on This:

Not applicable.

Key Considerations:

Because the application is for a person transfer, consideration may only be given to the applicant's personal qualifications.

The deadline for issuing a recommendation on this application is July 10, 2020.

Community Benefits and Considerations:

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

Community Involvement:

The application was properly posted on June 15, 2020. No written protests have been received to date.

Attachments:

[Letter to Applicant](#)

[Hearing Procedures](#)

[Series 06 Description](#)

[Southside Tavern - PD Memo](#)

[Southside Tavern - Zoning Memo](#)

[Southside Tavern - Map](#)

OFFICE OF THE CITY CLERK

June 22, 2020

Craig Bouchard
Southside II
2839 Sidewheel Drive
Bullhead City, AZ 86429

Dear Mr. Bouchard:

Your application for a new Series 06 Liquor License for Southside II located at 117 S. San Francisco Street in Flagstaff, AZ was posted on June 15, 2020. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, July 7, 2020 which will begin at 3:00 p.m.**

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

The twenty-day posting period for your liquor license application is set to expire on July 6, 2020 and the application may be removed from the premises at that time.

The application fee for this license has been waived since the hearing for your Series 12 license occurred on April 21, 2020 and staff only had to update the existing reports.

If you have any questions, please feel free to call me at 928-213-2077 or email me at stacy.fobar@flagstaffaz.gov.

Sincerely,

Stacy M. Fobar
Deputy City Clerk

Enclosure



City of Flagstaff

Liquor License Application Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will open the public hearing on the item.
2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.
3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.
4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.
5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.
6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.
7. The presiding officer will then close the public hearing.
8. The Council will then, by motion, vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

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

- A. To determine whether public convenience requires and the best interest of the community will be substantially served by issuing or transferring a license at a particular unlicensed location, local governing authorities and the Board may consider the following criteria:
1. Petitions and testimony from individuals who favor or oppose issuance of a license and who reside in, own, or lease property within one mile of the proposed premises;
 2. Number and types of licenses within one mile of the proposed premises;
 3. Evidence that all necessary licenses and permits for which the applicant is eligible at the time of application have been obtained from the state and all other governing bodies;
 4. Residential and commercial population of the community and its likelihood of increasing, decreasing, or remaining static;
 5. Residential and commercial population density within one mile of the proposed premises;
 6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers;
 7. Effect on vehicular traffic within one mile of the proposed premises;
 8. Compatibility of the proposed business with other activity within one mile of the proposed premises;
 9. Effect or impact on the activities of businesses or the residential neighborhood that might be affected by granting a license at the proposed premises;
 10. History for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant received a detailed report of the violations and criminal activity at least 20 days before the hearing by the Board;
 11. Comparison of the hours of operation at the proposed premises to the hours of operation of existing businesses within one mile of the proposed premises; and
 12. Proximity of the proposed premises to licensed childcare facilities as defined by A.R.S. § 36-881.
- B. This Section is authorized by A.R.S. § 4-201(I).

License Types: Series 06 Bar (all spirituous liquor)

Transferable (From person to person and/or location to location within the same county only)

On & off-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the [glossary](#).

PURPOSE:

Allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:

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

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

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

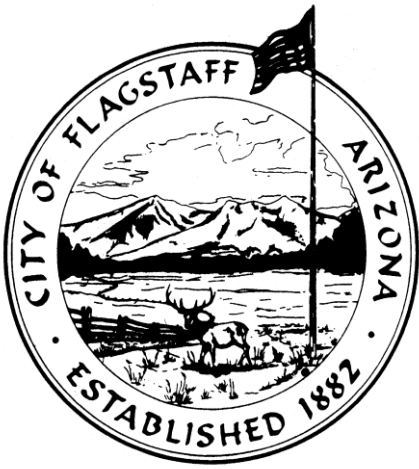
A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

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

Off-sale ("To Go") package sales of spirituous liquor can be made on the bar premises as long as the area of off-sale operation does not utilize a separate entrance and exit from the ones provided for the bar.

A hotel or motel with a Series 06 license may sell spirituous liquor in sealed containers in individual portions to its registered guests at any time by means of a minibar located in the guest rooms of registered guests. The registered guest must be at least twenty-one (21) years of age. Access to the minibar is by a key or magnetic card device and not furnished to a guest between the hours of 2:00 a.m. and 6:00 a.m. Monday through Saturday and 2:00 a.m. and 10:00 a.m. on Sundays.

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



FLAGSTAFF POLICE DEPARTMENT

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ADMIN FAX (928)213-3372

TDD 1-800-842-4681



Chief of Police
Kevin D. Treadway

MEMORANDUM

Memo #20-044

TO: Chief Kevin Treadway

FROM: Sgt. Ryan Turley

DATE: June 17th 2020

RE: LIQUOR LICENSE APPLICATION – SERIES 6- FOR “Southside Tavern II”

On June 17th, I initiated an investigation into an application for a series 6 (bar) liquor license filed by Craig Bouchard (Controlling Person and Agent), The Application number is 111000 and it is for the Southside Tavern II which is located at 117 S. San Francisco St.

Mr. Bouchard had previously applied for a series 12 license earlier this year which was approved by council. I conducted a query through local systems and public access on Craig Bouchard and discovered no derogatory records on him. I found that Mr. Bouchard has taken the mandatory liquor law training. I conducted a search for any current and previous liquor licenses possessed by Mr. Bouchard and discovered that he has a current license for the Sundowner Saloon in Kingman, AZ. I found no current liquor violations for either establishment in Flagstaff nor Kingman.

I previously made contact with Mr. Bouchard over the phone, He had advised me the business hours would be from 11am to 1am Sunday through Thursday and open to 2am on Friday and Saturday and they would be a full service bar.

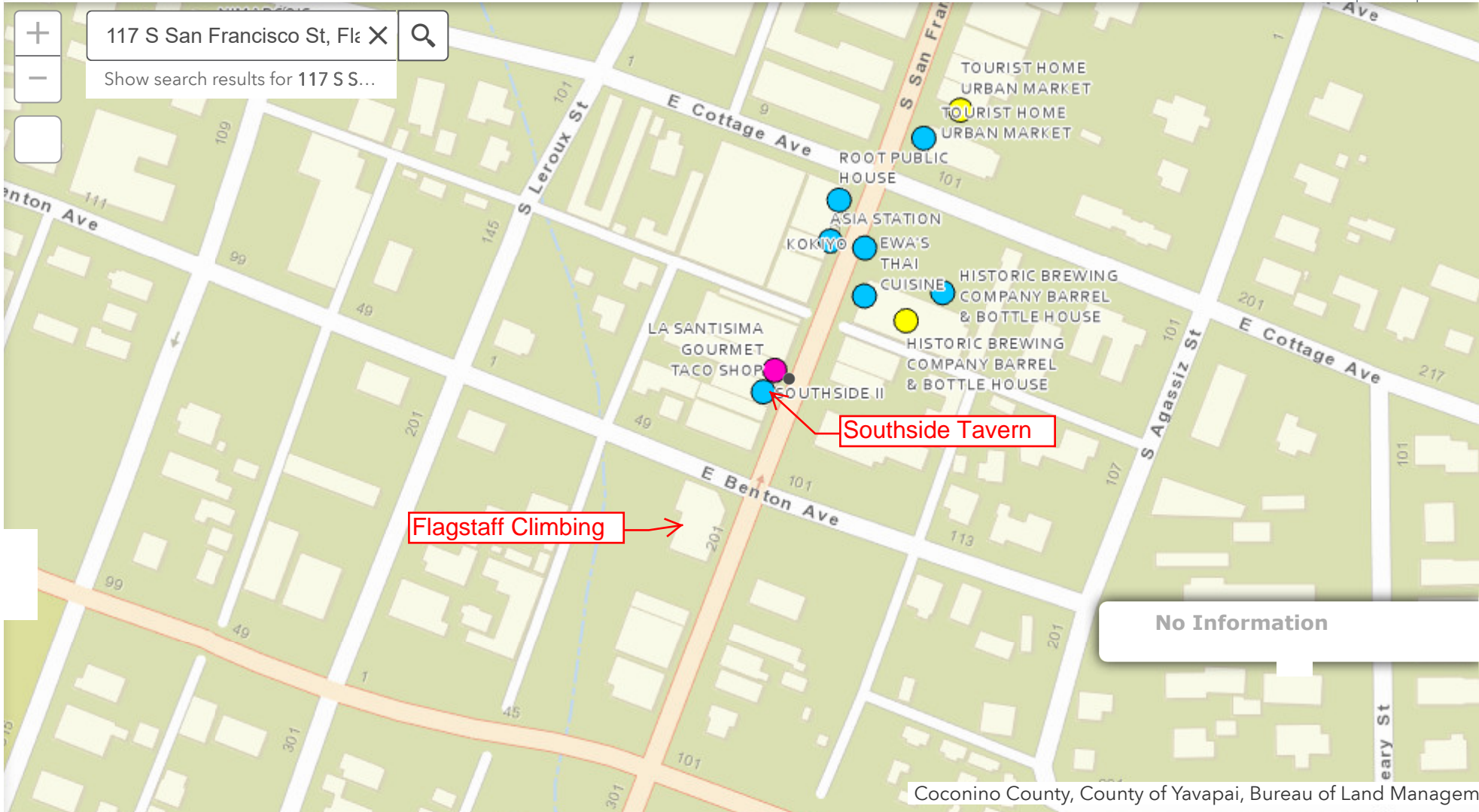


Planning and Development Services Memorandum

To: Stacy Fobar, Deputy City Clerk
From: Reggie Eccleston, Code Compliance Manager
CC: Tiffany Antol, Planning Director
Date: June 17, 2020
Re: Application for Liquor License #111000
117 S. San Francisco St., Flagstaff, Arizona 86001
Assessor's Parcel Number 103-08-024C
Craig Bouchard on behalf of Southside Tavern II

This application is a request for a new Series 06 Bar liquor license by Craig Bouchard on behalf of Southside Tavern II. This business is located within the Community Commercial district. This district does allow for this use.

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



No Information

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Rick Tadder, Management Services Director
Co-Submitter: Sharon Gonzales, Billing/Collection Manager
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Approval of Municipal Services Accounts, Miscellaneous Account Receivable, Transaction Privilege Tax and Insufficient Funds Write-offs: Delinquency and Uncollectible Accounts for Fiscal Year 2019-20.

STAFF RECOMMENDED ACTION:

Approve the write-off of delinquent and uncollectible Municipal Services accounts, Miscellaneous Account Receivables, Transaction Privilege Tax accounts and Insufficient Funds in the combined amount of \$198,972.57.

Executive Summary:

Council is requested to approve the write-offs of \$198,972.57 in accounts receivable deemed to be uncollectible for the fiscal year ending June 30, 2020. Generally accepted business practices allow for the write-off of uncollectible accounts annually. City staff has exhausted collection efforts on the eligible accounts and will no longer actively collect them. Where possible, City reports amounts due to a credit reporting agency. As a result, debt that has previously been written off is occasionally paid sometime later to clear a customer's outstanding debt. Pursuant to state law, individual utility account information is not subject to public release.

Financial Impact:

Each year, the City reserves funds, anticipating there will be uncollectible Municipal Services accounts and Miscellaneous Account Receivables. At the end of each fiscal year, reserves are computed to project potential write-offs for the upcoming year. These are based on a calculation utilizing aged accounts, current year write-offs, as well as consideration of anomalies and anticipated changes in procedures impacting collections. The amount requested to write-off is below the reserve.

Total write-offs for the Fiscal Year 2019-20 are broken down as follows:

Category	Amount
Municipal Service Accounts	\$ 61,628.61
Miscellaneous Accounts Receivable	\$ 1,033.72
Transaction Privilege Tax Receivable	\$ 135,845.24
Insufficient Funds (NSF Checks)	\$ 465.00

Total	\$ 198,972.57
-------	---------------

Policy Impact:

None.

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

High Performing Governance: Enhance the organization's fiscal stability and increase efficiency and effectiveness.

Previous Council Decision on This:

None.

Options and Alternatives:

1. Authorize the write-off of uncollectible Municipal Services, Miscellaneous Accounts Receivable, and Insufficient Funds.
2. Do not authorize the write-off of uncollectible Municipal Services, Miscellaneous Accounts Receivable, and Insufficient Funds, leave the outstanding receivables on our balance sheet and continue collection efforts.

Background/History:

Municipal Services Bills are for monthly billings of water services, solid waste, and environmental services. Miscellaneous Account Receivables is monthly billing for lease revenue, retiree insurance, and a variety of fees. Transaction Privilege Tax receivables are for City Sales Tax accounts prior to 1/1/2017. Insufficient Funds are related to returned checks and disputed credit card charges at various city locations.

Before any account is eligible for a write-off, staff must initiate collection efforts on each account after it becomes delinquent. When collection efforts are exhausted, the account is eligible for a write-off. If possible, any amounts due are applied to the customer's credit. If placed on the customer's credit, the amount owed remains active for 7 years after the delinquency date.

Application against the credit of the debtor may lead to the recovery of some delinquent amounts in the future. This often occurs when customers apply for credit via other avenues (i.e. mortgages, car loans, apartment rentals, etc.).

Total Municipal Services billings for FY 2020 are estimated at \$37.2 million and Miscellaneous Accounts Receivables billings at \$13.7 million. Write-offs are \$61,628.61 or 0.17% of total revenue estimate for Municipal Services and \$1,033.72 or 0.01% of total revenue for Miscellaneous Accounts Receivables. We anticipate both will be lower next fiscal year due to improved payment processing and collection efforts.

In January 2017, the Arizona Department of Revenue began collecting our local Transaction Privilege Tax. At the end of Fiscal Year 2016-17, the City had a receivable balance from the City collected accounts of \$928,293.06. Staff continued to work on collections of these accounts and as of June 30, 2019, our receivable balance was \$691,150.40. Staff has not requested approval to write-off our Transaction Privilege Tax receivables since Fiscal Year 2015-16. This year, staff is requesting the write-off of two accounts totaling the amount of \$135,845.24 which staff deems uncollectible at this time.

When customers do not pay a past-due bill and do not respond to collection efforts, the City recoups a higher percentage of the delinquent amount by applying the higher deposit to the outstanding balance.

Additionally, the higher deposit typically covers the amount due on final bills, reducing write-offs from customers who have moved and have not provided an accurate forwarding address. The other significant change relates to improved teamwork and timeliness of City collection efforts. Customer accounts are being disconnected prior to large unpaid balances accumulating. Customers are being contacted after their accounts are closed and before postal delivery forwarding orders have expired. At that time customers are being notified of the City's intent to report their accounts to a credit reporting agency if the final bills are not paid. To further improve the collection processes, we have begun sending out delinquency postcards and contacting customers via the customer's preferred method of choice, be it by phone or email.

Below is a five-year history of the City's write-offs:

Municipal Services Account Write-Offs: 5-Year History

Write-Off Fiscal Year	Total Write-Off	Annual Amount Billed	% of Amount Billed
FY 2019-20	\$ 61,628.61	\$ 37,232,000	0.17%
FY 2018-19	\$ 86,460.80	\$ 36,450,000	0.24%
FY 2017-18	\$ 117,902.90	\$ 34,327,000	0.34%
FY 2016-17	\$ 67,974.66	\$ 33,006,000	0.21%
FY 2015-16	\$ 89,421.85	\$ 35,400,000	0.25%

Municipal Services Account Write-Off: Breakdown Information

Write-Off Fiscal Year	Total # of Accounts	Accounts Greater than \$1,000	Accounts Between \$500-\$1,000	Accounts Less Than \$500
FY 2019-20	257	5	24	228
FY 2018-19	395	13	37	345
FY 2017-18	493	18	38	437
FY 2016-17	385	4	19	362
FY 2015-16	380	7	21	352

Miscellaneous Accounts Receivable Write-Offs: 5-Year History

Write-Off Fiscal Year	Total Write-Off	Annual Amount Billed	% of Amount Billed
FY 2019-20	\$ 1,033.72	\$ 13,672,000	0.01%
FY 2018-19	\$ 2,581.37	\$ 16,102,000	0.02%
FY 2017-18	\$ 38,212.57	\$ 15,156,000	0.25%
FY 2016-17	\$ 8,234.68	\$ 9,055,000	0.90%
FY 2015-16	\$ 31,095.45	\$ 5,488,000	0.57%

Miscellaneous Accounts Receivable Write-Offs: Breakdown Information

Write-Off Fiscal Year	Total # of Accounts	Accounts Greater than \$1,000	Accounts Between \$500-\$1,000	Accounts Less Than \$500
FY 2019-20	3	0	1	2
FY 2018-19	7	0	2	5
FY 2017-18	27	8	2	17

FY 2016-17	25	6	2	17
FY 2015-16	14	2	4	8

Key Considerations:

Staff worked the write-off accounts by using billing statements, postcards, letters, and telephone calls. When customers fail to make payments, they may be denied access to future City services. If a customer opens a new account, the previous balance is transferred to the new account. If there is no new account and when possible, the amount owed is reported to a credit agency.

Expanded Financial Considerations:

It is sound fiscal management practice to reduce assets to reflect their true valuation. Failure to write off accounts deemed uncollectible overstates the asset value of the City.

Community Involvement:

Inform. Yearly write-offs ensure the City is following generally accepted business practices.

Attachments:

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Jessica Cortes, Court Administrator
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration of Appointments: On-Call Magistrates for the Flagstaff Municipal Court.

STAFF RECOMMENDED ACTION:

Approve the appointments of Honorable Charles Adornetto, Honorable Gerald McCafferty, and Honorable Susan Slasor as On-Call Magistrates.

Executive Summary:

Appointment of all magistrates is required to be completed by the Flagstaff City Council for a two-year term under both the City Charter and FCC Section 1-15-001-0002(A). Appointment of Magistrates On-Call for the Municipal Court allows for ongoing operations of the court without interruption.

Magistrates On-Call hear criminal, civil, traffic and local code violations that are filed in the Flagstaff Municipal Court. They conduct trials, both jury and non-jury, and sentence individuals within the parameters set by law. Magistrates On-Call are required for the ongoing operational needs of the Municipal Court. Magistrates On-Call are critical to the criminal and civil processes of the judicial branch.

Judges Adornetto, McCafferty and Slasor, have all been serving in their current capacity as On-Call Magistrate at the Municipal Court and are requesting to continue in their current roles.

Financial Impact:

Funding for all judicial positions are included in the approved budget of the Flagstaff Municipal Court. No additional budgetary impact is anticipated.

Policy Impact:

On-Call Magistrates are critical to the criminal and civil processes of the judicial branch. These appointments help maintain an independent judiciary that is necessary for the ongoing operations of our local government. A strong, independent and fair judicial branch provides balance to criminal and civil matters that require resolution within our municipality.

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

Personnel - Attract and retain quality staff.

Has There Been Previous Council Decision on This:

All Magistrate On-Call candidates have been appointed by previous City Councils and have been serving in the Flagstaff Municipal Court between four and eighteen years.

Options and Alternatives:

Approve the appointments.

Don't approve the appointments and request alternative candidates for Council consideration.

Community Involvement:

Inform.

Attachments:

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Erin Young, Water Resources Manager
Co-Submitter: Stacey Brechler-Knaggs
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Approval of Contract: Joint Funding Agreement Renewal with United States Geological Survey for a streamflow gauge at Newman Canyon in the amount of \$99,100.

STAFF RECOMMENDED ACTION:

1. Approve the Joint Funding Agreement with the U.S. Geological Survey (USGS) to contribute \$99,100 from July 1, 2020, to September 30, 2024; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Staff recommends Council approve this Joint Funding Agreement with the USGS to continue collecting streamflow data in Newman Canyon, the largest tributary into Upper Lake Mary. In 2014 Council approved a Joint Funding Agreement with the USGS to install and manage the streamflow gauge, which expired September 30, 2019. Staff is asking Council to renew this updated agreement effective July 1, 2020, through September 30, 2024.

Financial Impact:

This Council Action commits the City to \$99,100 over four years. Contributions include \$80,100 from the Water Fund and \$19,000 from the National Park Service Foundation approved by Council on June 16, 2020.

Policy Impact:

This project supports Water Services' ability to perform Water Policy B1: Maximizing the use of renewable water supplies is an important water management tool to minimize the long-term impacts of over-drafting a community's groundwater resources.

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

This item relates to Council's goal to actively manage and protect all environmental and natural resources and to take meaningful climate change action. The following goals and policies in the Flagstaff Regional Plan 2030 are supported by this effort:

- Goal WR.1. Maintain a sustainable water budget incorporating regional hydrology, ecosystem needs, and social and economic well-being. Policy WR.1.2. Seek regional opportunities to partner with resource land managers and adjacent landowners to improve water yield and hydrologic processes.

- Goal WR.6. Protect, preserve, and improve the quality of surface water, groundwater, and reclaimed water in the region. Policy WR.6.3. Implement best management practices to protect, restore, and maintain surface waters and their contributing watersheds.
- Goal E&C.3. Strengthen community and natural environment resiliency through climate adaptation efforts. Policy E&C.3.3. Invest in forest health and watershed protection measures.
- Goal E&C.4. Integrate available science into policies governing the use and conservation of Flagstaff's natural resources. Policy E&C.4.1. Assess vulnerabilities and risks of Flagstaff's natural resources.

Additionally, this work supports the following objectives of the Water Services Strategic Plan 2025:

- Objective 1: Use standards and data to drive decision making. The standard is to use data to enhance operational performance and decision making.
- Objective 3: Protect the water system from wildfire threat. The standard is to ensure the water supply and system is resilient to the effects of climate change.
- Objective 6: Ensure adequate water resources and plan for climate change. The standard is to ensure that the risk of a sustained water delivery shortage is extremely low, and to continue to build resiliency in water supplies and infrastructure systems with specific attention to the forecasted effects of climate change.

Has There Been Previous Council Decision on This:

Yes. Council gave the approval to fund the initial Joint Funding Agreement with the USGS on 7/15/2014. Council authorized a fund transfer of \$19,000 from a joint account with the National Park Service Foundation on June 16, 2020, to use for this project. The Foundation account is jointly managed by the National Park Service, U.S. Forest Service, and the City.

Options and Alternatives:

- 1) Authorize the signing of the Joint Funding Agreement with the USGS and support the collective effort to monitor the water supply to Upper Lake Mary from the surrounding forested areas.
- 2) Do not authorize the signing of the Joint Funding Agreement with the USGS and ask staff to present alternatives to the Council. This action would not support the Council's June 16, 2020, decision to continue the operation and maintenance of the Newman Canyon streamflow gauge managed by the U.S. Geological Survey. The partners would then need to either evaluate alternative funding or define other projects and bring back to all three agencies for consideration.

Background/History:

This streamflow gauge was installed in 2014 with funding from the Water Fund, Flagstaff Watershed Protection Project, and the LM-WC TAC's NPS Foundation account, with matching dollars from the USGS. Data from the streamflow gauge informs staff about the frequency and timing of flows that fill Upper Lake Mary, which is especially informative when learning about the watershed's response to climate and forest treatments. This information is also important to a vast number of stakeholders with interests in the Upper Lake Mary watershed. The gauge collects rainfall and streamflow data in near real-time available on the USGS website at <https://waterdata.usgs.gov/usa/nwis/uv?09400815>. New in 2019 is the addition of a turbidity sensor and added sediment analysis services from the USGS.

Key Considerations:

As supported by the Lake Mary-Walnut Creek Technical Advisory Committee, comprised of the National Park Service, Forest, and the City, on June 16, 2020, City Council authorized a fund transfer of \$19,000 from a joint account with the National Park Service Foundation for this project.

Expanded Financial Considerations:

The City is contributing \$99,100 and the USGS is contributing \$55,250 towards the total cost of this JFA of \$154,350. Contributions are as follows:

Fiscal Year	Total Cost City	LM-WC TAC	Water Production	Water Resources	Match from USGS
2021	\$22,363	\$3,800	\$5,000	\$13,563	\$13,300
2022	\$22,852	\$3,800	\$5,000	\$14,052	\$13,000
2023	\$23,538	\$3,800	\$5,000	\$14,738	\$13,000
2024	\$24,242	\$3,800	\$5,000	\$15,442	\$13,000
9/30/2025	\$6,105	\$3,800	\$0	\$2,305	\$3,250
Totals	\$99,100	\$19,000	\$20,000	\$60,100	\$55,250

The total commitment to the City for the four year agreement is \$99,100 of which \$19,000 is provided by the joint LM-WC TAC NPS Foundation account, \$20,000 from Water Production account number 202-08-301-1010-0-4290, and \$60,100 from Water Resources account number 202-08-303-1061-0-4290. The USGS had \$55,250 available as a match with the City's non-federal dollars to meet the total JFA obligation of \$154,350. Future spending authorizations for this project after FY 2024 will require budget authority by future Councils.

Community Benefits and Considerations:

Streamflow data, precipitation data, and sediment data are all available to the public through the USGS website.

Community Involvement:

Inform, Consult, Collaborate

Attachments: [USGS Joint Funding Agreement 7/1/20 to 9/30/24](#)



United States Department of the Interior

U.S. GEOLOGICAL SURVEY
Arizona Water Science Center
520 North Park
Tucson, AZ 85719

January 23, 2020

Ms. Erin Young
Water Resource Manager
City of Flagstaff
2323 Walgreens St. Suite 1
Flagstaff, AZ 86004

Dear Ms. Young:

Enclosed are two signed originals of our standard joint-funding agreement for the project(s) Arizona Water Science Center Water Resources Investigations, during the period July 1, 2020 through September 30, 2024 in the amount of \$99,100 from your agency. U.S. Geological Survey contributions for this agreement are \$55,250 for a combined total of \$154,350. Please sign and return one fully-executed original to Autumn Henson at the address above.

Federal law requires that we have a signed agreement before we start or continue work. Please return the signed agreement by **July 1, 2020**. If, for any reason, the agreement cannot be signed and returned by the date shown above, please contact Kurt Schonauer by phone number (928) 556-7223 or email schonaue@usgs.gov to make alternative arrangements.

This is a fixed cost agreement to be billed quarterly via Down Payment Request (automated Form DI-1040). Please allow 30-days from the end of the billing period for issuance of the bill. If you experience any problems with your invoice(s), please contact Rebecca Ramirez at phone number (520) 670-3345 or email at rramirez@usgs.gov.

The results of all work performed under this agreement will be available for publication by the U.S. Geological Survey. We look forward to continuing this and future cooperative efforts in these mutually beneficial water resources studies.

Sincerely,

**JAMES
LEENHOUTS**

James M Leenhouts
Director

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LEENHOUTS
Date: 2020.01.28 08:42:04
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Enclosure
20ZFJFA2200 (2)

Fixed Cost Agreement YES[X] NO[]

THIS AGREEMENT is entered into as of the July 1, 2020, by the U.S. GEOLOGICAL SURVEY, Arizona Water Science Center, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and the City of Flagstaff, party of the second part.

1. The parties hereto agree that subject to the availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation Water Resource Investigations (per attachment), herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50, and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) include In-Kind-Services in the amount of \$0.00

- (a) \$55,250 by the party of the first part during the period July 1, 2020 to September 30, 2024
- (b) \$99,100 by the party of the second part during the period July 1, 2020 to September 30, 2024
- (c) Contributions are provided by the party of the first part through other USGS regional or national programs, in the amount of: \$0

Description of the USGS regional/national program:

- (d) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.
- (e) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program, and if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at cost, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records or reports published by either party shall contain a statement of the cooperative relations between the parties. The Parties acknowledge that scientific information and data developed as a result of the Scope of Work (SOW) are subject to applicable USGS review, approval, and release requirements, which are available on the USGS Fundamental Science Practices website (<https://www.usgs.gov/about/organization/science-support/science-quality-and-integrity/fundamental-science-practices>).

U.S. Department of the Interior
U.S. Geological Survey
Joint Funding Agreement
FOR

Customer #: 600000790
Agreement #: 20ZFJFA2200
Project #: ZF00H6R
TIN #: 86-6000244

Water Resource Investigations

9. Billing for this agreement will be rendered quarterly. Invoices not paid within 60 days from the billing date will bear Interest, Penalties, and Administrative cost at the annual rate pursuant the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

USGS Technical Point of Contact

Name: Kurt Schonauer
Hydrologist
Address: 2255 North Gemini Drive
Flagstaff, AZ 86001
Telephone: (928) 556-7223
Fax:
Email: schonaue@usgs.gov

Customer Technical Point of Contact

Name: Erin Young
Water Resource Manager
Address: 2323 Walgreens St. Suite 1
Flagstaff, AZ 86004
Telephone: (928) 213-2405
Fax:
Email: eyoung@flagstaffaz.gov

USGS Billing Point of Contact

Name: Rebecca Ramirez
Budget Analyst
Address: 520 N. Park Ave
Tucson, AZ 85719
Telephone: (520) 670-3345
Fax: (520) 670-5592
Email: rramirez@usgs.gov

Customer Billing Point of Contact

Name: Stacy Brechler-Knaggs
Grants & Contracts Mgr.
Address: 211 W. Aspen Ave.
Flagstaff, AZ 86001
Telephone: (928) 213-2227
Fax:
Email: Sknaggs@flagstaffaz.gov

U.S. Geological Survey
United States
Department of Interior

City of Flagstaff

Signature

JAMES
LEENHOUTS
Digitally signed by
JAMES LEENHOUTS
Date: 2020.01.28
08:52:14 -07'00'

By _____ Date: 01/23/2020

Name: James M Leenhouts
Title: Director

Signatures

By _____ Date: _____

Name:
Title:

By _____ Date: _____

Name:
Title:

By _____ Date: _____

Name:
Title:

Scope of Work for the City of Flagstaff and the U.S. Geological Survey Cooperative Program

Surface-Water Gaging Network and Collection of Hydrologic Data

Work Plan and Budget

7/1/2020 – 9/30/2024

A. Purpose

This Scope of Work describes installation of a turbidity sensor at a U.S. Geological Survey (USGS) streamflow gage. Also described is the operation and maintenance of the streamflow gage and automated suspended sediment sampler, and record analysis of suspended sediment and turbidity in Newman Canyon above Upper Lake Mary. If all aspects are funded, the gaging station can be used to document short and long-term changes in streamflow, flood frequency, and changes in turbidity and suspended sediment concentration and loads.

B. Background

Upper Lake Mary serves as an important water source for the City of Flagstaff. To monitor and understand the volume, timing and quality of surface-water inflow into the lake from surrounding forested areas, the USGS in cooperation with the City of Flagstaff, will continue to operate a gaging station in Newman Canyon. The gaging station will collect rainfall, and streamflow data continuously at 15-minute intervals and store the data in the USGS National Water Information System (NWIS). These data will also be available on the internet. The gaging station will also collect intermittent suspended sediment samples using an automatic pump sampler, and *in situ* samples when technicians are present.

C. Description of Work and Budget

By means of this Agreement, the City of Flagstaff is providing funds to the USGS Arizona Water Science Center (AzWSC) to help support the operation, and maintenance of the streamflow gage. The gage covered is Newman Canyon above Upper Lake Mary (station number 09400815). Stage data collected from the gage will be used to calculate streamflow discharge. Visits to the gage and discharge measurements will occur at least six times annually. Discharge computations will be produced by the USGS AzWSC and made available on the National Water Information System web page. Suspended sediment samples will be collected and sent the Cascades Volcano Observatory for analysis. After analysis a suspended sediment concentration record will be calculated annually providing concentration and load data for all days of flow. Frequency of sample collection and total samples collected will be determined based on requirements for record analysis. A turbidity sensor provided by the City of Flagstaff will be installed and maintenance costs paid by the City of Flagstaff. The turbidity data will be logged at

the site and not stored in the USGS National Water Information System. Data will be downloaded and provided to the City on a quarterly basis. Biannual communication with the City of Flagstaff and USGS will take place to discuss operations for the next water year and winter operations (September), and to discuss the record analysis for sediment (April). In addition, email communication will take place with the City of Flagstaff regarding changes to equipment. Costs for the site are estimated below under the “Work Tasks” table. If it is determined that adjustments need to be made those can be made at the beginning of each year after an agreement by both parties.

Work Tasks **Costs**

		Operation and maintenance of streamflow gage and rain gage	Operation and maintenance of automatic pump sampler*	Analysis of annual sediment	Installation of turbidity sensor	Annual turbidity sensor calibration and data transfer	Total
2020	<u>City of Flagstaff Cost</u>	\$2,300	\$1,125	\$1,500	\$175	\$500	\$5,600
	<u>USGS Contribution</u>	\$2,200	\$1,050	-----	-----	-----	\$3,250
2021	<u>City of Flagstaff Cost</u>	\$9,476	\$4,634	\$6,180	-----	\$2,060	\$22,350
	<u>USGS Contribution</u>	\$8,800	\$4,200	-----	-----	-----	\$13,000
2022	<u>City of Flagstaff Cost</u>	\$9,760	\$4,773	\$6,365	-----	\$2,122	\$23,020
	<u>USGS Contribution</u>	\$8,800	\$4,200	-----	-----	-----	\$13,000
2023	<u>City of Flagstaff Cost</u>	\$10,052	\$4,917	\$6,556	-----	\$2,185	\$23,710
	<u>USGS Contribution</u>	\$8,800	\$4,200	-----	-----	-----	\$13,000
2024	<u>City of Flagstaff Cost</u>	\$10,351	\$5,065	\$6,753	-----	\$2,251	\$24,420
	<u>USGS Contribution</u>	\$8,800	\$4,200	-----	-----	-----	\$13,000

Total Agreement for 2020-2024

City of Flagstaff	\$99,100
USGS	\$55,250
TOTAL	\$154,350

Tasks associated with a continuous-record, real-time USGS streamflow gage

Field

- 1) 6 routine trips to the site.
- 2) Additional trips may occur when necessary:
 - During high-flow events to measure discharge or check DCP performance.
 - If equipment failure occurs when reviewing transmissions and NWIS at the office. If gage repairs cannot be completed in one trip a back up sensor will be deployed to minimize lost data.
 - Verification of elevation change relating to equipment movement (levels).
 - If changes to the control affecting the stage-discharge relationship are suspected.
- 3) Equipment maintenance:
 - Data-collection platform check.
 - Power system check.
 - Orifice line cleaned if required.
- 4) Discharge measurement made. Check measurements when needed.
- 5) Control structure maintenance – debris removal.
- 6) Measuring section maintenance.
- 7) Point of zero flow measurement.
- 8) Photo documentation of flow.
- 9) Vehicle costs.
- 10) Travel costs.
- 11) Routine gage maintenance, i.e. painting, gage removal, vegetation removal...

Office

- 1) Discharge measurement notes checked.
- 2) Provisional record of discharge computed to current.
- 3) Checking of provisional discharge record.
- 4) Review of quarterly and final discharge record and the preparation of station manuscripts.
- 5) Triannual technical review of surface-water data program.
- 6) Entering and updating of descriptions, analysis, levels, and manuscripts in SIMS.
- 7) NWIS posting of provisional and finalized data (gage height, discharge, other parameters measured at the site such as precipitation).
- 8) Web site maintenance.
- 9) Field equipment maintenance.
- 10) Complete pages for annual web report.

Equipment

- 1) Bench testing of Data Collection Platforms.
- 2) Bench testing of other equipment – transducers, radar units, sonar, etc.

- 3) Equipment replacement due to failure that can be caused by electrical malfunction, aging, vandalism, or upgrading to newest technology.
- 4) Purchasing of measuring equipment including:
 - Wading rods.
 - Acoustic doppler meters
 - Acoustic doppler current profilers
 - Cup meters (AA and Pygmy)
 - Trucks
 - Safety equipment.
 - Cell phones and satellite phones for remote areas.
 - Data collection platforms and satellite uplink/downlink communications.

Tasks associated with automatic suspended sediment sampler

Field

- 1) Check ISCO program sampling report.
Use ISCO Field Guide: an.data\Sediment Collection Information\Sediment Sampler Manuals and Docs
 - Record bottle number, date and time on form (electronic or hard copy).
 - Collect bottles, secure lids, tape lids, and number bottle or label.
 - If bottle did not fill notate which bottle number on form.
- 2) Ensure ISCO orifice and liquid level actuator are clear and clean.
- 3) Clear the orifice line with clean water.
- 4) If there are any problems with the ISCO make changes to program, test system to ensure functionality, record changes on
XXXXXXXXX_ISCO_program_parameters form in gage house folder.
- 5) Restock empty bottles at site (ISCO bottles, 1 liter and 3 liter collection bottles).
- 6) Bring all samples back to office.
- 7) Make seasonal adjustments. In the summer (April) lower orifice and change gage height threshold to collect samples during lower flow. In the winter (October) set orifice and threshold to begin sampling at higher flows.
- 8) Ensure sampler is functional prior to departure and ready for next event.
- 9) Visits may occur outside of routine visits to collect samples and ensure ISCO has capacity for future events.
- 10) Attempt to collect at least one replicate sample each year. If at site during flow above ISCO threshold collect two manual ISCO samples sequentially and record second sample as a replicate with the time one minute after the first sample.

Office

- 1) Fill out sediment tracking Excel spreadsheet for water year (located in: an.data\XXXXXXXXX\WY20XX\Sediment\XXXXXXXXX ISCO sample data 20XX).
- 2) Record any changes to ISCO program on form in:
an.data\XXXXXXXXX\WY20XX\Sediment\XXXXXXXXX_ISCO_program_parameters.
- 3) If it has been determined not to send in select samples record which sample and why on tracking Spreadsheet.*
- 4) Log samples into QW Data Transfer System (QWDX). Save a copy of the SLAR in an.data\XXXXXXXXX\WY20XX\Sediment\09XXXXXXXXX_SLAR_DATE (of SLAR).
- 5) Ship samples promptly.
- 6) Follow up to make sure samples are loaded into database within 3 months – if not follow up with Cascades Volcano Observatory (CVO).

*Reasons for not sending in a sample:

- Sample quality has been compromised (i.e. cracked bottle, spilled sample, volume not consistent with other samples or sampling volume setup, other).
- ISCO malfunction.
- Gage height surging near liquid level actuator resulting in multiple samples with unnecessary frequency. Samples should be evaluated based on hydrograph to identify if they would be useful, if so, then send into lab.

Tasks associated with a continuous sediment record

This is in addition to the tasks associated with the automatic suspended sediment sampler.

Field

- 1) Collect Equal Width Increment (EWI) samples when flow is present using a DH-81 sampler. The EWI needs to be completed at a cross section with relatively uniform depth and water velocity. All EWI samples must be collected within the isokinetic range of the sampler because EWI samples are discharge-weighted samples.
- 2) The EWI cannot be used at cross sections at which all or large parts of the sampling cross section have velocities of less than about 1.5ft/s.
- 3) Reference the USGS National Field Manual for collection techniques:
<https://water.usgs.gov/owq/FieldManual/>
- 4) Use of the DH-81 sampler using the Equal-Width-Increment (EWI) method requires the user to maintain a consistent transit rate in every vertical in the stream cross-section. The user should determine the mean stream velocity and the deepest sampling depth in the cross-section. Determine the transit rate for the container and nozzle being used based on the velocity and depth information
- 5) The sampler should be held away from the body and as far upstream as possible. The wading rod should be held vertically with the sampler nozzle horizontal and pointing upstream. Begin the transit with the sampler above the surface of the stream using the predetermined transit rate. Maintain the transit rate until the sampler container touches bottom, then immediately reverse the direction of the transit and maintain the transit rate until the sampler clears the surface. Care should be taken when touching the stream bottom so as not to disturb loose sediment and bias the sample. Once the sampler clears the surface, the user should be careful not to tilt the sampler forward so that the nozzle tilts down. If the container is nearly full, water could run out of the container back through the nozzle and bias the sample.
- 6) Upon completion of sampling with a container, remove it by firmly holding the cap with one hand and removing the container with the other hand.
- 7) Cap and label the container. Each sample container label should contain adequate information. For sediment sampling, the following information should be included:
 - Name of stream
 - Location of cross-section
 - Location of vertical
 - Stream depth covered by sample
 - Stage of stream
 - Date
 - Time
 - Identification of personnel
 - Sampling time

Office

- 1) Processing and Analysis of Sediment Data
 - Data processing of periodic measurements consists of four steps: tabulation, evaluation, editing, and verification.
- 2) Compilation of Data
 - Analyses are performed on samples by the Cascades Volcano Observatory.
- 3) Analysis of Data
 - Sediment data and records are compiled by using procedures described in TWRI Computation of Fluvial Sediment Discharge (Porterfield, 1972). Computations are made by using the Graphical Constituent Loading Analysis System (GCLAS).
 - All electronic files used in the computation of the sediment record should be placed in the appropriate folder for the year and the station in the sediment records folder on the WSC data documents file server.
 - The manuscript for the annual data report must be completed.
 - The sediment-station analysis should be started at the beginning of the computation processes and added to during the whole process of computing and analyzing the sediment record.
- 4) Sediment Station Analysis
 - A sediment-station analysis is written for sediment station each water year. The sediment station analysis is a summary of the sediment activities at the station for a given year. The analysis describes the coverage of sampling, the types of samples and sampling, changes that might affect sediment transport or the record, and the methods and reasoning used to compute the record. Information included in the sediment-station analysis is presented in a thorough manner so that the checker and the reviewer can determine from the analysis the adequacy of the activities in defining the record and in accomplishing the objectives defined for the station.

Elements included in each sediment-station analysis are as follows:

- sampling program: establishment and history
- equipment
- sediment samples: number of each type of samples collected
- water discharge record
- sediment load computations
- analysis of daily point samples; if a sample was not used then an explanation is needed
- analysis of cross-section samples; if a sample was not used then an explanation is needed
- cross-section coefficients
- an explanation of how well the sample cross-sections relate to pump samples
- estimated concentration and load
- remarks

5) Quality-Assurance Review of Sediment Records

- All sediment records computed will have at least one review before they are approved for publication. After the computation of the sediment record is completed, personnel will set the record to “analyzed” in the Records Management System (RMS). Personnel familiar with sediment-record computation will check electronic data files and GCLAS to ensure that the computations and analysis of the record are complete and are hydrologically correct. After the approver has set the record as “approved” in RMS, the record will be provided to the office supervisor.

Porterfield, G., 1972, Computation of fluvial sediment discharge: U.S. Geological Survey Techniques of Water-Resources Investigations, book 3, chap. C3, 66p.

Tasks associated with a continuous turbidity sensor

Field

- On a quarterly basis download turbidity data from the site and bring back to the field.
- Annual calibration of the turbidity sensor will be completed by FTS with the costs of the calibration and shipping being covered by the AzWSC.
- Any replacement parts or if the sensor is damaged beyond repair will be covered by the City of Flagstaff.
- There is an estimated 4 to 6 weeks turnaround time on the calibration at FTS so it will be necessary to use the City of Flagstaff's backup sensor during that time for deployment at the site.

Office

- Compile data and email to City of Flagstaff quarterly.
- Store data in an.data for the specific water year.
- Data will not be entered into the NWIS database since it does not follow USGS continuous sensor data collection protocols and should not be used as USGS approved data for analysis or presentation.

Tasks associated with a precipitation gage

Field

- 1) The sensor is calibrated annually, and three additional inspections are required at different times of the year. The purpose of the additional inspections is to identify that the sensor is logging to the datalogger, that the funnel is neither clogged nor affected by debris, and that the area above the sensor is clear of vegetation.

Office

- 1) Data acquired from the precipitation sensor are considered temporary and will be removed from public accessibility after a 120-day display period. This temporary data will not be published nor will they be distributed to anyone outside of the USGS after the 120-day display period.

Tasks associated with automatic suspended sediment sampler

Field

- 1) Check ISCO program sampling report.
Use ISCO Field Guide: an.data\Sediment Collection Information\Sediment Sampler Manuals and Docs
 - Record bottle number, date and time on form (electronic or hard copy).
 - Collect bottles, secure lids, tape lids, and number bottle or label.
 - If bottle did not fill notate which bottle number on form.
- 2) Ensure ISCO orifice and liquid level actuator are clear and clean.
- 3) Clear the orifice line with clean water.
- 4) If there are any problems with the ISCO make changes to program, test system to ensure functionality, record changes on
XXXXXXXXX_ISCO_program_parameters form in gage house folder.
- 5) Restock empty bottles at site (ISCO bottles, 1 liter and 3 liter collection bottles).
- 6) Bring all samples back to office.
- 7) Make seasonal adjustments. In the summer (April) lower orifice and change gage height threshold to collect samples during lower flow. In the winter (October) set orifice and threshold to begin sampling at higher flows.
- 8) Ensure sampler is functional prior to departure and ready for next event.
- 9) Visits may occur outside of routine visits to collect samples and ensure ISCO has capacity for future events.
- 10) Attempt to collect at least one replicate sample each year. If at site during flow above ISCO threshold collect two manual ISCO samples sequentially and record second sample as a replicate with the time one minute after the first sample.

Office

- 1) Fill out sediment tracking Excel spreadsheet for water year (located in: an.data\XXXXXXXXX\WY20XX\Sediment\XXXXXXXXX ISCO sample data 20XX).
- 2) Record any changes to ISCO program on form in:
an.data\XXXXXXXXX\WY20XX\Sediment\XXXXXXXXX_ISCO_program_parameters.
- 3) If it has been determined not to send in select samples record which sample and why on tracking Spreadsheet.*
- 4) Log samples into QW Data Transfer System (QWDX). Save a copy of the SLAR in an.data\XXXXXXXXX\WY20XX\Sediment\09XXXXXXXXX_SLAR_DATE (of SLAR).
- 5) Ship samples promptly.
- 6) Follow up to make sure samples are loaded into database within 3 months – if not follow up with Cascades Volcano Observatory (CVO).

*Reasons for not sending in a sample:

- Sample quality has been compromised (i.e. cracked bottle, spilled sample, volume not consistent with other samples or sampling volume setup, other).
- ISCO malfunction.
- Gage height surging near liquid level actuator resulting in multiple samples with unnecessary frequency. Samples should be evaluated based on hydrograph to identify if they would be useful, if so, then send into lab.

Tasks associated with a continuous sediment record

This is in addition to the tasks associated with the automatic suspended sediment sampler.

Field

- 1) Collect Equal Width Increment (EWI) samples when flow is present using a DH-81 sampler. The EWI needs to be completed at a cross section with relatively uniform depth and water velocity. All EWI samples must be collected within the isokinetic range of the sampler because EWI samples are discharge-weighted samples.
- 2) The EWI cannot be used at cross sections at which all or large parts of the sampling cross section have velocities of less than about 1.5ft/s.
- 3) Reference the USGS National Field Manual for collection techniques: <https://water.usgs.gov/owq/FieldManual/>
- 4) Use of the DH-81 sampler using the Equal-Width-Increment (EWI) method requires the user to maintain a consistent transit rate in every vertical in the stream cross-section. The user should determine the mean stream velocity and the deepest sampling depth in the cross-section. Determine the transit rate for the container and nozzle being used based on the velocity and depth information
- 5) The sampler should be held away from the body and as far upstream as possible. The wading rod should be held vertically with the sampler nozzle horizontal and pointing upstream. Begin the transit with the sampler above the surface of the stream using the predetermined transit rate. Maintain the transit rate until the sampler container touches bottom, then immediately reverse the direction of the transit and maintain the transit rate until the sampler clears the surface. Care should be taken when touching the stream bottom so as not to disturb loose sediment and bias the sample. Once the sampler clears the surface, the user should be careful not to tilt the sampler forward so that the nozzle tilts down. If the container is nearly full, water could run out of the container back through the nozzle and bias the sample.
- 6) Upon completion of sampling with a container, remove it by firmly holding the cap with one hand and removing the container with the other hand.
- 7) Cap and label the container. Each sample container label should contain adequate information. For sediment sampling, the following information should be included:
 - Name of stream
 - Location of cross-section
 - Location of vertical
 - Stream depth covered by sample
 - Stage of stream
 - Date
 - Time
 - Identification of personnel
 - Sampling time

Office

- 1) Processing and Analysis of Sediment Data
 - Data processing of periodic measurements consists of four steps: tabulation, evaluation, editing, and verification.
- 2) Compilation of Data
 - Analyses are performed on samples by the Cascades Volcano Observatory.
- 3) Analysis of Data
 - Sediment data and records are compiled by using procedures described in TWRI Computation of Fluvial Sediment Discharge (Porterfield, 1972). Computations are made by using the Graphical Constituent Loading Analysis System (GCLAS).
 - All electronic files used in the computation of the sediment record should be placed in the appropriate folder for the year and the station in the sediment records folder on the WSC data documents file server.
 - The manuscript for the annual data report must be completed.
 - The sediment-station analysis should be started at the beginning of the computation processes and added to during the whole process of computing and analyzing the sediment record.
- 4) Sediment Station Analysis
 - A sediment-station analysis is written for sediment station each water year. The sediment station analysis is a summary of the sediment activities at the station for a given year. The analysis describes the coverage of sampling, the types of samples and sampling, changes that might affect sediment transport or the record, and the methods and reasoning used to compute the record. Information included in the sediment-station analysis is presented in a thorough manner so that the checker and the reviewer can determine from the analysis the adequacy of the activities in defining the record and in accomplishing the objectives defined for the station.

Elements included in each sediment-station analysis are as follows:

- sampling program: establishment and history
- equipment
- sediment samples: number of each type of samples collected
- water discharge record
- sediment load computations
- analysis of daily point samples; if a sample was not used then an explanation is needed
- analysis of cross-section samples; if a sample was not used then an explanation is needed
- cross-section coefficients
- an explanation of how well the sample cross-sections relate to pump samples
- estimated concentration and load
- remarks

5) Quality-Assurance Review of Sediment Records

- All sediment records computed will have at least one review before they are approved for publication. After the computation of the sediment record is completed, personnel will set the record to “analyzed” in the Records Management System (RMS). Personnel familiar with sediment-record computation will check electronic data files and GCLAS to ensure that the computations and analysis of the record are complete and are hydrologically correct. After the approver has set the record as “approved” in RMS, the record will be provided to the office supervisor.

Porterfield, G., 1972, Computation of fluvial sediment discharge: U.S. Geological Survey Techniques of Water-Resources Investigations, book 3, chap. C3, 66p.

Tasks associated with a continuous turbidity sensor

Field

- On a quarterly basis download turbidity data from the site and bring back to the field.
- Annual calibration of the turbidity sensor will be completed by FTS with the costs of the calibration and shipping being covered by the AzWSC.
- Any replacement parts or if the sensor is damaged beyond repair will be covered by the City of Flagstaff.
- There is an estimated 4 to 6 weeks turnaround time on the calibration at FTS so it will be necessary to use the City of Flagstaff's backup sensor during that time for deployment at the site.

Office

- Compile data and email to City of Flagstaff quarterly.
- Store data in an.data for the specific water year.
- Data will not be entered into the NWIS database since it does not follow USGS continuous sensor data collection protocols and should not be used as USGS approved data for analysis or presentation.

Tasks associated with a precipitation gage

Field

- 1) The sensor is calibrated annually, and three additional inspections are required at different times of the year. The purpose of the additional inspections is to identify that the sensor is logging to the datalogger, that the funnel is neither clogged nor affected by debris, and that the area above the sensor is clear of vegetation.

Office

- 1) Data acquired from the precipitation sensor are considered temporary and will be removed from public accessibility after a 120-day display period. This temporary data will not be published nor will they be distributed to anyone outside of the USGS after the 120-day display period.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacey Brechler-Knaggs, Grants and Contracts Manager
Co-Submitter: Sarah Langley, Management Analyst; Jack Fitchett, Management Analyst
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Approval of AZCares Grant Agreement: Approve the agreement between the State of Arizona, acting through the Governor's Office and the City of Flagstaff for the AZCares Grant.

STAFF RECOMMENDED ACTION:

Approve the Grant Agreement with the State of Arizona, acting through the Governor's Office for AZCares funds for Public Safety Salary and Employee-Related-Expenses for the period of March 1, 2020, to December 30, 2020, in the amount of \$8,614,855.

Executive Summary:

The City of Flagstaff is directly impacted by this pandemic and is in need of financial assistance. The City provides essential services to our community such as public safety, water and wastewater services, trash and recycling, parks, building planning and permitting - without which, our community and local businesses could not operate. The economic impact of the pandemic has caused a loss of millions for our local government. The City is currently in the Significant stage of the Economic Recession Plan due to anticipated revenue losses. The AZCares grant for \$8,614,855 will help support the organization and maintain service levels due to anticipated revenue losses.

Financial Impact:

The AZCares grant revenues will cover the salaries, wages and related fringe benefits for the following public safety programs within the City: Fire Suppression/EMS Services, Police Patrol and Police Detectives. This grant revenue will cover an estimated 10.39 bi-weekly pay periods for these three public safety programs. Based on these projections, this budget is estimated to cover the payroll costs related to these three public safety programs starting March 8, 2020, through August 1, 2020. These projections for these three public safety programs were based on an average bi-weekly payroll cost of \$839,484, which is the average bi-weekly payroll cost for the March 8, 2020, through May 16, 2020, pay periods.

Budget Line Items:

Personnel - \$4,812,955
Fringe Benefits - \$3,801,900

Policy Impact:

None.

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

Regional Plan

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:

No, this is the first time this grant has been available and applied for.

Options and Alternatives:

- Approve the AZCares Grant Award
- Not Approve the AZCares Grant Award

Background/History:

The CARES Act appropriated \$2.82 billion dollars in Coronavirus Relief Funds to Arizona to assist the state, counties, and municipalities in paying for COVID-19 related expenses. Counties and cities with a population greater than 500,000, such as Maricopa, Pima, Phoenix, Tucson, and Mesa, were able to apply for their allocation directly from the Federal Treasury in March of this year and received an approximate total of \$900 million dollars, equating to roughly \$174 per resident. At the end of May, Governor Ducey appropriated \$441 million of the remaining \$1.9 billion dollars to fund counties and municipalities that have a population of less than 500,000. The formula used to allocate these monies gave smaller government entities roughly \$115 per resident, meaning that the City of Flagstaff will receive an allocation of \$8.6 million dollars. By allowing the AZCares grant to cover public safety personnel costs, this will help offset the anticipated revenue losses to the organization.

Key Considerations:

The League of Arizona Cities and Towns along with the City's Lobbyist worked diligently to request support from the Governor's Office to include Arizona cities and towns as recipients of direct and flexible local budget support to municipalities across the country. At the end of May, the Governor's Office established the AZCares Fund and the City of Flagstaff received a direct allocation from the U.S. Department of Treasury in the amount of \$8,614,855.

These allowable costs were allocated for public health and safety regular salary and employee-related-expense (ERE) costs incurred between March 1, 2020 and December 30, 2020.

Expanded Financial Considerations:

This CARES Act funding will support replacement of revenue loss due to the pandemic and recession. The actual revenue loss impacts will not be known for several months and as such, staff recommends allowing additional time to analyze the loss in revenues. Authorizing the AZCares Grant does not authorize increased expenditures as the FY 2020-21 budget has already been adopted.

Community Benefits and Considerations:

Accepting the AZCares grant allows the City to continue to provide many services to the community.

Attachments: [AZCares Grant Agreement](#)

State of Arizona
Office of the Governor
AZCares Fund Program

ERMT Grant Number: ERMT-20-036
Award Amount: \$8,614,855

Grant Agreement Terms and Conditions

This Grant Agreement (“Agreement”) is between the City of Flagstaff (“Grantee”) and the State of Arizona, acting through the Governor’s Office (“Grantor”), (sometimes, individually, a “Party,” or collectively, “Parties”).

I. Purpose

Distribution to local Arizona jurisdictions of federal financial assistance from The U.S. Department of the Treasury’s Coronavirus Relief Fund (CRF), Catalog of Federal Domestic Assistance (CFDA) number 21.019, as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

II. Term, Effective Date, and Termination

The Agreement commences when it is signed by both Parties. The Agreement project period is March 1, 2020 through December 30, 2020. The Agreement expires at the end of the award term. The Agreement shall not bind nor purport to bind the Grantor for any commitment in excess of the original Agreement award term or amount.

In the event of a material breach of any provision of this Agreement, the non-breaching Party shall give written notice to the breaching Party specifically setting forth the nature of the breach. Upon being served with such notice, the breaching Party shall have ten (10) days in which to cure said breach. If said breach has not been cured within the ten (10) days, then the non-breaching Party may terminate this Agreement.

III. Renewal and Amendments

This Agreement is issued under the authority of the authorized Grantor representative who signed this Agreement. The Grantor shall have the right, at its sole and unfettered discretion, whether or not to extend this Agreement. If so, the Parties must execute a written Amendment or a new Agreement. A renewal may be considered if the Grantor adds additional funding and subsequent rounds of awards to the AZCares Fund, the State of Arizona receives additional federal Coronavirus Disease 2019 (COVID-19) public health emergency funding, and/or the State of Arizona Legislature chooses to appropriate funding for this specific purpose. Also, consideration for renewal will be based on results of program and fiscal monitoring.

The Agreement may be modified only through an Agreement Amendment within the scope of the Agreement. Any changes to the Agreement by a person who is not specifically authorized by the Grantor representative in writing or made unilaterally by the Grantee are violations of the Agreement and of applicable law. Such changes, including unauthorized written Agreement Amendments shall be void and without effect, and the Grantee shall not be entitled to any claim under this Agreement based on those changes.

IV. Obligations of the Parties

Responsibilities of the Grantee:

- a. Grantee agrees that grant funds will be used in accordance with applicable statutes, program rules, guidelines and special conditions.
- b. Grantee agrees that it will submit financial and activity reports to Grantor in a format provided by the Grantor, documenting the activities supported by these grant funds and

providing an assessment of the impact of these activities. In the event reports are not received on or before the indicated date(s), funding may be suspended until such time as delinquent report(s) are received.

- c. Grantee understands that financial reports are required as an accounting of expenditures for either reimbursement or Grantor-approved payments. Reports are due pursuant to the schedule listed in this Agreement.
- d. The final request for reimbursement of grant funds must be received by the Grantor on or before the last day of the project period.
- e. Grantee agrees to remit all unexpended grant funds to the Grantor within thirty (30) days of written request received from the Grantor.
- f. Grantee agrees that all encumbered funds must be expended and that payroll and Employee Related Expenses (ERE) must be paid on or before the expiration of this Agreement.
- g. Grantee agrees to cooperate and participate with any and all assessments, evaluation efforts or information and data collection requests, and acknowledges that the Grantor has the right to obtain, reproduce, publish, or use data provided under this award in accordance with applicable statutes, rules, and guidelines.
- h. Grantee understands that the Agreement may not be closed until Grantee is compliant with all requirements of the Agreement.
- i. Required programmatic and financial reports are submitted according to the schedule below. At any point, the Grantee can submit its final report thus ending its need to submit any subsequent reports:

Programmatic and Financial Reports	
Report Period:	Due Date:
March 1 st – June 30 th	July 3 rd
July 1 st – September 30 th	October 5 th
October 1 st – December 30 th	January 4 th

Responsibilities of the Grantor:

- a. Once the following actions and documents are completed by Grantee and have been received, verified, and approved by the Grantor, payment to the Grantee will be completed within 5 business days:
 - i. Obtained a Duns & Bradstreet number;
 - ii. SAM.gov registration completed;
 - iii. AZCares Fund application submitted;
 - iv. AZCares Fund Certification Form submitted;
 - v. Budget/expense request submitted;
 - vi. Award acceptance submitted;
 - vii. State of Arizona General Accounting Office (GAO) Automated Clearing House (ACH) set-up completed; and
 - viii. The Agreement executed by the Grantee or an email from the Grantee sent to ospber@az.gov stating that the Agreement is on the Grantee’s board/council agenda for review and execution. Grantee will provide the exact date of the board/council meeting in that email.

V. Fund Management

Grantee must receive these funds under this Agreement in a separate ledger account/fund and cannot mix these funds with other sources. The Grantee must manage funds according to applicable federal regulations for administrative requirements, cost principles and audits.

The Grantee must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:

- a. Financial Management
- b. Procurement
- d. Property
- e. Travel

c. Personnel

A system is adequate if it is: 1) **written**; 2) **consistently followed** - it applies in all similar circumstances; and 3) **consistently applied** – it applies to all sources of funds. The Grantor reserves the right to review all business systems policies.

The Grantee shall manage funds according to applicable [federal regulations for administrative requirements, cost principles and audits](#)

VI. DUNS/CCR

Each Grantee must provide the following prior to an Agreement being executed: (a) Dun and Bradstreet Universal Numbering System (DUNS) number for the fiscal agent; and (b) proof of current registration in the [System for Award Management](#) (“SAM”). SAM is the Official U.S. Government system that consolidated the capabilities of Central Contractor Registration (“CCR”), Fed Reg, ORCA and EPLS. SAM registration must be maintained for the term of the Agreement. The DUNS website is located [here](#).

VII. Reporting Requirements

In compliance with the CARES Act reporting requirements, the Grantee is required to provide the following information:

- a. the total amount of funding received from the AZCares Fund;
- b. the amount of funding received that was expended or obligated for each project or activity;
- c. a detailed list of all projects or activities for which large covered funds were expended or obligated, including—
 - i. the name of the project or activity;
 - ii. a description of the project or activity; and
 - iii. the estimated number of jobs created or retained by the project or activity, where applicable; and
- d. detailed information on any level of subcontracts or subgrants awarded by the covered recipient or its subcontractors or subgrantees, to include the data elements required to comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006 (31 U.S.C. 6101 note) allowing aggregate reporting on awards below \$50,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

VIII. Organizational Audit Requirements

Grantee agrees to comply with the organizational audit requirements of 2 CFR Part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding audit issues (if any) from their organization’s single audit are not satisfactorily and promptly addressed. This CFR Title 2 Part 200 can be found [online](#).

Single Audit: Grantee expending \$750,000 or more of Federal funds from all sources during the organization’s fiscal year, must have an annual audit conducted in accordance with 2 CFR Part 200.

- a. If your organization is subject to the requirements of 2 CFR Part 200, then attach one copy of your organization’s most recently completed Single Audit with the Management Letter, Findings and Questioned Costs to the completed application.
- b. If your organization is not subject to the requirements of 2 CFR Part 200, submit one copy of the most recently completed audit of financial statements.
- c. If your organization does not have a recently completed audit, attach one copy of the most recently prepared financial statements including a Balance Sheet, Income Statement, and Statement of Cash Flows along with a description of the source of the documents.

IX. Unallowable Costs

All costs incurred prior to the project period start date and costs not consistent with the funding opportunity solicitation are not allowable under this award.

X. Conflicts of Interest Policy

Grantee must establish written policies and procedures to prevent employees, consultants, and others (including family, business, or other ties) involved in grant-supported activities, from involvement in actual or perceived conflicts of interest. The policies and procedures must:

- a. address conditions under which outside activities, relationships, or financial interests are proper or improper;
- b. provide for advance disclosure of outside activities, relationships, or financial interests to a responsible organizational official;
- c. include a process for notification and review by the responsible official of potential or actual violations of the standards; and
- d. specify the nature of penalties that may be imposed for violations.

XI. Acknowledgement of Federal Funding in Communications and Contracting

Grantee must acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds. Grantee is required to state: (1) the percentage and dollar amounts of the total program or project costs financed with Federal funds; and (2) the percentage and dollar amount of the total costs financed by nongovernmental sources.

XII. Mandatory Disclosures

Consistent with 45 CFR 75.113, Grantee must disclose in a timely manner, in writing, all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent in writing to the Grantor as stated in Section XVII.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 remedies for noncompliance, including suspension or debarment (see 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

XIII. Data Collection and Performance Measurement

Grantee must comply with the performance goals, milestones, and expected outcomes as reflected in the funding opportunity solicitation and are required to submit data via the Grantor's data-entry and reporting system, eCivis.

XIV. Ad Hoc Submissions

Throughout the award term, the Grantor may determine that additional information is required beyond the standard deliverables.

XV. Applicable law

In accordance with A.R.S. § 41-2701, *et seq.*, and Arizona Administrative Code, this Agreement shall be governed and interpreted by the laws of the State of Arizona.

XVI. Documents incorporated by reference

The AZCares Fund Allocations and Certification Form are both incorporated into this Agreement in its entirety. Grantee warrants that it has read and understands the AZCares Fund Allocations and Certification Form and agrees to be bound by them in their entirety. In the event of any divergence between this Agreement and the AZCares Fund Allocations and Certification Form, this Agreement shall control.

XVII. Payments

Grantee reimbursements are based only on expenditures approved in its Application budget and budget narrative. A Grantee shall be reimbursed initially for actual public health and safety payroll expenses and EREs for the time period of March 1, 2020 up to the Grantee's application submission or the most recent pay period. If an allocation award balance exists, then the Grantee will either include forecasted payroll expenses and EREs in its application or submit further reimbursement request(s) of its actual public health and safety payroll expenses and EREs until its allocation is fully expended. The Grantee will need to provide its previous year's total actual expense(s) for that category(ies) to validate projection. Overtime is not an eligible expense for reimbursement request(s) from the AZCares Fund. For purposes of the AZCares Fund, Fire, Emergency Medical Services (EMS), 9-1-1, and Sheriff/Police personnel are considered public safety. The Grantee shall use the forms provided by the Grantor to submit reimbursement requests.

Per Federal guidance:

- a. these public health and safety expenses do NOT need to be materially related to the Coronavirus Disease 2019 (COVID-19) public health emergency.
- b. these funds are designed to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, the Grantee may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

Grantee must:

- a. register for the U.S. Department of Homeland Security, Federal Emergency Management Agency's (FEMA's) Public Assistance (PA) Grant Program via the Arizona Department of Emergency and Military Affairs (DEMA) [portal](#).
- b. submit an application for FEMA PA Grant Program to be verified by DEMA to successfully complete, maintain compliance, and closeout the Public Health and Safety Stabilization Program.
- c. enroll in automatic clearing house (ACH) payments. Grantee must complete the document titled "State of Arizona Substitute W-9 and ACH Vendor Authorization Forms & Instructions." Vendor account set-up and payment information can be found [here](#).

Notwithstanding any other payment provision of this Agreement, failure of the Grantee to submit required reports when due, or failure to perform or deliver required work, supplies, or services, will result in the withholding of payment under this Agreement unless such failure arises due to causes beyond the control and without the fault or negligence of the Grantee.

XVIII. Notification of Program Changes

Grantee agrees to notify the Grantor in writing, thirty (30) calendar days in advance, of any changes in the program that will directly affect service delivery under the terms of the Agreement. No changes shall be implemented without the prior written approval of a formal Agreement Amendment issued by the Grantor.

XIX. Relationship of Parties

The individuals performing work on behalf of Grantee, its subgrantees or its subcontractors are not employees, servants, agents, partners, or joint venturers of the Grantor. The State

of Arizona and the Grantor retains no control or direction over such individuals or over the detail, manner, or methods of performance of their services, and they do not have the authority to supervise or control their work. The individuals performing work on behalf of the Grantee, its subgrantees or its subcontractors are not entitled to receive benefits that employees of the State of Arizona are entitled to receive, including but not limited to, workers' compensation, unemployment compensation, health, vision, or dental insurance, retirement benefits, annual leave, and holiday pay.

XX. Other

- a. Grantee shall follow all applicable laws, rules, and regulations in the performance of work in furtherance of the solicitation, application, and award.
- b. In accordance with ARS § 35-154, every payment obligation of the Grantor under this Agreement is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the Grantor at the end of the period for which funds are available. No liability shall accrue to the Grantor in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
- c. In accordance with A.R.S. § 35-214, the Grantee shall retain all data, books, and other records ("records") relating to this Agreement for a period of five years from the last financial report submitted to the Grantor. All such documents shall be subject to inspection and audit at reasonable times, including such records of any subgrantee, contractor, or subcontractor. Upon request, the Grantee shall produce the original of any or all such records to the offices of the Grantor.
- d. The Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:
 - i. Any contractor or subcontractor who is contracted by a Party to perform work related to this Agreement shall warrant its compliance with all federal immigration laws and regulations that relate to its employees and its compliance with A.R.S. § 23-214(A);
 - ii. That any breach of the warranty in paragraph "b." above shall be deemed a material breach of this Agreement that is subject to penalties up to and including termination of this Agreement;
 - iii. The Parties retain the legal right to inspect the employment records of any employee of any contractor or subcontractor who performs work related to this Agreement to ensure that the contractor or subcontractor is complying with the warranty in paragraph "b." above and that the contractor agrees to make all employment records of said employee available during normal working hours to facilitate such an inspection; and
 - iv. Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.
- e. The Parties shall comply with the provisions of State Executive Order 2009-9, Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act, as amended.
- f. This Agreement does not imply authority to perform any tasks or accept any responsibility not expressly stated in this Agreement.
- g. This Agreement does not create a duty or responsibility unless the intention to do so is clearly and unambiguously stated in this Agreement. This Agreement shall not relieve the Parties of any obligation or responsibility imposed on it by law.
- h. This Agreement contains the entire agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous agreements, understandings, and inducements, whether express or implied, oral or written.

- i. Any change, modification, or extension of this Agreement must be submitted through the Grantor's online grant management system, eCivis, and approved by Grantor.
- j. This Agreement has been arrived at by negotiation and shall not be construed for or against any Party.
- k. The Parties agree that all the conditions set forth herein are material to this Agreement and a breach of any condition is a breach of this Agreement.
- l. The failure of either Party to insist in any one or more instances upon the full and complete performance of any of the terms and provisions of this Agreement to be performed by the other Party or to take any action permitted by this Agreement shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either Party of sums less than may be due and owing at any time shall not be construed as an accord and satisfaction.
- m. The substantive laws of Arizona (without reference to any choice of law principles) shall govern the interpretation, validity, performance and enforcement of this Agreement. The Parties further agree to cooperate in all ways reasonable and necessary to comply with the applicable statutes, including amending this Agreement as needed in the future and making any refunds or payments that might be required to bring the Parties into full compliance with applicable law.
- n. Nothing in this Agreement is intended to create any third-party beneficiary rights; and the Grantor and the Grantee expressly state that this Agreement does not create any third-party rights of enforcement.
- o. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original hereof.
- p. If the last day of any time stated herein shall fall on a Saturday, Sunday, or legal holiday in the State of Arizona, then the duration of such time shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday, or legal holiday.
- q. Except as expressly provided herein, no Party may delegate or assign its rights or responsibilities under this Agreement without prior written approval of the other Party and any purported assignment or delegation in violation of this provision shall be void.
- r. The Parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement 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.
- s. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall be in full force and effect.
- t. Any deviation or failure to comply with the purpose and/or conditions of this Agreement without prior approval may constitute sufficient reason for the Grantor to terminate this Agreement, revoke the grant, require the return of all unspent funds, perform an audit of expended funds, and require the return of any previously spent funds which are deemed to have been spent in violation of the purpose or conditions of this grant.
- u. The Parties acknowledge they have been advised by counsel, or have had the opportunity to be advised by counsel, in the execution of the Agreement.

IN WITNESS WHEREOF, the Parties have made and executed the Agreement the day and year first above written.

FOR GRANTEE:

Authorized Signatory _____ Date _____

Printed Name and Title _____

Additional signature(s) if required by political subdivision _____ Date _____

Printed Name and Title _____ Date _____

Attest:

Clerk _____ Date _____

Note: If applicable, the Agreement must be approved by the appropriate county supervisory board or municipal council and appropriate local counsel (i.e. county or city attorney). Furthermore, if applicable, resolutions and meeting minutes must be forwarded to the Governor’s Office with the signed Agreement.

Approved as to form and authority to enter into Agreement (Excluding non-profits):

Legal counsel for Grantee _____ Date _____

Printed Name and Title _____

Statutory or other legal authority to enter into Agreement (Excluding non-profits):

Appropriate A.R.S., ordinance, or charter reference _____

FOR GOVERNOR’S OFFICE:

Matthew Gress, Director _____ Date _____
State of Arizona
Governor’s Office of Strategic Planning and Budgeting

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacey Brechler-Knaggs, Grants and Contracts Manager
Co-Submitter: Sarah Langley, Management Analyst
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Approval of Grant Award: Approve the Grant Agreement between the Arizona Criminal Justice Commission and the City of Flagstaff for the AZ Coronavirus Emergency Supplemental Funding Program.

STAFF RECOMMENDED ACTION:

Approve the grant agreement with Arizona Criminal Justice Commission (ACJC) for the AZ Coronavirus Emergency Supplemental Funding in the amount of \$144,486.

Executive Summary:

On May 18, 2020 the City of Flagstaff submitted the Arizona Criminal Justice Commission grant for the Arizona Coronavirus Emergency Supplemental Funding Program and was awarded the grant on June 4, 2020. This grant provides services to the criminal justice system to prevent, prepare for, and respond to the coronavirus.

Financial Impact:

The grant award is in the amount of \$144,486 with no match required. The budget breakdown is as follows:

- Overtime for Prosecution and Courts - \$59,802
- Contractual Services for Police Cleaning Services - \$5,000
- Other Operating Expenses for Police and Courts - \$57,834
- Equipment for Police and Courts - \$21,850

This an unbudgeted grant and the Courts, Prosecution and Police will still need to manage their expenditures within their total budget appropriation.

Policy Impact:

None.

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

Flagstaff Regional Plan Policy PF.3.1 Maintain high-quality effectiveness and efficiency in law enforcement, fire and emergency services to the extent that is consistent with governmental operations, plans, public policies, population served, and monies available.

Has There Been Previous Council Decision on This:

No.

Options and Alternatives:

- Approve Grant Award.
- Not Approve Grant Award.

Background/History:

The Arizona Coronavirus Emergency Supplemental Funding (ACESF) Program established the overarching goal to prevent, prepare, and respond to the coronavirus's impact on the Arizona criminal justice system. This grant program was divided into two waves placing a focus on short-term, immediate criminal justice system needs and long-term needs that will develop as a result of COVID-19.

Short-term needs centered on law enforcement officers, detention/corrections officers, and probation officers that are at high risk of COVID-19 due to their contact with the public and prosecutors, public defenders, and court personnel involved in current casework. Items such as personal protective equipment, overtime, sanitizer, medical expenses for inmates, and technology equipment were prioritized. ACJC also offered funding for long-term needs of agencies impacted by COVID-19. Long-term needs addressed issues such as case backlog issues, technological equipment to handle increased workload capacities, additional staffing needs, and unforeseen or unpredicted COVID-19 issues.

Key Considerations:

This grant award will provide needed overtime, personal protective equipment, disinfecting services, and technological equipment for City of Flagstaff Prosecution, Courts, and Police to meet short-term immediate needs and create long-term impact.

Community Benefits and Considerations:

This funding will assist in the demand for resources to adequately respond to the massive challenge of COVID-19 and to maintain safety as the virus spreads throughout Flagstaff and the State.

Attachments: [ACJC Grant Agreement](#)



Arizona Criminal Justice Commission

Chairperson
SHEILA POLK
Yavapai County Attorney

Vice-Chairperson
STEVE STAHL, Chief
Law Enforcement Leader
City of Maricopa Police Department

ALLISTER ADEL
Maricopa County Attorney

MARK BRNOVICH
Attorney General

DAVID K. BYERS, Director
Administrative Office of the Courts

BARBARA LAWALL
Pima County Attorney

GREG MENGARELLI, Mayor
City of Prescott

HESTON SILBERT, Director
Department of Public Safety

MARK NAPIER
Pima County Sheriff

PAUL PENZONE
Maricopa County Sheriff

DAVID SANDERS
Pima County Chief Probation Officer

DAVID SHINN, Director
Department of Corrections

C.T. WRIGHT, Chairperson
Board of Executive Clemency

VACANT
County Supervisor

VACANT
Former Judge

VACANT
Sheriff

VACANT
Chief

VACANT
Chief

VACANT
Chief

Executive Director
Andrew T. LeFevre

1110 West Washington, Suite 230
Phoenix, Arizona 85007
PHONE: (602) 364-1146
FAX: (602) 364-1175
www.azcjc.gov

June 8, 2020

Greg Clifton
City of Flagstaff
211 W Aspen Avenue
Flagstaff, AZ 86001

Re: FY20 Arizona Coronavirus Emergency Supplemental Funding (ACESF) Program, Grant Award #ACESF-21-011

Dear City Manager Clifton,

On behalf of the Arizona Criminal Justice Commission, it is my pleasure to inform you that your agency's application has been approved for funding under the FY 2020 Arizona Coronavirus Emergency Supplemental Funding Program.

Paragraphs six and seven, found on page three of the enclosed agreement provide the amount of funding awarded to your agency and the specific budget line items that have been funded. Below, please find additional information that will assist in the administration of your agency's grant award.

Grant Agreement and Other Required Documents: Please review the grantee agreement and accompanying instructions as revisions or new requirements may have been included. Please follow the directions outlined in the Grant Agreement instructions, as well as instructions received in DocuSign to execute the contract in its entirety with electronic authorized signatures. Agreements not returned within 90 days of the award date with authorized signatures may be canceled. Additionally, please refer to the Special Conditions section of the grant agreement for a listing of other required documents, as applicable.

Administrative and Financial Requirements: In addition to applicable uniform administrative requirements and cost principles, award recipients are required to adhere to grant specific program requirements as defined in the grant agreement.

Reporting: Activity and financial reports are required for this grant and the reporting schedules are contained in the agreement. Financial Reporting can be accessed at: <https://acjc.azcjc.gov/GMS3/Login.aspx>. Activity reporting can be accessed at: <https://acjcreporting.azcjc.gov/Account/Login?ReturnUrl=%2F>.

Office of Civil Rights Requirements: Annual Completion of Civil Rights Training is required for this grant. Grantees must contact the Grant Coordinator to obtain registration to access the training. If applicable, agencies awarded must complete an EEOC plan and submit it to the Office

of Civil Rights, Office of Justice Programs. Link to helpful EEO information:
<https://ojp.gov/about/offices/ocr.htm>

If you have any questions, please contact Simone Courter at scourter@azcjc.gov or 602.364.1186. Our office looks forward to the continued partnership.

Sincerely,

A handwritten signature in cursive script that reads "Tony Vidale".

Tony Vidale, Deputy Director
Arizona Criminal Justice Commission

**ARIZONA CRIMINAL JUSTICE COMMISSION
ARIZONA CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING PROGRAM
GRANT AGREEMENT**



ACJC Grant Number ACESF-21-011

The following information is provided pursuant to 2 C.F.R. § 200.331(a)(1):

Grantee Name: City of Flagstaff

Grantee's DUNS Number: 088302625

Federal Award Identification Number (FAIN): 2020-VD-BX-0309

Federal Award Date: 05/01/2020

Grantee Period of Performance Start and End Date: 01/20/2020 TO 01/20/2022

Amount of Federal Funds Obligated by this Agreement: \$144,486

Total Amount of Federal Funds Obligated to the Grantee: \$144,486

Total Amount of the Federal Award in this Agreement: \$144,486

Federal Award Project Description: The Coronavirus Emergency Supplemental Funding (CESF) Program allows States, U.S. Territories, the District of Columbia, units of local government, and federally recognized tribal governments to support a broad range of activities to prevent, prepare for, and respond to the coronavirus. Funded projects or initiative may include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, supplies (such as gloves, masks, sanitizer), training, travel expenses (particularly related to the distribution of resources to the most impacted areas), and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.

Name of Federal Awarding Agency: Department of Justice, Office of Justice Programs

Name of Pass-Through Entity: Arizona Criminal Justice Commission

Contact Information for Pass-Through Entity: Arizona Criminal Justice Commission, 1110 W. Washington Street, Suite 230, Phoenix, AZ 85007

CFDA Number and Name: 16.034 – Coronavirus Emergency Supplemental Funding Program

Identification of Whether the Award is Research and Development: No

Indirect Cost Rate for the Federal Award: 0%

This Grant Agreement is made this 10th day of June, 2020 by and between the ARIZONA CRIMINAL JUSTICE COMMISSION hereinafter called "COMMISSION" and CITY OF FLAGSTAFF, through CITY OF FLAGSTAFF hereinafter called "GRANTEE". The COMMISSION enters into this agreement pursuant to its authority under the provisions of A.R.S. § 41-2405 (B)(6), and having satisfied itself as to the qualification of GRANTEE;

NOW, THEREFORE, it is agreed between the parties as follows:

1. This agreement will commence on 1/20/2020 and terminate on 1/20/2022. This agreement expires at the end of the award period unless prior written approval for an extension has been obtained from the COMMISSION. A request for an extension must be received by the COMMISSION 60 calendar days prior to the end of the award period. The COMMISSION, in its sole discretion, may approve an extension that furthers the goals and objectives of the program and shall determine the length of any extension.
2. GRANTEE agrees that grant funds will be used in accordance with applicable program rules, guidelines, and special conditions.
3. The COMMISSION will monitor GRANTEE performance against program goals and performance standards and those outlined in the grant application. Substandard performance, as determined by the COMMISSION, will constitute noncompliance with this agreement. If the COMMISSION finds noncompliance, the GRANTEE will receive a written notice which identifies the area of noncompliance, and the appropriate corrective action to be taken. If the GRANTEE does not respond within thirty (30) calendar days to this notice and does not provide sufficient information concerning the steps which are being taken to correct the problem, the COMMISSION may suspend funding, permanently terminate this agreement or revoke the grant.
4. Any deviation or failure to comply with the purpose or conditions of this agreement without prior written COMMISSION approval may constitute sufficient reason for the COMMISSION to terminate this agreement, revoke the grant, require the return of all unspent funds, perform an audit of expended funds, and require the return of any previously spent funds which are deemed to have been spent in violation of the purpose or conditions of this grant.
5. This agreement may be modified only by a written amendment signed by the Executive Director or by persons authorized by the Executive Director on behalf of the COMMISSION and GRANTEE. Any notice given pursuant to this agreement shall be in writing and shall be considered to have been given when actually received by the following addressee or their agents or employees:

I. If to the COMMISSION:

Arizona Criminal Justice Commission
1110 W. Washington Street, Suite 230
Phoenix, Arizona 85007
Attn: Program Manager

II. If to the GRANTEE:

City of Flagstaff
211 W Aspen Avenue
Flagstaff, Arizona, 86001
Attn: **City Manager**, Greg Clifton

6. For grant awards above \$100,000, GRANTEE may make budget adjustments of up to ten (10) percent of the total grant within any approved budget category excluding equipment. Written approval from the COMMISSION in advance is required if GRANTEE wishes to make adjustments or reprogram in excess of ten (10) percent or if GRANTEE wishes to purchase equipment not previously approved.

For grant awards less than \$100,000, the GRANTEE may make budget adjustments within approved categories excluding equipment as long as there are no changes to the purpose or scope of the project. If GRANTEE wishes to purchase equipment not previously approved, written approval from the COMMISSION in advance is required.

APPROVED LINE ITEM PROGRAM BUDGET	
Personnel:	
Salaries	NOT APPROVED
Fringe Benefits*	NOT APPROVED
Overtime (includes Fringe Benefits)	\$59,802
Professional & Outside/Consultant & Contractual Services	\$5,000
Travel In-State	NOT APPROVED
Travel Out-of-State	NOT APPROVED
Confidential Funds	NOT APPROVED
Operating Expenses:	
Supplies	\$57,834
Registration/Training	NOT APPROVED
Other	NOT APPROVED
Equipment	
Capital	NOT APPROVED
Noncapital	\$21,850
TOTAL	\$144,486
See Attachment A for detail on Other Operating Expenditures and Equipment	

*Reference the ACJC Grant Management Manual for a definition of approved Fringe Benefit

7. The total to be paid by the COMMISSION under this agreement shall not exceed \$144,486 in federal funds awarded to the COMMISSION by the U.S. Department of Justice (USDJ), Office of Justice Programs (OJP). If this grant has a matching requirement, GRANTEE understands that other federal grant funds cannot be used as a match for this grant.
8. Every payment obligation of the COMMISSION under this agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this agreement, this agreement may be terminated by the COMMISSION. No liability shall accrue to the COMMISSION in the event this provision is exercised, and the COMMISSION shall not be obligated or liable for any future payments or any damages as a result of termination under this paragraph.
9. GRANTEE agrees that if it currently has an open award of federal funds or if it receives an award of federal funds other than this award, and those award funds have been, are being or are to be used, in whole or in part, for one or more of the identical cost items for which funds are being provided under this award, GRANTEE will promptly notify, in writing, the

COMMISSION, and if so requested by the COMMISSION, seek a budget modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

10. GRANTEE agrees to retain all books, account reports, files, and other records (paper or electronic) relating to this agreement and the performance of this agreement for no less than five (5) years from the last financial report submitted to the COMMISSION. All such documents shall be subject to inspection and audit at reasonable times, including such records of any subgrantee, contractor, or subcontractor. GRANTEE also understands and agrees that USDOJ and the United States General Accounting Office (USGAO) are authorized to interview any officer or employee of the GRANTEE (or of any subgrantee, contractor, or subcontractor) regarding transactions related to this award.
11. GRANTEE agrees that activities funded under this award will be closely coordinated with related activities supported with the Office of Justice Programs (OJP), State, local or tribal funds. Grant funds may only be used for the purposes in the GRANTEE's approved application. GRANTEE shall not undertake any work or activities not described in the grant application, including staff, equipment, or other goods or services without prior approval from the COMMISSION.
12. GRANTEE agrees to track, account for, and report on all funds (including specific outcomes and benefits) separately from all other funds for the same or similar purposes or programs.

Accordingly, the accounting systems of GRANTEE and all subgrantees must ensure that funds from this award are not commingled with funds from any other source.

13. GRANTEE agrees to abide by Federal and State laws and provide accounting, auditing, and monitoring procedures to safeguard grant funds and keep such records to assure proper fiscal controls, management, and the efficient disbursement of grant funds.
14. For the purposes of this grant, a capital expenditure means expenditures to acquire capital assets, as defined in 2 C.F.R. 200.12, or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life, with a cost of \$5,000 or greater. If the GRANTEE's capitalization policy defines a capital expenditure as less than \$5,000, the GRANTEE will follow its policy.
15. GRANTEE agrees to maintain property records for equipment purchased with grant funds and perform a physical inventory and reconciliation with property records at least every two years or more frequently if required by the GRANTEE policy. GRANTEE agrees that funds will not be used for the construction of new facilities.
16. GRANTEE agrees to follow equipment disposition policies outlined in *2 C.F.R. 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, when the equipment is no longer needed for the grant program.
Link: https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
17. GRANTEE agrees that all salaried personnel (including subgrantee personnel) whose activities are to be charged to the award will maintain timesheets or certifications to document hours worked for activities related to this award and non-award related activities. GRANTEE agrees to keep time and attendance sheets for hourly employees signed by the employee and supervisory official having firsthand knowledge of the work performed by the grant-funded employees.

18. GRANTEE agrees that it will submit financial and activity reports to the COMMISSION in a format provided by the COMMISSION, documenting the activities supported by these grant funds and providing an assessment of the impact of these activities which may include documentation of project milestones. In the event reports are not received on or before the indicated date(s), funding may be suspended until delinquent report(s) are received.
19. These reports are to be submitted according to the following schedule(s):

ACTIVITY REPORTS	
Report Period:	Due Date:
July 1 to September 30	October 15
October 1 to December 31	January 15
January 1 to March 31	April 15
April 1 to June 30	July 15

FINANCIAL REPORTS			
Report Period:	Due Date:	Report Period:	Due Date:
July 1 – July 31	August 25	January 1 – January 31	February 25
August 1 – August 31	September 25	February 1 – February 29	March 25
September 1 – September 30	October 25	March 1 – March 31	April 25
October 1 – October 31	November 25	April 1 – April 30	May 25
November 1 – November 30	December 25	May 1 – May 31	June 25
December 1 – December 31	January 25	June 1 – June 30	July 25

Additional reporting requirements may be required for GRANTEES considered high risk.

20. If the recipient is designated "high risk" by a federal grant-making agency currently or at any time during the period of performance under this award, the GRANTEE must disclose that fact and certain related information to the COMMISSION by e-mail at dcadmin@azcjc.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the GRANTEE'S past performance, or other programmatic or financial concerns with the GRANTEE. The GRANTEE'S disclosure must include the following: 1. The federal awarding agency that currently designates the GRANTEE high risk, 2. The date the GRANTEE was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and e-mail address), and 4. The reasons for the high-risk status as set out by the federal awarding agency.
21. GRANTEE understands that financial reports are required as an accounting of expenditures for either reimbursement or COMMISSION-approved advance payments. The primary method of payment shall be by reimbursement unless an alternative method is approved by the COMMISSION. Supporting documentation must be submitted with all reimbursement requests. Approved advance payments may require supporting documentation such as proof of order, invoices, or personnel expense certifications.
22. GRANTEE understands that a complete reimbursement request must include invoices and proof of payment for all expenditures. Sufficient documentation includes (a) copies of canceled warrants or Electronic Funds Transfer (EFT) documentation, (b) documentation from an official accounting system which includes payee, date, amount paid, and warrant, EFT or payment, (c) copies of invoices, and (d) payroll records for personnel expenditures, including overtime and Employee Related Expenditures (ERE). All expenses must be invoiced and received before the end of the performance period and included in the final reimbursement request. For equipment expenses, GRANTEE shall submit a copy of the packing/receiving slip showing the date the

equipment was received. GRANTEE understands that credit or purchasing card statements are not an acceptable form of proof of payment.

23. The final request for reimbursement of grant funds must be received by the COMMISSION no later than 60 calendar days after the last day of the award period.
24. All goods and services must be received or have reasonable expectations thereof and placed in service by GRANTEE by the expiration of this award.
25. GRANTEE agrees that all encumbered funds must be expended and that goods and services must be paid by GRANTEE within 60 calendar days of the expiration of this award.
26. GRANTEE agrees to remit all unexpended grant funds to the COMMISSION within thirty (30) days of a written request from the COMMISSION.
27. If award funds are being transferred to GRANTEE in advance, the GRANTEE is required to establish an interest-bearing account dedicated specifically to this award. The GRANTEE must maintain advance payments of federal grants in interest-bearing accounts unless regulatory exclusions apply (2C.F.R. 200.305(b)(8)). The award funds, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Coronavirus Emergency Supplemental Funding (CESF) program. The GRANTEE also agrees to obligate the award funds in the account (including any interest earned) during the period of performance for the award and expend within 60 calendar days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to the COMMISSION at the time of close-out.
28. GRANTEE agrees to account for interest earned on federal grant funds and shall manage interest income in accordance with the Cash Management Improvement Act of 1990 and as indicated in the Office of Justice Programs Financial Guide. Interest earned in excess of allowable limits must be remitted to the COMMISSION within 30 days after receipt of a written request from the COMMISSION.
Link: OJP Financial Guide https://ojp.gov/financialguide/doj/pdfs/DOJ_FinancialGuide.pdf
29. GRANTEE agrees to obtain written COMMISSION approval for all sole source procurements in excess of \$250,000.
30. Consistent with the (DOJ) Part 200 Uniform Requirements - including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transaction[s] [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "placing unreasonable requirements on firms in order for them to qualify to do business" and taking "any arbitrary action in the procurement process") – no GRANTEE may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.
31. GRANTEE agrees to obtain written COMMISSION approval prior to the expenditure of grant funds for consultant fees in excess of \$650 per day.
32. GRANTEE agrees not to use federal grant funds to pay cash compensation (salary plus bonuses) to any employee paid by the grant at a rate that exceeds 110% of the maximum annual salary payable to a member of the federal government's Senior Executive Service (SES)

at an agency with a Certified SES Performance Appraisal System for that year. (An award recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds unless otherwise noted in the grant solicitation.)

33. GRANTEE agrees not to use grant funds for food or beverage unless explicitly approved in writing by the COMMISSION.
34. GRANTEE agrees to comply with all applicable laws, regulations, policies, and guidance (including specific cost limits, prior approvals, and reporting requirements, where applicable) governing the use of grant funds for expenses related to conferences, meetings, training, and other events, including the provision of food or beverages at such events, and costs of attendance at such events unless explicitly approved in writing by the COMMISSION. Information on pertinent laws, regulations, policies, and guidance is available in the OJP Financial Guide Conference Cost Chapter.
35. The GRANTEE must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010 and other applicable laws.
36. The GRANTEE may not reduce state or local funds for an activity specifically because the award funds are available to fund that same activity. The award funds must be used to supplement existing state or local funds for program activities and may not replace state or local funds that have been appropriated or allocated for the same purpose. Additionally, the award funds may not replace state or local funding that is required by law. If a question of supplanting arises, the GRANTEE will be required to substantiate that the reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds
37. GRANTEE assigns to the COMMISSION any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services applied by third parties to GRANTEE in exchange for grant funds provided under this agreement.
38. The parties agree to use arbitration in the event of disputes in accordance with the provisions of A.R.S. § 12-1501-12-1518. The laws of the State of Arizona apply to questions arising under this agreement, and any litigation regarding this agreement must be maintained in Arizona courts, except as pertaining to disputes which are subject to arbitration.
 - I. In the event of a dispute, controversy, or claim arising out of or relating in any way to the agreement, the complaining party shall notify the other party in writing thereof. Within 30 calendar days of such notice, representatives of both parties shall meet at an agreed location to attempt to resolve the dispute in good faith. Should the dispute not be resolved within 30 calendar days after such notice, the complaining party shall seek remedies exclusively through arbitration, in accordance with the provisions of A.R.S. § 12-1501 through 12-1518.
 - II. The arbitration demand must be a clear and concise statement of the claim or dispute. The respondent's answer and any counterclaims must be filed within 20 calendar days of service of the demand.
 - III. The arbitration shall be conducted in Maricopa County.
 - IV. The arbitration shall be conducted by one arbitrator. If the parties are not able to agree upon the selection of an arbitrator, within 20 calendar days of the commencement of an arbitration proceeding by service of a demand for arbitration, the court on the application of a party shall appoint the arbitrator.

- V. The arbitrator must promptly set a conference to clarify the claims and defenses, to establish fair procedures, and to set a schedule for completing the arbitration.
 - VI. It is the intent of the parties that, barring extraordinary circumstances, arbitration proceedings will be concluded with 120 calendar days from the date the arbitrator is appointed. The arbitrator may extend the time limit in the interests of justice. Failure to adhere to this time limit shall not constitute a basis for challenging the award.
 - VII. The arbitrator must issue a written, reasoned award within 20 calendar days from the date the hearing is formally closed, or as soon after that as is feasible. The sole remedy will be actual damages; no punitive damages are allowed.
 - VIII. Unless the arbitrator orders otherwise, the Parties must share arbitration costs equally, including arbitrator's fees and expenses. Each party must pay its expenses and attorney's fees.
39. GRANTEE understands that grant funds may not be released until all delinquent reports and reversion of funds from prior grants are submitted to the COMMISSION.
40. GRANTEE agrees that grant funds are not to be expended for any indirect costs that may be incurred by GRANTEE for administering these funds unless explicitly approved in writing by the COMMISSION. This may include, but is not limited to, costs for services such as accounting, payroll, data processing, purchasing, personnel, and building use, which may have been incurred by the GRANTEE.
41. Each party (as "Indemnitor") agrees to defend, indemnify, 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. If the GRANTEE is a State agency, board, commission, or university of the State of Arizona, this paragraph shall not apply.
42. Should GRANTEE utilize a contractor(s) and subcontractor(s) the indemnification clause between GRANTEE and its contractor(s) and subcontractor(s) shall include the following:
- Contractor shall defend, indemnify, and hold harmless the GRANTEE and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation, and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. Additionally, on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the

State. Insurance requirements for any contractor used by GRANTEE are incorporated herein by this reference and attached to this Agreement as Exhibit "A."

43. Restrictions and certifications regarding nondisclosure agreements and related matters

No GRANTEE under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with the law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

I. In accepting this award, the GRANTEE:

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

II. If the GRANTEE does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that:

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any

further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

44. GRANTEE agrees to notify the COMMISSION within ten (10) days if the project official is replaced during the award period.
45. No rights or interest in this agreement shall be assigned by GRANTEE without the prior written approval of the COMMISSION.
46. GRANTEE will comply with the audit requirements of *2 C.F.R. 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and provide the COMMISSION with the audit report and any findings within 90 days of receipt of such finding. If the report contains no findings, the GRANTEE must provide notification that the audit was completed.
Link: https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
47. GRANTEE certifies that it will comply with *OMB Circulars A-102 and 2 CFR, Part 215 Uniform Administrative Requirements for Grants and Cooperative Agreements* as codified in (1) 28 CFR, Part 66.32 or (2) 28 CFR, Part 70.34 and *Cost Principles (1) 2 CFR, Part 225, (2) 2 CFR, Part 220 or (3) 2 CFR, Part 230*, and the DOJ Grants Financial Guide.
48. The GRANTEE must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Should a question arise as to whether a particular use of federal funds by a GRANTEE would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2020. **Link:** <https://ojp.gov/funding/Explore/FY20AppropriationsRestrictions.htm>
49. If the GRANTEE currently has other active awards of federal funds, or if the GRANTEE receives any other award of federal funds during the period of performance for this award, the GRANTEE promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost times for which funds are provided under this award. If so, the recipient must promptly notify the COMMISSION in writing of the potential duplication, and, if so requested by the COMMISSION, must seek a budget-modification or change-of-project-scope grant adjustment notice to eliminate any inappropriate duplication of funding.
50. GRANTEE agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express written approval of the Office of Justice Programs through the COMMISSION.
51. GRANTEE understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil or criminal penalties.
52. GRANTEE agrees not to do business with any individual, agency, company, or corporation listed in the Excluded Parties Listing Service.
Link: *System for Award Management* <https://www.sam.gov/SAM/>

53. GRANTEE agrees to ensure that, no later than the due date of the GRANTEE's first financial report after the award is made, GRANTEE and any subgrantees have a valid DUNS profile and active registration with the System for Award Management (SAM) database.
54. GRANTEE certifies that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this agreement.
55. GRANTEE understands and agrees that any training or training materials developed or delivered with funding provided under this award must adhere to the *OJP Training Guide Principles for Grantees and Subgrantees*.
Link: *OJP Training Guide Principles for Grantees and Subgrantees*
<https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>
56. GRANTEE agrees to cooperate and participate with all assessments, evaluation efforts, or information and data collection requests and acknowledges that the federal or state grantor agency has the right to obtain, reproduce, publish or use data provided under this award and may authorize others to receive and use such information.
57. GRANTEE shall provide the COMMISSION with a copy of all interim and final reports and proposed publications (including those prepared for conferences and other presentations) resulting from this agreement. Submission of such materials must be prior to or simultaneous with their public release.
58. GRANTEE agrees that any publications (written, visual, or sound) excluding press releases and newsletters, whether published at the GRANTEE'S or COMMISSION'S expense, shall contain the following statement:

"This was supported by Award No. 2020-VD-BX-0309 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice."

59. GRANTEE agrees to comply with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, 42 USC §3789d(c)(1); Title VI of the Civil Rights Act of 1964, 42 USC §2000d; Section 504 of the Rehabilitation Act of 1973, 29 USC § 794; Subtitle A, Title II of the Americans with Disabilities Act of 1990, 42 USC § 12132; Title IX of the Education Amendments of 1972, 20 USC § 1681; the Age Discrimination Act of 1975, 42 USC § 6102; the Department of Justice implementing regulations, 28 CFR pt. 42, subparts C, D, E, G, and I, 28 CFR pt. 35, and 28 CFR pt. 54; all applicable state laws of A.R.S. § 41-1463; and Executive Order 2009-9. The above-referenced federal laws prohibit discrimination based on race, color, religion, sex, disability, and national origin (including limited English proficiency) in the delivery of services and employment practices and prohibit discrimination based on age in the delivery of services. If in the three years before the date of the grant award a Federal or State Court or Federal or State administrative agency makes a finding of discrimination after a due process hearing against GRANTEE, GRANTEE will forward a copy of the findings to the Office for Civil Rights, Office of Justice Programs and the COMMISSION.

Applicants must certify that Limited English Proficiency persons have meaningful access to the services under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Street Act, the applicant is required to take reasonable steps to ensure that LEP persons have meaningful access to programs. Meaningful access may entail providing language assistance services, including oral and written translation, when necessary.

Link: *Limited English Proficiency A Federal Interagency Website* <http://www.LEP.gov>

60. GRANTEE agrees to comply with the applicable requirements of 28 CFR Part 38, the Department of Justice regulation governing "Equal Treatment for Faith-Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that the Department of Justice's financial assistance may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of Department of Justice financial assistance may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from GRANTEE must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs receiving financial assistance from the Department of Justice are not permitted to discriminate in the provision of services based on a beneficiary's religion. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment.

Link:

<https://ojp.gov/funding/Explore/SolicitationRequirements/CivilRightsRequirements.htm#NDPFait h>

61. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The GRANTEE or subgrantee at any tier must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, GRANTEES, or individuals defined (for purposes of this condition) as "employees" of the recipient or any GRANTEE.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <http://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and GRANTEES related to trafficking in persons (including reporting requirements and OJP authority to terminate award)) and are incorporated by reference here.

62. GRANTEE should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. As of June 2013, OJP has issued an advisory that grantees should consult local counsel in reviewing their employment practices. If warranted, grantees should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plan (EEO). See Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013), available at http://www.ojp.gov/about/ocr/pdfs/UseofConviction_Advisory.pdf.
63. GRANTEE assures that it will comply with all state and federal laws regarding privacy during the award. All information relating to clients is to be treated with confidentiality in accordance with 42 USC section 3789g or 42 USC 14132(b)(3) that apply to the collection, disclosure, use, and revelation of data information. GRANTEE further agrees to submit a privacy Certificate that is in accordance with requirements of 28 CFR Part 22 if applicable to the program.
64. GRANTEE agrees to formulate and keep on file an EEO (if GRANTEE is required pursuant to 28 CFR 42.302). GRANTEE certifies that they have forwarded to the Office for Civil Rights, Office of Justice Programs the EEO, or certifications that they have prepared and have on file an EEO, or that they are exempt from EEO requirements. Failure to comply may result in

the suspension of grant funds. Copies of all submissions, such as certifications to or correspondence with the Office for Civil Rights, Office of Justice Programs regarding this requirement, must be provided to the COMMISSION by GRANTEE. In the event a federal or state court or federal or state administrative agency makes an adverse finding of discrimination against GRANTEE after a due process hearing, on the ground of race, color, religion, national origin, or sex, GRANTEE will forward a copy of the findings to the Office for Civil Rights, Office of Justice Programs and the COMMISSION.

65. GRANTEE agrees to participate in any required civil rights-related training to ensure compliance with all federal and state civil rights laws. GRANTEE will inform the COMMISSION of the position responsible for civil rights compliance and will notify the COMMISSION of change in personnel responsible for civil rights compliance within ten days.

Link: <http://www.azcjc.gov/grants>

66. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees) GRANTEE must comply with and is subject to all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as a reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation pertaining to a federal grant.

GRANTEE also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712. Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

67. To support public safety and justice information sharing, GRANTEE, if a governmental subdivision, shall use the National Information Exchange Model (NIEM) specifications and guidelines for this grant. GRANTEE shall publish and make available without restrictions all schemas generated as a result of this grant to the component registry as specified in the guidelines.

Link: <https://www.niem.gov/>

68. In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at:

Link: http://www.it.ojp.gov/gsp_grantcondition.

Grantee shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

69. To avoid duplicating existing networks or IT systems in any initiatives for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless GRANTEE can demonstrate to the satisfaction of the COMMISSION that this requirement would not be cost-beneficial or would impair the functionality of an existing or proposed IT system.

70. If GRANTEE is a governmental political subdivision, the GRANTEE should, to the extent possible and practical, share criminal justice information with other authorized criminal justice agencies. The process control number (PCN) shall be used in accordance with A.R.S. § 41-1750 when sharing data with other criminal justice agencies as electronic data systems are developed or improved.
71. If GRANTEE is a state agency and the award is for the development of information technology projects for more than \$25,000, GRANTEE must complete a Project Investment Justification (PIJ) and submit the justification to the Arizona Department of Administration (ADOA), with a copy to the COMMISSION. GRANTEE agrees to submit required project status reports to ADOA by the due dates and submit copies to the COMMISSION.

If GRANTEE is not a state agency and the award is for the development of information technology projects, GRANTEE will follow local technology policies and guidelines.

72. GRANTEE must promptly refer to the COMMISSION any credible evidence that a principal, employee, agent, contractor, subgrantee, or other person has either 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. The COMMISSION shall forward the referral to the Department of Justice, Office of the Inspector General.
73. The COMMISSION encourages GRANTEE to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers, including adopting and enforcing policies banning employees from text messaging while driving any vehicle while performing work funded by this grant. Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 2009).
74. GRANTEE certifies to comply with the Drug-Free Workplace Act of 1988, and implemented in 28 CFR Part 83, Subpart F, for grantees, as defined in 28 CFR, Part 83 Sections 83.620 and 83.650.
75. GRANTEE agrees to complete and keep on file, as appropriate, Immigration and Naturalization Form (I-9). This form is to be used by recipients to verify that persons are eligible to work in the United States. Additionally, GRANTEE ensures compliance with A.R.S. § 41-4401 by state employers and contractors.
76. GRANTEE acknowledges that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. GRANTEE warrants that they have registered with and participate with E-Verify. If the COMMISSION later determines that the GRANTEE has not complied with E-Verify, it will notify the non-compliant GRANTEE by certified mail of the determination and of the right to appeal the determination.
77. GRANTEE certifies that no federal funds will be paid, by or on behalf of, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and for the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement. If any funds other than Federal funds are paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal award, grant loan, or

cooperative agreement, the GRANTEE will complete and submit to the COMMISSION Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

78. GRANTEE understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification, or adoption of any law, regulation, or policy at any level of government, without the express prior written approval of the Commission.
79. GRANTEE agrees that no funds provided, or personnel employed under this agreement shall be in any way, or to any extent, engaged in conduct of political activities in violation of USC Title 5, Part II, Chapter 15, section 1502.
80. GRANTEE understands and agrees that award funds may not be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.
81. GRANTEE understands and agrees that- (a) no award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading and exchanging or pornography, and (b) nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.
82. GRANTEE agrees to comply with all federal, state, and local environmental laws and regulations applicable to the development and implementation of activities to be funded under this award. Additional requirements may be found in the Grant Agreement Continuation Sheet.
83. GRANTEE agrees that all gross income earned by the GRANTEE that is directly generated by a supported activity or earned as a result of this award during the period of performance shall be deemed program income. All program income must be accounted for and used for the purpose under the conditions applicable for the use of funds under this award, including the effective edition of the OJP Financial Guide and, as applicable in 2 C.F.R. 200.80 and 2 C.F.R. 200.307.
84. Unless the COMMISSION authorizes an extension, the GRANTEE must liquidate all obligations incurred under this award not later than 60 calendar days after the end of the performance period, as specified in the terms and conditions of this award.
85. The close-out of the grant will not occur (a) if litigation, including an appeal, is pending, (b) in the case of terminated grants where termination actions are pending, or (c) if allowable costs have not yet been paid to the recipients.
86. Upon close-out, the COMMISSION will make prompt payment to GRANTEE for allowable reimbursable costs covered under the award and included in the approved budget. GRANTEE must promptly refund the COMMISSION any unencumbered or unobligated funding advanced that is not authorized to be retained for use under the award. After close-out of the award, any subsequent invoices received by the GRANTEE shall be the responsibility of the GRANTEE, even if the funding was obligated before the award was closed-out.
87. The GRANTEE is obligated to refund to the COMMISSION (a) any overage paid to the GRANTEE by the COMMISSION after balancing award account, (b) any investment income or interest that was earned on an advance of award funds that are due to the COMMISSION, AND (c) any other monies that are due to the COMMISSION under the provisions of the grant award.

88. This agreement is subject to cancellation pursuant to the provision of A.R.S. § 38-511. This agreement may also be canceled at the COMMISSION'S discretion if not returned with authorized signatures to the COMMISSION within 90 days of commencement of the award.
89. If any provision of this agreement is held invalid, the remainder of the agreement shall not be affected thereby, and all other parts of this agreement shall be in full force and effect.
90. GRANTEE agrees to comply with all Special Condition(s) included with this agreement on the Grant Agreement Continuation Sheet.
91. GRANTEE understands that grant funds may not be released until GRANTEE is compliant with all requirements of the grant agreement.

**Arizona Criminal Justice Commission
Arizona Coronavirus Emergency Supplemental Funding Program
GRANT AGREEMENT CONTINUATION SHEET
SPECIAL CONDITION(S)**

1. GRANTEE must verify Agency Point of Contact (APOC), Financial Point of Contact (FPOC), Program Point of Contact (PPOC), and Authorized Official contact information in the Grants Management System (GMS), including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the GMS to document changes. In addition, the FPOC and PPOC must be assigned by the APOC prior to payments being made.
2. GRANTEE understands and agrees that program income earned during the award period and expenditures from program income must be reported quarterly and with a final report. These funds are subject to audit. Program income that is earned during the final 60 days of the award period, if appropriate, must be obligated and expended for permissible uses during the 60 days following the award period. Any program income that is earned but not obligated or expended within 60 days of the end of the award period must be returned to the COMMISSION.
3. Quarterly activity reports must be submitted through the ACJC Reporting System: <https://acjcreporting.azcjc.gov>. Financial reports must be submitted through the ACJC Grant Management System: <https://acjc.azcjc.gov/GMS3/LogIn.aspx>. Failure to submit required activity reports or finance reports by established deadlines may result in the freezing of grant funds and future High-Risk designation.
4. Upon request, the GRANTEE must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the GRANTEE. Accordingly, the GRANTEE agrees first to determine if any of the following activities will be funded by the grant, before obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the GRANTEE agrees to contact the COMMISSION. The GRANTEE understands that this condition applies to new activities as set out below, whether or not they are funded explicitly with these award funds. That is, as long as the activity is being conducted by the GRANTEE, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are; (a) New construction; (b) Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places; (c) A renovation, lease, or any proposed use of a building or facility that will either (1) result in a change in its basic prior use or (2) significantly change its size; (d) Implementation of a new program involving the use of chemicals other than chemicals that are (1) purchased as an incidental component of a funded activity and (2) traditionally used, for example, in office, household, recreational, or education environments; and (e) Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories. The GRANTEE understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/ or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations. Application of This Condition to GRANTEE'S Existing Programs or Activities: For

any of the GRANTEE'S existing programs or activities that will be funded by these award funds, the GRANTEE, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

5. No funds under this award may be expended on individual items costing \$500,000 or more, or to purchase Unmanned Aerial Systems (UAS), Unmanned Aircraft (UA), or Unmanned Aerial Vehicles (UAV) without prior written approval from the COMMISSION. Prior approval must be obtained post-award, through the submission and approval of a Grant Adjustment Notice (GAN) through the Grant Management System (GMS).
6. If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA database operated by the Federal Bureau of Investigation (FBI)) by a government DNA lab with access to CODIS. No profiles generated with award funds may be entered into any other non-governmental DNA database without prior express written approval from BJA. For more information, refer to the NIJ DNA Backlog Reduction Program, available at www.nij.gov/topics/forensics/lab-operations/evidence-backlogs/Pages/backlog-reduction-program.aspx.
7. Ballistic-resistant and stab-resistant body armor purchased with award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx>). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.
8. The GRANTEE must comply with all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIS"). The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIS), and are incorporated by reference here.

Authorized Official Initials: _____

IN WITNESS WHEREOF, the parties have made and executed the agreement the day and year first above written.

FOR GRANTEE:

Authorized Signatory

Date

Printed Name and Title

Approved as to form and authority to enter into the agreement:

Legal counsel for GRANTEE

Date

Printed Name and Title

Statutory or other legal authority to enter into the agreement:

Appropriate A.R.S., ordinance, or charter reference

FOR CRIMINAL JUSTICE COMMISSION:

Andrew T. LeFevre, Executive Director
Arizona Criminal Justice Commission

Date



ARIZONA CRIMINAL JUSTICE COMMISSION
GRANT AGREEMENT

ATTACHMENT A

City of Flagstaff OOE and Equipment Detail		
Line Item	Expense Type	Quantity
Other Operating Expenditures	Dispatcher CA12 headsets (Police)	7
	Dispatcher CA12 headset bases (Police)	7
	Nitrile gloves (Police)	111
	N95 masks (Police)	250
	3-Ply disposable masks (Police)	100
	Protective isolation gowns (Police)	385
	Disinfecting wipes (Police)	1,250
	Shockwave liquid disinfectant and cleaner (Police)	40
	Electrostatic hand-held sanitizer sprayer (Police)	2
	Hand-held fogging disinfectant machine (Courts)	1
	Backpack fogging disinfectant machine (Courts)	1
	Protective shields (Courts)	11
	Pedestal-style hand sanitizer stations (Courts)	8
Equipment	DELL Latitude 5420 laptops (Police)	4
	Laptops (Courts)	3
	Cisco Spark Room Kit with required Firmware SMARTnet software (Court)	1
	65" TV (Courts)	1



ARIZONA CRIMINAL JUSTICE COMMISSION
GRANT AGREEMENT

**Insurance Requirements
Exhibit "A"**

Insurance Requirements for Governmental Parties to a Grant Agreement:

None.

Insurance Requirements for Any Contractors Used by a Party to the Grant Agreement:

(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.) The *insurance requirements* herein are minimum requirements and in no way limit the indemnity covenants contained in the Intergovernmental Agreement. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

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

1. **Commercial General Liability – Occurrence Form**

The policy shall include bodily injury, property damage, and broad form contractual liability.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- 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.

(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the contractor with their list of persons to be insured.)

- b. The 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.

Exhibit "A" Page 2

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this contract.

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

- a. The policy shall 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. The 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.

(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the contractor with their list of persons to be insured.)

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. The 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, its 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 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).

Additional Insurance Requirements:

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

The contractor's policies 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).

Insurance provided by the Contractor shall not limit the contractor's liability assumed under the indemnification provisions of this contract.

Notice of Cancellation:

For each insurance policy required by the insurance provisions of this contract, the contractor must provide to the State of Arizona within two (2) business days of receipt, notice if a policy is suspended,

voided, or canceled for any reason. Such notice shall be mailed, e-mailed, hand-delivered, or sent by facsimile transmission to (Enter Contracting Agency Representative's Name, Address, and Fax Number Here).

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:

The contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) as required by this contract. An authorized representative of the insurer shall sign the certificates.

All certificates and endorsements, as required by this written agreement, are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this contract must be in effect at, or before, the 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.

All certificates required by this contract shall be sent directly to the Department. 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.

Subcontractors:

Contractor's certificate(s) shall include all subcontractors as insureds under its policies or contractor shall be responsible for ensuring or verifying that all subcontractors have valid and collectible 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 Department 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 subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such a public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

Certificate Of Completion

Envelope Id: EADDCF1492E9488FB7D9A4D3AB01EADB	Status: Sent
Subject: Please DocuSign: ACESF Template	
Source Envelope:	
Document Pages: 25	Signatures: 0
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator: Anthony Vidale tvidale@azcjc.gov IP Address: 159.87.74.2
Envelopeld Stamping: Enabled	
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	

Record Tracking

Status: Original 6/10/2020 10:46:19 AM	Holder: Anthony Vidale tvidale@azcjc.gov	Location: DocuSign
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Arizona Criminal Justice Commission	Location: DocuSign

Signer Events

Signature

Timestamp

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Greg Clifton
greg.clifton@flagstaffaz.gov
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Andrew LeFevre
alefevre@azcjc.gov
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Stacey Brechler-Knaggs
sknaggs@flagstaffaz.gov
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Accepted: 6/10/2020 11:23:04 AM
ID: 805dfdad-4718-4f8a-ad72-6f90dc646dff
Company Name: Arizona Criminal Justice Commission

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	6/10/2020 10:49:59 AM
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Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure		
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Arizona Criminal Justice Commission (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Arizona Criminal Justice Commission:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: alefevre@azcjc.gov

To advise Arizona Criminal Justice Commission of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at alefevre@azcjc.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Arizona Criminal Justice Commission

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to alefevre@azcjc.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Arizona Criminal Justice Commission

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to alefevre@azcjc.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Arizona Criminal Justice Commission as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Arizona Criminal Justice Commission during the course of your relationship with Arizona Criminal Justice Commission.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Scott Mansfield, Police Lieutenant
Co-Submitter: Stacey Brechler-Knaggs
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Approval of Grant Agreement: To the U.S. Department of Justice, through the Arizona Criminal Justice Commission, for the Edward Byrne Justice Assistance Grant funds in the amount of \$283,494.00 for the Northern Arizona Street Crimes Task Force (METRO unit).

STAFF RECOMMENDED ACTION:

Approve the acceptance of the grant from the U.S. Department of Justice, through the Arizona Criminal Justice Commission, Edward Byrne Justice Assistance Grant funds in the amount of \$283,494.00 for FY2020-2021.

Executive Summary:

The City of Flagstaff was awarded \$283,494.00 in grant funds from the U.S. Department of Justice, through the Arizona Criminal Justice Commission, for the Edward Byrne Justice Assistance Grant funds. This grant fully funds one Flagstaff Police Sergeant, and partially funds one Flagstaff Police investigator, one Coconino County Sheriff's Deputy investigator and one Northern Arizona University Police investigator. There is no cost to the City of Flagstaff. *Once the grant award is received, it will be uploaded as an attachment.

Financial Impact:

The grant award is in the amount of \$212,621.00 (75%) with required matching funds of \$70,873.00 (25%). The METRO board has authorized matching funds from the Rico account. The Rico account has provided matching funds in the past years and the board has agreed to provide the above matching funds for this year's grant. This amount will include all city costs, estimated in kind and administrative costs if above normal departmental allocation. The grant award will be the 34th funding cycle (FY2020-2021) for the METRO unit. This grant is budgeted in Fiscal Year 2020-2021.

Policy Impact:

None

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

Effective Governance - Regional Plan (2030) - Planning, Public Safety, Goal PF.3 Provide high-quality emergency response and public safety services.

Has There Been Previous Council Decision on This:

Yes, the Flagstaff City Council has approved the acceptance of this grant money for the past thirty three-years.

Options and Alternatives:

Approve the acceptance of the grant or decline the acceptance of the grant.

Background/History:

As previously stated, this is the 34th cycle of this grant in which the Flagstaff City Council has approved the previous 33 cycles.

Key Considerations:

This grant and the investigative officers this funds is supported by nearly every law enforcement entity in Coconino County including the Coconino County Sheriff's Office, The Flagstaff Police Department, Northern Arizona University Police, ATF, FBI, DEA, Homeland Security and the Department of Public Safety. This grant provides specialized police investigations to all the communities located within Coconino County.

Community Benefits and Considerations:

Officers in the METRO Unit continuously provide support to numerous community groups including, local schools, Citizens Academy programs, local law enforcement training academies etc. in the form of training and educational presentations, drug awareness, and proactive investigations.

Community Involvement:

To work directly with the public through the process to ensure that public issues and concerns are consistently understood and considered.

Expanded Options and Alternatives:

If approved the grant would allow for the acceptance of \$283,494.00 in federal funds that will provide proactive enforcement that would otherwise not be available to our citizens.

Attachments: [Grant Agreement](#)



Arizona Criminal Justice Commission

June 1, 2020

Chairperson
SHEILA POLK
Yavapai County Attorney

Vice-Chairperson
STEVE STAHL, Chief
Law Enforcement Leader
City of Maricopa Police Department

ALLISTER ADEL
Maricopa County Attorney

MARK BRNOVICH
Attorney General

DAVID K. BYERS, Director
Administrative Office of the Courts

BARBARA LAWALL
Pima County Attorney

GREG MENGARELLI, Mayor
City of Prescott

HESTON SILBERT, Director
Department of Public Safety

MARK NAPIER
Pima County Sheriff

PAUL PENZONE
Maricopa County Sheriff

DAVID SANDERS
Pima County Chief Probation Officer

DAVID SHINN, Director
Department of Corrections

C.T. WRIGHT, Chairperson
Board of Executive Clemency

VACANT
County Supervisor

VACANT
Former Judge

VACANT
Sheriff

VACANT
Chief

VACANT
Chief

VACANT
Chief

Executive Director
Andrew T. LeFevre

1110 West Washington, Suite 230
Phoenix, Arizona 85007
PHONE: (602) 364-1146
FAX:(602) 364-1175
www.azcjc.gov

Greg Clifton, City Manager
City of Flagstaff
21W. Aspen Avenue
Flagstaff, AZ 86001

Re: Drug, Gang, and Violent Crime Control (DGVCC) FY 2021 Cycle 34 Award, DC-21-002

Dear Mr. Greg Clifton:

On behalf of the Arizona Criminal Justice Commission, it is my pleasure to inform you that your agency's application has been approved for funding under the Cycle 34, FY 2021 Drug, Gang, and Violent Crime Control Program.

Paragraphs six and seven, found on page 3 of the enclosed agreement provide the amount of funding awarded to your agency and the specific positions that have been funded. Below, please find additional information that will assist in the administration of your agency's grant award.

Grant Agreement and Other Required Documents: Please review the grantee agreement and accompanying instructions as revisions or new requirements may have been included. Please follow the directions outlined in the Grant Agreement instructions, as well as instructions received in DocuSign to execute the contract in its entirety with electronic authorized signatures. Agreements not returned within 90 days of the award date with authorized signatures may be canceled. Additionally, please refer to the Special Conditions section of the grant agreement for a listing of other required documents, as applicable.

Administrative and Financial Requirements: In addition to applicable uniform administrative requirements and cost principles, award recipients are required to adhere to grant specific program requirements as defined in the grant agreement.

Reporting: Activity and financial reports are required for this grant and the reporting schedules are contained in the agreement. Financial Reporting can be accessed at: <https://acjc.azcjc.gov/GMS3/Login.aspx>. Activity reporting can be accessed at: <https://acjcreporting.azcjc.gov/Account/Login?ReturnUrl=%2F>.

Office of Civil Rights Requirements: Annual Completion of Civil Rights Training is required for this grant. Grantees must contact the Grant Coordinator to obtain registration to access the training. If applicable, agencies awarded must complete an EEOC plan and submit it to the Office of Civil Rights, Office of Justice Programs. Link to helpful EEOC information: <https://ojp.gov/about/offices/ocr.htm>

If you have any questions, please contact Simone Courter at scourter@azcjc.gov or 602.364.1186. Our office looks forward to the continued partnership.

Sincerely,

Tony Vidale, Deputy Director
Drug, Gang, and Violent Crime Control Program

Drug, Gang, and Violent Crime Control (DGVCC)

Grant Program

Grant Agreement DocuSign Instructions

Upon receipt of your FY21 Cycle 34 DGVCC Grant Agreement through DocuSign, it is imperative to review the following information outlined in the grant agreement document to ensure that all agency information is correct and that your agency is able to accept and comply with all terms and conditions of the contract. *PLEASE NOTIFY ACJC IF YOUR AGENCY CONTACT(S) DOES NOT RECEIVE A DOCUSIGN EMAIL TO COMPLETE THE EXECUTION OF YOUR GRANT AGREEMENT. THIS MAY DUE TO INTERNAL EMAIL OR FIREWALL SECURITY SETTINGS.*

- Please make sure to check your "JUNK MAIL" for the DocuSign Email containing the grant agreement to be executed. Designated signatories **MUST** use the email sent to them directly and not a copied email forwarded from another person/source.
- Grant Agreement (Please review the entire document and the instructions below)
- Approved line-item program budget
- Positions, Supplies, Equipment, Services, etc., approved for funding
- Report due dates and submission instructions - PLEASE REVIEW CAREFULLY AS THESE INSTRUCTIONS and DOCUMENTS HAVE CHANGED FOR FY21 Cycle 34
- Special Condition(s) Page
- Authorized signature page**

**In order to reduce paper use and to save processing time, ACJC has moved to an electronic signature process for grant agreements through DocuSign. Using an electronic signature process will allow for faster execution of grant agreements and, ultimately, getting funding to grant recipients earlier. As a grantee, you are not required to sign-up for the DocuSign service, only to utilize it in executing the DGVCC grant agreement document. Using the DocuSign service will allow ACJC to be more efficient and streamline our grant agreement process.

The process for processing grant agreements through DocuSign is simple:

-The PROJECT OFFICIAL will receive an email from ACJC through the DocuSign system. The PROJECT OFFICIAL can download grant agreement documents (if necessary) to process the Agreement through the usual approval process used by your agency's policy, such as running the Agreement through the chain of command or getting approval from the Board of Supervisors or City Council.**

-Once approved by the board or council, the PROJECT OFFICIAL will go back to the DocuSign link, click on it, and type in the name and email of the Authorized Signatory- (EX: agency head or designee, Board of Supervisor Chair, or Mayor, followed by the Legal Counsel.**)

***Please note these steps/signatures are only necessary **if your agency's internal policies requires it** in order to accept the conditions of an award or contract. Please provide a written (or emailed) notification to ACJC if one more more signatures listed above is not required by your agency, or if an additional signature of approval/attestation must be added.*

-The document will be electronically routed to those identified by the Project Official for their signatures. Upon all grantee signatures, the document will be sent automatically to the ACJC Executive Director for signature. Once all parties have signed the Agreement, copies will be sent to the Project Official and all signatories. We then have an executed grant agreement and can begin processing finance reports.

To help expedite your agency's receipt of grant funds, please review the grant agreement and then forward it to the appropriate approval authority for execution. Funds cannot be disbursed to your agency until the Agreement is properly and fully executed.

Your agency is the GRANTEE for the purpose of this grant agreement. On the signature page, under the heading FOR GRANTEE, there are three (3) lines that must be completed (Non-Profit does not need Legal Council approval).

- A. The first line is the signature of the individual **authorized to make agreements** for your governmental subdivision.
 1. For County Offices, the Chairman of the County Board of Supervisors **must** sign the grant agreement. If someone other than the Chairman is designated to sign agreements, please enclose a copy of the resolution authorizing this. If the Board's rules require an attestation or certification of the signature by the Clerk of the Board, the agency **MUST** notify ACJC to add into DocuSign on the grant agreements the signature page.
 2. For City Offices, the Mayor or the City Manager must sign the grant agreement. If someone other than the Mayor or City Manager is designated to sign agreements, please enclose a copy of the resolution authorizing this. If the Council rules require an attestation or certification of the signature by the Clerk, the agency **MUST** notify ACJC to add into DocuSign on the grant agreements the signature page.
 3. A signed copy of the Board of Supervisors or City Council's approved agenda item or resolution listing this grant agreement must be returned to the Criminal Justice Commission.
 4. For State Agencies, the Director or Chief Executive Officer of the Agency must sign the grant agreement where indicated.
 5. For Non-Profit Agencies, the Executive Director or Chairman of the Board must sign the Agreement where indicated.
- B. The line requesting the signature of the **Legal counsel for GRANTEE** should be signed by the Deputy County Attorney or Assistant Attorney General who provides legal counsel to the governing body. This individual is approving the Agreement as to form and attesting to the legal authority of the governing body to perform the agreement activities. State Agencies should check if this is required by their legal counsel. Non-Profit Agencies- this field is not required.
- C. The final line under FOR GRANTEE refers to the Arizona Revised Statute that gives the governing body legal authority to perform the agreement activities.

Steps to sign a DocuSign document.

DocuSign is an electronic document service that allows parties to an agreement to review a document and apply an e-signature to that document. DocuSign is a safe and secure way to electronically send and sign documents. You do not need the DocuSign service to sign a document. Please check your "JUNK MAIL" to ensure that the DocuSign email was received.

ACJC will send you a DocuSign email containing a link to your document.

Review the DocuSign email:

Open the email and review the message from the sender. Click **REVIEW DOCUMENT** to begin the signing process.

Agree to sign electronically:

Review the consumer disclosure, and select the checkbox **I agree to use Electronic Records and Signatures**.

Important! To view and sign the documents, you must agree to conduct business electronically.

Note: To view additional options, click the **OTHER ACTIONS** button on the right side of the page. Other Actions are options such as Decline to Sign if you want to decline to sign the document or Assign to Someone Else if you are not the appropriate person to sign the document.

Click **CONTINUE** to begin the signing process.

Start the signing process:

Click the **START** tag on the left to begin the signing process. You are taken to the first tag requiring your action.

Click the **SIGN** tag.

If this is the first time you are using DocuSign, You are asked to Adopt Your Signature.

To Adopt your initials and signature:

To adopt your initials and signature, verify that your name and initials are correct. If not, change them as needed.

Click on Choose Change Style to see a variety of signature and initial styles.

You can also choose to draw your own signature and initials or upload a signature and initials.

Once you have made your choice, Click **ADOPT AND SIGN** to adopt and save your signature information and return to the document.

Sign the document:

After reviewing the document you are now ready to sign the document. Click on all of the signature tags to place your initials or signature on the document. If you miss one and try to submit, you will be taken to the tags that still require a signature or initials.

For any red boxes in the document, type in the relevant information, such as your title.

Confirm signing:

When you finish clicking all signature tags in the document, confirm signing by clicking **FINISH**. A message appears stating that you have completed your document. You can now download a PDF copy or print a copy of the document. The sender receives an email with the signed document attached, and the signed document appears in their DocuSign account.

Sign up for a DocuSign account:

After signing the document and clicking the Finish button you will get a message offering to [Sign up for a DocuSign account](#) and save the document in your own account. You do not need to sign up for an account. A DocuSign account allows you to save all documents in an account. Keep in mind that after all parties have signed the document you will receive a pdf copy of the agreement. If you do not desire a DocuSign account just choose No Thanks.

Finish

This completes the process to sign a DocuSign document. If you have any questions, concerns, or problems with the DocuSign e-signature process, please contact your ACJC grant coordinator.

If you have any questions, please feel free to contact Simone Courter at (602) 364-1186 or Ashley Mully at 602-364-1172 or email us at dcadmin@azcjc.gov for clarification.



ARIZONA CRIMINAL JUSTICE COMMISSION
Drug, Gang, and Violent Crime Control
GRANT AGREEMENT

ACJC Grant Number DC-21-002

Grantee Name: City of Flagstaff
Grantee's DUNS Number: 0883026250000
Grantee Period of Performance Start and End Date: 07/01/2020 TO 06/30/2021
Amount of Federal Funds Obligated by this Agreement: \$99,223
Total Amount of Federal Funds Obligated to the Grantee: \$99,223
Indirect Cost Rate used by the Grantee under this Agreement: 0%

CFDA Number and Name: 16.738 – Edward Byrne Memorial Justice Assistance Grant (JAG) Program
Name of Federal Awarding Agency: Department of Justice, Office of Justice Programs
Total Amount of the Federal Award in this Agreement: \$3,610,450
Federal Award Identification Number (FAIN): BJA-2019-15142
Federal Award Date: 09/18/2019

Federal Award Project Description:

In general, JAG funds awarded to a state under this FY 2019 solicitation may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs

Name of Pass-Through Entity: Arizona Criminal Justice Commission
Contact Information for Pass-Through Entity: Arizona Criminal Justice Commission, 1110 W. Washington Street, Suite 230, Phoenix, AZ, 85007
Identification of Whether the Award is Research and Development: No
Indirect Cost Rate for the Federal Award: 0%

This Grant Agreement is made this 1st day of June, 2020 by and between the ARIZONA CRIMINAL JUSTICE COMMISSION hereinafter called "COMMISSION" and COCONINO COUNTY, through CITY OF FLAGSTAFF hereinafter called "GRANTEE." The COMMISSION enters into this Agreement pursuant to its authority under the provisions of A.R.S. § 41-2405 (B)(6), and having satisfied itself as to the qualification of GRANTEE;

NOW, THEREFORE, it is agreed between the parties as follows:

1. This Agreement will commence on July 1, 2020 and terminate on June 30, 2021. This Agreement expires at the end of the award period unless prior written approval for an extension has been obtained from the COMMISSION. A request for an extension must be received by the COMMISSION sixty (60) days prior to the end of the award period. The COMMISSION in its sole discretion may approve an extension that furthers the goals and objectives of the program and shall determine the length of any extension.
2. GRANTEE agrees that grant funds will be used in accordance with applicable program rules, guidelines, and special conditions.
3. The COMMISSION will monitor GRANTEE performance against program goals and performance standards and those outlined in the grant application. Substandard performance, as determined by the COMMISSION, will constitute noncompliance with this Agreement. If the COMMISSION finds noncompliance, the GRANTEE will receive a written notice which identifies the area of noncompliance, and the appropriate corrective action to be taken. If the GRANTEE does not respond within thirty (30) calendar days to this notice and does not provide sufficient information concerning the steps which are being taken to correct the problem, the COMMISSION may suspend funding, permanently terminate this Agreement or revoke the grant.
4. Any deviation or failure to comply with the purpose and/or conditions of this Agreement without prior written COMMISSION approval may constitute sufficient reason for the COMMISSION to terminate this Agreement, revoke the grant, require the return of all unspent funds, perform an audit of expended funds, and require the return of any previously spent funds which are deemed to have been spent in violation of the purpose or conditions of this grant.
5. This Agreement may be modified only by a written amendment signed by the Executive Director or by persons authorized by the Executive Director on behalf of the COMMISSION and GRANTEE. Any notice given pursuant to this Agreement shall be in writing and shall be considered to have been given when actually received by the following addressee or their agents or employees:

A. If to the COMMISSION:

Arizona Criminal Justice Commission
1110 W. Washington Street, Suite 230
Phoenix, Arizona 85007
Attn: Program Manager

B. If to the GRANTEE:

City of Flagstaff
 211 West Aspen Avenue
 Flagstaff, AZ 86001
 Attn: **Mr. Greg Clifton**

6. For grant awards above \$100,000, GRANTEE may make budget adjustments of up to ten (10) percent of the total grant within any approved budget category excluding equipment. Written approval from the COMMISSION in advance is required if GRANTEE wishes to make adjustments or reprogram in excess of ten (10) percent or if GRANTEE wishes to purchase equipment not previously approved.

For grant awards less than \$100,000, the GRANTEE may make budget adjustments within approved categories excluding equipment as long as there are no changes to the purpose or scope of the project. If GRANTEE wishes to purchase equipment not previously approved, written approval from the COMMISSION in advance is required.

APPROVED LINE ITEM PROGRAM BUDGET	
Personnel:	
Salaries	\$186,119.00
Fringe Benefits (for salaries/overtime)*	\$97,375.00
Overtime	NOT APPROVED
Professional & Outside/Consultant & Contractual Services	NOT APPROVED
Travel In-State	NOT APPROVED
Travel Out-of-State	NOT APPROVED
Confidential Funds	NOT APPROVED
Operating Expenses:	
Supplies	NOT APPROVED
Registration/Training	NOT APPROVED
Other	NOT APPROVED
Equipment	
Capital	NOT APPROVED
Noncapital	NOT APPROVED
TOTAL	\$283,494.00
Positions Funded: Sergeant- Flagstaff PD (1.0), Investigator- Flagstaff PD (.75)	
Equipment Type: Not Approved.	

*Reference the ACJC Grant Management Manual for definition of approved Fringe Benefit

7. GRANTEE understands that other Federal grant funds cannot be used as a match for this grant. The total to be paid by the COMMISSION under this Agreement shall not exceed \$99,223.00 in federal funds awarded to the COMMISSION by the U.S. Department of Justice (USDJ), Office of Justice Programs (OJP) and \$113,398.00 in State Funds. If this grant has a matching requirement GRANTEE understands that other federal grant funds cannot be used as a match for this grant. The matching amount for this award is \$70,873.00.
8. Every payment obligation of the COMMISSION under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the COMMISSION. No liability shall accrue to the COMMISSION in the event this provision is exercised, and the COMMISSION shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
9. GRANTEE agrees that if it currently has an active award of federal funds or if it receives any other award of federal funds during the period of performance for this award, and those award funds have been, are being or are to be used, in whole or in part, for one or more of the

identical cost items for which funds are being provided under this award, GRANTEE will promptly notify, in writing, the COMMISSION, of the potential of duplication, and if so requested by the COMMISSION, seek a budget modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

10. GRANTEE agrees to retain all books, account reports, files and other records, (paper and/or electronic) relating to this Agreement and the performance of this Agreement for no less than five (5) years from the last financial report submitted to the COMMISSION. All such documents shall be subject to inspection and audit at reasonable times, including such records of any subgrantee, contractor, or subcontractor. GRANTEE also understands and agrees that USDOJ and the United States General Accounting Office (USGAO) are authorized to interview any officer or employee of the GRANTEE (or of any subgrantee, contractor, or subcontractor) regarding transactions related to this award.
11. GRANTEE agrees that activities funded under this award will be closely coordinated with related activities supported with the Office of Justice Programs (OJP), State, local or tribal funds. Grant funds may only be used for the purposes in the GRANTEE's approved application. GRANTEE shall not undertake any work or activities not described in the grant application, including staff, equipment, or other goods or services without prior approval from the COMMISSION.
12. GRANTEE agrees to track, account for, and report on all funds (including specific outcomes and benefits) separately from all other funds for the same or similar purposes or programs.

Accordingly, the accounting systems of GRANTEE and all subgrantees must ensure that funds from this award are not commingled with funds from any other source.

13. GRANTEE agrees to abide by Federal and State laws and provide accounting, auditing and monitoring procedures to safeguard grant funds and keep such records to assure proper fiscal controls, management and the efficient disbursement of grant funds.
14. For the purposes of this grant, a capital expenditure means expenditures to acquire capital assets, as defined in 2 C.F.R. 200.12, or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life, with a cost of \$5,000 or greater. If the GRANTEE's capitalization policy defines a capital expenditure as less than \$5,000, the GRANTEE will follow its own policy.
15. GRANTEE agrees to maintain property records for equipment purchased with grant funds and perform a physical inventory and reconciliation with property records at least every two years or more frequently if required by GRANTEE policy. GRANTEE agrees that funds will not be used for the construction of new facilities.
16. GRANTEE agrees to follow equipment disposition policies outlined in 2 C.F.R. 200.313(e)(1) through *Uniform Administrative Requirements for Grants and Cooperative Agreements-Equipment* when the equipment is no longer needed for the grant program.
Link: *e-CFR Navigation Aid:* <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>
17. GRANTEE agrees that all salaried personnel (including subgrantee personnel) whose activities are to be charged to the award will maintain timesheets or certifications to document hours worked for activities related to this award and non-award related activities. GRANTEE agrees to keep time and attendance sheets for hourly employees signed by the employee and supervisory official having firsthand knowledge of the work performed by the grant-funded employees.

18. GRANTEE agrees that it will submit financial and activity reports to the COMMISSION in a format provided by the COMMISSION, documenting the activities supported by these grant funds and providing an assessment of the impact of these activities which may include documentation of project milestones. In the event reports are not received on or before the indicated date(s), funding may be suspended until such time as delinquent report(s) are received.
19. These reports are to be submitted according to the following schedule(s):

ACTIVITY REPORTS	
Report Period:	Due Date:
July 1 to September 30	October 15
October 1 to December 31	January 15
January 1 to March 31	April 15
April 1 to June 30	July 15

FINANCIAL REPORTS			
Report Period:	Due Date:	Report Period:	Due Date:
July 1 – July 31	August 25	January 1 – January 31	February 25
August 1 – August 31	September 25	February 1 – February 29	March 25
September 1 – September 30	October 25	March 1 – March 31	April 25
October 1 – October 31	November 25	April 1 – April 30	May 25
November 1 – November 30	December 25	May 1 – May 31	June 25
December 1 – December 31	January 25	June 1 – June 30	July 25

Additional reporting requirements may be required for GRANTEES who are considered high risk.

20. GRANTEE understands that financial reports are required as an accounting of expenditures for either reimbursement or COMMISSION-approved advance payments.
21. The final request for reimbursement of grant funds must be received by the COMMISSION no later than sixty (60) days after the last day of the award period.
22. All goods and services must be received or have reasonable expectations thereof and placed in service by GRANTEE by the expiration of this award.
23. GRANTEE agrees that all encumbered funds must be expended and that goods and services must be paid by GRANTEE within sixty (60) days of the expiration of this award.
24. GRANTEE agrees to remit all unexpended grant funds to the COMMISSION within thirty (30) days of written request from the COMMISSION.
25. GRANTEE agrees to account for interest earned on federal grant funds and shall manage interest income in accordance with the Cash Management Improvement Act of 1990 and as indicated in the Office of Justice Programs Financial Guide. Interest earned in excess of allowable limits must be remitted to the COMMISSION within 30 days after receipt of a written request from the COMMISSION.
Link: OJP Financial Guide https://ojp.gov/financialguide/doj/pdfs/DOJ_FinancialGuide.pdf
26. GRANTEE agrees to obtain written COMMISSION approval for all sole source procurements in excess of \$150,000.
27. GRANTEE agrees to obtain written COMMISSION approval prior to the expenditure of grant funds for consultant fees in excess of \$650 per day.

28. GRANTEE agrees to not use federal grant funds to pay cash compensation (salary plus bonuses) to any employee paid by the grant at a rate that exceeds 110% of the maximum annual salary payable to a member of the federal government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (An award recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds, unless otherwise noted in the grant solicitation.)
29. GRANTEE agrees not to use grant funds for food and/or beverage unless explicitly approved in writing by the COMMISSION.
30. GRANTEE agrees to comply with all applicable laws, regulations, policies and guidance (including specific cost limits, prior approvals and reporting requirements, where applicable) governing the use of grant funds for expenses related to conferences, meetings, trainings, and other events, including the provision of food and/or beverages at such events, and costs of attendance at such events unless explicitly approved in writing by the COMMISSION. Information on pertinent laws, regulations, policies, and guidance is available in the OJP Financial Guide (currently, as section 3.10 "Post-award Requirements" in the DOJ Grants Financial Guide").
31. No funds shall be used to supplant federal, state, county or local funds that would otherwise be made available for such purposes. Supplanting means the deliberate reduction of state or local funds because of the existence of any grant funds.
32. GRANTEE assigns to the COMMISSION any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services applied by third parties to GRANTEE in exchange for grant funds provided under this Agreement.
33. The parties agree to use arbitration in the event of disputes in accordance with the provisions of A.R.S. § 12-1501-12-1518. The laws of the State of Arizona apply to questions arising under this Agreement and any litigation regarding this Agreement must be maintained in Arizona courts, except as pertaining to disputes which are subject to arbitration.
 - A. In the event of a dispute, controversy, or claim arising out of or relating in any way to the Agreement, the complaining Party shall notify the other Party in writing thereof. Within 30 calendar days of such notice, representatives of both Parties shall meet at an agreed location to attempt to resolve the dispute in good faith. Should the dispute not be resolved within 30 calendar days after such notice, the complaining Party shall seek remedies exclusively through arbitration, in accordance with the provisions of A.R.S. § 12-1501 through 12-1518.
 - B. The arbitration demand must be a clear and concise statement of the claim or dispute. The respondent's answer and any counterclaims must be filed within 20 calendar days of service of the demand.
 - C. The arbitration shall be conducted in Maricopa County.
 - D. The arbitration shall be conducted by one arbitrator. If the Parties are not able to agree upon the selection of an arbitrator, within 20 calendar days of the commencement of an arbitration proceeding by service of a demand for arbitration, the court on application of a Party shall appoint the arbitrator.
 - E. The arbitrator must promptly set a conference to clarify the claims and defenses, to establish fair procedures, and to set a schedule for completing the arbitration.
 - F. It is the intent of the parties that, barring extraordinary circumstances, arbitration proceedings will be concluded with 120 calendar days from the date the arbitrator is appointed. The arbitrator may extend the time limit in the interests of justice. Failure to adhere to this time limit shall not constitute a basis for challenging the award.

- G. The arbitrator must issue a written, reasoned award within 20 calendar days from the date the hearing is formally closed, or as soon after that as is feasible. The sole remedy will be actual damages; no punitive damages are allowed.
- H. Unless the arbitrator orders otherwise, the Parties must share arbitration costs equally, including arbitrator's fees and expenses. Each party must pay its own expenses and attorney's fees.
34. GRANTEE understands that grant funds may not be released until all delinquent reports and reversion of funds from prior grants are submitted to the COMMISSION.
35. GRANTEE agrees that grant funds are not to be expended for any indirect costs that may be incurred by GRANTEE for administering these funds unless explicitly approved in writing by the COMMISSION. This may include, but is not limited to, costs for services such as accounting, payroll, data processing, purchasing, personnel, and building use which may have been incurred by the GRANTEE.
36. Each party (as "Indemnitor") agrees to defend, indemnify, 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. If the GRANTEE is a State agency, board, commission, or university of the State of Arizona, this paragraph shall not apply.
37. Should GRANTEE utilize a contractor(s) and subcontractor(s) the indemnification clause between GRANTEE and its contractor(s) and subcontractor(s) shall include the following:
- Contractor shall defend, indemnify, and hold harmless the GRANTEE and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractors will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. Additionally, on all applicable insurance policies, contractors and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State. Insurance requirements for any contractor used by GRANTEE are incorporated herein by this reference and attached to this Agreement as Exhibit "A."
38. Restrictions and certifications regarding non-disclosure agreements and related matters
- No GRANTEE under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal

confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

A. In accepting this award, the GRANTEE-

- i) represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
- ii) certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

B. If the GRANTEE does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both—

i) it represents that-

- (1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
- (2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

ii) it certifies that, if it learns or is notified that any sub-recipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

- 39. GRANTEE agrees to notify the COMMISSION within ten (10) days in the event that the project official is replaced during the award period.
- 40. No rights or interest in this Agreement shall be assigned by GRANTEE without prior written approval of the COMMISSION.

41. GRANTEE will comply with the audit requirements of *Uniform Guidance (2 CFR 200 subpart F 200.500)* and provide the COMMISSION with the audit report and any findings within 90 days of receipt of such finding. If the report contains no findings, the GRANTEE must provide notification that the audit was completed.
Link: *Audit Requirements for OJP Awards:*
<https://ojp.gov/funding/pdfs/AuditRequirementsPart200.pdf>
42. GRANTEE certifies that it will comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") and the OJP Financial Guide.
Link: *2 C.F.R Part 200 for OJP Awards:*
<https://ojp.gov/funding/Part200UniformRequirements.htm>
43. Compliance with general appropriations-law restrictions on the use of federal funds for awards made after FY 2019. GRANTEE or sub-grantee at any tier must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Should a question arise as to whether a particular use of federal funds by a GRANTEE would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2019 <https://ojp.gov/funding/Explore/FY19AppropriationsRestrictions.htm>
44. GRANTEE agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express written approval of the Office of Justice Programs through the COMMISSION.
45. GRANTEE understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil and/or criminal penalties.
46. GRANTEE agrees not to do business with any individual, agency, company, or corporation listed in the Excluded Parties Listing Service.
Link: *System for Award Management* <https://www.sam.gov/SAM/>
47. GRANTEE agrees to ensure that, no later than the due date of the GRANTEE's first financial report after the award is made, GRANTEE and any subgrantees have a valid DUNS profile and active registration with the System for Award Management (SAM) database.
48. GRANTEE certifies that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.
49. GRANTEE understands and agrees that any training or training materials developed or delivered with funding provided under this award must adhere to the *OJP Training Guide Principles for Grantees and Subgrantees*.
Link: *OJP Training Guide Principles for Grantees and Subgrantees*
<https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>
50. GRANTEE agrees to cooperate and participate with any and all assessments, evaluation efforts or information and data collection requests and acknowledges that the federal or state grantor agency has the right to obtain, reproduce, publish or use data provided under this award and may authorize others to receive and use such information.

51. GRANTEE shall provide the COMMISSION with a copy of all interim and final reports and proposed publications (including those prepared for conferences and other presentations) resulting from this Agreement. Submission of such materials must be prior to or simultaneous with their public release.
52. GRANTEE agrees that any publications (written, visual, or sound) excluding press releases and newsletters, whether published at the GRANTEE'S or COMMISSION'S expense, shall contain the following statement:
- "This was supported by Award No. 2019-DJ-BX-0029 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice."
53. GRANTEE agrees to comply with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 34 U.S.C. § 10228(c); the Victims of Crime Act of 1984, as amended, 34 U.S.C. § 20110(e); the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 34 U.S.C. § 11182(b); and VAWA, as amended, 34 U.S.C. § 12291(b)(13), contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the DOJ has concluded that it may construe the Religious Freedom Restoration Act (RFRA) on a case-by-case basis to permit some faith-based organizations to receive DOJ funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions. Please consult with the OCR if you have any questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment. An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act, must meet two obligations: (1) complying with the federal regulation pertaining to the development of an EEO (see 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (see 28 C.F.R. §§ 42.204(c), .205(c)(5)). If in the three years prior to the date of the grant award a Federal or State Court or Federal or State administrative agency makes a finding of discrimination after a due process hearing against GRANTEE, GRANTEE will forward a copy of the findings to the Office for Civil Rights, Office of Justice Programs and the COMMISSION.
54. In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). See U.S. Department of Justice, Guidance to Federal Financial Assistance Recipient Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website:
Link: *Limited English Proficiency A Federal Interagency Website* <http://www.LEP.gov>
55. GRANTEE agrees to comply with the applicable requirements of 28 CFR Part 38, the Department of Justice regulation governing "Partnerships with Faith-Based and Other Neighborhood Organizations" (the "PFNBO"). The PFNBO Regulation provides in part that Department of Justice financial assistance may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of Department of Justice financial assistance may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from GRANTEE must be voluntary. The PFNBO Regulation also makes clear that organizations participating in programs receiving financial assistance from the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. Notwithstanding any other

special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment.

Link:

<https://ojp.gov/funding/Explore/SolicitationRequirements/CivilRightsRequirements.htm#NDPFaith>

56. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The GRANTEE or subgrantee at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, GRANTEES, or individuals defined (for purposes of this condition) as "employees" of the recipient or of any GRANTEE.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <http://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and GRANTEES related to trafficking in persons (including reporting requirements and OJP authority to terminate award)) and are incorporated by reference here.

57. GRANTEE should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. As of June 2013, OJP has issued an advisory that grantees should consult local counsel in reviewing their employment practices. If warranted, grantees should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plan (EEOP). See Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013), available at http://www.ojp.gov/about/ocr/pdfs/UseofConviction_Advisory.pdf.
58. GRANTEE assures that it will comply with all state and federal laws regarding privacy during the course of the award. All information relating to clients is to be treated with confidentiality in accordance with 42 USC section 3789g or 42 USC 14132(b)(3) that are applicable to the collection, disclosure, use, and revelation of data information. GRANTEE further agrees to submit a privacy Certificate that is in accordance with requirements of 28 CFR Part 22 if applicable to the program.
59. GRANTEE agrees to formulate and keep on file an EEOP (if GRANTEE is required pursuant to 28 CFR 42 Subpart E). GRANTEE certifies that they have forwarded to the Office for Civil Rights, Office of Justice Programs the EEOP, or certifications that they have prepared and have on file an EEOP, or that they are exempt from EEOP requirements. Failure to comply may result in suspension of grant funds. Copies of all submissions such as certifications to or correspondence with the Office for Civil Rights, Office of Justice Programs regarding this requirement must be provided to the COMMISSION by GRANTEE. In the event a federal or state court or federal or state administrative agency makes an adverse finding of discrimination against GRANTEE after a due process hearing, on the ground of race, color, religion, national origin, or sex, GRANTEE will forward a copy of the findings to the Office for Civil Rights, Office of Justice Programs and the COMMISSION (see 28 CFR 42.204(c), .205(c)(5)). .
60. GRANTEE agrees to participate in any required civil rights related training to ensure compliance with all federal and state civil rights laws. GRANTEE will inform the COMMISSION of the position responsible for civil rights compliance and will inform the COMMISSION of change in personnel responsible for civil rights compliance within ten days.

Link: <http://www.azcjc.gov/grants>

61. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees) GRANTEE must comply with and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

GRANTEE also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712. Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

62. To support public safety and justice information sharing, GRANTEE, if a governmental subdivision, shall use the National Information Exchange Model (NIEM) specifications and guidelines for this grant. GRANTEE shall publish and make available without restrictions all schemas generated as a result of this grant to the component registry as specified in the guidelines.

Link: <http://niem.github.io/reference/specifications/>

63. In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at:

Link: https://it.ojp.gov/gsp_grantcondition

Grantee shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

64. To avoid duplicating existing networks or IT systems in any initiatives for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless GRANTEE can demonstrate to the satisfaction of the COMMISSION that this requirement would not be cost beneficial or would impair the functionality of an existing or proposed IT system.
65. If GRANTEE is a governmental political subdivision, the GRANTEE should, to the extent possible and practical, share criminal justice information with other authorized criminal justice agencies. The process control number (PCN) shall be used in accordance with A.R.S. § 41-1750 when sharing data with other criminal justice agencies as electronic data systems are developed or improved.
66. If GRANTEE is a state agency and the award is for the development of information technology projects for more than \$25,000, GRANTEE must complete a Project Investment Justification (PIJ) and submit the justification to the Arizona Department of Administration (ADOA), with a copy to the COMMISSION. GRANTEE agrees to submit required project status reports to ADOA by the due dates and submit copies to the COMMISSION.

If GRANTEE is not a state agency and the award is for the development of information technology projects, GRANTEE will follow local technology policies and guidelines.

67. GRANTEE must promptly refer to the COMMISSION any credible evidence that a principal, employee, agent, contractor, sub-grantee, contractor, subcontractor, or other person has, in connection with funds under this award, has either 1) submitted a false claim that violates the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct. The COMMISSION shall forward the referral to the Department of Justice, Office of the Inspector General.
68. The COMMISSION encourages GRANTEE to establish workplace safety policies and conduct education, awareness and other outreach to decrease crashes caused by distracted drivers, including adopting and enforcing policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant. Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 2009).
69. GRANTEE certifies to comply with the Drug-Free Workplace Act of 1988, and implemented in 28 CFR Part 83, Subpart F, for grantees, as defined in 28 CFR, Part 83 Sections 83.620 and 83.650.
70. GRANTEE agrees to complete and keep on file, as appropriate, Immigration and Naturalization Form (I-9). This form is to be used by recipients to verify that persons are eligible to work in the United States. Additionally, GRANTEE ensures compliance with A.R.S. § 41-4401 by state employers and contractors.
71. GRANTEE acknowledges that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. GRANTEE warrants that they have registered with and participate with E-Verify. If the COMMISSION later determines that the GRANTEE has not complied with E-Verify, it will notify the non-compliant GRANTEE by certified mail of the determination and of the right to appeal the determination.
72. GRANTEE certifies that no federal funds will be paid, by or on behalf of, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and for the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement. If any funds other than Federal funds are paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal award, grant loan, or cooperative agreement, the GRANTEE will complete and submit to the COMMISSION Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
73. GRANTEE understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy at any level of government, without the express prior written approval of the Commission.
74. GRANTEE agrees that no funds provided, or personnel employed under this Agreement shall be in any way, or to any extent, engaged in conduct of political activities in violation of USC Title 5, Part II, Chapter 15, section 1502.
75. GRANTEE understands and agrees that award funds may not be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.

76. GRANTEE understands and agrees that- (a) no award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading and exchanging or pornography, and (b) nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.
77. GRANTEE agrees to comply with all federal, state, and local environmental laws and regulations applicable to the development and implementation of activities to be funded under this award. Additional requirements may be found in the Grant Agreement Continuation Sheet.
78. GRANTEE agrees that all gross income earned by the GRANTEE that is directly generated by a supported activity or earned as a result of this award during the period of performance shall be deemed program income. All program income must be accounted for and used for the purpose under the conditions applicable for the use of funds under this award, including the effective edition of the OJP Financial Guide and, as applicable in 2 C.F.R. Part 200 Uniform Requirements.
79. This Agreement is subject to cancellation pursuant to the provision of A.R.S. § 38-511. This Agreement may also be canceled at the COMMISSION'S discretion if not returned with authorized signatures to the COMMISSION within 90 days of commencement of the award.
80. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall be in full force and effect.
81. GRANTEE agrees to comply with all Special Condition(s) included with this Agreement on the Grant Agreement Continuation Sheet.
82. GRANTEE understands that grant funds may not be released until GRANTEE is compliant with all requirements of the grant agreement.

Arizona Criminal Justice Commission
Drug, Gang, and Violent Crime Control
GRANT AGREEMENT CONTINUATION SHEET
SPECIAL CONDITION(S)

1. GRANTEE must verify Agency Point of Contact (APOC), Financial Point of Contact (FPOC), Program Point of Contact (PPOC), and Authorized Official contact information in the Grants Management System (GMS), including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the GMS to document changes. In addition, the FPOC and PPOC must be assigned by the APOC prior to payments being made.
2. GRANTEE agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.
3. GRANTEE agrees to comply with all confidentiality requirements of 34 U.S.C section 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. GRANTEE further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.
4. GRANTEE ensures that it uses generally accepted laboratory practices and procedures as established by accrediting organizations or appropriated certifying bodies.
5. Absent prior express written approval from the COMMISSION, rates for any lodging charged to the grant may not exceed the posted GSA rate for the location. If the GRANTEE opts to obtain lodging at a higher rate, the cost differential, including associated taxes, may not be charged to the award.
6. GRANTEE acknowledges that OJP reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under an award or subaward; and (2) any rights of copyright to which a recipient or subrecipient purchases ownership with Federal support.
7. GRANTEE understands and agrees that program income earned during the award period and expenditures from program income must be reported quarterly with a final report. These funds are subject to audit. Program income that is earned during the final sixty (60) days of the award period, if appropriate, be obligated and expended for permissible uses during the sixty-day (60-day) period following the award period. Any program income that is earned, but not obligated or expended within sixty (60) days of the end of the award period must be returned to the COMMISSION.
8. GRANTEE agrees that within 120 days of award, for any law enforcement task force funded with these funds, the task force commander, agency executive, task force officers and other task force members of equivalent rank, will complete required online (internet-based) task force training to be provided free of charge through BJA's Center for Task Force Integrity and Leadership (www.ctfli.org). Task force members need only take the training once every four years. GRANTEE will compile and maintain a task force personnel roster and course completion certificates.

9. Quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) website (<https://ojpsso.ojp.gov/>). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High-Risk designation.
10. Any law enforcement agency receiving direct or sub-awarded JAG funding must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.
11. GRANTEE must comply with all provisions of Title 8, United States Code, Section 1373, which addresses the exchange of information regarding citizenship and immigration status among federal, state, and local government entities and officials.
 - a. Requirement to collect certain information from sub-recipients
 - i) The recipient may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains from the proposed sub-recipient responses to the questions identified in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)." All sub-recipient responses must be collected and maintained by the recipient, consistent with regular document retention requirements, and must be made available to DOJ upon request. Responses to these questions are not required from sub-recipients that are either a tribal government/organization, a nonprofit organization or a private institution of higher education.
 - b. Noninterference (within the funded "program or activity") with federal law enforcement: 8 U.S.C. 1373 and 1644; ongoing compliance
 - i) With respect to the "program or activity" funded in whole or part under this award (including any such program or activity of any sub-recipient at any tier), throughout the period of performance, no State or local government entity, - agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in either 8 U.S.C. 1373(b) or 1644. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.
 - ii) Certifications from sub-recipients. The recipient may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373 and 1644, properly executed by the chief legal officer of the government or educational institution that would receive the subaward, using the appropriate form available at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>. Also, the recipient must require that no sub-recipient (at any tier) may make a further subaward to a State, a local government, or a public institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373 and 1644, properly executed by the chief legal officer of the government or institution that would receive the further subaward, using the appropriate OJP form.
 - iii) Rules of Construction
 - (1) For purposes of this condition:
 - (2) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.

- (3) "public" institution of higher education is defined as one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.")
 - (4) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).
 - (5) "Immigration status" means what it means under 8 U.S.C. 1373 and 8 U.S.C. 1644; and terms that are defined in 8 U.S.C. 1101 mean what they mean under that section 1101, except that "State" also includes American Samoa.
 - (6) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 and 1644 are to be read as references to particular components of the Department of Homeland Security (DHS).
- iv) Nothing in this condition shall be understood to authorize or require any recipient, any sub-recipient at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.
- c. Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law enforcement sensitive information

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward (at any tier).

- i) Noninterference: No public disclosure of federal law enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. I, 49,227), no public disclosure may be made of any federal law enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 - without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

- ii) Rules of construction

- (1) For purposes of this condition--
- (2) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C.101(a)(3));
- (3) the term "federal law enforcement information" means law enforcement sensitive information communicated or made available, by the federal government, to a State or local government entity, -agency, or -official, through any means, including, without limitation- (1) through any database, (2) in connection with any law enforcement partnership or -task-force, (3) in connection with any request for law enforcement assistance or -cooperation, or (4) through any deconfliction (or courtesy) notice of planned, imminent, commencing, continuing, or impending federal law enforcement activity;
- (4) the term "law enforcement sensitive information" means records or information compiled for any law enforcement purpose; and
- (5) the term "public disclosure" means any communication or release other than one-- (a) within the recipient, or (b) to any sub-recipient (at any tier) that is a government entity.

12. GRANTEE must submit the following documents within 45 days of award. Failure to submit the documents will result in a hold of grant funding. Documents may be accessed through the GRANTEE's GMS record and submitted under "Activity Reporting" also in GMS: <https://acjc.azcjc.gov/GMS3/Login.aspx>. Originals must be kept at the GRANTEE'S agency.

a. ACJC Subgrantee Self-Assessment Questionnaire can be obtained at <http://azcjc.gov/drug-gang-violent-crime> or in the GRANTEE's GMS grant record accessed through <https://acjc.azcjc.gov/GMS3/Login.aspx>.

a. Benchmark Worksheet can be submitted through <http://acjcreporting.azcjc.gov>

b. For any agency that is eligible to receive income as a result of grant-funded activities, it must complete the ACJC Program Income Worksheet. The worksheet may be filled out at <http://acjcreporting.azcjc.gov>

Before the COMMISSION may transmit Federal funds from the FY 2019 Byrne/JAG grant, the GRANTEE is required to submit the properly executed certifications and questionnaire regarding compliance with 8 U.S.C § 1373.

c. Certifications and Assurances by the Chief Executive Officer of the Jurisdiction and DHS and ICE Communications Questionnaire. Failure to submit the following two (2) certifications and Questionnaire will result in a hold of Federal funds. The DHS and ICE Communications Questionnaire document will be sent by email with grant agreement documents and attachments. Certifications and Assurances and Communications Questionnaire and may be returned by email to dcadmin@azcjc.gov or by mail. The two required certifications can be obtained at:

<https://bjia.ojp.gov/sites/g/files/xyckuh186/files/media/document/fy2019localjagceocertification.pdf>

d. DHS and ICE Communications Questionnaire. Form can be found at: <http://azcjc.gov/drug-gang-violent-crime>

13. GRANTEE assures if they are a state agency that the State Information Technology Point of Contact receives written notification regarding any information technology project funded by this grant. GRANTEE agrees to keep on file documentation showing that it has met this requirement.

14. GRANTEE agrees and understands that funded activities may require the preparation of an Environmental Assessment (EA) as defined by the Council of Environmental Quality's Regulations for implementing the Procedural Provisions of the National Environmental Policy Act (NEPA), found at 40 CFR Part 1500.

15. GRANTEE agrees to comply with all federal, state, and local environmental laws and regulations applicable to the development and implementation of activities to be funded under this award. The GRANTEE agrees and understands that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The GRANTEE further understands and agrees to requirements for the implementation of a Mitigation Plan, as detailed at <https://www.bja.gov/Funding/nepa.html> for programs relating to methamphetamine laboratory operations.

16. GRANTEE agrees that any information technology system developed or supported by funds will comply with 28 CFR Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation be applicable. Should OJP determine 28 CFR Part 23 to be applicable, OJP may at its discretion, perform audits of the system, as per 28 CFR 23.20(g). Should any violation of 28 CFR Part 23 occur, GRANTEE may be fined as per 42 USC 3789g(c)-(d). GRANTEE may not satisfy such a fine with federal funds.

17. GRANTEE agrees that no JAG funds may be expended on unmanned aircraft, unmanned aircraft systems, or aerial vehicles (US, UAS, or UAV) without prior express written approval from the Commission.
18. If JAG Program funds will be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA database operated by the Federal Bureau of Investigation (FBI)) by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA. For more information, refer to the NIJ DNA Backlog Reduction Program, available at www.nij.gov/topics/forensics/lab-operations/evidence-backlogs/Pages/backlog-reduction-program.aspx.

In addition, funds may not be used for purchase of DNA equipment and supplies when the resulting DNA profiles from such technology are not accepted for entry into CODIS.

19. GRANTEE acknowledges the requirements of the award; remedies for non-compliance or for materially false statements. The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any or more of these award requirements—whether a condition set out in full below, a condition incorporated by the reference below, or a certification or assurance related to conduct during the award period may result in the Office of Justice Programs (“OJP”) taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold funds, disallow costs, or suspend or terminate the award. The Department of Justice (“DOJ”), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or unenforceable, such provision shall be deemed severable from this award.

20. GRANTEE must have written procedures in place to respond in the event of an actual or imminent “breach” (OMB M-17-12) if it 1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of “personally identifiable information (PII)” (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or 2) uses or operates a “Federal information system” (OMB Circular A-130). The GRANTEE’S breach procedures must include a requirement to report actual or imminent break of PII to the COMMISSION no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.
21. Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

a. Noninterference with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations -- including 8 U.S.C. 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 C.F.R. 287.S(a), under which that power may be exercised "anywhere in or outside the United States" - within the funded program or activity, no State or local government entity, -agency, or -official may interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

b. Rules of construction

i) For purposes of this condition:

- (1) The term "alien" means what it means under section 101 of the Immigration and Nationality Act (INA) (see 8 U.S.C. I 101(a)(3)).
- (2) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 1025 I(a)(7)).
- (3) The term "impede" includes taking or continuing any action, or implementing or maintaining any law, policy, rule, or practice, that-
 - (a) is designed to prevent or to significantly delay or complicate, or
 - (b) has the effect of preventing or of significantly delaying or complicating.

- ii) Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth herein full.

22. Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

a. Noninterference with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual DOJ report to Congress on "the number of illegal alien[felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- within the funded program or activity, no State or local government entity, -agency, or -official (including a government-contracted correctional facility) may interfere with the "removal" process by failing to provide - as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

b. Rules of construction

i) For purposes of this condition:

- (1) The term "alien" means what it means under section 101 of the INA (see 8 U.S.C. 1101(a)(3)).
- (2) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 34 U.S.C. 10251(a)(7)).

ii) Nothing in this condition shall be understood to authorize or require any recipient, any sub-recipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual otherwise would have been released.

iii) Applicability

- (1) Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). If (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to allow for the advance notice that DHS has requested, it shall NOT be a violation of this condition to provide only as much advance notice as practicable.
- (2) Current DHS practice is to use the same form for a second, distinct purpose - to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.

iv) Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded 'program or activity') with federal law enforcement: 8 U.S.C. 1373 and 1644 and ongoing compliance" award condition are incorporated by reference as though set forth herein full.

Authorized Official Initials: _____

IN WITNESS WHEREOF, the parties have made and executed the Agreement the day and year first above written.

FOR GRANTEE:

Authorized Signatory

Date

Printed Name and Title

Approved as to form and authority to enter into Agreement:

Legal counsel for GRANTEE

Date

Printed Name and Title

Statutory or other legal authority to enter into Agreement:

Appropriate A.R.S., ordinance, or charter reference

FOR CRIMINAL JUSTICE COMMISSION:

Andrew T. LeFevre, Executive Director
Arizona Criminal Justice Commission

Date



ARIZONA CRIMINAL JUSTICE COMMISSION
GRANT AGREEMENT

**Insurance Requirements
Exhibit "A"**

Insurance Requirements for Governmental Parties to a Grant Agreement:

None.

Insurance Requirements for Any Contractors Used by a Party to the Grant Agreement:

(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.) The insurance requirements herein are minimum requirements and in no way limit the indemnity covenants contained in the Intergovernmental Agreement. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

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

1. **Commercial General Liability – Occurrence Form**

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

- General Aggregate \$2,000,000
- Products-Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- 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.

(Note that the other governmental entity(ies) is/are also required to be additional insured(s), and they should supply the Contractor with their own list of persons to be insured.)

- 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.

Exhibit "A" Page 2

2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

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

- a. The policy shall 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.

(Note that the other governmental entity(ies) is/are also required to be additional insured(s), and they should supply the Contractor with their own list of persons to be insured.)

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, its 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 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).

Additional Insurance Requirements:

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

The Contractor's policies 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).

Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

Notice of Cancellation:

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the State of Arizona, within two (2) business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice shall be mailed, emailed, hand delivered or sent by facsimile transmission to (Enter Contracting Agency Representative's Name, Address, and Fax Number Here).

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) as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All certificates and endorsements, as required by this written agreement, are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, the 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.

All certificates required by this Contract shall be sent directly to the Department. 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.

Subcontractors:

Contractor's 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 collectible 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 Department 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 subcontractor(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 subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

Certificate Of Completion

Envelope Id: 0AB78F45960E4DC5ACE370101D21DE2B Status: Sent
 Subject: Please DocuSign: FY 2021 Cycle 34 Drug, Gang, and Violent Crime Control Program Grant Agreement
 Source Envelope:
 Document Pages: 29 Signatures: 0 Envelope Originator:
 Certificate Pages: 5 Initials: 0 Simone Courter
 AutoNav: Enabled scourter@azcjc.gov
 Envelopeld Stamping: Enabled IP Address: 75.167.204.63
 Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Record Tracking

Status: Original Holder: Simone Courter Location: DocuSign
 6/25/2020 4:25:11 PM scourter@azcjc.gov
 Security Appliance Status: Connected Pool: StateLocal
 Storage Appliance Status: Connected Pool: Arizona Criminal Justice Commission Location: DocuSign

Signer Events

Signature

Timestamp

Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Greg Clifton
 greg.clifton@flagstaffaz.gov
 Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Andrew LeFevre
 alefevre@azcjc.gov
 Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Stacey Brechler-Knaggs Sent: 6/25/2020 5:03:37 PM
 sknaggs@flagstaffaz.gov Viewed: 6/26/2020 8:52:58 AM
 Security Level: Email, Account Authentication
 (None)
Electronic Record and Signature Disclosure:
 Accepted: 6/10/2020 11:23:04 AM
 ID: 805dfdad-4718-4f8a-ad72-6f90dc646dff
 Company Name: Arizona Criminal Justice Commission

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	6/25/2020 5:03:37 PM
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Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure		
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Arizona Criminal Justice Commission (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Arizona Criminal Justice Commission:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: alefevre@azcjc.gov

To advise Arizona Criminal Justice Commission of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at alefevre@azcjc.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Arizona Criminal Justice Commission

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to alefevre@azcjc.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Arizona Criminal Justice Commission

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to alefevre@azcjc.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Arizona Criminal Justice Commission as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Arizona Criminal Justice Commission during the course of your relationship with Arizona Criminal Justice Commission.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: James Huchel, Wastewater Manager
Co-Submitter: Brad Hill-Former Director-Retired
Date: 06/20/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Approval of Cooperative Purchase Contract: With ABM Electrical Power Services, LLC in the amount of \$57,830 for an Arc Flash Electrical Study at the Water Reclamation Facilities.

STAFF RECOMMENDED ACTION:

1. Approve a Cooperative Purchase Contract in the amount of \$57,830.00 with ABM Electrical Power Services, LLC for an Arc Flash Electrical Study that has already been completed through the Maricopa County Cooperative contract #171017-S; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Water Services is seeking for the Council to award a Cooperative Purchase Contract to ABM Electrical Power Services, LLC ("ABM Electrical") in the amount of \$57,830.00 under the Maricopa County Cooperative Contract #171017-S for work that has already been completed. The initial contract to accomplish this critical employee safety program at our water reclamation plants, known as an Arc Flash Electrical Study was for \$15,450. Once the project was started staff realized in order to be in compliance with OSHA's safety standards, the scope of work needed to be expanded which resulted in \$57,830 of extra cost. However, staff did not follow the City's Procurement Policy to accomplish this additional work which now needs City Council authorization.

Financial Impact:

Water Services has budgeted \$57,830 in Fiscal Year 2020-2021 for the purpose of conducting the Arc Flash study in account 203-08-311-1110-0-4206, 203-08-311-1111-0-4208, and 203-08-312-1121-0-4208.

Policy Impact:

No Impact

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

Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

Has There Been Previous Council Decision on This:

There has been no previous Council decision on this item.

Options and Alternatives:

Approve the Cooperative Purchase Contract for work performed at the City's Water Reclamation Facilities.

Background/History:

A request was issued to hire a company to conduct an arc flash study at the City's Water Reclamation Facilities required by OSHA every five years. Wastewater Services staff reached out to three companies for quotes for this study. ABM Electrical quoted the study at \$15,450 which placed them as the lowest responsive responsible proposer. This work was reviewed and approved by Purchasing and AMB Electrical was awarded the job.

During the early phases of the study, it became clear that when the same work was completed by another contractor five years ago, there had been some key elements left out and the prior study was not complete or accurate. The prior study did not consider APS transformers, cable lengths, and it had mismarked equipment. It was determined that an accurate study could not be completed under the original specifications provided under the procurement.

This study is an OSHA requirement, but more importantly protects staff and electrical contractors when they are required to work on our equipment. An accurate study is critical as it determines the amount of incident energy that a person working on that equipment may encounter, bad information can lead to increased risk and/or injury to persons working on that equipment.

As it relates to the procurement misstep referenced earlier, corrective measures have already been taken to ensure that staff are trained in applicable procurement policies and that staff's performance is aligned accordingly.

Key Considerations:

This study keeps the City's Water Reclamation Facilities in compliance with OSHA safety regulations.

Expanded Financial Considerations:

N/A

Community Benefits and Considerations:

N/A

Community Involvement:

N/A

Attachments: [2020-88 High Voltage Electrical Services Coop](#)
 [Exhibit A - ABM Quote](#)
 [Exhibit B - Maricopa County Contract - ABM](#)

COOPERATIVE PURCHASE CONTRACT

Contract No. 2020-88

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 ABM Electrical Power Services, LLC, a Delaware Limited Liability Company ("Contractor").

RECITALS:

- A. Contractor has Contract No. 171017-S with Maricopa County 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:

HIGH VOLTAGE ELECTRIC SERVICES

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 the Scope of Work attached as Exhibit A attached hereto and incorporated by reference.
3. Payment: Payment to the Contractor for the materials and or services provided shall fifty-seven thousand, eight hundred and thirty dollars (\$57,830.00); made in accordance with the price list and terms set forth in the Agency Contract.
4. Terms and Conditions of Agency Contract Apply: All provisions of the Agency Contract documents, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. The Agency Contract documents are set forth in Exhibit B attached hereto and incorporated by reference. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract.
5. Certificates of Insurance: All insurance provisions of the Agency Contract shall apply, including any requirement to name the City as an additional insured. Prior to commencing performance under this Contract, Contractor shall furnish City with a copy of the current Certificate of Insurance required by the Agency Contract.
6. Term: This Cooperative Purchase Contract shall commence upon execution by the parties and shall continue until expiration or termination of the underlying Agency Contract, unless sooner terminated by City in writing.

7. Renewal: This Cooperative Purchase Contract shall be automatically renewed if the underlying Agency Contract is renewed, for the same renewal period, unless City provides advance written notice to Contractor of its intention to non-renew.

AMB Electric Power Services, LLC.:

By: _____

Title: _____

CITY OF FLAGSTAFF

By: _____

Title: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney's Office

EXHIBIT A
SCOPE OF WORK (attached)

Quote from ABM proposal # JB-042320-1 R1

**EXHIBIT B
AGENCY CONTRACT**

Maricopa County Serial: 171017-S (attached)



ABM Electrical Power Services
 2631 S. Roosevelt Street
 Tempe, AZ 85282
 602-387-9460

Company:	City of Flagstaff	Date:	June 19, 2020
Attention:	Shawn McGee		
Email:	SMcKee@flagstaffaz.gov	Phone:	(928)213-2435
Project:	City of Flagstaff –Wildcat & Rio De Flag Engineering Studies		

Proposal Number: JB-042320-1 R1

Proposal Price Breakdown

Scope Of Work \$57,830 Straight Time (During Normal Business Hours, M-F 6am-6pm)

If Applicable, Item Counts And Scope Of Service(S) Are Per The Attached Documents. Any material pricing provided within this proposal is valid for 30 days, all other pricing is 90 days.

Any unplanned technician standby time necessitated by conditions outside the control of ABM Electrical Power Services will be additionally billed in accordance with our published Fee Schedule.

Cancelling this project within 72 hours of scheduled completion date may result in 10% cancellation fee. Repeated cancellations may also result in 10% fee.

The above price is based on work already performed for the entire sites.

Holiday	Holiday Observed
New Year’s Day	January 1, 2020
Martin Luther King, Jr. Day	January 20, 2020
President’s Day	February 17, 2020
Memorial Day	May 25, 2020
Independence Day	July 3, 2020
Labor Day	September 7, 2020
Thanksgiving Day	November 26, 2020
Friday After Thanksgiving	November 27, 2020
Christmas Day	December 25, 2020



Scope of Work

Price Is Based on Increased Engineering, Data Collection and Onsite Time Required To Perform Engineering Study For All Equipment Onsite.

General Exceptions/Conditions

1. Retesting, repairs and/or replacement of malfunctioning devices is not included.
2. Optional tests per NETA Acceptance Testing Specifications are not included.
3. Quantities and device types are based job walk(s) as indicated (if applicable), any changes in the quantities may affect pricing.
4. Delay and/or standby time not under ABM's control will be billed/invoiced as an additional cost.
5. Tests or equipment not specifically listed above.
6. Performance/Payment Bonds.
7. Davis Bacon – Prevailing Wages –Certified Payroll.
8. Onsite Safety/Orientation/Badging Time (Safety Requirements)

Customer's Responsibilities

1. Provide clear access to all items and equipment to be included.
2. Utility Outages, permits and/or lighting if required.
3. Ready access to equipment listed above within 15 minutes to avoid delays and additional charges.
4. Setting implementation.
5. Utility Transformer Information (kVA, Impedance, Primary Voltage, Fuse Type and Fuse Size).

ABM's Responsibilities

1. Provide qualified personnel and PPE for work to be performed.
2. Data collection as required on "ABM Electrical Power Services" Information Request Form".
3. Label application.
4. Provide NFPA 70E trained electricians to remove and re-install equipment covers.

We look forward to working with you on this project, and sincerely appreciate the opportunity to be of service. Please do not hesitate to contact us, should you have any questions or comments.

Sincerely,



Jason Black
General Manager



ABM Electrical Power Services
2631 S. Roosevelt Street
Tempe, AZ 85282
602-387-9460

ABM Electrical Power Services, LLC

We instruct ABM Electrical Power Services, LLC (ABMEPS) or subsidiaries to proceed with scheduling and performing the work described in the attached proposal.

Project Site Address(es): _____

* **Authorized Project Amount:** \$ _____ Proposed Date to Begin Work: _____

Project Comments/Notes: _____ \$

Contact Name: _____ Site Contact Phone: _____

AUTHORIZATION TO PROCEED REQUIRED

* **Customer Authorization Signature:** _____

Printed Name & Title: _____

Date: _____ Phone: _____ Email: _____

BILLING INFORMATION REQUIRED

ABMEPS is instructed to bill this project per the pricing outlined in the proposal accordingly:

* **Purchase/Service Order or Contract Number is (Mark One):** Required on invoice Not Required If Required,

Provide Number Here: _____

Full Billing Name: _____

Billing Address: _____

Billing City, State, Zip Code: _____

Accounts Payable Contact: _____

AP Phone Number: _____ AP Email Address: _____

Email Address For Invoice Processing: _____

* Please help streamline invoicing by providing an email address for invoice processing

Terms and Conditions:

The attached ABM Electrical Power Services, LLC Terms and Conditions will apply. Authorization to proceed with the work outlined in this quotation shall constitute Site Host ("Buyer's") acceptance of these terms and conditions in full. Oral authorizations to proceed must be confirmed to ABMEPS in writing (Fax or e-mail) before project start. If there is a conflict or discrepancy between terms and conditions in the Buyer's purchase authorization and this quotation, this quotation shall prevail unless specifically authorized, in writing, by ABM Electrical Power Services, LLC.



ABM ELECTRICAL POWER SERVICES

Terms and Conditions

The following terms and conditions are hereby made a part of this quotation. Authorization to proceed with the work outlined in this quotation shall constitute Buyer's acceptance of these terms and conditions in full. Oral authorizations to proceed must be confirmed to ABM Electrical Power Services in writing (Fax or e-mail) within 24 hours. If there is a conflict or discrepancy between terms and conditions in the Buyer's purchase authorization and this quotation, this quotation shall prevail unless specifically authorized, in writing, by ABM Electrical Power Services.

Terms of Payment: 1. Terms are net thirty (30) days. Any invoice not paid within thirty (30) days from the date of invoice will be subject to a service charge equal to the lesser of One and One-half percent (1.5%) per month on account balances or the maximum percentage permitted by law. 2. At ABM Electrical Power Services option, customers may be invoiced on a monthly basis for services provided over more than one month. 3. All pricing and payment terms contained herein are contingent upon a favorable Credit Report for the customer/client to whom this quotation is provided. Upon receipt of a less than favorable credit report ABM Electrical Power Services reserves the right to withdraw this proposal, modify the pricing, or require payment when services are rendered, or advance payment of the total job quotation before providing services. 4. For material purchases in excess of \$50,000, ABM Electrical Power Services reserves the option to invoice 50% of the total at the time of material order and the remaining 50% at the time of material delivery. 5. Customer agrees to pay ABM Electrical Power Services, to the extent permitted by applicable law, all costs and expenses, including but not limited to reasonable attorney's fees, incurred by ABM Electrical Power Services in connection with any collection activities or actions to collect unpaid invoices under this quotation.

Delays: ABM Electrical Power Services shall not be liable for delays or performance resulting from causes beyond its reasonable control, acts of God, acts or omissions of Buyer, fire, strike or other labor difficulty. Should there be a delay, the date of delivery or performance shall be extended.

Cancellation: Notice of cancellation of services to be performed must be received thirty-six (36) hours prior to the agreed upon date and time. Unless such notification is provided, charges will be incurred. These charges will be ABM Electrical Power Services cost plus ten percent (10%) and will include any rental equipment for the Project.

Disclaimer: ABM Electrical Power Services assumes no responsibility for any damage or injury to any property caused directly or indirectly as a result of ABM Electrical Power Services performing its duties under this agreement except such damage or injury that may be held to result solely and directly from or out of: Any grossly negligent performance by ABM Electrical Power Services in its obligations under this Agreement or any willful misconduct on the part of ABM Electrical Power Services, its agents or employees.

Responsibility: All services are performed in accordance with industry standards, project specifications and/or NETA specifications. Where remediation is beyond the scope of normal reliability testing, and where corrective action is required, such services will be quoted separately.

Assignment: ABM Electrical Power Services reserves the right to assign this project in part or in total to an affiliated entity.

Termination: An order may be terminated only by mutual written agreement between Buyer and ABM Electrical Power Services and only upon payment of costs and expenses already incurred by ABM Electrical Power Services.

Safety: ABM Electrical Power Services agrees to comply with all applicable federal, state, local, National Electric Codes and project safety rules and regulations. ABM Electrical Power Services reserves the right not to perform work that in its opinion violates OSHA Electrical Safety-Related Work Practices; Final Rule or other safety rules and regulations.

Standby Time: When ABM Electrical Power Services service personnel are on the job site but unable to perform services requested because of circumstances beyond ABM Electrical Power Services control, the customer will be charged standby time at the applicable rate for each such ABM Electrical Power Services service person (up to a maximum of eight (8) hours per day per person).

Liability: ABM Electrical Power Services and its contractors and suppliers of any tier, shall not be liable in contract, in tort or otherwise for damage or loss of property or equipment, loss of profits or revenue, loss of use of equipment or power system, cost of capital, cost of purchased or replacement power or temporary equipment (including additional expenses incurred in using existing facilities), claims of customers of Buyer, or for any special, indirect, incidental, or consequential damages of any kind, whether arising in or based on contract, tort, statute, strict liability, warranty or otherwise.

Warranties: All material and equipment delivered and/or installed will be the products of reputable manufacturers. ABM Electrical Power Services MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WHICH ARE HEREBY EXPRESSLY EXCLUDED, CONCERNING MATERIAL AND EQUIPMENT MANUFACTURED BY OTHERS. ABM Electrical Power Services sells and delivers all materials and equipment not manufactured by it "AS IS," but ABM Electrical Power Services will use its best reasonable efforts to obtain from the manufacturer, in accordance with the manufacturer's customary practices, the repair or replacement of any material or equipment which may prove defective in workmanship or material. The foregoing shall be the exclusive remedy of Buyer and the sole obligation of ABM Electrical Power Services with respect to material and equipment manufactured by others. Further, ABM Electrical Power Services warrants its labor for one (1) year. Any materials obtained from ABM Electrical Power Services inventory carry a ninety (90) day warranty.



SERIAL 171017 S HIGH VOLTAGE ELECTRIC SERVICES

DATE OF LAST REVISION: November 27, 2019 CONTRACT END DATE: November 30, 2021

CONTRACT PERIOD THROUGH NOVEMBER 30, ~~2017~~ 2019 2021

TO: All Departments
FROM: Office of Procurement Services
SUBJECT: Contract for **HIGH VOLTAGE ELECTRIC SERVICES**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **December 01, 2016**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.



Kevin Tyne, Chief Procurement Officer
Office of Procurement Services

SA/mm
Attach

Copy to: Office of Procurement Services
Erick Blue, FMD
Beth Cressman, FMD

SUMMIT LINE CONSTRUCTION, 875 S. INDUSTRIAL PKWY., HEBER CITY, UT 84032

SERIAL: 171017-S				
NIGP CODE: 93677				
RESPONDENT NAME:	Summit Line Construction			
VENDOR NUMBER :	VS0000000860	-	-	
ADDRESS:	875 S. Industrial Pkwy., Heber City, UT 84032			
P.O. ADDRESS:	Same			-
TELEPHONE NUMBER:	435-657-0721	-	-	
FACSIMILE NUMBER:	435-657-0767	-	-	
WEB SITE:	summitlineconstruction.com	-	-	
REPRESENTATIVE:	Josh Knowles			-
REPRESENTATIVE E-MAIL:	jeknowles@summitlineconstruction.com	-	-	

	<u>YES</u>	<u>NO</u>
WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE SERVICES UNDER THIS CONTRACT:	<input checked="" type="checkbox"/>	<input type="checkbox"/>

WILL ACCEPT PROCUREMENT CARD FOR PAYMENT:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	-------------------------------------

PAYMENT TERMS:
 NET 30 DAYS

1ST CALL

Group 1 Services

Title	Business Hours	After Hours	Weekends/Holidays
General Foreman	\$124.94	\$166.01	\$207.07
Foreman	\$113.18	\$150.14	\$187.10
Lineman	\$105.34	\$139.57	\$173.79
Cable Splicer	\$105.34	\$139.57	\$173.79
Journeyman Electrician	\$57.24	\$71.22	\$85.21
Apprentice	\$82.51	\$102.66	\$122.83
Groundman	\$69.72	\$86.67	\$103.63

Group 2 Services

Title	Business Hours	After Hours	Weekends/Holidays
General Foreman	\$118.59	\$150.30	\$182.03
Foreman	\$114.52	\$144.93	\$175.33
Lineman	\$104.15	\$131.02	\$157.89
Cable Splicer	\$104.15	\$131.02	\$157.89
Journeyman Electrician	\$52.65	\$65.51	\$78.38
Apprentice	\$82.51	\$102.66	\$122.83
Groundman	\$68.94	\$84.88	\$100.80

SUMMIT LINE CONSTRUCTION

Materials

Title	Cost Plus %
Materials, parts, components, cost plus %	12%

PRICING SHEET: NIGP CODE 93677

Terms: _____ NET 30

Vendor Number: _____ VS0000000860

Certificates of Insurance _____ Required

Contract Period: _____ To cover the period ending November 30, 2017-2019.

CANCEL EFF. AUGUST 05, 2019

ABM ELECTRICAL POWER SERVICES LLC, 1141 SW FREEWAY STE 40, SUGAR LAND, TX 77478
2631 S ROOSEVELT STREET, TEMPE, AZ 85282

SERIAL: 171017-S		
NIGP CODE: 91082		
RESPONDENT NAME:		ABM Electrical Power Services LLC
VENDOR NUMBER:		VC0000001951
ADDRESS:		2631 S Roosevelt Street, Tempe, AZ 85282 1141 SW Freeway Ste 40, Sugar Land, TX 77478
P.O. ADDRESS:		2631 S Roosevelt Street, Tempe, AZ 85282
TELEPHONE NUMBER:		602-300-2188
FACSIMILE NUMBER:		(602)437-3894
WEB SITE:		www.abm.com
REPRESENTATIVE:		Jason Black
REPRESENTATIVE E-MAIL:		Jason.Black@ABM.com

				YES	NO
WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE SERVICES UNDER THIS CONTRACT:				[X]	[X]
WILL ACCEPT PROCUREMENT CARD FOR PAYMENT:				[]	[X]

PAYMENT TERMS:
 [X] NET 30 DAYS

~~2ND CALL~~ 1ST CALL

Group 1 Services

Title	Business Hours	After Hours	Weekends/Holidays
General Foreman	\$125.00	\$175.00	\$225.00
Foreman	\$115.00	\$161.00	\$207.00
Lineman	\$95.00	\$133.00	\$171.00
Cable Splicer	\$90.00	\$126.00	\$162.00
Journeyman Electrician	\$90.00	\$126.00	\$162.00
Apprentice	\$90.00	\$126.00	\$162.00
Groundman	\$90.00	\$126.00	\$162.00

Group 2 Services

Title	Business Hours	After Hours	Weekends/Holidays
General Foreman	\$125.00	\$175.00	\$225.00
Foreman	\$115.00	\$161.00	\$207.00
Lineman	\$95.00	\$133.00	\$171.00
Cable Splicer	\$90.00	\$126.00	\$162.00
Journeyman Electrician	\$90.00	\$126.00	\$162.00
Apprentice	\$90.00	\$126.00	\$162.00
Groundman	\$90.00	\$126.00	\$162.00

ABM ELECTRICAL POWER SERVICES LLC

Materials

Title	Cost Plus %
Materials, parts, components, cost plus %	15

PRICING SHEET: NIGP CODE 93677

Terms: NET 30

Vendor Number: VC0000001951

Certificates of Insurance Required

Contract Period: To cover the period ending **November 30, 2017 2019 2021.**

HIGH VOLTAGE ELECTRIC SERVICES

1.0 INTENT:

The intent of this Invitation for bid is to source responsive/responsible contractor(s) to provide high voltage electrical distribution service. The successful contractor(s) must have the ability to work on overhead/underground wires, substations, transformers, and related equipment while energized on an as needed basis. Maricopa County reserves the right to add contractors to this contract throughout its term as required to ensure adequate competition.

The following high voltage repairs and services are listed as a minimum, but not limited to, and any Contractor considering bidding must have the licenses, tools, equipment, materials, and technical ability to perform such. These services are divided into two (2) groups:

GROUP 1

Transformers:
 Addition and/or removal of oil
 Perform double test**
 Perform Turn To Ratio test (TTR)**
 Oil analysis/testing**
 Perform Hypot testing
 Perform Mega-ohm testing
 On-site gasket fabrication**
 Relay and Circuit Breaker testing
 Switchgear repair/replacement/testing**
 Substations, maintenance and repair

GROUP 2

Underground and overhead cables repair and maintenance
 Pole testing
 Hardware and ground wire tightening
 Pole and hardware change-out
 Transition inspection and repairs (i.e., arrestors, cutouts, fuses, jumpers, and connectors)
 Down guy/anchor repair and replacement
 Switching and grounding
 Utility notification and coordination as necessary
 Manhole entry, cleaning, repair, and manhole (underground) cable work
 Distribution panels, repair, inspection, cleaning, and testing

**It is understood some of the services listed above cannot be performed by all high voltage service contractors, and therefore shall be subcontracted to a contractor specializing in that field.

Other governmental entities under agreement with the County may have access to services provided hereunder (see also Sections 3.9 and 3.10 below).

The County reserves the right to add additional contractors, at the County's sole discretion, in cases where the currently listed contractors are of an insufficient number or skill-set to satisfy the County's needs or to ensure adequate competition on any project or task order work.

2.0 SPECIFICATIONS:

2.1 TECHNICAL REQUIREMENTS:

- 2.1.1 High voltage shall be defined as 600V+/- and above, for all County facilities. There are no voltage minimums/maximums for transformers.
- 2.1.2 Each contractor assigned to this contract shall have the capability of repairing overhead/underground high voltage electrical transmission lines, substations, and transformers, generators while energized. This may not occur on a regular basis, however this requirement is essential should the need arise.

2.1.3 All testing shall be performed by NETA or NICET certified technicians.

Each of the Groups listed above is listed in Attachment A, PRICING.

2.1.4 Contractor shall provide all equipment, tools, labor, supervision, materials, transportation, and all effort necessary to carry out the specifications herein.

2.1.5 Service shall be made available to the County 365 days per year.

2.2 REQUIREMENTS:

2.2.1 The contractor(s) assigned to this contract shall have the following as minimum requirements of this bid. **Contractor shall provide proof of each with your bid package:**

- (a) State of Arizona, Registrar of Contractors license for electrical and transmission lines A-17. (Utility companies are exempt from licensing requirement).
- (b) The Contractor must have been in the high voltage repair business a minimum five (5) consecutive years, and completely familiar with the specified requirements and methods needed for proper performance of this contract.
- (c) Employees of the Contractor assigned to working on energized distribution equipment must have on staff electrical journeymen technicians who have completed a State of Arizona approved electrical lineman apprenticeship program or equivalent. Provide on your letterhead a statement to that effect.
- (d) A minimum of three (3) fully stocked service trucks utilized in the high voltage business. The Contractor's service truck fleet shall carry sufficient supply of test equipment, tools, materials, and parts etc., needed to perform high voltage electrical power services.
- (e) Due to the nature of overhead electrical work, it shall be a requirement that the contractor assigned to this contract have ownership of at least one (1) bucket truck of sufficient size, reaching a minimum of thirty-five (35) feet, which is reliable and maintained on a regular basis.
- (f) Submit existing safety histories including violations or lost time accidents for the past five (5) years.

These requirements shall be verified after bid submittals and prior to award via the due diligence process of the Facilities Management Department.

2.3 PROJECT WORK AND TIME & MATERIALS:

2.3.1 Project work shall mean work performed, which, in the best interest of the County, would be more advantageous to be performed as "all inclusive" as opposed to time and materials. Each of the contractors assigned to this contract shall be provided a request for project quote containing a detailed Scope of Work. As such, each contractor shall submit a response, with award granted to the lowest quote for the project. Contractors are not to submit their own project quote sheets (exceptions: if the contractor's quote sheet has no terms and conditions and no provisions for a signature from the County). If the Contractor's quote sheet contains any of the aforementioned, only County letterhead quote sheets will be acceptable. All terms and conditions are only those established under this agreement.

2.3.2 A construction tax may be applied to the total project cost. This is calculated at 65% of the retail tax rate applied to the combined labor and materials associated with project work. If project work, do not itemize labor and materials. ALL CONSTRUCTION

TAXES SHALL BE A COMPONENT OF THE TOTAL PROJECT COST AND NOT A SEPARATE LINE ITEM.

- 2.3.3 The County's project quote sheet will contain the following information:
- The contract serial number and name;
 - Name and address of site;
 - FMD site ID number;
 - Detailed scope of work,
 - Other information relative to the SOW,
 - Project cost line item,
 - Check box for "will quote" or "will not quote" the project,
 - Deadlines for quote delivery,
 - Signature line for both the County and the Contractor
- 2.3.4 After a site review of the project, all contractors listed under this contract must submit the project quote sheet back to the County within the specified time frame, either with acceptance and a firm price; or decline with a written reason as to why the project was declined. Contractors who have declined project work a minimum of three times during a six-month period shall be required to attend a meeting with the Materials Management Department and FMD to discuss consideration for default of contract as this is indicative of the Contractor's desire not to do business with the County.
- 2.3.5 The submitted project price quote is to be all-inclusive. That is, any cost overruns to be absorbed by the Contractor, or cost savings to be additional profit. Exceptions to this are changes requested by the County that incur higher project cost and longer delays. All change orders to a project must be in writing, referencing the contract serial number, and approved by FMD (or County user agency if request was made by them) prior to any authorization to proceed. The Contractor who fails to acquire change orders in writing runs the risk of incurring these additional costs without payment. ALL contractors are to have an equal opportunity to quote on project work.
- 2.3.6 Dependent upon the complexity/nature of the project, a predetermined and/or pre-identified mandatory site meeting may be held to ensure all contractors are aware of important issues regarding the project. Mandatory site meetings will require a sign-in sheet. Contractors who do not show-up to a mandatory site meeting and who submit a project quote will be considered "non-responsive".
- 2.3.7 Contractors shall be compensated for additional work requested by the County that is not detailed in the scope via the labor rates bid in Attachment A, PRICING.
- 2.3.8 This contract may also be used for time and materials work (under **\$100,000.00** ~~\$10,000.00~~) and priced per hour as bid in the pricing section. The threshold from time and materials to project work shall be **\$100,000.00** ~~\$10,000.00~~. Exceptions to this shall be emergencies that arise and must be dealt with immediately without the time for project quotes. This figure is firm fixed. Exceeding this amount requires written approval from the County.
- 2.3.9 Each bidder shall be ranked as first call, second call, third call, and so on for time and materials. The contractor of record having the lowest labor bid shall be called first by the requesting department for time and materials service. If the vendor is unable to respond in the time parameters, the requesting agency shall proceed to the next lowest bidder. The County must document this via a rank call log. Consistent decline of service requests by a vendor or consistent non-compliance with response time specifications shall cause the County to review the file and a determination made for default of contract.

2.4 TECHNICAL AND DESCRIPTIVE SALES LITERATURE:

The Contractor shall provide copies of its sales literature and brochures and copies of any manufacturer's technical and/or descriptive literature regarding the material(s) the Contractor proposes to provide. Literature shall include sufficient, in-detail, to allow full and fair evaluation of the material(s) submitted, and must be included with the bid. Failure to include this information may result in the bid being rejected.

3.0 PURCHASING REQUIREMENTS:

3.1 ACCEPTANCE:

Upon delivery and successful installation, the material(s) shall be deemed accepted and the warranty period shall begin. All documentation shall be completed prior to final acceptance.

3.2 USAGE REPORT:

The Contractor shall furnish the County a usage report upon request delineating the acquisition activity governed by the Contract. The format of the report shall be approved by the County and shall disclose the quantity and dollar value of each contract item by individual unit.

3.3 BACKGROUND CHECK:

Bidders/proposers need to aware that there may be multiple background checks (Sheriff's Office, County Attorney's Office, Courts as well as Maricopa County general government) to determine if the respondent is acceptable to do business with the County. This applies to (but is not limited to)the company, sub-contractors and employees and the failure to pass these checks shall deem the respondent non-responsible.

3.4 INVOICES AND PAYMENTS:

3.4.1 The Contractor shall submit one (1) legible copy of their detailed invoice before payment(s) can be made. Incomplete invoices will not be processed. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract Serial Number or
- County purchase order number
- Invoice number and date
- Payment terms
- Date of service or delivery
- Quantity (number of days or weeks)
- Contract Item number(s)
- Description of Purchase (product or services)
- Pricing per unit of purchase
- Freight (if applicable)
- Extended price
- Mileage w/rate (if applicable)
- Arrival and completion time (if applicable)
- Total Amount Due

3.4.2 Problems regarding billing or invoicing shall be directed to the using agency as listed on the Purchase Order.

- 3.4.3 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After Contract Award the Contractor shall complete the Vendor Registration Form located on the County Department of Finance Vendor Registration Web Site (<http://www.maricopa.gov/Finance/Vendors.aspx>).
- 3.4.4 Discounts offered in the contract shall be calculated based on the date a properly completed invoice is received by the County (ROI).
- 3.4.5 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

3.5 APPLICABLE TAXES:

- 3.5.1 **Payment of Taxes:** The Contractor shall pay all applicable taxes. With respect to any installation labor on items that are not attached to real property performed by Contractor under the terms of this Contract, the installation labor cost and the gross receipts for materials provided shall be listed separately on the Contractor's invoices.
- 3.5.2 ~~State and Local Transaction Privilege Taxes: Maricopa County is subject to all applicable state and local transaction privilege taxes. To the extent any state and local transaction privilege taxes apply to sales made under the terms of this contract it is the responsibility of the seller to collect and remit all applicable taxes to the proper taxing jurisdiction of authority.~~
State and Local Transaction Privilege Taxes: To the extent any state and local transaction privilege taxes apply to sales made under the terms of this contract, it is the responsibility of the seller to collect and remit all applicable taxes to the proper taxing jurisdiction of authority.
- 3.5.3 **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 Maricopa County 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.

3.6 TAX (SERVICES):

~~No tax shall be levied against labor. It is the responsibility of the Contractor to determine any and all taxes and include the same in proposal price.~~
No tax shall be invoiced or paid against Contractor's labor. It is the responsibility of the Contractor to determine any and all applicable taxes and include the cost in the proposal price.

3.7 DELIVERY:

It shall be the Contractor's responsibility to meet the proposed delivery requirements. Maricopa County reserves the right to obtain services on the open market in the event the Contractor fails to make delivery and any price differential will be charged against the Contractor.

3.8 POST AWARD MEETING:

The Contractor may be required to attend a post-award meeting with the Using Agency to discuss the terms and conditions of this Contract. This meeting will be coordinated by the Procurement Officer of the Contract.

3.9 STRATEGIC ALLIANCE for VOLUME EXPENDITURES (\$AVE):

The County is a member of the \$AVE cooperative purchasing group. \$AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the \$AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of \$AVE may access a contract resulting from a solicitation issued by the County. If you **do not** want to grant such access to a member of \$AVE, **please so state** in your proposal. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this Request for Proposal.

3.10 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's):

County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor, to purchase their requirements under the terms and conditions of the County Contract. Please indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract.

4.0 **CONTRACTUAL TERMS & CONDITIONS:**

4.1 CONTRACT TERM:

This Invitation for Bid is for awarding a firm, fixed-price purchasing contract to cover a term of one (1) year.

4.2 OPTION TO RENEW:

The County may, at its option and with the concurrence of the Contractor, renew the term of this Contract up to a maximum of four (4) additional years, (or at the County's sole discretion, extend the contract on a month to month basis for a maximum of six (6) months after expiration). The Contractor shall be notified in writing by the Office of Procurement Services of the County's intention to renew the contract term at least sixty (60) calendar days prior to the expiration of the original contract term.

4.3 PRICE ADJUSTMENTS:

Any requests for reasonable price adjustments must be submitted sixty (60) days prior to the Contract expiration. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted price terms, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey.

4.4 INDEMNIFICATION:

To the fullest extent permitted by law, and to the extent that claims, damages, losses or expenses are not covered and paid by insurance purchased by the Contractor, the Contractor shall defend indemnify and hold harmless the County (as Owner), its agents, representatives, agents, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses (including, but not limited to attorneys' fees, court costs, expert witness fees, and the costs and attorneys' fees for appellate proceedings) arising out of, or alleged to have resulted from the negligent acts, errors, omissions, or mistakes relating to the performance of this Contract.

Contractor's duty to defend, indemnify, and hold harmless the County, its agents, representatives, agents, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment of, or destruction of tangible property, including loss of use resulting there from, caused by negligent acts, errors, omissions, or mistakes in the performance of this Contract, but

only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, any one directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of County.

4.5 INSURANCE:

4.5.1 Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of B++. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.

4.5.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.

4.5.3 Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.

4.5.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.

4.5.5 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

4.5.6 The insurance policies required by this Contract, except Workers' Compensation and Errors and Omissions, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

4.5.7 The policies required hereunder, except Workers' Compensation and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.

4.5.8 **Commercial General Liability.**

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The policy shall include coverage for premises liability, bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provisions which would serve to limit third party action over claims. There shall be no endorsement or modifications of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

4.5.9 **Automobile Liability.**

Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services or use or maintenance of the Premises under this Contract.

4.5.10 **Workers' Compensation.**

Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

Contractor, its contractors and its subcontractors waive all rights against Contract and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor, its contractors and its subcontractors pursuant to this Contract.

4.5.11 Certificates of Insurance.

4.5.11.1 Prior to Contract **AWARD**, Contractor shall furnish the County with valid and complete certificates of insurance, or formal endorsements as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

4.5.11.2 In the event any insurance policy (ies) required by this contract is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

4.5.11.3 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

4.5.12 Cancellation and Expiration Notice.

~~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 Maricopa County. Contractor must provide to Maricopa County, within 2 business days of receipt, 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 Maricopa County Office of Procurement Services and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (320 West Lincoln Street, Phoenix, AZ 85003, Phone Number 602/506-3967 /Fax Number 602/258-1573).~~

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) calendar days prior written notice to Maricopa County. Contractor must provide to Maricopa County, within two (2) business days of receipt, 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

Maricopa County Office of Procurement Services and shall be mailed or hand delivered to 160 South 4th Avenue, Phoenix, AZ 85003, or emailed to Procurement Officer noted in solicitation.

4.6 REQUIREMENTS CONTRACT:

- 4.6.1 ~~Contractors signify their understanding and agreement by signing a bid submittal, that the Contract resulting from the bid is a requirements contract. However, the Contract does not guarantee any minimum or maximum number of purchases will be made. It only indicates that if purchases are made for the materials contained in the Contract, they will be purchased from the Contractor awarded that item. Orders will only be placed when the County identifies a need and proper authorization and documentation have been approved.~~
- 4.6.2 ~~County reserves the right to cancel Purchase Orders within a reasonable period of time after issuance. Should a Purchase Order be canceled, the County agrees to reimburse the Contractor for actual and documentable costs incurred by the Contractor in response to the Purchase Order. The County will not reimburse the Contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, shipment of product prior to issuance of Purchase Order, etc.~~
- 4.6.3 ~~Contractors agree to accept verbal notification of cancellation of Purchase Orders from the County Procurement Officer with written notification to follow. By submitting a bid in response to this Invitation for Bids, the Contractor specifically acknowledges to be bound by this cancellation policy.~~

4.7 SUSPENSION OF WORK:

The Procurement Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Procurement Officer determines appropriate for the convenience of the County. No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor. No request for adjustment under this clause shall be granted unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

4.8 STOP WORK ORDER:

The Procurement Officer 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 a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. 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. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Procurement Officer shall either—

- 4.8.1 Cancel the stop-work order; or
- 4.8.2 Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the County, clause of this contract.
- 4.8.3 The Procurement Officer may make an equitable adjustment in the delivery schedule and/or contract price, or otherwise, and the contract shall be modified, in writing, accordingly, if the Contractor demonstrates that the stop work order resulted in an increase in costs to the Contractor.

4.9 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

4.10 TERMINATION FOR DEFAULT:

The County may, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

4.10.1 Deliver the supplies or to perform the services within the time specified in this contract or any extension;

4.10.2 Make progress, so as to endanger performance of this contract; or

4.10.3 Perform any of the other provisions of this contract.

4.10.4 The County's right to terminate this contract under these subparagraphs may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the County) after receipt of the notice from the Procurement Officer specifying the failure.

4.11 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel any Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

4.12 OFFSET FOR DAMAGES:

In addition to all other remedies at Law or Equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance of the contract.

4.13 SUBCONTRACTING:

4.13.1 The Contractor may not assign to another Contractor or Subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project.

4.13.2 The Subcontractor's rate for the job shall not exceed that of the Prime Contractor's rate, as bid in the pricing section, unless the Prime Contractor is willing to absorb any higher rates. The Subcontractor's invoice shall be invoiced directly to the Prime Contractor, who in turn shall pass-through the costs to the County, without mark-up. A copy of the Subcontractor's invoice must accompany the Prime Contractor's invoice.

4.13.3 Subcontracting for work not related directly to electrical distribution repairs and maintenance is allowed with a mark-up not to exceed five percent (5%).

4.14 AMENDMENTS:

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for Maricopa County.

4.15 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete materials to a Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials are required from a Contract, prices for such additions will be negotiated between the Contractor and the County.

4.16 ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW:

4.16.1 In accordance with section MCI 371 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

4.16.2 If the Contractor's books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

~~4.16.3 If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future invoices, request for credit, request for a check or deduction from current billings Submitted by the Contractor by the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the Contractor by issuing a check payable to Maricopa County.~~

4.17 VALIDITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of the Contract.

4.18 RIGHTS IN DATA:

The County shall have the use of data and reports resulting from a Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to a Contract and to the performance thereunder.

4.19 RELATIONSHIPS:

4.19.1 In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, co-employee, partnership, principal and agent, or joint venture between the County and the Contractor.

4.19.2 The County reserves the right of final approval on proposed staff for all Task Orders. Also, upon request by the County, the Contractor will be required to remove any

employees working on County projects and substitute personnel based on the discretion of the County within two business days, unless previously approved by the County.

4.20 NON-DISCRIMINATION:

~~CONTRACTOR agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website <http://azmemory.azlibrary.gov/cdm/singleitem/collection/execorders/id/680/rec/1> which is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, CONTRACTOR shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.~~

Contractor agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Arizona State Library Research website (<http://azmemory.azlibrary.gov/cdm/singleitem/collection/execorders/id/680/rec/1>) which is hereby incorporated into this contract as if set forth in full herein. During the performance of this Contract, Contractor shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

4.21 ISRAEL BOYCOTT:

~~By submitting this proposal the Contractor certifies that they are in compliance with Article 9, Arizona Revised Statutes Section 35-393 et. seq.~~

4.22 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

~~The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor~~

~~is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;~~

~~have not within 3 year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;~~

~~are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and~~

~~have not within a 3 year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.~~

~~The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.~~

4.22.1 **The undersigned (authorized official signing on behalf of the Contractor) certifies to the best of his or her knowledge and belief that the Contractor, its current officers and directors;**

4.22.1.1 **are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from being awarded any contract or grant by any United States Department or Agency or any state, or local jurisdiction;**

4.22.1.2 **have not within three (3) year period preceding this Contract;**

4.22.1.2.1 **been convicted of fraud or any criminal offense in connection with obtaining, attempting to obtain, or as the result of performing a government entity (Federal, State or local) transaction or contract; and**

4.22.1.2.2 **been convicted of violation of any Federal or State antitrust statutes or conviction for embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property regarding a government entity transaction or contract; and**

4.22.1.2.3 **are not presently indicted or criminally charged by a government entity (Federal, State or local) with commission of any criminal offenses in connection with obtaining, attempting to obtain, or as the result of performing a government entity public (Federal, State or local) transaction or contract; and are not presently facing any civil charges from any governmental entity regarding obtaining, attempting to obtain, or from performing any governmental entity contract or other transaction; and have not within a three (3) year period preceding this Contract had any public transaction (Federal, State or local) terminated for cause or default.**

4.22.1.3 **If any of the above circumstances described in the paragraph are applicable to the entity submitting a bid for this requirement, include with your bid an explanation of the matter including any final resolution.**

4.22.2 **The Contractor shall include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.**

4.23 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:

4.23.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.

4.23.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 4.23 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date

specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and 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. All costs necessary to verify compliance are the responsibility of the Contractor.

4.24 CONTRACTOR LICENSE REQUIREMENT:

~~The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both Office of Procurement Services and the using agency of any and all changes concerning permits, insurance or licenses.~~

~~Respondents furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Respondent is not relieved of its obligation to possess the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1525 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.~~

4.24.1 Contractor shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. Contractor shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both Office of Procurement Services and the using agency of any and all changes concerning permits, insurance or licenses.

4.24.2 Contractors furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. Contractor is not relieved of its obligation to possess the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

4.25 INFLUENCE:

As prescribed in ~~MC1-1202~~ **MC1-1203** of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct, may be grounds for Disbarment or Suspension under MC1-902.

An attempt to influence includes, but is not limited to:

4.25.1 A Person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type valuable contribution or subsidy,

4.25.2 That is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.

If a Person attempts to influence any employee or agent of Maricopa County, the Chief Procurement Officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.

4.26 PUBLIC RECORDS:

~~All Offers submitted and opened are public records and must be retained by the Records Manager at the Office of Procurement Services. Offers shall be open to public inspection after Contract award and execution, except for such Offers deemed to be confidential by the Office of Procurement Services. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential, the specific information in its offer and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The Records Manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code and the Arizona Public Records Law.~~

Under Arizona law, all Offers submitted and opened are public records and must be retained by the Records Manager at the Office of Procurement Services. Offers shall be open to public inspection and copying after Contract award and execution, except for such Offers or sections thereof determined to contain proprietary or confidential information by the Office of Procurement Services. If an Offeror believes that information in its Offer or any resulting Contract should not be released in response to a public record request under Arizona law, the Offeror shall indicate the specific information deemed confidential or proprietary and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise from disclosure. The Records Manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

4.27 CONTRACT COMPLETION:

The Contractor shall make all reasonable efforts for an orderly transition of its duties and responsibilities to another provider and/or to the County. This may include but is not limited to preparation of a transition plan and cooperation with the County or other providers in the transition. The transition includes the transfer of all records, and other data in the possession, custody or control of Contractor required to be provided to the County either by the terms of this agreement or as a matter of law. The provisions of this clause shall survive the expiration or termination of this agreement.

4.28 FORCE MAJEURE:

4.28.1 **Neither party shall be liable for failure of performance, nor incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Contract if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the parties. Such events, occurrences, or causes will include Acts of God/Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, interruption or failure of electricity or telecommunication service.**

4.28.2 **Each party, as applicable, shall give the other party notice of its inability to perform and particulars in reasonable detail of the cause of the inability. Each party must**

use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.

4.28.3 The party asserting Force Majeure as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.

4.28.4 The County shall reserve the right to terminate this Contract and/or any applicable order or contract release purchase order upon non-performance by Contractor. The County shall reserve the right to extend the Contract and time for performance at its discretion.

4.29 **ORDERING AUTHORITY:**

Any request for purchase shall be accompanied by a valid purchase order, issued by Office of Procurement Services, a Purchase Order issued by the using Department or direction by a Certified Agency Procurement Aid (CAPA) with a Purchase Card for payment.

4.30 **NO MINIMUM OR MAXIMUM PURCHASE OBLIGATION:**

4.30.1 This Contract does not guarantee any minimum or maximum purchases will be made. Orders will only be placed under this Contract when the County identifies a need and proper authorization and documentation have been approved.

4.30.2 Contractors agree to accept verbal notification of cancellation of Purchase Orders from the County Procurement Officer with written notification to follow. Contractor specifically acknowledges to be bound by this cancellation policy.

4.31 **PURCHASE ORDERS:**

County reserves the right to cancel Purchase Orders within a reasonable period of time after issuance. Should a Purchase Order be canceled, the County agrees to reimburse the Contractor for actual and documentable costs incurred by the Contractor in response to the Purchase Order. The County will not reimburse the Contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, shipment of product prior to issuance of Purchase Order, etc.

4.32 **AUDIT DISALLOWANCES:**

If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future invoices, request for credit, request for a check or a deduction from current invoices submitted by the Contractor equal to the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the Contractor by issuing a check payable to Maricopa County.

4.33 **STRICT COMPLIANCE:**

Acceptance by County of a performance that is not in strict compliance with the terms of the Contract shall not be deemed to be a waiver of strict compliance with respect to all other terms of the Contract.

4.34 **SEVERABILITY:**

The removal, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

4.35 **CONFIDENTIALITY INFORMATION:**

~~In the course of the solicitation process, the County may disclose information that is proprietary or confidential. By submitting a bid to the solicitation, the offeror agrees that, except as necessary to prepare a response to this solicitation, neither it nor its agents or employees will communicate, divulge or disseminate to any third party persons or entities, any information that is disclosed to it by the County during the course of these discussions without the express written authorization of the County. If the offeror does disclose County proprietary or confidential information to a third party in preparing a response to this solicitation, it shall require the third party to acknowledge and comply with this provision.~~

Any information obtained in the course of performing this Contract may include information that is proprietary or confidential to the County. This provision establishes the Contractor's obligation regarding such information.

The Contractor shall establish and maintain procedures and controls that are adequate to assure that no information contained in its records and/or obtained from the County or from others in carrying out its functions (services) under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. The Contractor's procedures and controls at a minimum must be the same procedures and controls it uses to protect its own proprietary or confidential information. If, at any time during the duration of the Contract, the County determines that the procedures and controls in place are not adequate, the Contractor shall institute any new and/or additional measures requested by the County within fifteen (15) calendar days of the written request to do so.

Any requests to the Contractor for County proprietary or confidential information shall be referred to the County for review and approval, prior to any dissemination.

4.36 **INTEGRATION:**

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

4.37 **UNIFORM ADMINISTRATIVE REQUIREMENTS:**

By entering into this Contract, the Contractor agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. § 200 *et seq.*

4.38 **GOVERNING LAW:**

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona.

4.39 **WRITTEN CERTIFICATION PURSUANT to A.R.S. § 35-393.01:**

If vendor engages in for-profit activity and has 10 or more employees, and if this agreement has a value of \$100,000 or more, vendor certifies it is not currently engaged in, and agrees for the duration of this agreement to not engage in, a boycott of goods or services from

Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

Unless and until the District Court's injunction in Jordahl is stayed or lifted, the Anti-Israel Boycott Provision (A.R.S. §35-393.01 (A)) is unenforceable and the County will take no action to enforce it.

ATTACHMENT D**FACILITIES MANAGEMENT REQUIREMENTS****1.0 HOURS OF SERVICE:**

- 1.1 REGULAR HOURS are between 6:00 AM and 6:00 PM, Monday through Friday, excluding County holidays.
- 1.2 AFTER HOURS is after 6:00 PM and prior to 6:00 AM, Monday through Friday.
- 1.3 WEEKENDS are anytime Saturday or, Sunday.
- 1.4 HOLIDAYS are County Holidays (See County holiday schedule attachment).
- 1.5 Services shall be available 24 hours per day, 7 days per week, 365 days per year.
- 1.6 Contractor shall provide 24 hours per day, 7 days per week, 365 days per year telephone access, and respond to a call for services within thirty (30) minutes of receipt.

2.0 RESPONSE TIMES:

- 2.1 During REGULAR HOURS, AFTER HOURS, WEEKEND or HOLIDAYS, Contractor shall respond on-site within four (4) hours of receipt of a service request.
- 2.2 If the request is designated by the County as an EMERGENCY, the contractor shall respond on-site within two (2) hours of receipt of a service request regardless of the time of day, WEEKEND or HOLIDAY.

3.0 TRIP CHARGE:

Trip charges are permitted when time and material work is requested at the following sites only:

- 3.1 MCSO Lake Aid Stations (Apache, Bartlett, Blue Point, Canyon and Saguaro)
- 3.2 County offices located in Gila Bend, AZ
- 3.3 County offices located in Buckeye, AZ
- 3.4 County offices located in Aguila, AZ
- 3.5 Only one trip charge may be charged per service call.
- 3.6 If the contractor arrives onsite and is unable to locate a County representative familiar with the work or unable to gain access to the work site, the Contractor may only bill for a trip charge (maximum one time daily trip charge not to exceed \$50.00). The Contractor is not authorized to incur nor will the County accepting billing for any labor charges.

4.0 CONTRACTOR REQUIREMENTS:

- 4.1 Contractor(s) shall supply all labor, supervision, materials, tools, equipment, and effort necessary to perform the Scope of Work presented.
- 4.2 The Contractor's service truck fleet and/or warehouse shall carry sufficient supply of repair parts and equipment to perform services per Scope of Work presented.

- 4.3 The Contractor agrees to utilize only experienced, responsible and capable people in the performance of the work.
- 4.4 All employees of the Contractor shall wear a company uniform identified with the company name consisting of a minimum of one of the following:
- 4.4.1 Shirt/blouse
 - 4.4.2 Vest
 - 4.4.3 Cap
- 4.5 No one except authorized employees of the Contractor is allowed on the premises of Maricopa County. Contractor's employees are NOT to be accompanied in their work area by acquaintances, family members, assistants, or any other person unless said person is an authorized employee of the Contractor.
- 4.6 The Contractor shall perform the work in a way to minimize disruption to the normal operation of building occupants. Upon completion of work the Contractor shall clean and remove from the job site all debris, materials and equipment associated with the work performed.
- 4.7 Contractor shall adhere to all regulations, rules, ordinances, and standards set by Federal, State, County, and Municipal governments pertaining to safety on the job site.
- 5.0 BUILDING SECURITY (KEYS):
- 5.1 The Contractor may be provided keys to required County Facilities at the discretion of FMD. Keys may be acquired by:
- 5.2 The Contractor being provided permanent key(s), wherein the Contractor verifies receipt of and accepts responsibility for keys. The keys must be returned at the completion of the work or at the direction of FMD. Keys not returned may cause the County to re-key the ENTIRE building or locations that the set of keys opened with the cost being borne by the Contractor.
- 5.3 In lieu of or in addition to keys, the Contractor may be provided card access badges at the discretion of FMD.
- 5.4 The Contractor shall notify FMD within twenty-four (24) hours if any keys are lost, misplaced, stolen or otherwise not within the Contractor's control.
- 5.5 Once the Purchase Order is complete, expired, or terminated the Contractor shall immediately return all badges and keys to FMD.
- 6.0 SALVAGE:
- Salvage rights shall be evaluated on a project by project basis by the County and shall be determined prior to incorporation in the contractor's bid price. Salvage rights automatically apply for all work if in the best interest to the County. Salvageable materials without pre-approved contractor salvage rights shall be securely stored and are not to be transported off the site without written permission from Maricopa County. If contractor is given salvage rights, salvageable materials shall be removed daily. No on site storage of contractor's salvaged materials will be permitted.
- 7.0 INVOICES AND PAYMENTS:
- Invoices are required to contain the following information and should be e-mailed to FMD-ACCOUNTSPAYABLE@MAIL.MARICOPA.GOV If invoices cannot be e-mailed, U.S. Mail is

acceptable to Maricopa County Facilities Management, Accounts Payable, 401 W. Jefferson, Phoenix, Arizona 85003.

- 7.1 Company name, address and contact information
- 7.2 County bill-to name and contact/requestor information
- 7.3 Building Name and Building Number
- 7.4 Contract Serial Number or
- 7.5 County purchase order number
- 7.6 Maximo (FMD) service call number
- 7.7 Invoice number and date
- 7.8 Date of service or delivery
- 7.9 Description of Purchase (services performed)
- 7.10 Labor breakdown: rate per hour x no. of hours by personnel type (time & materials)
- 7.11 Material breakdown: itemized parts list to contain unit price x quantity, indicating mark-ups as contracted (time & materials)
- 7.12 Arrival and completion time
- 7.13 Total Amount Due with tax amounts separated. Must also clearly indicate the tax rate being applied
- 7.14 Payment Terms

For Time & Material work, Contractor(s) must provide, all equipment, expendable shop supplies (rags, cleaners, solvents, gasses, etc.), miscellaneous parts (screws, bolts nuts, small items etc.), tools, etc. necessary to perform all the required services. Contractor(s) are allowed a one-time Misc. Shop fee charge of up to \$25.00 per work order to cover these type of expenses. Anything beyond the \$25 limit, will be provided at the contractor's own expense.

8.0 CONTRACTOR EMPLOYEE BACKGROUND CHECK:

A background check is required for all Contractor employees providing services to the County. The cost of this service shall be incurred by the County. No Contractor employee may access County property without approval of FMD.

ATTACHMENT D

FACILITIES MANAGEMENT REQUIREMENTS

Respondent hereby certifies that Respondent has read, understands and agrees acceptance of the Facilities Management Requirements.

COMPANY: Summit Line Construction

Riley Probst - President
PRINTED NAME AND TITLE


AUTHORIZED SIGNATURE

September 20, 2016
DATE

Respondent hereby certifies that Respondent has read, understands and agrees acceptance of the Facilities Management Requirements.

COMPANY: Arizona Electrical Apparatus

William Mehle - Operations Manager
PRINTED NAME AND TITLE


AUTHORIZED SIGNATURE

9/20/2016
DATE

SERIAL 171017-S

AMENDMENT No. 1

To
SERIAL 171017-S HIGH VOLTAGE ELECTRIC SERVICES

Between

ABM Electrical Power Services
&
MARICOPA COUNTY, ARIZONA

WHEREAS, Maricopa County, Arizona ("County") and ABM Electrical Power Services ("Contractor") have entered into a Contract for the purchase of High Voltage Electrical Distribution Services, dated December 01, 2016 ("Agreement") County Contract No: 171017-S.

WHEREAS, County and ABM Electrical Power Services have agreed to further modify the Agreement by changing certain terms and conditions;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Under this Amendment, Section 2.3.8 shall be amended to increase the Time and Materials threshold from \$10,000.00 to \$100,000.00 per project.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

IN WITNESS WHEREOF, this Contract Amendment is executed on the date set forth below when executed by Maricopa County Office of Procurement Services Department.

ABM ELECTRICAL POWER SERVICES:



Authorized Signature

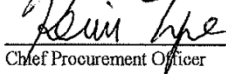
Jason Black General Manager

Printed Name and Title

8-5-19

Date

MARICOPA COUNTY:



Chief Procurement Officer

8/5/19

Date

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Wayne Anderson, IT Manager - Applications
Co-Submitter: CJ Perry
Date: 06/26/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Approval of Contract: Annual Master Agreement for Software Maintenance with Hexagon for software utilized by the City Police Department in the amount of \$256,619.12.

STAFF RECOMMENDED ACTION:

- 1.) Approve the Annual Master Agreement for Software Maintenance with Hexagon in the amount of \$256,619.12; and
- 2.) Authorize the City Manager to execute all necessary documents.

Executive Summary:

Staff is requesting approval of the Annual Master Agreement for Software Maintenance with Hexagon. The contract is for the Flagstaff Police Department Records Management Software company to provide ongoing software licensing support and maintenance as necessary. The attached quote outlines the anticipated expenditures for the fiscal year 2021. The purchase of the annual software provides the means to conduct day-to-day activities of the Police Department without delay. The contract listed may be subject to any applicable sales tax(es) to be added at a later time.

Financial Impact:

Software maintenance is budgeted in the Police Division, account number 001-04-061-0221-2-4231 and 001-04-061-0221-2-4231. These costs are shared with the County based on the shared law enforcement facility Intergovernmental Agreement.

Policy Impact:

None.

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

- High Performing Governance: Serve the public by providing high quality internal and external customer service.
- High Performing Governance: Encourage public trust through transparency, accessibility and use of the City's public participation policy.
- High Performing Governance: Become an employer of choice and provide employees with the necessary tools, training and support.
- Safe and Healthy Community: Provide public safety with the resources, staff and training to

respond to community needs.

- Team Flagstaff Strategic Plan: Provide exceptional service

Has There Been Previous Council Decision on This:

Yes. This software has been utilized by the City's Police Department for some 15 years. This same renewal has been before the City Council on the following dates.

06/18/2013

07/01/2014

01/20/2015

09/01/2015

06/21/2016

07/05/2017

06/19/2018

06/18/2019

07/05/2017

06/19/2018

06/18/2019

01/07/2020

and more prior to 2013.

Attachments: Hexagon Master Terms and Conditions
 Hexagon Quote



MASTER TERMS AND CONDITIONS

These Master Terms and Conditions (the "Master Terms") govern transactions and relations between Customer and Intergraph Corporation doing business as Hexagon Safety & Infrastructure ("Hexagon") (each a "Party" and collectively the "Parties").

Hexagon will make available to Customer certain proprietary software, including related proprietary documentation, software maintenance services, Cloud Programs, and professional services, all of which will be provided to Customer pursuant to these Master Terms and an Order. Before Hexagon will provide any Software licenses, Cloud Programs or any Services, Customer must agree to these Master Terms and to the terms of a corresponding Order. The Parties agree these Master Terms will govern each Order.

These Master Terms consist of the following:

- The General Terms and Conditions set forth below
- Exhibit A – End User License Agreement
- Exhibit B – Maintenance Terms and Conditions for Software
- Exhibit C – Sample Project Deliverable Sign-Off Form
- Exhibit D – Cloud Program Conditions
- Exhibit E – Subscription License Terms
- Exhibit F – Common Terms Glossary

GENERAL TERMS AND CONDITIONS

1 Definitions. All capitalized terms not otherwise defined herein shall have the meaning set forth in Exhibit E (Common Terms Glossary).

2 Elements of an Order.

2.1 Order Composition.

2.1.1 Each Order will be comprised of Order Documents.

2.1.2 From time to time, Customer may request from Hexagon or Hexagon may provide Customer a draft Quote and/or SOW for Deliverables. Once the Parties mutually agree upon the contents of the Order Documents, as applicable, the Parties shall accept the Order Documents.

2.1.3 Upon mutual acceptance of the Order Documents, Customer will execute the Order Documents and/or issue a PO or a notice to commence work, unless otherwise specified in the Order Documents. Except as set forth in the Order Documents, Hexagon shall not commence work on the Order until it receives from Customer a PO or notice to commence work.

2.1.4 Notwithstanding the foregoing, Orders for Maintenance Services and Cloud Programs shall commence on the date specified in the Order Documents regardless of whether Customer has issued a PO or notice to commence work.

2.2 Pricing. The following minimum elements shall be included with the Order Documents associated with the following types of Orders:

2.2.1 For a Software License Sale, a Quote identifying the Software licenses and quantities being procured and the total price for the Software License Sale.

2.2.2 For Time and Materials Project Assignments, a Quote setting forth the number of hours allocated for each grade of Hexagon resource to be utilized on the assignment and the hourly rate for each grade of Hexagon. Unless otherwise specified in the Order Documents, the Time and Materials Project Assignment shall expire and end six (6) months from the date the Order was formed between the Parties.

2.2.3 For Fixed Price Project Assignments, a Quote and SOW shall set forth the price of the work to be performed for and the Deliverables provided for that Order.

2.2.4 For Orders for Maintenance Services, a Quote identifying the Software to be maintained and the total price for the associated Maintenance Services.

2.2.5 For Cloud Program Sales, the quantity of License Keys subscribed for, the duration (beginning and end) of the period of the Customer's subscription to the Cloud Program, the amount of Cloud Program Fees payable to Hexagon for the Cloud Program, and Cloud Services Schedule(s) associated with the ordered Cloud Applications.

2.2.6 For Subscription License Sales, a Quote identifying the name of the Subscription Licenses, the quantity of the Subscription Licenses being purchased, and the Subscription Term.

2.3 Change Control. During the course of Hexagon's performance under an Order, either Party may request a change in the scope of the Order in writing, delivered to the other Party's project manager. Any changes in price, schedule, or other terms must be documented either by an amendment or Change Order. No change, as contemplated in this paragraph, shall become effective until agreed to by both Parties in a mutually-executed writing.

2.4 Acceptance. Acceptance will occur based upon the following:

2.4.1 For Fixed Price Project Assignments, when the applicable Task Acceptance Criteria has been satisfied in accordance with the Task Acceptance Process as set forth in an SOW.

2.4.2 For Time and Materials Project Assignments and Maintenance Services, the services are accepted as performed.

2.4.3 For a Software License Sale, once the Software has been delivered or access to the Software has been provided.

2.4.4 For a Cloud Program Sale, when the License Keys are provided to Customer.

2.4.5 For a Subscription License Sale, once the applicable Subscription License(s) has been delivered or access to the Subscription License has been provided to the Customer.

3 Composition of the Master Agreement.

3.1 Components. The agreement between the Parties (herein referred to as the "Master Agreement") consists of: (1) the Principle Contracting Document, (2) these Master Terms (including the General Terms and Conditions and all Exhibits), (3) any amendments to the Master Agreement, (4) Orders, together with any Change Orders, that may be delivered, prepared, or issued after the Effective Date, and (5) all documents, including applicable documents referenced via hyperlink, incorporated by reference in the documents identified in this Section. For certain Third Party Software, additional terms and conditions provided with the Order Documents ("Third Party Terms") will also be applicable and be considered as part of the Master Agreement.

3.2 Order of Precedence. In the event of any conflict or inconsistency among documents forming the Master Agreement, the following order of precedence shall be used to determine the resolution of the discrepancy, unless the Parties mutually agree in writing to an alternative decision:

- (1) Any amendments to the Master Agreement;
- (2) The Principle Contracting Document;
- (3) These Master Terms (excluding exhibits);
- (3) Exhibits to these Master Terms; and
- (4) Orders, as amended or modified by a change order.

For only the Third Party Software subject to the Third Party Terms, the Third Party Terms shall have precedence in the event of a conflict between with the Master Terms and the Third Party Terms.

4 Invoicing and Payment.

4.1 Invoices. Invoices shall be issued based upon the following:

4.1.1 For Software License Sales, Hexagon shall invoice Customer for the amount set forth in the Quote upon delivery of or access having been provided to the Software identified in the Order Documents;

4.1.2 Orders for Fixed Price Project Assignments shall be invoiced and become payable upon completion of a payment milestone identified in the SOW; and

4.1.3 Time and Materials Project Assignments shall be billed and invoiced on a monthly basis as the hours are expended and Onsite Fees are incurred, or after all hours set forth in the Order Documents have been expended, whichever occurs first.

4.1.4 Orders for Maintenance Services shall be billed and invoiced in accordance with Exhibit B.

4.1.5 Cloud Program Sales shall be billed and invoiced in accordance with Exhibit D.

4.1.6 Orders for Subscription License Sales shall be billed and invoiced in accordance with Exhibit E.

4.2 Payment. Customer shall make payment for any invoices issued by Hexagon within thirty (30) calendar days of the date the invoice was issued.

4.3 Late Payment. If Customer does not make timely payment, an interest charge of two percent (2%) per Month (or the maximum allowed by law, whichever is less), which shall be compounded on a monthly basis, will be due on any unpaid and overdue amounts. To the extent the Customer is the subject of an applicable prompt pay act statute or ordinance, the Customer shall be subject to the terms set forth in that statute(s) and/or ordinance(s) in lieu of the prior sentence.

4.4 Taxes. The purchase price is exclusive of all Federal, State, or Local taxes. Any taxes applied to this sale by a Federal, State, or Local taxing authority will be the responsibility of Customer. Such taxes do not include franchise taxes or taxes based on net income. If Customer is claiming tax-exempt status, it must submit the proper documentation satisfactory to Hexagon evidencing its tax exempt status. Applicable taxes may be invoiced at any time such taxes become fixed and certain.

5 Term and Termination.

5.1 Term. The Term of the Master Agreement shall begin on the Effective Date and remain in effect for a period of sixty (60) consecutive Months or until the Master Agreement is earlier terminated pursuant to the terms set forth herein or by mutual agreement of the Parties. An Order that is executed prior to the expiration of the term of the Master Agreement shall be governed by the Master Agreement even if the Master Agreement Term expires during the performance of the Order. To the extent Customer executes an Order pursuant to later issued master terms, then this Master Agreement shall terminate upon completion of all Orders executed hereunder regardless of the amount of time remaining in the Term.

5.2 Termination for Convenience. Except for Orders for Maintenance Services, Cloud Program Sales, and Subscription License Sales, either Party may terminate the Master Agreement or an Order in its sole discretion at any time upon providing the other Party with thirty (30) days written notice. The Coverage Period, Cloud Term, or Subscription Term, (if applicable) shall survive termination if the Master Agreement is terminated for convenience. In the event of a termination pursuant to this paragraph, Customer agrees to pay Hexagon for the Work performed and Software delivered and provided, plus the cost of any labor, equipment, or materials ordered in good faith prior to notice of termination that could not be canceled, less amounts previously paid by Customer for such Work and/or Software. To the extent a Party exercises its right to terminate a specific Order, that termination shall have no effect upon the remaining Master Agreement, which, along with any other active Orders, shall remain in full force and effect. If a Party desires to terminate the Master Agreement, then the Parties shall proceed to wind down all ongoing work under the respective Orders in effect under the Master Agreement by the termination date. Each Party shall take commercially reasonable steps to bring the work to a close and to reduce its costs and expenditures.

5.3 Termination for Cause. Either Party may terminate the Master Agreement or a specific Order, as the case may be, in the event that other Party materially breaches a material term of the Master Agreement or any Order.

5.3.1 In the event a Party has materially breached an Order, the non-breaching Party may terminate the Order only after providing a sixty (60) calendar day cure period to cure such breach and the breach has not been cured, except for material breaches arising from non-payment. During the sixty (60) day cure period, the Parties shall try to determine a mutually agreeable plan to cure such breach. If such breach cannot be cured or an acceptable plan is not provided within the sixty (60) day cure period, the non-breaching Party may, but does not have the obligation to, terminate the Order.

5.3.2 In the event a Party has materially breached the Master Agreement or multiple Orders, the non-breaching Party may terminate the Master Agreement only after providing a sixty (60) calendar day cure period to cure such breach and the breach has not been cured except for material breaches arising from non-payment. During the sixty (60) day cure period, the Parties shall try to determine a mutually agreeable plan to cure such breach. If such breach cannot be cured or an acceptable plan is not provided within the sixty (60) day cure period, the non-breaching Party may, but does not have the obligation to, terminate the Master Agreement. If the Master Agreement is terminated pursuant to this paragraph, by the termination date, Hexagon will stop all Work pursuant to any Orders arising under the Master Agreement. In the event the Master Agreement is terminated for cause, Hexagon shall be entitled to, and Customer agrees to pay Hexagon, payment for all Work performed and Software provided on all ongoing Orders up to the termination date, less amounts previously paid by Customer under the affected Orders.

5.3.3 Notwithstanding the foregoing, Hexagon may suspend its performance of or terminate any Order or the Master Agreement for cause if payment is not received within thirty (30) days following the date when payment was due. In the event an Order is suspended or terminated for cause, Hexagon shall be entitled to, and Customer agrees to pay Hexagon, payment for Work performed and Software delivered on said Order up to the suspension or termination date, less amounts previously paid by Customer under the affected Orders. If Hexagon suspends an Order under this paragraph, then it may thereafter terminate the Order upon giving written notice to the Customer.

5.3.4 Notwithstanding the foregoing, Customer may not exercise a termination pursuant to the terms of Section 5.3 if Hexagon's material breach of the terms and conditions of the Master Agreement or any Order thereunder is caused or partially caused by Customer's negligence or failure to perform its obligations.

6 IP Ownership.

Customer acknowledges Hexagon will retain ownership and title of Hexagon IP made or provided pursuant to any Order. All Hexagon Software provided under the Master Agreement is licensed to Customer in accordance with Exhibit A (End User License Agreement) except as it is inconsistent with the terms set forth herein. Third Party Software is licensed to Customer pursuant to the software license agreement delivered with such Third Party Software product.

7 Warranties.

7.1 Software. The Software provided under the Orders is warranted to substantially conform to the user documentation for a period of thirty (30) days from the initial installation. This warranty only applies to Software products that are not already covered by a Support Contract between Customer and Hexagon.

7.2 Subsystem Warranty Coverage. For, and only for, new Subsystems procured/implemented pursuant to an Order under these Master Terms, the warranty coverage shall be set forth in the applicable SOW, which shall be in lieu of the warranty coverage set forth in Section 7.1.

7.3 Third-party Warranty Coverage. To the extent third-party products are supplied by Hexagon, those products are provided with a pass-thru-warranty from the original manufacturer, if any.

7.4 Disclaimer. Any product information Hexagon has shared with Customer during the proposal and/or contract activities to date was to provide an understanding of Hexagon's current expected direction,

roadmap, or vision and is subject to change at any time at Hexagon's sole discretion. Hexagon specifically disclaims all representations and warranties regarding future features or functionality to be provided in any Software or Deliverable. Hexagon does not commit to developing the future features, functions, and/or products discussed in this material beyond that which is specifically committed to being provided by Hexagon pursuant to a valid Order. Customer should not factor any future features, functions, or products into its current decisions since there is no assurance that such future features, functions, or products will be developed. When and if future features, functions, or products are developed, they will be made generally available for licensing by Hexagon.

7.5 Warranty Disclaimer. EXCEPT AS SPECIFICALLY SET FORTH IN THIS ARTICLE, HEXAGON DISCLAIMS (TO THE FULLEST EXTENT PERMITTED BY LAW) ALL WARRANTIES ON PRODUCTS FURNISHED PURSUANT TO THE MASTER AGREEMENT, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE WARRANTIES SET FORTH IN THIS ARTICLE 7 IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, AND, EXCEPT AS SET FORTH IN ARTICLE TITLED "INDEMNIFICATION PROVISIONS" BELOW, REPRESENTS THE FULL AND TOTAL WARRANTY OBLIGATION AND/OR LIABILITY OF HEXAGON.

8 LIMITATION OF LIABILITY

IN NO EVENT WILL HEXAGON BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES, LOST PROFITS, LOSS OF USE OR PRODUCTION, LOSS OF REVENUE, LOSS OF DATA, OR CLAIMS OF THIRD PARTIES, EVEN IF HEXAGON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCE WILL HEXAGON'S LIABILITY UNDER THIS MASTER AGREEMENT EXCEED THE AMOUNT THAT HEXAGON HAS BEEN PAID BY CUSTOMER UNDER THE INDIVIDUAL ORDER UNDER WHICH THE EVENT GIVING RISE TO THE CAUSE OF ACTION HAS OCCURRED.

9 Indemnification Provisions.

9.1 Subject to the limitation of liability provisions in the Master Agreement, Hexagon will defend, at its expense, a third party action, suit, or proceeding against Customer ("Claim"), and indemnify Customer from any judgments, settlements, and reasonable attorney's fees resulting therefrom, to the extent such Claim is (i) attributable to bodily injury, death, or physical damage to tangible property caused by Hexagon's negligent acts or omissions arising under the Master Agreement; or (ii) based upon an allegation that a Software Product, Customized Software, Cloud Application, or Services Deliverable as of its delivery date under the Master Agreement, infringes a valid United States: patent, copyright, or trademark, or misappropriates a third party's trade secret ("Infringement Claim").

9.2 Hexagon's defense and indemnification obligations are conditioned upon:

9.2.1 Customer providing prompt written notice to Hexagon in writing of any Claim;

9.2.2 Hexagon having primary control of the defense of any actions and negotiations related to the defense or settlement of any Claim, understanding Hexagon may not settle a claim without Customer's consent if such settlement assigns fault or culpability to Customer; and

9.2.3 Customer cooperating fully in the defense or settlement of any Claim.

9.3 Hexagon will have no obligation to defend Customer or to pay any resulting costs, damages, or attorneys' fees for any Infringement Claims alleging direct or contributory infringement of the Software Product, Cloud Program, or Service Deliverable (i) by the combination of or integration with a product, process, or system not supplied by Hexagon; (ii) by material alteration by anyone other than Hexagon or its subcontractors; (iii) by use after Customer has been notified of possible infringement; (iv) by use after modifications are provided to Customer; (v) by use after a return for refund as described below is ordered by Hexagon; (vi) if the creation of which was pursuant to specifications provided by Customer; or (vii) by use other than as specified in the documentation associated with the Software Product.

9.4 In connection with any Infringement Claims, Hexagon, at its own expense and option, may either (i) obtain rights for Customer to continue using the allegedly infringing Hexagon supplied item; (ii) replace the item with a non-infringing alternative, or modify the allegedly infringing elements of the item, while maintaining substantially similar software functionality or data/informational content; or (iii) refund to

Customer a prorated portion of the license fees paid by Customer for the infringing item(s); provided that proration for perpetually licensed software shall be based on a five (5)-year, straight-line depreciation basis beginning from the initial date of delivery. In the event of a prorated return, Customer will uninstall, cease all use of and return to Hexagon the infringing item(s).

9.5 In no event will the indemnification for Infringement Claims apply to any Beta Software, or sample, hot fix, royalty-free, or evaluation software delivered pursuant to the Master Agreement.

9.6 Hexagon is not required to indemnify or defend Customer against Claims brought by any Customer Affiliate.

9.7 This section provides the sole and exclusive remedies of Customer and Hexagon's entire liability in the event of a Claim. Customer has no right to recover and Hexagon has no obligation to provide any other or further remedies, whether under another provision of the Master Agreement or any other legal theory or principle in connection with a Claim.

10 Insurance.

10.1 Policies and Coverage Amounts. Hexagon agrees to procure and maintain in force during the term of the Master Agreement, at its own cost, the following policies and amounts of coverage:

10.1.1 Workers' Compensation Insurance as required state statute or regulation.

10.1.2 Commercial General Liability Insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage, and personal injury.

10.1.3 Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) for any one occurrence, with respect to each of Hexagon's owned, hired or non-owned vehicles assigned to or used in performance of the services or work under the Master Agreement.

10.1.4 Umbrella/Excess Coverage with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) per occurrence.

10.2 Policy Maintenance. Hexagon shall procure and maintain, and shall cause any subcontractor of Hexagon to procure and maintain, the minimum insurance coverages listed herein. All policies shall be continuously maintained for the term of the Master Agreement.

10.3 Certificate of Insurance. A Certificate of Insurance shall be completed by Hexagon's insurance agent(s) as evidence that policies providing the required coverage amounts, conditions, and minimum limits are in full force. The completed Certificate of Insurance shall be sent to the contact person identified in the Principle Contracting Document.

10.4 Insurance Deductible. Hexagon shall be solely responsible for any deductible losses under the policies required above.

11 Security and Breach Notification

11.1 Hexagon shall take reasonable industry action to prevent, detect, identify, report, track and respond to Security Incidents. In the event of a Security Incident, Hexagon will provide a Security Incident report to the Customer or its Affiliates via the support website or Cloud Portal (as applicable). The report shall be provided as soon as practical following discovery and investigation of a Security Incident.

12 Dispute Resolution.

12.1 Resolution Protocol. The Parties shall exercise their best efforts to negotiate and settle promptly any dispute that may arise with respect to the Master Agreement or Order made pursuant to the Master Agreement ("Dispute") in accordance with the provisions set forth herein. If either Party disputes any provision of the Master Agreement (the "Disputing Party"), or the interpretation thereof, or any conduct by the other Party under the Master Agreement, that Party shall bring the matter to the attention of the other Party at the earliest possible time in order to resolve the Dispute except for Disputes for non-payment. If such dispute is not promptly resolved by the employees responsible for the subject matter of the dispute,

the Disputing Party shall be permitted to deliver to the non-Disputing Party contact person identified in the Principle Contracting Document a written notice of the dispute, whereupon the Parties shall endeavor in good faith to escalate the dispute to appropriate executives for each Party for resolution within fifteen (15) business days, or such longer period as to which the Parties may mutually agree.

12.2 Mediation. To the extent a dispute is not resolved through the process outlined in the previous section and remains unresolved, the Parties agree to enter into non-binding mediation to resolve the dispute. Within sixty (60) calendar days, of the issuance of the Dispute Notice, or such longer period that is mutually agreeable to the Parties, the Parties agree to identify a mutually acceptable mediator who shall mediate the dispute. If after making reasonable efforts to identify a mutually acceptable mediator and no later than fifty (50) calendar days after the issuance of the Dispute Notice, the Parties are unable to identify such a mediator, the Disputing Party shall provide the non-disputing party with a list of five (5) proposed mediators. The non-disputing Party shall have five (5) business days from receipt of such list from the Disputing Party to identify one proposed mediator on the list to use as a mediator. If the non-disputing Party fails to identify and communicate its choice to the Disputing Party in the time allotted, then the Disputing Party shall be permitted to unilaterally identify the mediator from the list of five (5) mediators previously given who shall mediate the Dispute. The mediator shall be an attorney licensed to practice law in the state courts identified in section below titled "Governing Law." Subject to the mediator's availability, the Parties agree to mediate the dispute within thirty (30) days after the Parties have identified a mediator who has agreed to mediate the dispute. To the extent the mutually identified mediator is unavailable, unwilling, or unable to mediate the Dispute, the Parties shall utilize the same steps listed above to identify a new mutually agreeable mediator. To the extent the Disputing Party had to prepare a list of proposed mediators previously, it shall prepare and transmit a revised list within five (5) business days of receiving notice of the proposed mediator's unavailability. Subject to the mediator's requirements, the Parties agree they shall be permitted to attend the mediation via telephone or video conferencing. The Parties agree to pay in equal shares the mediator's fee and expenses unless otherwise agreed to pursuant to a settlement agreement.

12.3 Prerequisites to Litigation. Except for disputes for non-payment, only after the Parties have endeavored to resolve the dispute through the processes outlined in the immediately preceding two sections may a Party commence litigation to resolve the dispute.

12.4 Injunctive Relief. Notwithstanding the foregoing, either Party may, before or during the exercise of the informal dispute resolution procedures set forth above, apply to a court identified in the section titled "Governing Law" for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests pending completion of such informal dispute resolution procedures.

13 Notices.

All notices given between the Parties shall be in writing and shall be considered properly sent by postage prepaid United States Mail or overnight carrier to the Customer and/or Hexagon representative, as applicable and identified in the Principle Contracting Document, or such substitutes as may hereafter be disclosed by proper notification.

14 Force Majeure.

Neither Party shall be deemed to be in default of any provision of the Master Agreement or an Order or be liable for any delay, failure in performance, or interruption of service resulting from acts of war, acts of terrorism, criminal acts, acts of God, acts of civil or military authority, cyber-attack, labor disruption, civil disturbance, or any other cause beyond its reasonable control.

15 Place of Performance.

To the extent necessary, Customer agrees to provide appropriate work space and work place accommodations; computer equipment; software; access to relevant data, documents, plans, reports, and analyses; and necessary access to Hexagon personnel to perform work on an Order. To the extent work is performed remotely, Customer must provide VPN or secured remote connectivity (including a login and password) to all servers and workstations requiring installation/configuration by Hexagon.

16 Amendments.

Any and all amendments to the Master Agreement shall specifically reference the fact the amendment is intended to alter these Master Terms. No Order or Change Order shall affect these Master Terms.

17 Confidential Information.

The Parties agree not to disclose Confidential Information provided to it by the Disclosing Party to the maximum extent allowable under applicable law unless it first obtains the Disclosing Party's written consent to such disclosure. It is further understood and agreed that money damages may not be a sufficient remedy for any breach of this provision of the Master Agreement by the Receiving Party and the Disclosing Party may be entitled to seek equitable relief, including injunction and specific performance, as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of this provision of the Master Agreement but will be in addition to all other remedies available at law or equity. The covenants set forth herein and the rights and obligations related thereto shall continue for a period of five (5) years from the date of disclosure.

18 Personal Data.

18.1 Where Personal Data is provided by the Customer to Hexagon, the Customer shall act as the data controller and shall be responsible for complying with all applicable data protection laws. Hexagon shall act as the data processor in respect of such Personal Data and shall process the Personal Data in accordance with applicable data protection laws. The Customer acknowledges and agrees that Hexagon is not capable of being a data controller due to Hexagon's inability to determine the purpose and means of the processing of Personal Data provided by Customer to Hexagon. To the extent that: (a) Personal Data of Users or Authorized Cloud Users provided by the Customer to Hexagon pursuant to the Master Agreement is subject to the European Union General Data Protection Regulation 2016/679, as may be amended from time to time ("GDPR"); and (b) the Customer and Hexagon do not have a separate, written data processing agreement, then the Customer and Hexagon agree that the terms of Hexagon's Data Processing Addendum, as updated from time to time, found at: https://www.hexagonsafetyinfrastructure.com/-/media/Legal/Hexagon/SI/Policies/DPA/DPALP/DPA_LP_08-2019.pdf, shall apply.

18.2 Where Customer is responsible for providing Personal Data on behalf of Users or Authorized Cloud Users directly to Hexagon, Customer will secure and maintain all necessary consents and make all necessary disclosures before including Personal Data in Customer Data input to, or otherwise supplied to Hexagon. In the event Customer, including all its Users, does not consent to Personal Data being processed as a result of the Master Agreement, Customer acknowledges Hexagon may be unable to provide Services, Software Products, Maintenance Services, and/or Cloud Program (or part thereof).

18.3 Hexagon will only process Customer supplied Personal Data in accordance with the Customer's lawful instructions and to the extent and as necessarily required to provide the applicable goods and services under the Master Agreement and for no other purpose. Except as may be otherwise required by law, contract, or judicial order, after expiration or earlier termination of the Master Agreement, Hexagon will destroy all Customer-supplied Personal Data in accordance with applicable data protection laws.

18.4 If Hexagon supplies maintenance, support, or subscription services to Customer with respect to third-party products, and if the third-party supplier or proprietor of such requires Customer be party to any data processing agreement in connection therewith, and if Customer has not separately executed an instrument to satisfy such requirement, then Customer and Hexagon agree that the terms of the applicable third-party data processing agreement, as updated from time to time, found at https://www.hexagonsafetyinfrastructure.com/-/media/Legal/Hexagon/SI/Policies/DPA/DPALP/DPA_LP_08-2019.pdf, shall apply.

19 Assignment.

Neither Party shall assign, sublet, or transfer all or any portion of the Master Agreement, nor any interest in the Master Agreement, without the express written consent of the non-assigning Party, which consent may be granted or withheld in the sole discretion of the non-assigning Party. Notwithstanding the foregoing, Hexagon may assign its rights and obligations under the Master Agreement, without the approval of Customer to: (1) an Affiliate or (2) another business entity in connection with a merger, consolidation, or reorganization of Hexagon or any of its subsidiaries.

20 Export.

Hexagon IP, including any technical data related to Software, Services, Maintenance Services, or Cloud Programs is subject to the export control laws and regulations of the United States. Diversion contrary to United States law is prohibited. Hexagon IP, including any technical data related to Software, Services, Maintenance Services, or Cloud Programs shall not be exported or re-exported, directly or indirectly (including via remote access), under the following circumstances:

- To Cuba, Iran, North Korea, Syria, the Crimean region of Ukraine or any national of these countries or territories.
- To any person or entity listed on any United States government denial list, including, but not limited to, the United States Department of Commerce Denied Persons, Entities, and Unverified Lists, the United States Department of Treasury Specially Designated Nationals List, and the United States Department of State Debarred List (http://export.gov/ecr/eg_main_023148.asp).
- To any entity if Customer knows, or has reason to know, the end use is related to the design, development, production, or use of missiles, chemical, biological, or nuclear weapons, or other unsafeguarded or sensitive nuclear uses.
- To any entity if Customer knows, or has reason to know, that a reshipment contrary to United States law or regulation will take place.

Customer agrees to hold harmless and indemnify Hexagon and its Affiliates for any causes of actions, claims, costs, expenses and/or damages resulting to Hexagon from a breach of the export restrictions set forth in the Master Agreement by Customer or any User. Any questions regarding export or re-export of the Software should be addressed to Hexagon's Export Compliance Department at 305 Intergraph Way, Madison, Alabama, 35758, USA or at exportcompliance@intergraph.com. If the Software Customer received is identified on the media as being ITAR-controlled, the Software has been determined to be a defense article subject to the U.S. International Traffic in Arms Regulations ("ITAR"). Export of the Software from the United States must be covered by a license issued by the Directorate of Defense Trade Controls ("DDTC") of the U.S. Department of State or by an ITAR license exemption. The Software may not be resold, diverted, or transferred to any country or any end user, or used in any country or by any end user other than as authorized by the existing license or ITAR exemption. Subject to the terms of the EULA included herein, a Software Product may be used in other countries or by other end users if prior written approval of DDTC is obtained.

If Customer is located outside the United States, Customer is responsible for complying with any local laws in Customer's jurisdiction which might impact Customer's right to import, export or use the Software, and Customer represents that Customer has complied with any and all regulations or registration procedures required by applicable law related to the use and importation of the Software Products.

21 Non-Solicitation of Employees.

Customer agrees it will not, without the prior written consent of Hexagon, solicit any Hexagon employee, or induce such employee to leave Hexagon's employment, directly or indirectly, during the Term and for a period of twelve (12) Months after the Master Agreement expires or is terminated.

22 Miscellaneous.

22.1 Authority. Each Party represents and certifies to the other Party it has the requisite legal authority to enter into and be bound by the Master Agreement and all Orders arising from the Master Agreement.

22.2 Survival. In addition to other provisions that are specifically identified as surviving termination of this Master Agreement, the rights and obligations in sections titled "IP Ownership", "Limitation of Liability", "Dispute Resolution", "Confidential Information", "Export", and the terms of any license or access granted pursuant to the Master Agreement (including, but not limited to, Exhibit A, Exhibit D, and/or Exhibit E), shall survive and continue after expiration or termination of the Master Agreement, shall remain in effect until fulfilled, and shall apply to any permitted successors and assigns. Upon termination of the Master Agreement, the provisions of the Master Agreement, including those in the preceding sentence, which by their express terms survive termination, shall remain in full force and effect.

22.3 Waiver. The waiver by either Party of any of its rights or remedies in enforcing any action or breach under the Master Agreement in a particular instance shall not be considered as a waiver of the same or different rights, remedies, or actions for breach in subsequent instances.

22.4 Severability. If any provision of the Master Agreement or an Order is void, voidable, unenforceable, or illegal in its terms, but would not be so if it were rewritten to eliminate such terms that were found to be voidable, unenforceable, or illegal and such rewrite would not affect the intent of the provision, then the provision must be rewritten to be enforceable and legal.

22.6 Headings. Numbered topical headings, articles, paragraphs, subparagraphs or titles in the Master Agreement are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms thereof.

22.7 Governing Law. The Master Agreement shall for all purposes be construed and enforced under and in accordance with the laws applicable to and governing the Customer's location as identified in applicable Order Documents. The Parties agree any legal action or proceeding relating to the Master Agreement shall be instituted in an appropriate court having personal jurisdiction over Customer. The Parties agree to submit to the jurisdiction of and agree that venue is proper in these courts in any such legal action or proceeding. The Parties waive the application of the United Nations Commission on International Trade Law and United Nations Convention on Contracts for the International Sale of Goods as to the interpretation or enforcement of the Master Agreement.

22.8 Governing Language. The controlling language of the Master Agreement is English. If Customer received a translation of the Master Agreement into another language, it has been provided for convenience only.

Les parties confirment que l'accord-cadre et toute la documentation connexe sont et seront en anglais. (Translation: "The Parties confirm that the Master Agreement and all related documentation is and will be in the English language.")

22.9 Independent Contractor. The Parties agree that Hexagon is an independent contractor, that nothing in the Master Agreement shall be construed as establishing or implying a relationship of master and servant between the Parties, or any joint venture or partnership between the Parties, and that nothing in the Master Agreement shall be deemed to constitute either of the Parties as the agent of the other Party or authorize either Party to incur any expenses on behalf of the other Party or to commit the other Party in any way whatsoever. Hexagon and its agents, employees, or subcontractors shall at no time be deemed to be agents, employees, or subcontractors of Customer, or be deemed to be under the control or supervision of Customer when carrying out the performance of its obligations in the Master Agreement. Without the prior written consent of Customer, Hexagon shall not carry on any activity that could be construed as being on behalf of Customer.

22.10 Limitation on Claims. Except as otherwise prohibited from applicable law, no claim, regardless of form, arising out of or in connection with the Master Agreement may be brought by Customer more than two (2) years after the event giving rise to the cause of action has occurred.

22.11 Anti-Bribery. Each Party hereby certifies it shall comply with all applicable laws in carrying out its duties under the Master Agreement, including, but not limited to, the United States Foreign Corrupt Practices Act ("FCPA"). In particular, Customer, on behalf of itself and its Affiliates, and Hexagon, each severally represent and agree that: Such party is familiar with the FCPA and its purposes and agrees to comply with the acts. Specifically, such party is aware of and will comply with the FCPA's prohibition of the payment or the gift of any item of value, either directly or indirectly, to an official of a government,

political party or party official, candidate for political office, or official of a public international organization, for the purpose of influencing an act or decision in his/her official capacity, or inducing him/her to use his/her influence with the government to assist a company in obtaining or retaining business for, with, or in that country or directing business to any person; Such party has not made, and will not make, payments to third parties which such party knows or has reason to know are illegal under the FCPA, or the laws of any applicable jurisdiction; The method of making payment to Hexagon as provided hereunder is not in violation of the law of any applicable jurisdiction. Either Customer or Hexagon has the right to terminate the Master Agreement upon any violation of the FCPA or similar laws by the other Party.

22.12

Hexagon Authority. BY ISSUANCE OF A QUOTE TO CUSTOMER WITHOUT THE WORD "DRAFT" OR SIMILAR MARKINGS OR DISCLAIMERS THEREON, HEXAGON REPRESENTS IT HAS THE REQUISITE LEGAL AUTHORITY TO ENTER INTO AND BE BOUND BY THE MASTER AGREEMENT AND THE ORDER INTENDED TO RESULT FROM THE QUOTE. BY EXECUTING THE QUOTE AND RETURNING IT TO HEXAGON, CUSTOMER REPRESENTS AND CERTIFIES TO HEXAGON IT HAS THE REQUISITE LEGAL AUTHORITY TO ENTER INTO AND BE BOUND BY THE MASTER AGREEMENT AND THE ORDER ASSOCIATED WITH THE EXECUTED QUOTE.

23 Entire Agreement.

The Master Agreement constitutes the entire agreement between the Parties with regard to the subject matter hereof. Except as otherwise provided in the Principal Contracting Document, the Master Agreement supersedes any and all prior discussions and/or representations, whether written or oral, and no reference to prior dealings may be used to in any way modify the expressed understandings of the Master Agreement. Any future representations, promises and oral agreements related to the products, product features, future product enhancements, product functionality, or services covered by the Master Agreement will be of no force or effect unless reduced in writing and made a part of the Master Agreement or an Order thereto. The Master Agreement may not be amended or modified unless so done in a writing signed by authorized representatives of both Parties. The pre-printed terms and conditions of Customer's PO or any other terms and conditions of a Customer PO shall be void, even if issued subsequent to the effective date of the Master Agreement, and shall not be deemed to constitute a change to the Master Agreement.



HEXAGON

SAFETY & INFRASTRUCTURE

EXHIBIT A

END-USER LICENSE AGREEMENT

IMPORTANT—READ CAREFULLY: This EULA is a legal agreement by and between User and Hexagon for the Software Product. Software Products are also subject to the Use Terms. Any software, including, without limitation, any open source components and/or Upgrades, associated with a separate end-user license agreement is licensed to User under the terms of that license agreement. Use Terms delivered with an Update or Upgrade of a Software Product shall apply to the Update/Upgrade. All use of the Software Product is subject to applicable Order Documents.

1.0 LICENSE GRANT. Provided User is not in breach of any term or condition of this EULA, Hexagon hereby grants User a limited, non-exclusive license up to the quantity of Software Product licenses purchased by User to: (i) install and use the Software Product, in object code form only; (ii) use, read, and modify documentation prepared by Hexagon and delivered to User pursuant to the Order Documents; and/or (iii) view and/or use Hexagon audio-visual training materials provided to User pursuant to the Order Documents; provided all of the foregoing shall be strictly for User's internal use and strictly in accordance with this EULA and the applicable Order Documents. The license is non-transferable, except as specifically set forth in this EULA. User assumes full responsibility for the selection of the Software Product to achieve User's intended results, and for the installation, use and results obtained from the Software Product.

2.0 UPDATES AND UPGRADES. If the Software Product is an Update to a previous version of the Software Product, User must possess a valid license to such previous version to use the Update. Neither the Software Product nor any previous version may be used by or transferred to a third party. All Upgrades are provided to User on a license exchange basis and are subject to all of the terms and conditions of the EULA provided with the Upgrade. By using an Update, User (i) agrees to voluntarily terminate User's right to use any previous version of the Software Product, except to the extent that the previous version is required to transition to the Update or Upgrade; and (ii) acknowledges and agrees that any obligation that Hexagon may have to support the previous version(s) of the Software Product will end upon availability of the Update. If an Update is provided, User will take prompt action to install such Update as directed by Hexagon. If User fails to do so, User acknowledges that the Software Product may not work correctly or that User will not be able to take advantage of all of the Software Product's available features. In such event, Hexagon will not be liable for additional costs User incurs because of User's failure to install such Update.

3.0 RIGHTS AND LIMITATIONS

3.1 The Following are Permitted for User's License:

User may make one copy of the Software Product media in machine readable or printed form and solely for backup purposes. Hexagon retains ownership of all User created copies. User may not transfer the rights to a backup copy unless User transfers all rights in the Software Product and license as provided for in Section 3.2.1. Any other copying of the Software Product, any use of copies exceeding the number of copies User has been authorized to use and has paid for, and any distribution of the Software Product not expressly permitted by this EULA, is a violation of this EULA and of federal and/or applicable governing law.

3.2 The Following are Prohibited for User's License:

3.2.1 User shall not sell, rent, license, lease, lend or otherwise transfer the Software Product, or any copy, modification, or merged portion thereof without Hexagon's

express written consent for such transfer, which consent may not be unreasonably withheld. Any such unauthorized transfer will result in automatic and immediate termination of the license.

- 3.2.2 The Software Product is licensed as a single product. User shall not, and User shall not authorize anyone else to: (i) decompile, disassemble, or otherwise reverse engineer the Software Product; (ii) work around any technical limitations in the Software Product; (iii) publish the Software Product for others to copy or use; (iv) use, copy, modify, distribute, disclose, license or transfer the Software Product, or any copy, modification, or merged portion, in whole or in part, except as expressly provided for in this EULA; (v) re-use the component parts of the Software Product with a different software product from the one User is licensed to use or on different computers; (vi) circumvent any license mechanism or in the Software Product or the licensing policy; (vii) publish to a third party any results of benchmark tests run on the Software Product (viii) use or view the Software Product for any purposes competitive with those of Hexagon; (ix) use the Software Product except as expressly set forth in this EULA; and (x) unless otherwise specifically permitted in writing by Hexagon, use the Software Product outside the country in which it is licensed.

3.3 **Fault Tolerance**

The Software Product is not one hundred percent (100%) fault-tolerant. Unless the Software Product's documentation expressly provides the contrary: Software Product is not designed or intended for use in any situation where failure or fault of any kind of the Software Product could lead to death or serious bodily injury of any person, or to severe physical, property or environmental damage ("High-Risk Use"); and, User is not licensed to use the Software Product in, or in conjunction with, any High-Risk Use. High-Risk Use is STRICTLY PROHIBITED. High Risk Use includes, for example, the following: operation of aircraft or other modes of human mass transportation, nuclear or chemical facilities, and Class III medical devices. User hereby agrees not to use the Software Product in, or in connection with, any High-Risk Use. High Risk Use shall not mean use of the Software Product for purposes for which it is regularly marketed and sold (e.g. public safety and utility dispatch software may be used to dispatch police, fire, emergency medical services, and emergency utility services).

3.4 **Licensing Mechanism Disclaimer.**

Without waiver of any of its rights herein, Hexagon may at its sole discretion provide User who is operating public safety Software Products a licensing mechanism to allow such Software Products to be available for use even when User has accessed all of its purchased licenses. Regardless of whether it receives the licensing mechanism, User acknowledges it is permitted to use the Software Products only up to the amount of licenses it has purchased. Any usage of Software Products beyond the amount purchased by User will be subject to the payment of additional fees by User to Hexagon at then current prices for the Software Products in like manner as provided in Section 6.2 (Audit).

4 **USER OBLIGATIONS**

- 4.1 The Software Product may require User's System to comply with specific minimum software, hardware and/or Internet connection requirements. The specific minimum software, hardware and/or Internet connection requirements vary by Software Product and type of license and are available from Hexagon upon request.
- 4.2 User is responsible, and bears the sole risk, for backing up all systems, software, applications, and data, as well as properly using the Software Product.
- 4.3 At all times, User must keep, reproduce and include all copyright, patent, trademark and attribution notices on any copy, modification or portion of the Software Product, including,

without limitation, when installed, used, checked out, checked in and/or merged into another program.

- 4.4 User shall comply with the Use Terms, including limitations that apply to specific types of licenses identified therein.

5 TERM.

- 5.1 For a Perpetual License, this EULA is effective until terminated (a) by User, by returning to Hexagon the original Software Product or by permanently destroying the Software Product, together with all copies, modifications and merged portions in any form; (b) by Hexagon, upon User's breach of any of the terms hereof or User's failure to pay the appropriate license or subscription fee(s); (c) upon User's installation of an Upgrade that is accompanied by a new license agreement covering the Software Product Upgrade; or (d) by expiration of the applicable license files, if this is a temporary license. User agrees upon the termination of this EULA to cease using and to permanently destroy the Software Product (and any copies, modifications and merged portions of the Software Product in any form, and all of the component parts of the Software Product) and certify such destruction in writing to Hexagon.
- 5.2 For a Subscription License, this EULA is effective until the User's Subscription Term expires without being renewed; by Hexagon upon User's breach of any of the terms hereof or User's failure to pay the appropriate Subscription License fee(s); or the Subscription is otherwise terminated. User agrees upon the termination of this EULA or expiration of User's Subscription to cease using and to permanently destroy the Software Product (and any copies, modifications and merged portions of the Software Product in any form, and all of the component parts of the Software Product) and certify such destruction in writing to Hexagon.

6. AUDIT.

- 6.1 Hexagon shall have the right to:
- 6.1.1 Audit User's use of the Software Product and User's compliance with the provisions of this EULA during User's normal business hours. Hexagon will provide User with thirty (30) days prior written notice of an audit under this Section. Hexagon's right to conduct this type audit shall be limited to twice per calendar year. Prior to the start of an audit, Hexagon's personnel will sign a reasonable non-disclosure agreement provided by User. During the audit, User shall allow Hexagon's personnel to be provided reasonable access to both User's records and personnel.
- 6.1.2 Obtain certain documentation from User, as follows. If the Software Product includes logging mechanisms intended to track usage volume or quantity, User shall transmit log files associated therewith to Hexagon upon Hexagon's demand and in accordance with Hexagon's reasonable transmission instructions. Hexagon will not demand the transmission of usage tracking log files more frequently than four (4) times in any calendar year.
- 6.2 In the event the results of the audit in Section 6.1.1 or the documentation provided by User in Section 6.1.2 indicate User has used unlicensed Software Products or quantities thereof, User agrees to promptly pay Hexagon: (i) the current list price for each unlicensed Software Product(s) used by User (ii) interest of two percent (2%) per month or the highest rate allowed by applicable law for each month, commencing with the initial month of unlicensed usage of the Software Product(s), and (iii) the costs for the audit in Section 6.1.1.

END OF EXHIBIT A



EXHIBIT B

SUPPORT TERMS AND CONDITIONS FOR SOFTWARE

These terms and conditions (“Support Terms”) govern the provision of maintenance and support services by Hexagon with respect to Covered Products.

1. DEFINITIONS

All capitalized terms not otherwise defined herein shall have the meaning set forth in the associated Exhibit titled “Common Terms Glossary.”

2. TERM

- 2.1. Term. The Support Contract shall begin, retroactively (if applicable), on the first calendar day of the first Month of the Coverage Period and shall expire on the last calendar day of the last Month of the Coverage Period. The Coverage Period shall be for whole Months only.
- 2.2. Renewal. Prior to expiration of the Coverage Period, Hexagon may submit to Customer a renewal quote with pricing for extension of the Coverage Period. The Parties may extend the Coverage Period pursuant to Order Documents.
- 2.3. Lapse. In the event of a Lapse: (i) Hexagon shall, at any time, be entitled to discontinue Maintenance Services, in whole or in part, for the affected Covered Products; (ii) Hexagon shall be relieved of any previously provided pricing commitments or options for Maintenance Services, if any, related to time periods following the Lapse; and, (iii) Hexagon may permit Customer to reinstate support for Covered Products pursuant to Hexagon’s then current policies and practices, including any policies or practices related to payment of reinstatement fees.

3. SCOPE OF COVERAGE FOR COVERED SOFTWARE PRODUCTS

Maintenance Services described in this Section apply to Covered Software Products only. Maintenance Services for Covered Third Party Products are separately stated.

Hexagon offers three levels of Maintenance Services for Covered Software Products, dependent upon the Software Product and other factors. Under all levels of Maintenance Service, Hexagon shall provide reasonable commercial efforts to aid in the diagnosis of Defects. Under all levels of Maintenance Services, but only until the subject Software Product version reaches Version Limitation I or Version Limitation II, Hexagon shall provide reasonable commercial efforts to aid in correction of Defects. After a Software Product version reaches Version Limitation I, but only until the subject Software Product reaches Version Limitation II, Hexagon shall provide reasonable commercial efforts to aid in correction of Level One Defects only. The level of Maintenance Services for each Software Product is identified in the Order Documents, subject however to Version Limitations. Defect corrections provided by Hexagon shall, unless otherwise agreed by Hexagon, be delivered within Hexagon’s product releases, and in accordance with Hexagon’s standardized release cycles. Levels of Maintenance Services are as follows:

- 3.1. Advantage Support. Advantage Support will include and be limited to the diagnostic and Defect correction support as described above, and the following: Out-of-the-box functionality support via the support help desk (telephone or eService via Hexagon’s support website where available

at <https://support.hexagonsafetyinfrastructure.com>; and, access to any applicable Hexagon problem knowledge base online self-help tool. Phone support is available Monday through Friday from 8AM – 5PM at Customer's local time, excluding Hexagon-observed holidays. Local variances in support hours will be posted on the Customer Support Web Site or applicable local support website or can be determined by contacting Customer's local Hexagon office.

- 3.2. Standard Support. Standard Support will include and be limited to the following:
 - 3.2.1. All features of Advantage Support.
 - 3.2.2. Access to available Updates of Covered Software Products. Hexagon will notify Customer when Updates are made available for any Covered Software Products for which Maintenance Service have been purchased, by way of posting notices of such to the "Support Notices and Announcements" section on the Customer Support Web Site or applicable local support website or via direct notification by Hexagon. Updates are shipped to Customer upon Customer request, logged in the Customer Support Web Site. Hexagon is not obligated to produce any Updates. For avoidance of doubt, a Customer's entitlement to Updates shall not include entitlement to any therein embedded or otherwise related module or function which is licensed and priced separately from Covered Product(s) for which Customer has purchased an entitlement to Updates.
- 3.3. Premium Support. Premium Support will include all features available under Standard Support (subject to Version Limitations). Additionally, for a Level 1 Defect, phone support is also available after-hours and on Hexagon-observed holidays.

3.4 Product Change Requests (also referred to as CR-E) will be reported in like manner as set forth in Section 3.1. Hexagon will review Product Change Requests and at its sole discretion decide whether to make the requested change to the Covered Product(s) through an Update. Product Change Requests not accepted may be the subject of a separate contract between the Parties. For the avoidance of doubt, to the extent Hexagon agrees to make a requested change to a Covered Product pursuant to a Product Change Request, any and all IPR resulting from the Update including the change or modification is and shall remain the property of Hexagon.

4. MINIMUM SYSTEM REQUIREMENTS; CUSTOMER'S OBLIGATIONS

Performance of Maintenance Services by Hexagon is specifically conditioned upon the following minimum system requirements and fulfillment by Customer of the following obligations (collectively, minimum system requirements and customer obligations hereinafter referred to as "Customer Obligations"):

- 4.1. System Requirements. Customer is responsible for ensuring: the System Equipment and network infrastructure meet minimum system requirements specified by Hexagon and made available to Customer upon request; its System Equipment and network infrastructure are adjusted as required to accommodate Updates of Covered Products; compatibility of non-Hexagon provided products with products provided by Hexagon; and, its systems, software, and data are adequately backed up. Hexagon is not liable for lost data.
- 4.2. Hexagon Access and Customer Cooperation. Customer's system and/or System Equipment must have input and output devices that enable the use of Hexagon's diagnostic programs and supplemental tests. Customer will permit Hexagon to electronically access Customer's system via SecureLink™, a tool providing secure, auditable remote access to Customer's system for Hexagon to effectively render Maintenance Services. Customer will ensure availability of its own system technical support personnel so that Hexagon can fulfill its Maintenance Services obligations. When reporting problems to Hexagon's support help desk, Customer will provide a complete problem description, along with all necessary documents and information that is available to Customer and required by Hexagon to diagnose and resolve the problem. Customer will grant all necessary access to all required systems as well as to the Covered Products, and any other reasonable assistance needed. Customer will carry out any reasonable instructions and will install any necessary patches, Defect corrections, or Updates. Customer will appoint a minimum of two and a maximum of three contact people who are each authorized to make use of the Maintenance Services ("Authorized Contacts"). Customer must assure Authorized

Contacts have adequate expertise, training, and experience to provide professionally accurate descriptions of malfunctions and facilitate Hexagon's efficient response. Authorized Contacts must have successfully completed Hexagon product training or complete it at the next available scheduled opportunity, for those products for which formal training is available. Customer will bear the cost of this training. Customer is obligated to select only those personnel for this task who are suitable for it by means of training and function, and who have knowledge of Customer's operating system, network, and hardware and software. Customer agrees to promptly notify Hexagon of any replacement of an Authorized Contact.

5. EXCLUDED SOFTWARE SERVICES

Services for the following are outside the scope of the Support Contract and may be available under separate Order at an additional charge (collectively "Excluded Services"):

- 5.1. Installation of any Covered Product, Update, or interface software.
- 5.2. Network configuration.
- 5.3. Configuration or customization of Covered Products to Customer or other third party requirements (except as necessary to remedy a Defect).
- 5.4. System-level tuning and optimization and system administration support.
- 5.5. Training.
- 5.6. Services required because the Authorized Contact is not available or is not trained.
- 5.7. On-site services (unless waived by Hexagon, in its sole discretion).
- 5.8. Services required due to modifications of Covered Products by Customer.
- 5.9. Services required due to use other than in the ordinary manner intended for the Covered Products, or use in a manner that contravenes terms hereunder, or Customer's disregard of the installation and operating instructions according to the Documentation provided with the Covered Products.
- 5.10. Services required due to failure of software or hardware that is not a Covered Product.
- 5.11. Services required due to Customer's use of hardware or software that does not meet Hexagon specifications or failure of Customer to maintain or perform industry standard maintenance on Customer's hardware or software.
- 5.12. Services required due to software or portions thereof that were incorrectly installed or configured (other than by Hexagon) or use in an environment inconsistent with the support environment specified by Hexagon, or used with peripherals, operational equipment or accessories not conforming to Hexagon's specifications.
- 5.13. Services required due to cases of force majeure, especially lightning strikes, fire or flood, third-party criminal acts, or other events not caused through Hexagon's fault.
- 5.14. Services required due to Customer's failure to fulfill the Customer Obligations.
- 5.15. Services required due to faulty or incomplete Customer data.

6. COVERED THIRD PARTY PRODUCTS

Support and Updates of Covered Third Party Products shall be provided in the fashion and to the extent or duration that Hexagon is authorized to provide such by the third party manufacturer of the Covered Third Party Products, and such Covered Third Party Products and related services may be subject to additional terms and conditions of the third party manufacturer of the Third Party Software.

Services and updates for any Third Party Software that are not listed in the Order Documents as Covered Products must be obtained from the third party owner of the products or their designated representative.

7. REQUIRED COVERAGE

- 7.1. Multiple or Interdependent Licenses. If Customer holds multiple licenses for any Covered Product, all held licenses must be included as Covered Products in the Support Contract.
- 7.2. Prerequisite Licenses. All prerequisite licenses for Software Products necessary to operate the Covered Products, together with all licenses of Software Products interoperating with Covered Products in a single solution, must be included as Covered Products in the Support Contract.

8. ADDITIONS AND REMOVALS OF COVERED PRODUCTS

- 8.1. Additions of Covered Products. Software Products licensed from Hexagon during the term of the Support Contract may be added as Covered Products, if such addition is addressed through additional related Order Documents. If Software Products are not added as Covered Products by commencement of Production use thereof, Hexagon may permit Customer to add support, but subject to additional fees payable pursuant to Hexagon's then current policies or practices.
- 8.2. Removal of Covered Products from Maintenance. Either Party may provide written notice to the other Party at least sixty (60) calendar days prior to the end of any Coverage Period Anniversary of its intent to remove any individual Covered Products from the Support Contract at the end of the then current and contracted Coverage Period or any Coverage Period Anniversary. Neither Party may remove Covered Products except upon Coverage Period renewal or extension or Coverage Period Anniversary; provided that Hexagon may additionally remove Covered Products as part of a general discontinuance program at any time upon one hundred eighty (180) days' written notice. Customer may not remove from the Support Contract individual software licenses of a Covered Product for which Customer has multiple copies under Maintenance Services or for Covered Products that are being used interdependently, unless Customer has first certified to Hexagon on a "Software Relinquishment Agreement" that it surrenders and relinquishes all rights in and to the applicable Software licenses and the copies of the Covered Product for which Customer desires to cease Maintenance Services (the "Relinquished Licenses") for the renewal Coverage Period have been uninstalled and removed from its system(s). Should Customer desire to resume usage of the Relinquished Licenses at a later date, Customer must re-purchase the licenses at the then current list price.

9. PAYMENT

- 9.1. Terms of Payment. Charges for Maintenance Services are due and payable annually and in advance. All charges are due net thirty (30) calendar days from the date of invoice or prior to the beginning of the applicable Coverage Period, whichever is earlier. Charges for Covered Software Products added during a Coverage Period shall be prorated to the remaining Months of the Coverage Period, in whole Month increments only, and such charges shall be due and payable in full upon receipt of invoice. Covered Third Party Products added during a Coverage Period are subject to Section 6 of these Support Terms.
- 9.2. Past Due Accounts. HEXAGON RESERVES THE RIGHT TO REFUSE SERVICE TO ANY CUSTOMER WHOSE ACCOUNT IS PAST DUE. At the discretion of Hexagon, Customers who have not paid any charges when due (i) under the Support Contract, (ii) under any other agreement between the Parties, or (iii) under any agreement between Hexagon and Customer's parent and/or subsidiary, may not be rendered Maintenance Services until all past due charges are paid in full. The start of the Coverage Period shall not be postponed due to delayed payment of any charges.
- 9.3. Customer's Responsibilities Concerning Invoice Questions. Subject to applicable law, if Customer intends to dispute a charge or request a credit, Customer must contact Hexagon within ten (10) calendar days of the date on the invoice. Customer waives any right to dispute a charge or receive a credit for a charge for Maintenance Services that Customer does not report within such period.

10. CUSTOMER ACKNOWLEDGEMENTS

During the Coverage Period, Customer commits to the following:

- 10.1. Customer shall have reviewed the Order Documents and by executing the Order Documents confirms the Order Documents accurately reflects all Hexagon software in its possession or control
- 10.2. Customer acknowledges and confirms that for all Covered Products supported under the Support Contract, all licenses of a Covered Product for which Customer has multiple copies in its possession and all prerequisite licenses necessary to operate Covered Products, are accounted for in the Order Documents. If all like Covered Products or prerequisite software licenses are not accounted for in the Order Documents, Customer agrees to notify Hexagon so that Hexagon may issue a revised Quote to Customer.
- 10.3. Customer acknowledges and confirms Maintenance Services provided herein shall be utilized only for the quantity of Covered Products licenses listed in the Order Documents.
- 10.4. Customer shall, and Customer shall cause each of Customer's employees and representatives to, comply with each and every term and condition of the EULA applicable to the Covered Products supported under the Support Contract.

11. ADDITIONAL TERMS

- 11.1. Software License. Any Updates furnished hereunder shall remain the property of Hexagon, Hexagon's Affiliate, or applicable third party, and are licensed in accordance with the then current Hexagon EULA, EULA of Hexagon's Affiliate, or third party SLA, which shall supersede any EULA or SLA associated with prior releases of the Covered Software Products or Covered Third Party Products. Upon Customer's request, Hexagon shall provide Customer with such EULA or SLA. Upon Hexagon's request, Customer agrees to execute a EULA or SLA, as applicable, for Covered Products.
- 11.2. Pass-Through Third Party Warranties. Covered Third Party Products are only warranted pursuant to a pass-through warranty to Customer from the applicable Third Party Software manufacturer and only to the extent warranted by the applicable Third Party Software manufacturer.
- 11.3. Remedies. In the event a warranted Maintenance Service, Covered Product, or Update provided pursuant to the Support Contract does not substantially comply with the limited warranties set forth in the Support Contract, Hexagon's entire liability and Customer's exclusive remedy shall be, in Hexagon's sole and absolute discretion, either (i) providing of a Service, Covered Product, or Update which conforms substantially with the warranty; or (ii) a refund of the purchase price of the particular warranted Service, Covered Product, or Update for the period of time that the warranted Service, Covered Product, or Update did not substantially conform to the limited warranties set forth in the Support Contract.
Hexagon is acting on behalf of its suppliers for the sole purpose of disclaiming, excluding and/or limiting obligations and liability as provided in the Support Contract, but in no other respects and for no other purpose.
- 11.4. WARRANTY DISCLAIMERS. In addition to the Warranty Disclaimer provided in the Master Terms, Hexagon does not warrant that any Services, Covered Products, and Updates provided pursuant to the Support Contract will meet Customer's requirements, and under no circumstances does Hexagon warrant that any Services, Covered Products, and Updates will operate uninterrupted or error or Defect free.
- 11.5. Third Party Providers. Hexagon reserves the right to provide Maintenance Services through a third party provider.



EXHIBIT C

PROJECT DELIVERABLE SIGN-OFF FORM

CUSTOMER NAME, CUSTOMER CITY – PROJECT NAME

Submission Date:	Month/Day/Year	Sign-Off Target Date:	Month/Day/year
Submitted By:	Hexagon Contact Name	Submitted To:	Customer Contact Name
Customer Contract #:	Customer Contract Number	Customer/Project #:	Hexagon Project Number

TYPE OF DELIVERABLE

- SOW Tasks
 Payments
 Plans/Designs
 Training
 Other

DELIVERABLE INFORMATION

DELIVERABLE DESCRIPTION
THIS SECTION DESCRIBES THE DELIVERABLE

\$AMOUNT OF PYMT
(If applicable)

With the deliverable described above complete, the Customer shall have ten (10) working days after receipt of a written request from Hexagon, to either sign-off that the deliverable has been met or state in writing to Hexagon the reason the deliverable has not been met.

Sign-off of the deliverable shall be based solely upon the deliverable meeting the requirements stated in the Contract between Hexagon and CUSTOMER NAME dated Month/Day/Year and shall be indicated by the Customer signing the Project Deliverable Sign-off Form. If the Customer does not provide such sign-off or rejection within the ten (10) working day period then the deliverable will be deemed to have been signed off.

The signature below acknowledges that the deliverable described in the Contract and listed above meets all of the appropriate criteria and supersedes all prior requirements for this item.

Customer acknowledges completion of this payment milestone according to the Contract Payment Milestone Schedule and provides authorization to invoice this milestone.

**Authorized Customer Representative
Customer Contact Name**

SIGNATURE

DATE



EXHIBIT D

CLOUD PROGRAM CONDITIONS

These terms and conditions ("Cloud Conditions") govern the provision of the Cloud Program by Hexagon to Customer under a Cloud Program Sale Order

1 **DEFINITIONS.** Capitalized terms used and not otherwise defined herein have the meanings assigned in the Common Terms Glossary.

2 **SCOPE OF CLOUD PROGRAM.**

2.1 From the Cloud Program Start Date and for the duration of the Cloud Term, Hexagon will provide the License Key(s) to Customer in the amount specified in the Quote with respect to the Cloud Program purchased by Customer to use the Cloud Program subject to the provisions of these Cloud Conditions. Except for the Cloud Services, no other service, including Cloud Consulting Services, are provided by Hexagon pursuant to a Cloud Program Sales Order.

2.2 Hexagon may from time to time provide or otherwise make available Local Software. Local Software may include mobile applications obtainable from an online applications store, applications owned by a third-party, or other facilitating applications. In the event Hexagon provides or makes available such applications, the same shall be made available to Customer and owned by Hexagon (or the relevant third party), and used subject to these Cloud Conditions. If not sooner terminated, the license to use such Local Software shall terminate upon expiration of the Cloud Term.

3 **CLOUD SERVICES AUTHORIZATION.**

During the Cloud Term, Hexagon grants Customer and its Affiliates the right to access and use components of the Cloud Program listed in the quantities reflected on the Quote solely for Customer's and Affiliates' own internal business purposes and subject to these Cloud Conditions

4 **TERM, TERMINATION AND SUSPENSION.**

4.1 The Cloud Program Sale Order commences on the Effective Date and shall continue for the Cloud Term, unless earlier terminated in accordance with the Master Terms and these Cloud Conditions. To the extent any optional renewals are identified in the Quote, the Customer must issue a PO or a notice to proceed to extend the Cloud Term and at the prices set forth in the Quote not less than sixty (60) days prior to the end of the Cloud Term. Prior to the end of the Cloud Term, the Customer may renew the Cloud Program Sale Order and/or have Customer Data Offboarded.

4.2 In addition to the rights and remedies set forth in the Master Terms, once notified in writing of the overdue payment, Customer acknowledges Hexagon may, without further notice, reduce the Cloud Services to the lowest tier of Cloud Services offered by Hexagon. During such time, Hexagon or the Third Party Service Provider is not obligated to facilitate or provide any services related to Onboarding or Offboarding. Without waiver of its right to terminate the Master Agreement and/or Cloud Program Sale Order or seek additional remedies, if full payment has not been received by Hexagon within

thirty (30) days following written notice, Hexagon may suspend providing the Cloud Program to Customer until all outstanding Cloud Program Fees together with any applicable interest has been paid to and received by Hexagon. For avoidance of doubt, and without limitation, if Hexagon suspends providing the Cloud Program to Customer for non-payment, Customer shall have no right to access or use Cloud Applications, software applications provided by Hexagon which are incidental to the Cloud Program, Third Party Software Products, Cloud Services, Cloud Optional Services, or any goods, services, or benefits to be provided by Hexagon hereunder. Suspension of the Cloud Program for non-payment shall not prejudice Hexagon's rights hereunder or relieve Customer from the obligation to pay Cloud Program Fees associated with the period of suspension.

4.3 Termination shall not relieve the Customer of the obligation to pay any Cloud Program Fees accrued or payable to Hexagon prior to the date of termination. Unless otherwise agreed to in writing by Hexagon, in the event Hexagon terminates a Cloud Program Sale Order due to any of the conditions set forth in Section 4.2 above, then under no circumstances whatsoever shall Customer be entitled to any refund of Cloud Program Fees paid in advance to Hexagon pursuant to the terms of the Master Agreement.

5 **AVAILABILITY.** Hexagon shall reasonably endeavor to deliver Availability in accordance with the Service Level specified in the applicable Cloud Services Schedule. "**Availability**" or "**Available**" means the ability to connect to the Cloud Portal, connect to the Customer Cloud Environment for Production, launch Cloud Application(s), and access Customer Data contained in the Customer Cloud Environment for Production. Availability does not include the availability of third-party portals or Cloud Optional Services. Availability of Cloud Application(s) shall be determined by launching the main application for the applicable Cloud Application. For purposes of calculating Availability time, the following is excluded: time expended for Planned Maintenance; downtime required to perform Cloud Consulting Services; time expended due to the inability for Customer to connect to the Cloud Portal due to problems with the Customer's infrastructure or the internet; and, time expended due to any other circumstances beyond Hexagon's reasonable control, including Customer's or any User's use of third-party materials or use of the Cloud Program other than in compliance with the express terms of the Master Agreement and Hexagon's reasonable instructions (collectively "Exception(s)")

6 **CRITICAL SERVICE LEVELS.** The purchased Service Level classifications are set forth in the Cloud Service Schedule. "**Service Operational Time**" means the time, expressed in a percentage as set forth below, that the Cloud Application is Available for a given Month during the service. The method of calculating the Service Operational Time is:

$$\frac{\text{Hours of Cloud Program Availability for a given Month}}{\text{Hours of Cloud Program Availability} + \text{downtime hours for such Month which are not related to an Exception}} \times 100$$

7 SERVICE CREDITS

7.1 If in any Month the Service Operational Time in a Cloud Environment for Production falls below the purchased Service Level (a "**Service Incident**"), a "Return to Green Plan" shall be initiated for the Customer's Environment for Production. Hexagon shall have: (i) the remainder of the Month in which the Customer notified Hexagon of the Service Incident by way of a Cloud Service Request, which notified Hexagon of the problem which resulted in the Service Operational Time falling below the applicable Service Level, *plus* (ii) one (1) additional Month (collectively, the "**Go Green Period**"), to return the Service Operational Time to such Service Level.

7.2 Subject to Section 7.3 below, if the Service Operational Time does not rise to the applicable Service Level within the Go Green Period, then the Service Credit provided in the Cloud Service Schedule will be applied against each Month in which the Service Operational Time remains below such Service Level.

- 7.3 Service Credits apply:
- 7.3.1 Only as specified within the Cloud Services Schedule;
 - 7.3.2 Only to the extent that the affected Customer Environment is used in Production;
 - 7.3.3 In strict accordance with Section 5;
 - 7.3.4 Only if a Customer has logged a Cloud Service Request which notified Hexagon of the problem that causes the Critical Service Level to fall below the identified Availability percentage in the Cloud Services Schedule (“Green”); and
 - 7.3.5 Only where Customer is compliant with the AUP.
- 7.4 To the extent applicable and properly noticed by Customer in accordance with Section 7.1 above, Service Credits shall be credited against the next invoice until such applicable Service Credits have been used. If the Master Agreement is terminated or Customer elects not to renew the Master Agreement before an ensuing invoice is issued, then such Service Credits are forfeited. Customer shall have no right to receive any monetary remuneration in exchange for unused Service Credits. Notwithstanding anything herein to the contrary, in no event shall Service Credits for any given year during the Term exceed twenty percent (20%) of the amount of Cloud Program Fees payable by Customer to Hexagon pursuant to the Quote for the annual period in which the Service Credit accrued.
- 7.5 The Customer’s exclusive remedy for not meeting the Critical Service Level specified in the Cloud Services Schedule shall be the Service Credits as set forth in this Section.

8 CLOUD SERVICES SUPPORT.

- 8.1 As part of Cloud Services, Hexagon will provide the Cloud Services Support described within this Section 8.
- 8.2 Cloud Services Support is available at the times specified in the applicable Cloud Services Schedule. Cloud service requests and Product Change Requests can be directed by an Authorized Cloud User to Hexagon by: (i) the support website (<https://support.hexagonsafetyinfrastructure.com>), or (ii) telephoning Hexagon support at the times permitted within the Cloud Services Schedule.
- 8.3 When reporting a Cloud Service Request, if an Error, an Authorized Cloud User shall assign the Cloud Service Request a priority level based upon the criteria set forth in the support website (<https://support.hexagonsafetyinfrastructure.com>). The Authorized Cloud User shall provide a brief justification as to the criticality of the Cloud Service Request and a description of the Error giving rise to the Cloud Service Request, to include a statement of steps necessary to produce the error. Hexagon shall respond to the Cloud Service Request and provide commercially reasonable efforts to aid and address the Cloud Service Request. If Hexagon disagrees with the priority of the Cloud Service Request, it shall discuss the matter with Customer, but Hexagon, in its sole discretion, reserves the right to revise the initially reported priority level of the Cloud Service Request.
- 8.4 Product Change Requests will be reported in like manner as set forth in Section 8.3. Hexagon will review Product Change Requests and at its sole discretion decide whether to make the requested change to the Cloud Program. Product Change Requests not accepted may be the subject of a separate contract between the Parties. For the avoidance of doubt, to the extent Hexagon agrees to make a requested change to the Cloud Program pursuant to a Product Change Request, any and all IPR resulting from such change or modification is and shall remain the property of Hexagon.

- 8.5 Customer acknowledges and agrees that, as part of providing Cloud Services Support, Hexagon is permitted to make necessary changes to the Cloud Program without notice if necessary to perform Emergency Maintenance. Hexagon shall be permitted to access the Customer Cloud Environment in the event Hexagon deems Emergency Maintenance is necessary.
- 8.6 As it relates to, and only to, Local Software which is listed on the Quote, Hexagon shall provide support in like manner as is provided for Cloud Applications except Customer will permit Hexagon to electronically access the Local Software in the Local Environment via SecureLink™. SecureLink™ is a tool for providing secure, auditable remote access to the Local Software in order for Hexagon support personnel to effectively troubleshoot and address Errors related to Local Software. Support for Local Software listed on the Quote is included within Cloud Services Support except as is otherwise rendered commercially unreasonable due to the Local Software being hosted by Customer.
- 8.7 Except as otherwise necessary, as determined by Hexagon in its sole discretion, to satisfy the requirements of Sections 8.3 and 8.4, Cloud Services Support does not include: (i) training; (ii) configuration of Cloud Application(s), Cloud Optional Services, Cloud Portal, Third Party Software Products, Software Products, or other components of the Cloud Program; (iii) Customer Cloud Administration; (iv) programming or software development; (v) modifications to the Cloud Applications or Cloud Optional Services not accepted as a Product Change Request; (vi) onsite services; or (vii) services required because Customer has not performed its obligations under the Master Agreement.
- 8.8 Upgrades or Updates.
- 8.8.1. As part of Cloud Services Support, Customer is entitled to receive all updates and upgrades to the purchased Cloud Application(s) and Local Software that Hexagon makes available. Cloud Consulting Services may be necessary to upgrade or update Cloud Optional Services, which is not part of Cloud Services Support.
- 8.8.2. From time to time, Hexagon may notify Customer through the Cloud Portal or support website (<https://support.hexagonsafetyinfrastructure.com>) that Hexagon has developed an upgrade or update for the purchased Cloud Application(s) and intends to deploy said update or upgrade, including any applicable Third Party Software Products. On the date specified in the notification, Hexagon will deploy the update or upgrade to the Cloud Development Environment for Customer testing and review, which Customer shall complete within the time prescribed in the notification of the availability of the update or upgrade, but not less than thirty (30) days thereafter (the "Testing Period"). In the event no Material Adverse Effect is reported by Customer within the Testing Period, then on a subsequently specified date by Hexagon, Hexagon will, at its discretion, deploy the update or upgrade to Customer Cloud Environment for Production.
- 8.8.3. In the event Customer provides written notice to Hexagon, within the Testing Period, of Customer's characterization of a Material Adverse Effect as a result of Customer's testing of the upgrade or update in accordance with Section 8.8.2 above, and Hexagon agrees and acknowledges such Material Adverse Effect, Hexagon shall discuss the matter with Customer and use commercially reasonable efforts to address any reasonable workarounds to such Material Adverse Effect, such agreed upon workaround to be subject to the same testing protocols set forth in Section 8.8.2 and this Section 8.8.3; provided, however, that

Hexagon, in its sole discretion, reserves the right to deploy the update or upgrade to Customer Cloud Environment for Production: (i) if resolution cannot be reached between the Parties with respect to a reasonable workaround for such Material Adverse Effect within thirty (30) days from the expiration of the Testing Period, or (ii) if Hexagon disagrees with the existence of such Material Adverse Effect.

- 8.8.4 As it relates to implementing updates or upgrades for Local Software that is included within the Cloud Program, Customer shall permit Hexagon to electronically access the Local Software on Customer's System Equipment via SecureLink to implement the Update in conjunction with the updating or upgrading of the Cloud Applications and provide any other reasonable support and cooperation required by Hexagon to upgrade or update the Cloud Program.

9 CUSTOMER RESPONSIBILITIES.

- 9.1 Customer shall be responsible for all activities that occur in Authorized Cloud User and User accounts, including, but not limited to, its Affiliates' accounts, and for Authorized Cloud Users' and Users' compliance with the Master Agreement. Customer shall:
- 9.1.1 Have sole responsibility for the accuracy, quality, integrity, reliability and appropriateness of all Customer Data that is placed into the Customer Cloud Environment;
 - 9.1.2 Use commercially reasonable efforts to prevent unauthorized access to or use of Cloud Program, including preventing utilization of more Credentials than otherwise reflected by the License Key(s) set forth in the Quote, and notify Hexagon of any such unauthorized access or use;
 - 9.1.3 Provide and maintain its own System Equipment, third party software, networks, internet access, and communication lines, including any public lines required to properly access the Cloud Portal and use the Local Software, including content or data and ensure such meet the minimum standards required to interoperate with the Cloud Program as communicated by Hexagon to Customer via the Cloud Portal or as otherwise determined by Hexagon; and
 - 9.1.4 Abide by and comply with the Acceptable Use Policy, Documentation, and other requirements of these Cloud Conditions.

10 CLOUD SERVICE PROGRAM FEES.

- 10.1 Generally. Subject to Section 10.2 below, in consideration of the Cloud Program provided by Hexagon, Customer shall pay to Hexagon the Cloud Program Fees as set forth in the Quote at the time(s) specified in Section 11.
- 10.2 Fee Adjustment. On or about the Cloud Anniversary, Hexagon may review the Customer's usage of the Cloud Program to determine whether an adjustment is appropriate to align with Customer's actual usage of the Cloud Program. Hexagon's review of the Customer's usage of the Cloud Program is intended to evaluate whether the Customer's usage is consistent with the number of License Key(s) purchased for the applicable year as reflected in the Quote. If the usage shows the Customer has used more License Key(s) than are specified in the Quote, then Customer shall pay Cloud Program Fees corresponding to the number of License Key(s) used in excess of the quantity reflected in the Quote as part of its payment of the subsequent year's Cloud Program Fees. Regardless of when during the Cloud Term the following should occur, to the extent the Customer's usage of the Cloud Application(s) exceeds the number of License Key(s) reflected in a Quote by more than five percent

(5%; excluding the time corresponding to shift changes and Catastrophic Events) then Hexagon shall be immediately entitled to invoice Customer for the number of License Key(s) used in excess of the amount specified in the Quote, and the Customer shall pay the amount specified in the invoice in accordance with the Master Terms.

11 TERMS OF PAYMENT.

Cloud Program Fees will be invoiced on an annual basis. The invoice corresponding to the first year of Cloud Program Fees shall be provided to Customer upon Hexagon's issuance of License Key(s) to Customer. For purposes of clarity, once the first License Key(s) is issued, the Fee will be due and payable. Invoices for subsequent years included within the Cloud Term as specified in the Quote (as may be adjusted pursuant to Section 10.2 above) will be issued prior to the Cloud Anniversary.

12 ACCEPTABLE USE POLICY (AUP).

- 12.1 The AUP forms part of these Cloud Conditions and is incorporated by reference. It may be found at the following site: https://www.hexagonsafetyinfrastructure.com/-/media/Legal/Hexagon/SI/Policies/AUP/5Nov18/Cloud_AUP.pdf. The Customer and any Authorized Cloud User or User shall comply with the AUP. A User or Authorized Cloud User will be prompted with review and acceptance of the AUP to gain access to the Cloud Application(s). Any update to the AUP will require each User or Authorized Cloud User to re-accept the modified AUP. Failure to comply with the AUP may result in the suspension of the Cloud Program or termination of the Cloud Program Sale Order as provided in Section 5 of the Master Terms. During any period of suspension, the Customer will still be liable for payment of the applicable Cloud Program Fees.
- 12.2 Hexagon reserves the right to change the AUP at any time, but to the extent within the control of Hexagon, it will give Customer thirty (30) days' notice in accordance with the Master Terms and the Principle Contracting Document of any such changes by posting notice of the upcoming change in the AUP on the Cloud Portal or as otherwise determined by Hexagon, unless otherwise required by law or where a Third Party Service Provider requires a change to be made to the AUP and is unable to provide such period of notice. If a Third Party Service Provider requires a change to be made to the AUP, Hexagon shall provide the equivalent period of notice as is provided by the Third Party Service Provider to Hexagon.
- 12.3 Without waiver of any other requirement or limitation set forth herein, Customer's use of any third party software in conjunction with the Cloud Application, Cloud Optional Services, and Hexagon Software Products that is not certified by Hexagon to operate in conjunction with the same is solely at Customer's risk. Addressing service requests arising from the use of uncertified third party software is not included within Cloud Services Support or the Cloud Program.

13 OWNERSHIP AND INTELLECTUAL PROPERTY.

- 13.1 In accordance with Section 6 of the Master Terms, Hexagon owns all right, title and interest in and to Cloud Application(s), Cloud Optional Services, the Software Products, Local Software, Documentation written by Hexagon, and any other data and information provided as part of the Cloud Program (except for data and information being owned by a third party), and all copies of all or any part thereof, are and shall remain vested in Hexagon. Third parties shall retain any and all IPR in and to their intellectual property that may be provided as part of the Cloud Program. Customer and its Affiliates do not have, and shall not attempt to decompile, disassemble, or otherwise attempt to gain access to any source code for the Cloud Application, Cloud Optional Services, any other Hexagon Software Product, or Third Party Software Products. Customer, for itself and its Affiliates acknowledges and agrees the Cloud Program is comprised of trade secrets, proprietary information, and Confidential Information, and that Customer, and its Affiliates shall not use, distribute, copy, perform, amend, alter, modify, create derivative works, reverse engineer, exploit, sublicense, or

assign the Cloud Program or any component thereof except as expressly permitted by Hexagon. Without Hexagon's express, written permission, Customer shall ensure that no User transfers or assigns any Credentials to any other person or entity that is not an employee of Customer.

- 13.2 Customer and its Affiliates, respectively, shall retain their respective full ownership and all rights associated therewith solely to Customer Data to the extent they owned IPR to said information, as well as work product input or output generated by the Cloud Program. This ownership shall not extend to any formats or other intellectual property provided by Hexagon under the Master Agreement that makes a particular data file intelligent or that structures output, said formats and intellectual property which shall remain the property of Hexagon or the respective third party that owns said format or intellectual property.

14 PERSONAL DATA.

- 14.1 Hexagon reserves the right, but does not assume the obligation, to investigate any violation of this Exhibit D (Cloud Program Conditions) and/or AUP or misuse of the Cloud Services or Cloud Program. Hexagon may: (a) investigate violations of this Exhibit D (Cloud Program Conditions) and/or AUP or misuse of the Cloud Services or Cloud Program; and (b) remove, disable access to, or modify any content or resource that violates this Exhibit D (Cloud Program Conditions) and/or AUP. Hexagon may report any activity that Hexagon suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Hexagon's reporting may include disclosing appropriate information related to Customer or any User. Hexagon also may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties to help with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this Exhibit D (Cloud Program Conditions) and/or AUP.
- 14.2 Unless a Customer Specified Data Center(s) is included in the Cloud Services as identified in the Quote, Hexagon and its Third Party Service Provider shall have sole discretion of the location of the Data Center(s).

15 SECURITY & BREACH NOTIFICATION.

- 15.1 Hexagon shall take reasonable industry action to prevent, detect, identify, report, track and respond to Security Incidents.
- 15.2 Hexagon Response to Security Incident. The following will apply in the event of a Security Incident:
- 15.2.1 Hexagon will provide a Security Incident report to the Customer or its Affiliates (as applicable) via the Cloud Portal, support website, or otherwise. The report shall be provided as soon as practicable following discovery and investigation of a Security Incident.
- 15.3 Additional Requirements for Personal Data. With respect to any Personal Data in the possession or under the control of Hexagon, which does not include Customer Data within the Customer Cloud Environment, and in order to protect Personal Data from unauthorized access, destruction, use, modification or disclosure, Hexagon shall:
- 15.3.1 Develop, implement, and maintain reasonable security procedures and practices appropriate to the nature of the information to Personal Data from unauthorized access, destruction, use, modification, or disclosure; and
- 15.3.2 Develop, implement and maintain data privacy and security programs with administrative, technical, and physical safeguards appropriate to the size and complexity of Hexagon's business and the nature and scope of Hexagon's activities to protect Personal Data from unauthorized access, destruction, use, modification, or disclosure.

16 WARRANTIES, DISCLAIMER AND INDEMNITIES.

- 16.1 During the Cloud Term, Hexagon does not warrant the Cloud Application(s) purchased by Customer will meet the Service Level specified in the applicable Cloud Services Schedule. The Cloud Program may be subject to limitations, delays and other problems inherent in the use of the internet, electronic communications, and Customers' IT infrastructures. Hexagon will not be responsible for any delays, delivery failures, or other damage.
- 16.2 Hexagon does not warrant the Cloud Application(s) and Third Party Software Products accessed via Cloud Services will perform substantially in accordance with the Documentation provided. To the extent an Error should be discovered, Customer shall report such Error to Hexagon as provided in Section 8 of the Cloud Program Conditions and Hexagon will respond as provided therein.
- 16.3 Cloud Services will use industry standard Virus detection software to avoid transmission to the Customer, its Affiliates, any Viruses (except for any Viruses contained in Customer Data uploaded or Onboarded by Customer).
- 16.4 Hexagon does not warrant the Cloud Program (to the extent accessed by Customer under the Master Agreement) will meet the Customer's or any of its Affiliate's requirements or that it will run uninterrupted or be Error free. Customer and its Affiliates are responsible for the results obtained from the use of the Cloud Program.
- 16.5 The warranties set forth herein are in lieu of all other warranties, expressed or implied, and represents the full and total warranty obligation and/or liability of Hexagon

17 ACCESS TO THE MASTER AGREEMENT BY CUSTOMER'S AFFILIATES.

If an Affiliate accesses or utilizes any or all components of the Cloud Program, the Affiliate shall be deemed to have agreed to be bound by the terms and conditions of these Cloud Program Conditions. In accessing the Cloud Program (or any part thereof), the Affiliate represents to Hexagon it has entered into an agreement with Customer by which it is permitted to use the Cloud Program and be bound to the terms herein. Except for Affiliates and employees of Affiliates, no other person, including any third parties not authorized by Hexagon, may access the Cloud Program or be provided with Credentials.

END OF EXHIBIT D



EXHIBIT E

SUBSCRIPTION TERMS AND CONDITIONS

These Subscription Terms and Conditions (“Subscription Terms”), govern the licensing and support for the Subscription.

1. **DEFINITIONS.** All capitalized terms not otherwise defined herein shall have the meaning set forth in Exhibit F (Common Terms Glossary).
2. **SERVICES PROVIDED.**
 - 2.1 **Access.** Subject to an Order for a Subscription License Sale and these Master Terms, including Exhibit A (End User License Agreement), Hexagon will make the Subscription Licenses available to Customer for Customer’s use during the Subscription Term. Any renewal or extension of the Subscription Term shall be subject to such terms and product components as reflected in the applicable renewal or extension Quote issued by Hexagon (the “***Renewal Quote***”). Customer acknowledges and agrees that Customer shall compensate Hexagon for Customer’s continued use of a Subscription after expiration or termination of a Subscription Term, at a rate equitably and proportionately calculated based upon the Renewal Quote and based upon the period of such extended use; *provided that* if no Renewal Quote is issued prior to expiration or termination of the Subscription Term, the initial Quote shall be substituted in the calculations set forth in this Section 2.1.
 - 2.1.1 As it pertains to Metered Licenses, the Customer’s right to use the Metered Licenses shall end upon the earlier of: (i) expiration of the Subscription Term, or (ii) Customer’s use of the its allotment of units of service as set forth in the Quote.
 - 2.2 **Maintenance and Support.** During the applicable Subscription Term, Hexagon will provide maintenance services and support to the Customer for the Subscription Licenses in accordance with Exhibit B (Support Terms and Conditions) of these Master Terms.
 - 2.3 **Services.** These Subscription Terms only provide for the licensing and support of the Subscription. If the Customer desires for Hexagon to provide Services for implementation, configuration, training, or other work in relation to the Subscription, then Customer may contract with Hexagon pursuant to these Master Terms for Services under a separate Order.
3. **INVOICES.** Hexagon shall invoice Customer for the amount set forth in the Quote upon delivery of or access having been provided to the Subscription Licenses identified in the Quote. To the extent the Quote includes multiple types of Subscription Licenses, Hexagon shall invoice the Customer once the first type of Subscription License is allowed to be invoiced as provided in this section.
4. **CUSTOMER OBLIGATIONS.**
 - 4.1 **Customer Control.** Customer’s and its authorized Users of the Subscription shall at all times comply with Exhibit A (End User License Agreement). Customer will be solely responsible for administering and monitoring the use of login IDs and passwords provided by Customer to authorized Users pursuant to the Subscription, or by Hexagon on behalf of Customer. Upon the termination of employment of any authorized User, Customer will terminate that individual’s login ID and password. Hexagon is not responsible for any damages resulting from Customer’s failure to manage the confidentiality of its login ID and passwords and Customer is responsible for any actions arising out of use or misuse of Customer’s login IDs.

- 4.2 Security. Customer shall take commercially reasonable security precautions to prevent unauthorized or fraudulent use of Hexagon IP by Customer, Customer's employees, consultants, agents, or any other third parties authorized by Customer to access the Subscription on Customer's behalf.

END OF EXHIBIT E



EXHIBIT F

COMMON TERMS GLOSSARY

“Activity” or **“Activities”** means a single work activity/event or collection of work activities/events by a Party or by both Parties under a specified Task.

“Affiliate” means, for business entities, the parent business entity of a Party and any business entities in which a Party or its parent company directly or indirectly holds a controlling ownership interest. “Affiliates” means, for government entities which are Customers, an entity which has entered into an intergovernmental agreement with Customer which: (i) relates to or addresses the subject matter of the Principle Contracting Document; and (ii) was disclosed to, and acknowledged by, Hexagon (A) prior to the Effective Date for any existing intergovernmental agreements, and (B) prior to any renewal date of such Principle Contracting Document for any intergovernmental agreements entered into after the Effective Date. “Control” for the purposes of this definition means that Customer owns in excess of fifty percent (50%) of the ownership interest of the Affiliate or owns a majority of the voting shares of the Affiliate.

“Acceptable Use Policy (AUP)” means the Acceptable Use Policy identified as such within Exhibit D (Cloud Program Conditions)

“Authorized Cloud User” means an individual user authorized by the Customer to use an entire Cloud Program on behalf of the Customer and for whom an account is set up by which the Authorized Cloud User can utilize Cloud Services Support and log Cloud service requests and Product Change Requests.

“Beta Software” means any version of Software prior to a generally available commercial release of such Software.

“Business Day” means any day other than a weekend or public holiday in the country listed on the Quote.

“Catastrophic Event” means a rare circumstance in which mass casualties and/or significant property damage has occurred or is imminent (e.g. September 11th, hurricanes, earthquakes greater than 6.1 on the Richter scale)

“Change Order” means a document executed or accepted in writing by both Parties that modified the scope, price, milestones, and/or project schedule of an Order

“Cloud Anniversary” means the anniversary of the date on which Hexagon provided the License Keys to Customer.

“Cloud Application(s)” means the Hexagon Software Product(s) made available by Hexagon through the Cloud Portal as part of the Cloud Program.

“Cloud Consulting Services” means Services that relate to the Cloud Program including, but not limited to, implementation, configuration, customization, data conversion, Onboarding, design, training, and or enhancement of the Cloud Program.

“Cloud Cutover” means the point in time when Customer first uses the Cloud Program for its generally marketed purpose.

“Cloud Development Environment” means a logical group of virtual or physical computers comprised within the Cloud Environment to which the Customer will be provided with access and use for the limited purpose of making modifications, as specifically permitted herein, to the Cloud Application. For purposes of clarity, the Cloud Development Environment cannot be used in production or for training purposes.

“Cloud Environment” means the collection of remote environments provided to Customer on which the Cloud Application(s) operates that is supported by Hexagon.

“Cloud Optional Services” means those certain Hexagon Software Products that provide ancillary functionality or capability to the Cloud Applications, including, but not limited to, interfaces and custom forms and functionality. Unless specific Cloud Optional Services are identified in the Quote with a corresponding purchase commitment from Customer, Cloud Program does not include Cloud Optional Services.

“Cloud Portal” means the website through which Customer accesses and uses the Cloud Program. The Cloud Portal provides access to the Cloud Program according to Customer’s rights, and further provides access to additional Cloud Services, as made available by Hexagon.

“Cloud Program” means the combination of Cloud Services, Cloud Application(s), Local Software, Third Party Software Products, and Cloud Optional Services provided pursuant to the Principle Contracting Document. The components of the Cloud Program are specifically identified in the Quote and for purposes of this definition shall mean only those components and not any other components not specifically listed in the Quote.

“Cloud Program Fees” means, collectively, any of the fees payable by Customer to Hexagon for the Cloud Program (or any part thereof).

“Cloud Program Sale” means a type of Order providing access to the Cloud Program for the Cloud Term to the Customer. This type of Order does not include the sale of Software Product licenses or Services.

“Cloud Program Start Date” means the date on which the first License Key(s) are provided to the Customer. For Cloud Program Fees purposes, Cloud Program use by Customer will be assumed to be for the entire Month in which the Cloud Program Start Date falls regardless of the actual date in such Month that access to the applicable Cloud Application began.

“Cloud Services” means the services, service levels, Cloud Services Support, Customer Cloud Environment, and Third Party Service Provider’s hosting services (which are more particularly described in the Cloud Services Schedule(s) attached to the Quote), for Cloud Application(s), Cloud Optional Services, and Third Party Software Products and ordered by the Customer.

“Cloud Service Request” means a request made to the first level support service to diagnose and address an Error in a Cloud Application or to report the purchased Cloud Application(s) is not Available.

“Cloud Services Schedule” means a document titled “Cloud Services Schedule” attached to the Quote containing additional details regarding the Cloud Services being provided to Customer with respect to the applicable Cloud Program components purchased by Customer, including: (i) Customer Data backup frequency, and, (ii) level of redundancy for the Customer Cloud Environment.

“Cloud Services Support” means the service specified as such in the Cloud Services Agreement through which Customer can report Cloud Service Requests and Product Change Requests.

“Cloud Staging Environment” or **“Cloud Testing Environment”** means a logical group of virtual or physical computers comprised within the Cloud Environment to which the Customer will be provided with access and use for the limited purpose of testing modifications, as specifically permitted herein, to the purchased Cloud Application(s). For purposes of clarity, the Cloud Staging Environment cannot be used in production or for training purposes.

“Cloud Term” means the duration of a Cloud Program Sales Order.

“Cloud Training Environment” means a logical group of virtual or physical computers comprised within the Cloud Environment to which the Customer will be provided with access and use for the limited purpose of training users on the operation and use of the purchased Cloud Application(s). For purposes of clarity, the Customer shall only be entitled to a Training Environment as part of the Cloud Program if such is purchased by Customer and noted on the Quote.

“Confidential Information” means any data or information, tangible or intangible, disclosed or made available by either Party (the “Disclosing Party”) to the other Party (the “Receiving Party”) that the Disclosing Party considers confidential or proprietary and is not generally known in the industry or to competitors of the Disclosing Party and which shall include: (i) tangible information marked by the Disclosing Party with

the word "Confidential" or otherwise identified by an appropriate stamp or legend indicating its confidential nature; (ii) Confidential Information disclosed orally or visually and identified by the Disclosing Party as confidential when disclosed, and confirmed by the Disclosing Party in a written notice within thirty (30) days following disclosure, which notice shall include markings similar to those outlined above; and (iii) all other information that, notwithstanding the absence of markings or designations, would be understood by the Parties, exercising reasonable business judgment, to be confidential. The term Confidential Information does not include information that: (i) is or becomes available in the public domain through no act of the Receiving Party; (ii) has been received on a non-confidential basis from a third party without breach of the Principle Contracting Document, where the Receiving Party has no reason to believe that such third party is bound by any confidentiality obligation to the Disclosing Party; (iii) was developed independently by the Receiving Party without reliance on the disclosed Confidential Information, provided that such independent development can be substantiated; or (iv) is confirmed by the Disclosing Party as not being confidential in writing.

"Core" means a physical processor on a computer server that can respond to and execute the basic instructions that drive the computer. A Central Processing Unit ("CPU") may have one or more Cores, and a given server may have multiple CPU sockets that may each contain multiple Cores.

"COTS" means commercial off the shelf Intellectual Property in the form generally released and distributed to Hexagon's customers and not including any functionality or features requiring source code changes.

"COTS Documentation" means commercial off the shelf Documentation in the form generally released and distributed to Hexagon's customers and not including or requiring changes thereto.

"Coverage Period" means the period of performance of Maintenance Services with respect to a Covered Product, as stated in the Order Documents. Coverage Periods may differ for discrete Covered Products.

"Coverage Period Anniversary" means, in the case where the Coverage Period is greater than one (1) year, the anniversary of the date on which the Coverage Period commenced.

"Covered Products" means collectively, Covered Software Products and Covered Third Party Products.

"Covered Software Product(s)" means Software Product(s) identified in the Order Documents as software for which Maintenance Services are to be provided by Hexagon. Covered Software Products shall not include Third Party Software or any Cloud Program.

"Covered Third Party Products" means Software Product(s) identified in the Order Documents as Third Party Software for which Maintenance Services are to be provided by Hexagon. Covered Third Party Products shall not include Software Products or any Cloud Program.

"Credentials" means the unique log-in identifier entered via the Cloud Portal by which a person could access the Cloud Program.

"Customer" means the non-Hexagon party to the Principle Contracting Document.

"Customer Cloud Administration" means providing User's access to the Cloud Application(s) purchased by Customer, managing User accounts, providing Credentials to Users, and any system administration beyond User interface.

"Customer Cloud Environment" means a logical group of virtual or physical computers comprised within the Cloud Environment and Local Environment to which the Customer will be provided with access and use of as part of the Cloud Program. Except as may be otherwise set forth on the Quote, including the purchase of other Cloud Optional Services, including but not limited to a Training Environment, a Customer Cloud Environment consists of a Cloud Development Environment, Cloud Staging Environment, and Production Environment.

"Customer Data" means all electronic data or information: (i) provided by Customer to Hexagon in connection with the Deliverables provided pursuant to an Order; and/or (ii) created by Customer and/or submitted to the Cloud Environment by Customers, Users, and/or Authorized Cloud Users. "Customer Data" shall not mean data which (i) is not peculiar to Customer, and/or (ii) is of value to the general

implementation, development, operation, or use of Hexagon products or services for the benefit of other customers. For the avoidance of doubt, Customer Data shall not include the Cloud Application(s), Software Products, Cloud Optional Services, Documentation written by Hexagon, and any other data and information provided as part of the Cloud Program or constituting a Hexagon Deliverable.

“**Customer Specified Data Center(s)**” means a data center used in the provision of a Cloud Environment, whose location has been specified by the Customer and agreed to by Hexagon and identified in the Quote. Additional Cloud Program Fees may be payable for a Customer Specified Data Center.

“**Customized Software**” means those Services Deliverables that are software or computer code, whether in source code or object code.

“**Cutover**” means the point in time in which a Software Product(s) is first used by User for its generally marketed purpose.

“**Data Center(s)**” means the data center(s) from which the Cloud Program (or part thereof) will be stored as determined by Hexagon or its Third Party Service Provider.

“**Defect**” means a reproducible instance of an adverse and incorrect functioning of a Software Product or Cloud Application that impacts the ability to use functionality intentionally integrated in the design of the Software Product, assuming proper usage of the Software Product in its required operating environment. Defects are further classified into four levels as follows:

Level	Impact of Defect
▶ Level One	<i>No workaround available and either:</i> <ul style="list-style-type: none"> ▶ <i>Loss of data</i> ▶ <i>Data corruption</i> ▶ <i>Productive use prohibited, or</i> ▶ <i>Aborts.</i>
▶ Level Two	<i>No workaround available and either:</i> <ul style="list-style-type: none"> ▶ <i>Primary purpose compromised, or</i> ▶ <i>Productive use significantly impacted</i>
▶ Level Three	▶ <i>Productive, but incomplete operation</i> Level Three Defects generally have a workaround or do not otherwise substantially impair productive use.
▶ Level Four	▶ <i>Defects not qualifying as Level One, Two, or Three, including defects of a cosmetic nature and defects not materially limiting complete productive use</i>

Customer shall classify a Defect in accordance with the foregoing; provided that, Hexagon shall reclassify the Defect as appropriate following its review thereof.

“**Deliverable(s)**” means all Services Deliverables, software, hardware, Cloud Programs, and other items delivered or to be delivered by Hexagon to Customer and identified in the Order.

“**Documentation**” means, whether in electronic or printed form, User's Guides, Reference Guides, Administrator's Guides, Configuration Guides, and Help Guides made available at the support website (<https://support.hexagonsafetyinfrastructure.com>) for Software or Cloud Applications provided by Hexagon to the Customer. Not all of the types of Software or Cloud Applications are provided with Documentation or with similar Documentation.

“**Effective Date**” means the date and time the last Party is on notice that all Parties have accepted the Principle Contracting Document.

“**Emergency Maintenance**” means all maintenance performed when a Cloud Service Request demands immediate, unplanned attention, as reasonably determined by Hexagon.

“Error” means a Defect with a purchased Cloud Application, Cloud Optional Service, or Third Party Software Products causing a purchased Cloud Application to fail to materially conform to its designed functionality or Documentation. Errors are further classified into the same four levels as corresponding to the definition for “Defect.”

“EULA” means that certain End-User License Agreement set forth in these Master Terms as Exhibit A.

“Fixed Price Project Assignment” means a type of Order where Hexagon will provide Services and/or Software licenses for a fixed price.

“Hexagon IP” means Hexagon or Hexagon Affiliate developed, created, or prepared Intellectual Property.

“Installation Guide” means a computer file in a Microsoft Word or Adobe PDF document or a text file that contains information a User may need to install or operate a Software Product.

“Intellectual Property” or **“IPR”** means all forms of intellectual property including, but not limited to, patents, trademarks, copyrights, trade secrets, methodologies, logos, techniques, processes, know-how, formulae, algorithms, logic designs, screen displays, schematics, source and object code computer programs or software, documentation, mask work rights, design, ideas, product information, inventions and improvements thereto (whether or not patentable), and all works of authorship fixed in any medium of expression (including any form of online, digital, or electronic medium), whether or not copyrightable and whether registered or not.

“Lapse” means an occurrence of any period of time, regardless of duration, during which (i) a Covered Product is not the subject of an active Order for Maintenance Services or other Support Contract and an active Coverage Period, and/or (ii) payment is past due to Hexagon under a Support Contract. Extension of a Coverage Period and/or payment to Hexagon after the occurrence of a Lapse shall not negate a Lapse, absent Hexagon’s express written waiver.

“License Key(s)” means certain unique data string(s) verifying authorized access to the Cloud Application(s), which are purchased by the Customer and provided by Hexagon, as set forth on the Quote.

“Local Environment” means the collection of environments provided and supported by Customer (e.g. providing System Equipment, etc.) in which the Local Software operates.

“Local Software” means software applications incidental to the Cloud Program which are designed to operate natively on devices outside the Cloud Portal and in the Local Environment.

“Maintenance Services” means only those services described in the document titled “Support Terms and Conditions for Software” provided by Hexagon with respect to Software and other Deliverables licensed to Customer and identified in the Order Documents as the subject of Maintenance Services.

“Material Adverse Effect” means a change that individually or collectively in aggregate with other changes has the impact of (i) negatively and materially reducing the Customer’s and/or its Affiliates and/or its/their Authorized Cloud Users’ or Users’ access and/or usage rights in respect of the Cloud Program and which render the Cloud Program unusable for its primary intended purpose or (ii) making the Cloud Program less secure which results in increased risk to Customer Data or other data belonging to other Hexagon customers.

“Metered License” means a specific type of Subscription License that allows the Customer to use the Subscription License up to the number of hours set forth in the Quote during the Subscription Term. For reference, a Subscription License that is a Metered License shall have the word “Metered” in the Software Product name and/or have the letters “MTR” at the end of the product number for the Software Product instead of the other identifiers corresponding to an unmetered Subscription License referenced in its definition.

“Month” means, unless otherwise stated in the applicable provision, a calendar month.

“Network Requirements” means (i) the minimum requirements, including but not limited to software and/or hardware, internet connection, latency or other requirements, which must be met by Customer in order to

access the Cloud Portal and use the Cloud Program; and (ii) network recommendations to the Customer which describe general and specific recommendations for the network connection requirements of the Cloud Program in order to enable the Cloud Program to function as designed. The Network Requirements may be updated from time to time and Customer will be notified of such update via posting in the Cloud Portal or as otherwise determined by Hexagon.

“Offboarding” or **“Offboarded”** means the process for offboarding the Customer Data (or part thereof) from the Customer Cloud Environment and relocating or facilitating relocation of Customer Data to another Customer-designated location.

“Onboarding” or **“Onboarded”** means the process of loading Customer Data into the Customer Cloud Environment.

“Onsite Fee” means a fixed fee encompassing Hexagon’s travel expenses for an individual trip (an individual trip means to travel from the Hexagon resource’s primary duty station in furtherance with Order and lasting no more than five (5) consecutive days).

“Order” means Order Documents that have been executed and/or accepted by both Parties documenting the purchase of any item or service and referencing the Principle Contracting Document.

“Order Documents” shall mean written documents, the terms of which include Hexagon’s commitment to provide products, licenses, and/or services at a specified price, subject to the terms and conditions of the Principle Contracting Document. Order Documents may consist of a single document executed by the parties or a combination of documents that together form an Order.

“Perpetual License” means a type of license for a Software Product which allows the User to use the Software Product in perpetuity so long as the User does not otherwise violate the terms of the EULA. For reference, a Perpetual License on a Quote is denoted by its absence of either the terms “Subscription,” “SaaS,” or “Metered” and/or the absence of the letters “SU” or “MTR” at the end of the Software Product number or the letters “HCL” at the beginning of the Software Product number.

“Personal Data” means data, including but not limited to criminal justice information, and other information which corresponds to a living individual person defined to be Personal Data under the applicable Personal Data protection laws of the Customer’s jurisdiction.

“Planned Maintenance” means maintenance planned and communicated in advance by Hexagon to Customer for the maintenance of the Cloud Program.

“Primary License” means the license(s) of the Software Product provided to Customer for general production use as authorized by the EULA.

“Principal Contracting Document” means the contract document accepted by the Parties which references and incorporates this Terms Glossary and/or references and incorporates a document to which this Terms Glossary is an exhibit or attachment.

“Product Change Request” means a request for additional functionality or modification to the purchased Cloud Application(s) or Covered Products.

“Production” means, as applicable, where a Subsystem or Cloud Program is used in production/operation with an aim to accomplish one or more of its ultimate intended purposes. Operation solely for testing or training is not Production.

“Production Environment” means a logical group of virtual or physical computers comprised within the Cloud Environment to which the Customer will be provided with access and use the purchased Cloud Application(s) in production and for its generally marketed purpose.

“Purchase Order” or **“PO”** means a document issued by Customer to Hexagon to authorize the delivery of certain Services, Deliverables, or Cloud Programs.

“Quote” means a document issued by Hexagon reflecting Services, Maintenance Services, Deliverables, and/or Cloud Programs, which Hexagon offers to provide Customer, as well as the prices and fees therefor,

the Customer's name and location, and any applicable Cloud Services Schedule. To the extent any document or information is identified in the Quote with the intention of it being incorporated into the Quote, it will form part of the Quote.

"Security Incident" means an event or set of circumstances resulting in a compromise of the security, confidentiality, or integrity of Customer Data under Hexagon's control. Examples of Security Incidents include: (i) security breaches to Hexagon's network perimeter or to internal applications resulting in compromise of Customer's Data; (ii) severe degradation of, Hexagon's security controls, methods, processes or procedures that result in compromise of the security, confidentiality or integrity of Customer Data; and (iii) the unauthorized disclosure of Customer Data.

"Services" means the work, services, projects, assignments, or tasks Hexagon shall perform pursuant to an Order. Services do not include Maintenance Services or Cloud Programs.

"Services Deliverable" means any data, document, information, Customized Software, Third Party Software, or material provided to Customer as a product of Hexagon's performance of Services pursuant to the Principle Contracting Document. Cloud Programs are not Service Deliverables.

"Software" means the software owned by Hexagon or an Affiliate and Third Party Software that is licensed to Customer. For the avoidance of doubt, Cloud Programs and their contents are not "Software" as that term is used in herein.

"Software License Sale" means a type of an Order that involves only the sale of Perpetual Licenses from Hexagon to Customer. This type of Order does not include Services or Cloud Programs.

"Software Product" means the Hexagon software product(s) identified in the Order Documents, which includes (i) any associated Hexagon files or media with which the software is provided, (ii) any associated templates, data, printed materials, and "online" or electronic Documentation, and (iii) any Updates or Upgrades of such Software Products not made the subject of a separate license agreement. The term Software Products shall not include, and no rights of use are granted to User for, Third Party Components, Hexagon products, or dependencies unnecessary to operate products made the subject of the Order Documents, but incidentally delivered within the same files or media. Software Product shall not mean any Third Party Software. For the avoidance of doubt, Cloud Programs and their contents are not "Software Products" as that term is used herein. Software Products are subject to all of the terms and conditions of the End-User License Agreement which the Parties agree will apply to the same; and in the absence of such agreement, then the terms of the End-User License Agreement provided with the Software Product.

"SOW" means a statement of work setting forth the scope of Services being provided pursuant to an Order.

"Subscription" means the collection of Subscription License(s) identified on the Quote and or purchased by the Customer.

"Subscription License" means a particular type of license to a Software Product that allows a Customer to use the Software Product for a specified period of time identified in the Quote. For reference, a Software Product that is a Subscription License shall have the word "Subscription" in the Software Product name and/or have the letters "SU" at the end of the product number for the Software Product.

"Subscription License Sale" means a type of an Order that involves only the sale of Subscription Licenses from Hexagon to Customer. This type of Order does not include Services or Cloud Programs.

"Subscription Term" means the period of time during which Users are authorized to use the Subscription License as set forth on the applicable Quote beginning on the date the Subscription Licenses are provided to the User or the User is provided license keys or access to the Subscription License, unless otherwise noted in the Order Documents.

"Subsystem" means a Hexagon solution that is designed to provide a specific capability independent of the procurement of any other Subsystem. Hexagon's computer aided dispatch system ("I/CAD"), records management system ("RMS"), field based reporting ("FBR"), G/Technology (G/Tech), In/Service and mobile for public safety ("MPS") are each an example of a Subsystem.

“Supplementary License” means a license(s) of the Software Product which is made available by Hexagon for select Software Products to augment Primary Licenses for special purposes. Each Supplementary License requires a Primary License and the term of the Supplementary License shall not exceed the term of the applicable Primary License.

“Support Contract” means a contract under which Hexagon provides Maintenance Services to Customer in relation to Covered Products and under which Customer is to compensate Hexagon therefor.

“System” means a physical or operational location where the Software Product resides and operates on an individual server or where a single operational identification number (“Site ID”) has been assigned by Hexagon.

“System Equipment” means all computer-related hardware, including but not limited to, servers, workstations, cables, mice, keyboards, cameras, and SAN’s; operating system software; database software; and other third party software.

“Task” means an Activity or combination of Activities of any nature whether tangible or intangible, whether onsite or remote, or an event, as further identified in an SOW.

“Task Acceptance” means the event when the Task Acceptance Criteria has been satisfied in accordance with the Task Acceptance Process.

“Task Acceptance Criteria” means the criteria by which a Task will be evaluated for completion as described in an SOW.

“Task Acceptance Process” means the process by the Customer and Hexagon verify completion of the Task Acceptance Criteria as further described below. Once Hexagon believes the Task Acceptance Criteria has been successfully completed, Hexagon shall submit for execution by Customer’s project manager a sign-off form in substantial conformity with Exhibit C, “Project Deliverable Sign-off Form.” Within ten (10) calendar days of receipt of the applicable Project Deliverable Sign-off Form for the completed milestone or Task, Customer’s project manager will either: (i) execute the Project Deliverable Sign-off Form provided by Hexagon, or (ii) provide a written description of all deficiencies to Hexagon. If Customer fails to perform either action identified in the preceding sentence within ten (10) calendar days, or if the Deliverable, including the Software contained in the Fixed Price Project Assignment Order, is placed into production or utilized in a live environment, then the Task or milestone shall be deemed accepted.

“Term” means the duration of performance under the contract into which this Terms Glossary is incorporated by reference.

“Third Party Service Provider” means the third party service provider with whom Hexagon enters into a subcontract with respect to the hosting of a cloud platform and/or related services to provide an element of the Cloud Program to Customer (if applicable) on behalf of Hexagon.

“Third Party Software” means computer software or other technology in which any person or entity, other than Hexagon or Hexagon’s Affiliate, has any right, title or interest, including any restrictions or obligations (such as obligations to obtain consents or approvals and restrictions that may be eliminated only by obtaining such consents or approvals) applicable to the computer software or technology, but does not include software embedded in the Software Products by license from third parties. The use of Third Party Software is subject to all of the terms and conditions of the third party’s software license or similar agreement (“SLA”) provided with the Third Party Software. “Third Party Software Products” also means, where applicable, pre-requisite third party software products used by Hexagon in order for Customer to receive other components of the Cloud Program or licensed by Hexagon and used by the Customer to use Cloud Application or Cloud Optional Services.

“Time and Materials Project Assignment” means Hexagon will perform the Services set forth in an Order on an hourly basis until the project is either completed or the authorized hours are exhausted, whichever comes first.

“Update” means any Upgrade, modified version, fix, patch and/or update of the Software Product. Updates not meeting the definition of Upgrades are subject to all of the terms and conditions of the EULA provided with User’s then current version of the Software Product.

“Upgrade” means each new release of the Software Product. Upgrades require a full installation and may be provided with a separate EULA. Any EULA delivered with the Upgrade will supersede any EULA associated with prior releases of the Software Product.

“User” means Customer or an individual employed by Customer and authorized by Hexagon to use a particular Software Product, Cloud Application, Third Party Software Product, or Cloud Optional Services on behalf of the Customer. A User may also include Customer’s contractor who requires temporary use in order to provide services on Customer’s behalf. A person can only be authorized and a User if the person is an employee or designee of Customer and Customer has purchased the requisite number of licenses, or in the case of Cloud Programs, the requisite number of License Key(s) to provide Credentials for that User.

“Use Terms” means the Hexagon Product Usage Policy and Product Specific Terms that are at https://www.hexagonsafetyinfrastructure.com/-/media/Legal/Hexagon/SI/Licenses/LLP/LLP_08-2019.pdf

which are incorporated herein. For purposes of clarity, the Use Terms corresponding to the date of the Order shall apply to that specific Order and the Software Products provided thereunder.

“Version Limitation I” is a status reached by a Software Product version on the third anniversary of the Customer’s first operation of that version in a live production environment.

“Version Limitation II” is a status reached by a Software Product version on the fourth anniversary of the Customer’s first operation of that version in a live production environment, or upon the Customer’s failure to commence live operation prior to the availability of two newer versions of the Software Product.

“Version Limitations” means, separately and collectively, limitations on Services to be provided hereunder based upon a Covered Product reaching Version Limitation I and/or Version Limitation II.

“Virus” means any thing or device (including any software, code, file or program) which may: (i) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; (ii) prevent, impair or otherwise adversely affect access to or the operation of any program or data, including the reliability of any program or data (whether by rearranging, altering or erasing the program or data in whole or part or otherwise); or (iii) adversely affect the user experience or security, including worms, Trojan horses, viruses and other similar things or devices.

“Work” means, as applicable, the performance or providing of Services, Maintenance Services, or Cloud Services.

END OF EXHIBIT F

MAINTENANCE QUOTATION SUMMARY



Agreement: 1-25V9EDI

Performance Period: 7/1/20 through 6/30/21
Currency: USD

Bill To:

Flagstaff AZ City Of
Accounts Payable
City Hall
211 West Aspen Avenue
Flagstaff AZ 86001
USA

Ship To:

Flagstaff AZ City Of
Jennifer Brown
Police Department
911 East Sawmill Road
Flagstaff AZ 86001
USA

Quotation Summary:

Services	\$500.00
SW Maint	\$256,119.12
Total Services Cost*	\$256,619.12

* Total is exclusive of applicable taxes. Applicable taxes will be added to the invoice.

This Quote for Maintenance Services is an Order made pursuant to and subject to those certain Master Agreement Terms and Conditions ("Master Terms") set forth at: https://www.hexagonsafetyinfrastructure.com/-/media/Legal/Hexagon/SI/Sales/US_MT/US_MT_09-2019.pdf. This Quote for Maintenance Services and the Master Terms shall only become binding and effective upon the written acceptance of both parties. This Quote for Maintenance Services expires on the first day of the Coverage Period identified herein.

Offered by: Intergraph Corporation

Accepted by: _____

Signature: Devin Jacobson
Name: Devin Jacobson
Maintenance Contract Administrator
Date: 2/7/20
Email: devin.jacobson@hexagonsi.com
Telephone: 2567305851

Signature: _____
Name: _____
Title: _____
Date: _____
Email: _____
Telephone: _____
Fax: _____

Please mark one of the following options when submitting your acceptance:

A Purchase Order will not be issued.
Customer signature above constitutes notice to proceed with this agreement.

A Purchase Order will be issued for this Order for Maintenance Services. The PO shall note the Order Number above on the Purchase Order. Notwithstanding anything else to the contrary in the Purchase Order, the resulting Order is subject only to this Quote and the Master Terms.

THIS IS NOT AN INVOICE

MAINTENANCE QUOTATION DETAIL



Flagstaff AZ City Of

Account Nbr: MDC-1320

Quote: 1-25V9EDI Flagstaff AZ City Of 20-21

PO#:

Performance Period: 7/1/20 through 6/30/21

Currency: USD

Bill To:

Flagstaff AZ City Of
 Accounts Payable
 City Hall
 211 West Aspen Avenue
 Flagstaff AZ 86001
 USA

Ship To:

Flagstaff AZ City Of
 Jennifer Brown
 Police Department
 911 East Sawmill Road
 Flagstaff AZ 86001
 USA

Site Number: **00098398**

Ln	Base Part	Description	Serial	Begin	End	Service Level	Mths	Qty	Mth Cost	Total Cost
1	ESCROW	Annual Software Escrow Fee		7/1/20	6/30/21	Premium	12	1	\$41.67	\$500.00
2	GSPX5007	GeoMedia Professional CC	1B4IDB100098398SOJ0Z	7/1/20	6/30/21	Premium	12	1	\$255.83	\$3,069.96
3	IPS0001	I/Executive NL	MME-1-XRNO	7/1/20	6/30/21	Premium	12	1	\$854.33	\$10,251.96
4	IPS0002	I/Dispatcher CC	MME-1-9VZXU	7/1/20	6/30/21	Premium	12	14	\$387.81	\$65,152.08
5	IPS0002TRN	I/Dispatcher CC - Training License	MME-1-AIPAR	7/1/20	6/30/21	Premium	12	1	\$387.81	\$4,653.72
6	IPS0004	I/Informer CC	MME-1-XXGW	7/1/20	6/30/21	Premium	12	2	\$518.62	\$12,446.88
7	IPS0007	I/Executive 2 NL	MME-1-XXH0	7/1/20	6/30/21	Premium	12	1	\$608.92	\$7,307.04
8	IPS0009	I/Mobile Data Terminal NL	MME-1-9P9BA	7/1/20	6/30/21	Premium	12	1	\$1,036.08	\$12,432.96
9	IPS0012	I/Page NL	MME-1-XXH2	7/1/20	6/30/21	Premium	12	1	\$470.00	\$5,640.00
10	IPS0015	I/Tracker - I/CAD NL	MME-1-9P9F2	7/1/20	6/30/21	Premium	12	1	\$585.76	\$7,029.12
11	IPS0019	I/LEADS-Server NL	MME-1-XXH4	7/1/20	6/30/21	Premium	12	1	\$491.99	\$5,903.88
12	IPS0020	I/LEADS-Records Management System CC - Desktop Client	MME-1-XXH6	7/1/20	6/30/21	Premium	12	60	\$37.04	\$26,668.80
14	IPS0024	I/LEADS-Civil Process System CC	MME-1-XXJY	7/1/20	6/30/21	Premium	12	1	\$224.58	\$2,694.96
15	IPS0026	I/LEADS-Jail Management System - Client CC	MME-1-XXK0	7/1/20	6/30/21	Premium	12	20	\$25.47	\$6,112.80
16	IPS0030	I/LEADS-CAD Link NL	MME-1-XXL4	7/1/20	6/30/21	Premium	12	1	\$0.00	\$0.00
17	IPS0038	I/Mobile CC	MME-1-9P9BI	7/1/20	6/30/21	Premium	12	27	\$27.78	\$9,000.72
19	IPS0042I	I/NetViewer CC		7/1/20	6/30/21	Premium	12	15	\$39.05	\$7,029.00
20	IPS0048	I/FRMS-CADlink CC	MME-1-88551	7/1/20	6/30/21	Premium	12	1	\$236.16	\$2,833.92
21	IPS0082	Map Administration Utility CC		7/1/20	6/30/21	Premium	12	1	\$213.00	\$2,556.00
22	IPS1163	I/Map Editor CC		7/1/20	6/30/21	Premium	12	1	\$90.30	\$1,083.60
23	IPS21182C	Intergraph Business Intelligence Direct for WebRMS Bundle		7/1/20	6/30/21	Premium	12	1	\$140.07	\$1,680.84
24	IPS21183C	Intergraph Business Intelligence Direct for WebRMS Bundle		7/1/20	6/30/21	Premium	12	1	\$285.94	\$3,431.28
25	IPS21183TSTC	Intergraph Business Intelligence Direct for WebRMS Bundle		7/1/20	6/30/21	Premium	12	1	\$0.00	\$0.00
26	IPS21184C	Intergraph Business Intelligence Direct for WebRMS Bundle		7/1/20	6/30/21	Premium	12	1	\$172.48	\$2,069.76
29	IPSCUSTOM12	E-Citation SW Interface	1-268633407	7/1/20	6/30/21	Premium	12	1	\$634.38	\$7,612.56
30	IPSCUSTOM14	I/LEADS State Accident Report	1-290127789	7/1/20	6/30/21	Premium	12	1	\$385.88	\$4,630.56
31	IPSF520AA-1002A	Oracle Standard Ed.-Application Sp	ORA-11059	7/1/20	6/30/21	Premium	12	96	\$11.58	\$13,340.16
32	IPSF584AA-A	Oracle Std Ed - App Specific-NU	MME-1-9QLDO	7/1/20	6/30/21	Premium	12	120	\$12.74	\$18,345.60

MAINTENANCE QUOTATION DETAIL



Flagstaff AZ City Of

Account Nbr: MDC-1320

Quote: 1-25V9EDI Flagstaff AZ City Of 20-21

PO#:

Performance Period: 7/1/20 through 6/30/21

Currency: USD

Subtotal for Site Number 00098398 \$243,478.16

Site Number: 50001020

Ln	Base Part	Description	Serial	Begin	End	Service Level	Mths	Qty	Mth Cost	Total Cost
13	IPS0020	I/LEADS-Records Management System CC - Desktop Client		7/1/20	6/30/21	Premium	12	5	\$37.04	\$2,222.40
18	IPS0038	I/Mobile CC		7/1/20	6/30/21	Premium	12	5	\$27.78	\$1,666.80
27	IPSCUSTOM10	I/LEADS RMS Custom Development Services		7/1/20	6/30/21	Premium	12	1	\$667.95	\$8,015.40
28	IPSCUSTOM11	I/Leads upgrade Livescan Interface	MME-1-63RLDV	7/1/20	6/30/21	Premium	12	1	\$103.03	\$1,236.36

Subtotal for Site Number 50001020 \$13,140.96

Grand Total Excluding Tax \$256,619.12



City Council Meeting - FINAL

9. A.

Meeting Date: 07/07/2020

From: Genevieve Pearthree, Planning Development Manager

Information

TITLE:

Consideration and Approval of Preliminary Plat Ponderosa Parkway LLC requests Preliminary Plat approval for Ponderosa Parkway Condominiums—a 169-unit residential condominium subdivision at 1650 E. Ponderosa Parkway on 11.97 acres in the HR (High Density Residential) Zone.

STAFF RECOMMENDED ACTION:

The Planning and Zoning Commission recommends (by 5-0 vote on June 10, 2020) the City Council approve the Preliminary Plat.

Executive Summary:

This is a request for Preliminary Plat approval for a 169-unit residential condominium subdivision known as Ponderosa Parkway Condominiums. See the attached vicinity map, Preliminary Plat, and Planning and Zoning Commission Staff Summary for more information

Financial Impact:

No financial liabilities are anticipated by the approval of this Preliminary Plat.

Policy Impact:

There are no policy impacts affiliated with this Preliminary Plat.

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

Council Goals

Economic Development - Grow and strengthen a more equitable and resilient economy.

Team Flagstaff Strategic Plan

Work in partnership to enhance a safe and livable community.

Flagstaff Regional Plan

- Goal ED.8 Promote the continued physical and economic viability of the region's commercial districts by focusing investment on existing and new activity centers.
- Policy E.1.4 Promote cost-effective, energy-efficient technologies and design in all new buildings for residential construction.
- Policy LU.2.2. Design new development to coordinate with existing and future development, in an

effort to preserve viewsheds, strengthen connectivity, and establish compatible and mutually supportive land uses.

- Policy LU.5.1. Encourage development patterns within the designated growth boundaries to sustain efficient infrastructure projects and maintenance.
- Policy LU.5.2. Promote infill development over peripheral expansion to conserve environmental resources, spur economic investments, and reduce the cost of providing infrastructure and services.
- Policy LU.5.3. Promote compact development appropriate to and within the context of each area type: urban, suburban, and rural.
- Policy LU.10.5. Consider vacant and underutilized parcels within the City's existing urban neighborhoods as excellent locations for contextual redevelopment that adds housing, shopping, employment, entertainment, and recreational options for nearby residents and transit patrons.
- LU.18.4. Encourage developers to provide activity centers and corridors with housing of various types and price points, especially attached and multifamily housing.
- Policy OS.1.5 Integrate open space qualities into the built environment.
- Policy WR.4.3. Development requiring public utility services will be located within the Urban Growth Boundary
- Policy WR.5.1 Preserve and restore existing natural watercourse corridors, including the 100-year floodplain, escarpments, wildlife corridors, natural vegetation, and other natural features using methods that result in a clear legal obligation to preserve corridors in perpetuity, where feasible.

Has There Been Previous Council Decision on This:

None.

Options and Alternatives:

1. Approve the Preliminary Plat with no conditions, as recommended by the Planning and Zoning Commission.
2. Approve the Preliminary Plat with conditions.
3. Deny the Preliminary Plat based on non-compliance with the Zoning Code, the Subdivision Code, and/or the Engineering Design Standards and Specifications for New Infrastructure.

Background/History:

On February May 28, 2019, the Inter-Division Staff approved a Site Plan for 169 new residential units distributed across 13 three-story buildings (PZ-17-00277-02) pending a successful Zoning Map Amendment from RR (Rural Residential) to HR (High Density Residential). City Council approved a Large-Scale Zoning Map Amendment on September 3, 2019, (Ordinance No. 2019-27) to change the zoning designation from RR (Rural Residential) to HR. City Council also approved Ordinance No. 2019-29 on September 3, 2019, to formally accept all easements on the site received in 2010, and to include maintenance, access, exclusivity, and overall purpose of the easements. Staff approved Civil Engineering Plans in June 2020; the applicant also has approved permits for on-site grading and retaining walls, and public improvements.

The 13 three-story buildings will contain 13 units each. The units range from studio to three-bedroom units and are approximately 500 to 1,300 square feet. The applicant has elected to construct the buildings to meet the Residential Sustainability Building Standards in Section 10-30.70.040 of the City of Flagstaff Zoning Code. This type of construction provided the applicant with up to a 25% density bonus (the HR Zone density range is 10-22 units per acre but the maximum is 13 units per acre in a Suburban Activity Center designated in the Flagstaff Regional Plan). Thus, the applicant would be allowed to increase density from 156 to 195 units; the applicant elected to build 169 units.

The applicant has also committed to providing 16 "Attainable Housing Units." These units will be disbursed throughout the development to the greatest extent feasible (with no exterior difference between the attainable and market-rate units). The units will be sold at or below 100% of the Area Median Income ("AMI") affordability level.

The project will make several improvements on the site and in the adjacent right of way in response to requirements identified by public systems analyses conducted at Site Plan. They include a new right turn lane at the middle of the three driveways that will provide access to the site off Ponderosa Parkway, four (4) LID (Low Impact Development) basins to capture and meter out stormwater, and new 12-inch water and sewer lines along Ponderosa Parkway.

Staff approved the Preliminary Plat on May 1, 2020 based on compliance with City Code Title 11, General Plans and Subdivisions. On June 10, 2020 Planning and Zoning Commission voted 5-0 in favor of forwarding the Preliminary Plat to City Council with a recommendation for approval.

Key Considerations:

Staff approval of the Site Plan in 2019 and the Civil Engineering Plans in 2020 signifies the project complies with Title 10: Zoning Code and Title 13: Engineering Design Standards and Specifications for New Infrastructure. Thus, the developer was permitted to apply for additional grading and other permits, which have since been approved.

However, the applicant has opted to create a Condominium Plat to separate ownership of each unit from ownership of the land beneath. In this case, ownership is of the airspace within each unit and the limited common elements (porches, decks) associated with each unit. Shared areas inside each building and the spaces between the floor plates and walls are considered “common elements.” Tract “A” contains all areas outside of the buildings and the limited common elements. It is dedicated as a common element to the owner association and as a public utility easement for service to the condominiums. It includes tree and slope resources, amenities, private access easements, and drainage and detention basins. Staff approval of the Preliminary Plat in 2020 signifies the project complies with Title 11, General Plans and Subdivisions.

Community Benefits and Considerations:

The community benefits that this project brings are encapsulated in the Regional Plan goals that it meets, such as promoting economic development, providing a diversity of house types at a variety of price points, and integrating open space characteristics into development.

Community Involvement:

Inform. No public hearings or public outreach are required by either the Zoning Code or the Subdivision Code as part of the Preliminary Subdivision Plat review process.

Attachments

- Application
 - Preliminary Plat
 - Landscape Plan
 - Natural Resource Protection Plan
 - Vicinity Map
 - Staff Report
 - Presentation
-



City of Flagstaff

Community Development Division

211 W. Aspen Ave P: (928) 213-2618
 Flagstaff, AZ 86001 F: (928) 213-2609
 www.flagstaff.az.gov

SUBD

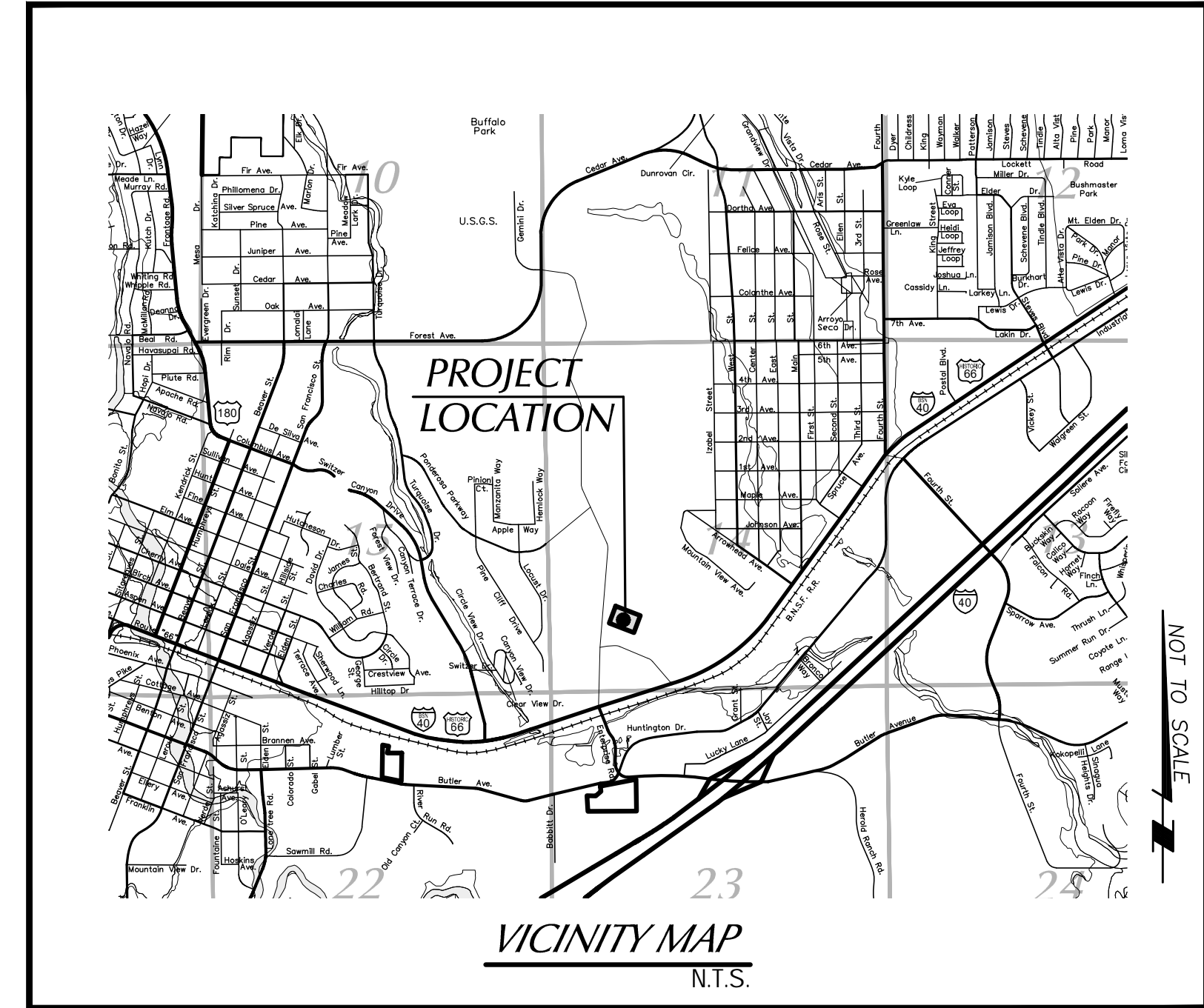
Date Received <i>3/31/20</i>	Application for Subdivision Review	File Number PZ-17-00227-08
Property Owner(s) <i>Ponderosa Parkway LLC</i>		Phone <i>774-0028</i>
Mailing Address <i>4578 N. 1st Ave #160</i>	City, State, Zip <i>Tucson AZ 85718</i>	Email <i>jkemmerly@miramonte.com</i>
Applicant(s) <i>Magallon Engineering</i>		Phone <i>214-0214</i>
Mailing Address <i>411 W. Santa Fe</i>	City, State, Zip <i>Flagstaff AZ 86001</i>	Email <i>magallon99@aol.com</i>
Project Representative <i>Magallon Engineering</i>		Phone
Mailing Address	City, State, Zip	Email
Requested Review: <input type="checkbox"/> Development Master Plan <input type="checkbox"/> Conceptual Plat <input type="checkbox"/> Preliminary Plat P&Z and Council <input type="checkbox"/> Final Plat- Council		
Review: <input type="checkbox"/> Modified Subdivision <input checked="" type="checkbox"/> Preliminary Plat <input type="checkbox"/> Final Plat- Council		

Project Name: <i>Ponderosa Parkway Condominiums</i>		Site Address <i>1650 E. Ponderosa Parkway</i>		Parcel Number <i>10707002E</i>	
Proposed Use <i>condominiums</i>		Existing Use <i>vacant</i>		Subdivision, Tract & Lot Number <i>n/a</i>	
Zoning District <i>HR</i>	Regional Plan Category <i>Suburban</i>		Flood Zone <i>X</i>	Size of Site (Sq. ft. or Acres) <i>11.936</i>	
Property Information:					
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Located in an existing Local/National Historic District? (Name: _____)					
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Existing structures are over 50 years old at the time of application?					
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Subject property is undeveloped land?					
Surrounding Uses	North	South	East	West	
(Res, Com, Ind)	<i>Com</i>	<i>Comm</i>	<i>Com</i>	<i>Com</i>	
Proposed Use:	Number of Lots	Number of Units	Number of acres per use	Building Square Feet	
<i>condominiums</i>	<i>169</i>	<i>169</i>	<i>14.13 units / acre</i>	<i>76,689</i>	
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) <i>Jack Kennedy</i>		Date: <i>3/31/20</i>	Applicant Signature: <i>Jack Kennedy</i>		Date: <i>3/31/20</i>
For City Use					
Date Filed: <i>5/1/2020</i>		Case Number (s) <i>PZ-17-00227-08</i>			
P & Z Hearing Date: <i>6/10/20</i>			Publication and Posting Date: <i>NA</i>		
Council Hearing Date: <i>7/7/20</i>			Publication and Posting Date: <i>NA</i>		
Fee Receipt Number: <i>2014831</i>		Amount: <i>\$29,000</i>		Date: <i>4/7/20</i>	
Action by Planning and Zoning Commission:			Action By City Council:		
<input type="checkbox"/> Approved			<input type="checkbox"/> Approved		
<input type="checkbox"/> Denied			<input type="checkbox"/> Denied		
<input type="checkbox"/> Continued			<input type="checkbox"/> Continued		
Staff Assignments	Planning	Engineering	Fire	Public Works/Utilities	Stormwater

PRELIMINARY PLAT FOR PONDEROSA PARKWAY CONDOMINIUMS

INSTRUMENT 3814115, LOCATED IN THE SW 1/4 OF SECTION 14,
TOWNSHIP 21 NORTH, RANGE 7 EAST, G&S.R.M.
FLAGSTAFF, COCONINO COUNTY, ARIZONA



PROJECT INFORMATION

PROJECT NAME:	PONDEROSA PARKWAY CONDOMINIUMS
PROJECT LOCATION:	1650 E. PONDEROSA PARKWAY FLAGSTAFF, AZ. 86001
APN NUMBER:	107-07-002E
PARCEL ACREAGE:	11.9363±
PARCEL SQUARE FOOTAGE:	521,174
NUMBER OF UNITS:	169
NUMBER OF FLOORS:	3
UNITS PER ACRE:	14.13
LAND USE DESIGNATION:	SUBURBAN
CURRENT ZONING DISTRICT:	HR
PROPOSED USE:	CONDOMINIUMS
OWNER/DEVELOPER:	PONDEROSA PARKWAY, L.L.C. 4578 N. 1ST AVE., SUITE 160 TUCSON, AZ. 85718 (520) 615-8900

INFRASTRUCTURE NOTES:

ROADWAY CONSTRUCTION PLANS FOR PONDEROSA PARKWAY WERE APPROVED BY THE CITY ON 12/11/19.

ON-SITE CIVIL GRADING AND DRAINAGE PLANS WERE APPROVED ON XX/XX/20.

REZONING AND SITE PLAN APPROVED BY CITY COUNCIL 9/03/19

NO INFRASTRUCTURE IMPROVEMENTS ASSOCIATED WITH THIS PLAT.

PARKING
PROPOSED PARKING IS PER THE SITE PLAN APPROVED BY CITY COUNCIL, 9/1-3/19.

TRASH AS SHOWN ON APPROVED SITE PLAN

UTILITIES & CLEAR VIEW ZONES AS SHOWN ON APPROVED SITE PLAN

LANDSCAPING AS SHOWN ON APPROVED SITE PLAN

LIGHTING AS SHOWN ON APPROVED SITE PLAN

FEMA SITE IS IN FEMA ZONE X.

RESOURCES AS SHOWN ON APPROVED SITE PLAN AND APPROVED CIVIL PLANS

TRAFFIC AS SHOWN ON APPROVED SITE PLAN

WISA APPROVED 11/30/18

STORM WATER / IMPERVIOUS AREA
AS SHOWN ON APPROVED SITE PLAN AND APPROVED CIVIL PLANS

WATER & SEWER SERVICES
AS SHOWN ON APPROVED SITE PLAN AND APPROVED CIVIL PLANS. ALL NEW SEWER SERVICES SHALL BE 4" MINIMUM AND ALL NEW WATER SERVICES SHALL BE 2". FIRE SPRINKLER LINE SHALL SIZE SHALL BE 4" MINIMUM.

A.R.S. 33-1212. UNIT BOUNDARIES EXCEPT AS PROVIDED BY THE DECLARANT.

- IF WALLS, FLOORS OR CEILINGS ARE DESIGNATED AS BOUNDARIES OF A UNIT, ALL LATH, FURRING, WALLBOARD, PLASTERBOARD, PLASTER, PANELING, TILES, WALLPAPER, PAINT, FINISHED FLOORING AND ANY OTHER MATERIALS CONSTITUTING ANY PART OF THE FINISHED SURFACE ARE A PART OF THE UNIT, AND ALL OTHER PORTIONS OF THE WALLS, FLOORS OR CEILINGS ARE A PART OF THE COMMON ELEMENT.
- IF ANY CHUTE, FLUE, DUCT, WIRE, CONDUIT, BEARING WALL, BEARING COLUMN, OR OTHER FIXTURE LIES PARTIALLY WITHIN AND PARTIALLY OUTSIDE THE DESIGNATED BOUNDARIES OF A UNIT, ANY PORTION SERVING ONLY THAT UNIT IS A LIMITED COMMON ELEMENT ALLOCATED SOLELY TO THAT UNIT AND ANY PORTION SERVING MORE THAN ONE UNIT OR ANY PORTION OF THE COMMON ELEMENTS IS A PART OF THE COMMON ELEMENTS.
- SUBJECT TO THE PROVISIONS OF PARAGRAPH 2, ALL SPACES, INTERIOR PARTITIONS AND OTHER FIXTURES AND IMPROVEMENTS WITHIN THE BOUNDARIES OF A UNIT ARE A PART OF THE UNIT.
- ANY SHUTTERS, AWNINGS, WINDOW BOXES, DOORSTEPS, STOOPS, PORCHES, BALCONIES, ENTRYWAYS, OR PATIOS, AND ALL EXTERIOR DOORS AND WINDOWS OR OTHER FIXTURES DESIGNED TO SERVE A SINGLE UNIT, BUT LOCATED OUTSIDE THE UNIT'S BOUNDARIES, ARE LIMITED COMMON ELEMENTS ALLOCATED EXCLUSIVELY TO THAT UNIT.

TRACT "A":

10.387 acres, SHALL CONTAIN ALL AREA OUTSIDE OF THE UNITS AND THEIR ASSOCIATED LIMITED COMMON ELEMENTS AND IS DEDICATED HEREON TO THE OWNER ASSOCIATION AS COMMON ELEMENT. TRACT A IS DEDICATED HEREON AS A PUBLIC UTILITY EASEMENT FOR SERVICE TO THE CONDOMINIUMS AND PRIVATE DRAINAGE EASEMENT.

UTILITY COMPANY ACKNOWLEDGMENT

MARTIN CONBOY	UNISOURCE ENERGY	DATE
MANUEL HERNANDEZ	CENTURYLINK	DATE
CHAD BROOKS	ARIZONA PUBLIC SERVICE	DATE
SANFORD YAZZIE	SUDDENLINK	DATE

ADEQUATE WATER SUPPLY NOTE

THE CITY OF FLAGSTAFF PROVIDES WATER [UTILITY] SERVICE PURSUANT TO STATE LAW, AND IS CURRENTLY OPERATING UNDER A DESIGNATION OF ADEQUATE WATER SUPPLY GRANTED BY THE ARIZONA DEPARTMENT OF WATER RESOURCES, APPLICATION NO. 41-900002.0002

INDEX TO SHEETS

1	COVER SHEET & PROJECT INFORMATION
2	OVERALL SITE DIMENSIONS
3	PRELIMINARY PLAT
4	UNITS
5	ROW and EASEMENT DEDICATION EXHIBIT



SURVEY WAS PERFORMED BY SHEPARD-WESNITZER JOB 18221 IN OCTOBER OF 2018. INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

CIVIL ENGINEER OF SUBDIVISION
THE PREPARATION OF ENGINEERING DRAWINGS FOR THIS SUBDIVISION HAS BEEN PERFORMED BY MOGOLLON ENGINEERING & SURVEYING, INC., 411 W. SANTA FE AVE., FLAGSTAFF, AZ. 86001
MR. ROBERT C. IMPELLITTIER (CERTIFICATE NO. 22196)

PROJECT BENCHMARK: IS A FOUND 3" USDI-BLM BRASS CAP (C.O.F. 1920110) AT THE SOUTHWEST CORNER OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 7 EAST, G&S.R.M., COCONINO COUNTY, ARIZONA, ELEVATION = 6948.11 (NAVDB)

BASIS OF BEARING: IS FROM THE SOUTHWEST CORNER OF PARCEL 107-07-002E, A FOUND 2" ALUMINUM CAP "ARIZONA SURVEYING INC. IS 18297" TO THE SOUTHEAST CORNER OF PARCEL 107-07-002E, A FOUND 1/2" REBAR WITH ILLEGIBLE PLASTIC CAP. BEARING OF 57°43'08"W - 566.06'

<u>LEGEND & ABBREVIATIONS</u>	
—————	CENTERLINE (CL or CL)
—————	RIGHT OF WAY (R.O.W.)
—————	PROPERTY LINE (PL or PL)
—EX W—	EXISTING WATER LINE
—B'W—	NEW WATER LINE (WL)
—B'S—	NEW SEWER LINE (SL)
—FS—	NEW FIRE SERVICE (FS)
—WS—	NEW WATER SERVICE (WS)
—BSL—	NEW BUILDING SUPPLY LINE (BSL)
—SS—	NEW SEWER SERVICE (SS)
—EX S—	EXISTING SEWER MANHOLE
—S—	NEW SEWER MANHOLE (MH)
—	EXISTING EDGE OF PAVEMENT / CURB
—	NEW EDGE OF PAVEMENT / CURB
—	PUBLIC UTILITY EASEMENT (PUE)
—GL—	GRADING LIMITS (GL)
—EX OVHD—	EXISTING OVERHEAD UTILITY LINE (EX OVHD)
⊙	EXISTING FIRE HYDRANT (EX FH)
⊙	NEW FIRE HYDRANT (FH)
⊙	EXISTING WATER VALVE (EX WV)
⊙	NEW WATER VALVE (WV)
⊙	EXISTING WATER METER (EX WM)
⊙	NEW WATER METER (WM)
⊙	EXISTING STREET LIGHT (EX SL)
⊙	NEW STREET LIGHT (SL)
X-ING	CROSSING
RP	RADIUS POINT
R	RADIUS
IS	INTERSECTION
DC	DEPRESSED CURB
BC	BACK OF CURB (TOP)
FC	FACE OF CURB (TOP)
BSW	BACK OF SIDEWALK
FSW	FACE OF SIDEWALK
C&G	CURB AND GUTTER
EOP	EDGE OF PAVEMENT
S/W	SIDEWALK
PKY	PARKWAY
D/W	DRIVEWAY
ℓ or FL	FLOWLINE
EG	EXISTING GRADE
FG	FINISH GRADE
EOL	END OF LINE BLOWOFF
TS&V	TAPPING SLEEVE and VALVE
SDMH	STORM DRAIN MANHOLE
DB	DRAIN BASIN
CB	CATCH BASIN
TW	TOP OF WALL
GB	GRADE BREAK
(TYP)	TYPICAL
EX	EXISTING
SHT	SHEET
VG	VALLEY GUTTER
FF	FINISH FLOOR ELEVATION
EA	EACH
LF	LINEAL FEET
SF	SQUARE FOOT
SY	SQUARE YARDS
CY	CUBIC YARDS
D.E.	DRAINAGE EASEMENT
S.E.	SLOPE EASEMENT
G	GUTTER
P	PAVEMENT
C	CONCRETE
LT	LEFT
RT	RIGHT
TRANS	TRANSITION
B.F.P.	BACK FLOW PREVENTION
HC	HANDICAP
MES	MOGOLLON ENGINEERING & SURVEYING, INC.
C.O.F.	CITY OF FLAGSTAFF

PONDEROSA PARKWAY CONDOMINIUMS
 4/16/20
 MES# 18275
 PRELIMINARY PLAT
 COVER SHEET

Mogollon
ENGINEERING
& SURVEYING

411 W. Santa Fe Avenue
Flagstaff, Arizona 86001
Phone: 928-214-0214

DATE: 4/16/20

DESIGNED BY:

DRAWN BY:

CHECKED BY:

PROJECT NO. 18275

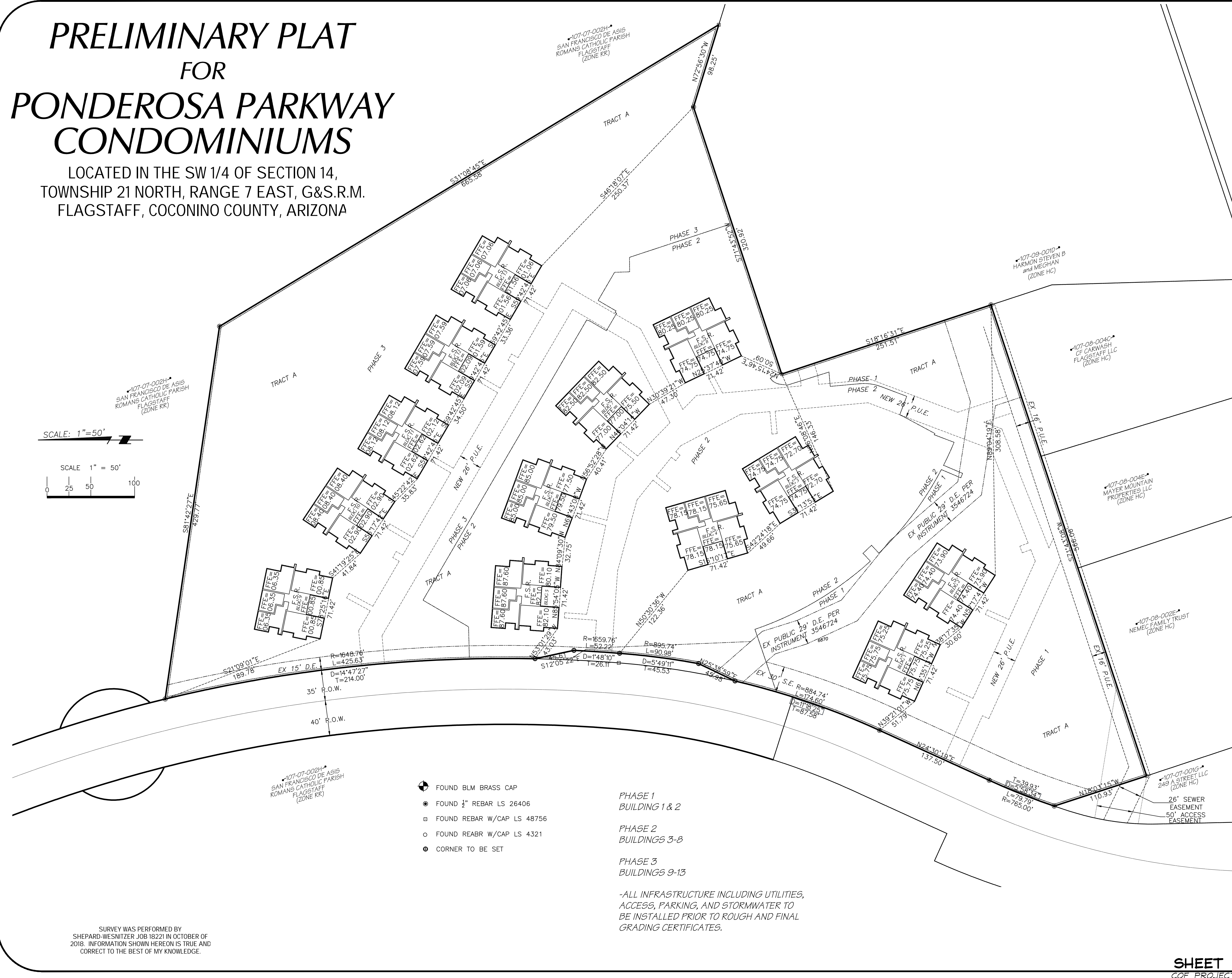
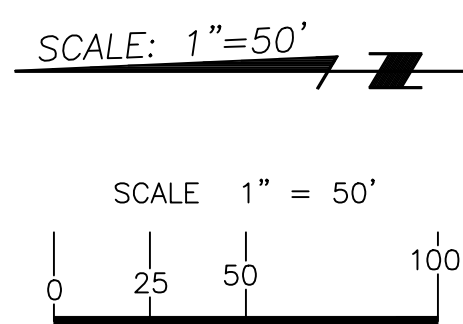
REV. SHEET-01

VERT SCALE: N/A

HOR SCALE: N/A

PRELIMINARY PLAT FOR PONDEROSA PARKWAY CONDOMINIUMS

LOCATED IN THE SW 1/4 OF SECTION 14,
TOWNSHIP 21 NORTH, RANGE 7 EAST, G&S.R.M.
FLAGSTAFF, COCONINO COUNTY, ARIZONA



SURVEY WAS PERFORMED BY
SHEPARD-WESNITZER JOB 18221 IN OCTOBER OF
2018. INFORMATION SHOWN HEREON IS TRUE AND
CORRECT TO THE BEST OF MY KNOWLEDGE.

- FOUND BLM BRASS CAP
- FOUND 1/2" REBAR LS 26406
- FOUND REBAR W/CAP LS 48756
- FOUND REBAR W/CAP LS 4321
- CORNER TO BE SET

PHASE 1
BUILDING 1 & 2

PHASE 2
BUILDINGS 3-8

PHASE 3
BUILDINGS 9-13

-ALL INFRASTRUCTURE INCLUDING UTILITIES,
ACCESS, PARKING, AND STORMWATER TO
BE INSTALLED PRIOR TO ROUGH AND FINAL
GRADING CERTIFICATES.

Mogollon ENGINEERING & SURVEYING

Mogollon
ENGINEERING & SURVEYING



Mogollon ENGINEERING & SURVEYING

4/16/20
MES# 18275

PONDEROSA PARKWAY
CONDOMINIUM PRELIMINARY PLAT
OVERALL SITE DIMENSIONS

411 W. Santa Fe Avenue
Flagstaff, Arizona 86001
Phone: 928-214-0214

PROJECT NO. 18275
DATE: 4/16/20
DESIGNED BY: PNI
DRAWN BY: PNI
CHECKED BY: PNI
REVISIONS:
PNI SHEET-02
VERT SCALE: N/A
HOR SCALE: 1"=50'

OPEN SPACE

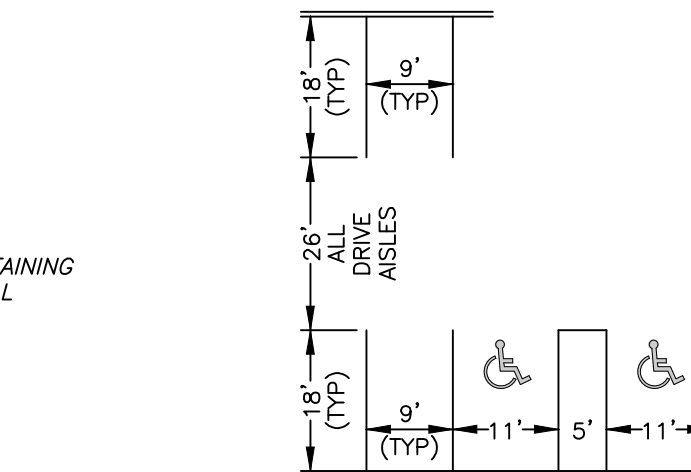
TOTAL LOT AREA: 521,174 S.F.
 MINUS CIVIC SPACE: 27,990 S.F.
 MINUS IMPERVIOUS SURFACES: 206,054 S.F.
 EQUALS OPEN SPACE AREA: 287,130 S.F.
 OPEN SPACE PERCENTAGE: 55.09 %

CIVIC SPACE

CIVIC SPACE 1: 6,655 S.F.
 CIVIC SPACE 2: 4,160 S.F.
 CIVIC SPACE 3: 17,175 S.F.
 TOTAL CIVIC SPACE: 27,990 S.F.
 CIVIC SPACE PERCENTAGE: 5.4 %

RAINWATER HARVESTING REQUIREMENTS

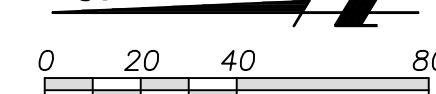
USE ALL NATIVE/DROUGHT TOLERANT PLANTS IN COMPLIANCE WITH COF LANDSCAPING STANDARDS AND UTILIZE PASSIVE RAINWATER HARVESTING.



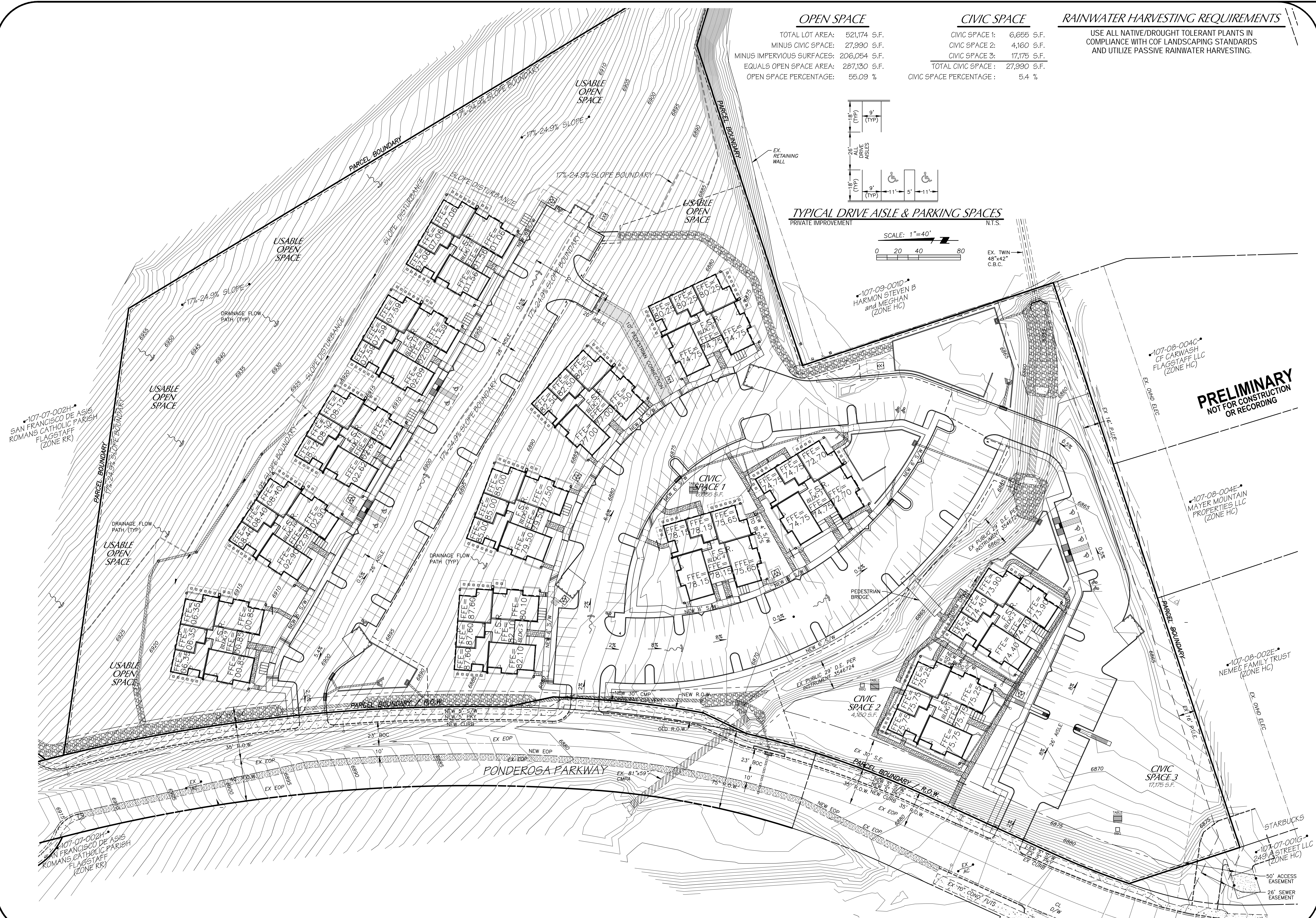
TYPICAL DRIVE AISLE & PARKING SPACES

PRIVATE IMPROVEMENT

SCALE: 1"=40'



EX. TWIN 48"x42" C.B.C.



PRELIMINARY
 NOT FOR CONSTRUCTION
 OR RECORDING

Mogollon
 ENGINEERING & SURVEYING
 411 W. Santa Fe Avenue
 Flagstaff, Arizona 86001
 Phone: 928-214-0214

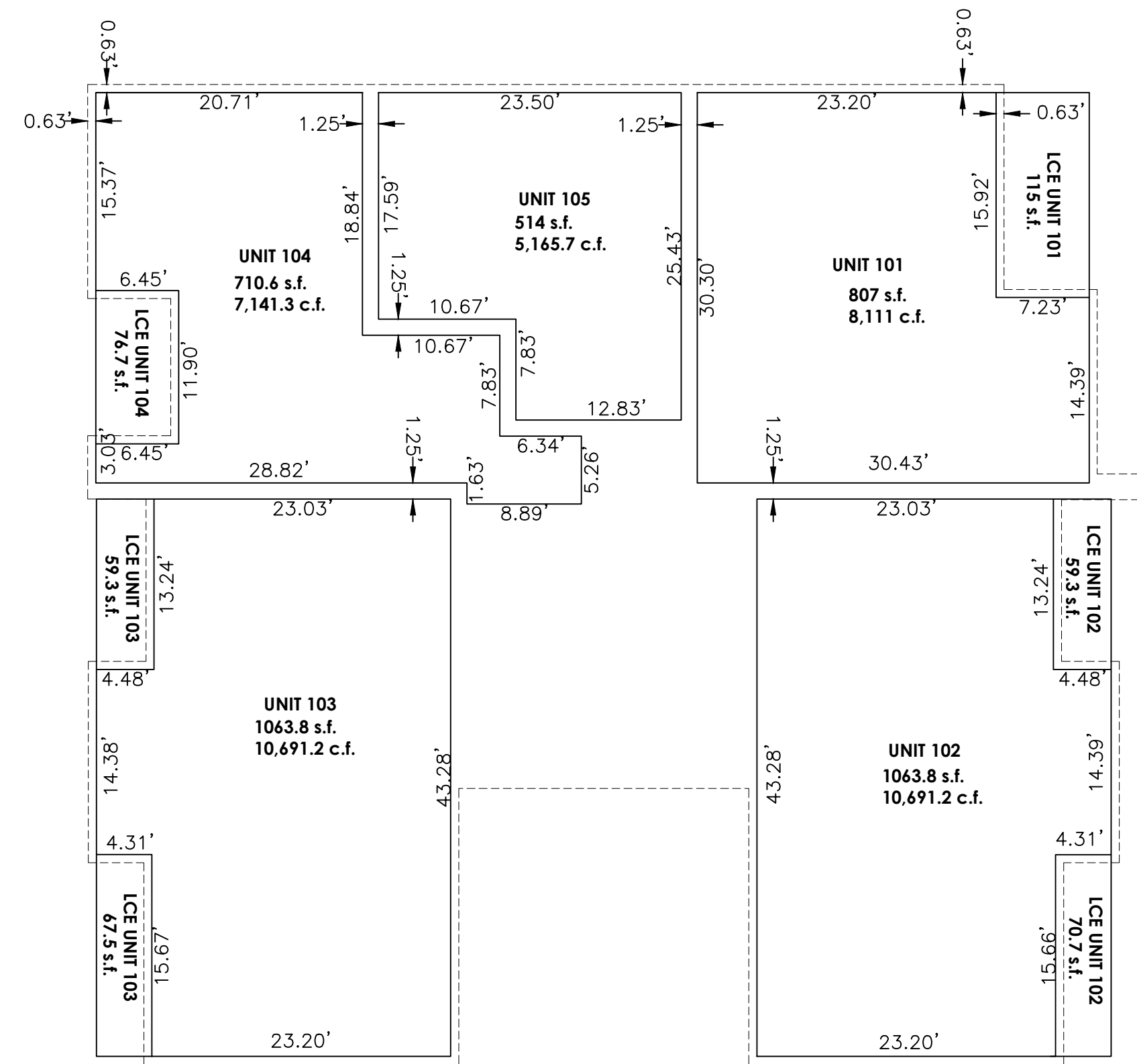


Mogollon
 ENGINEERING & SURVEYING

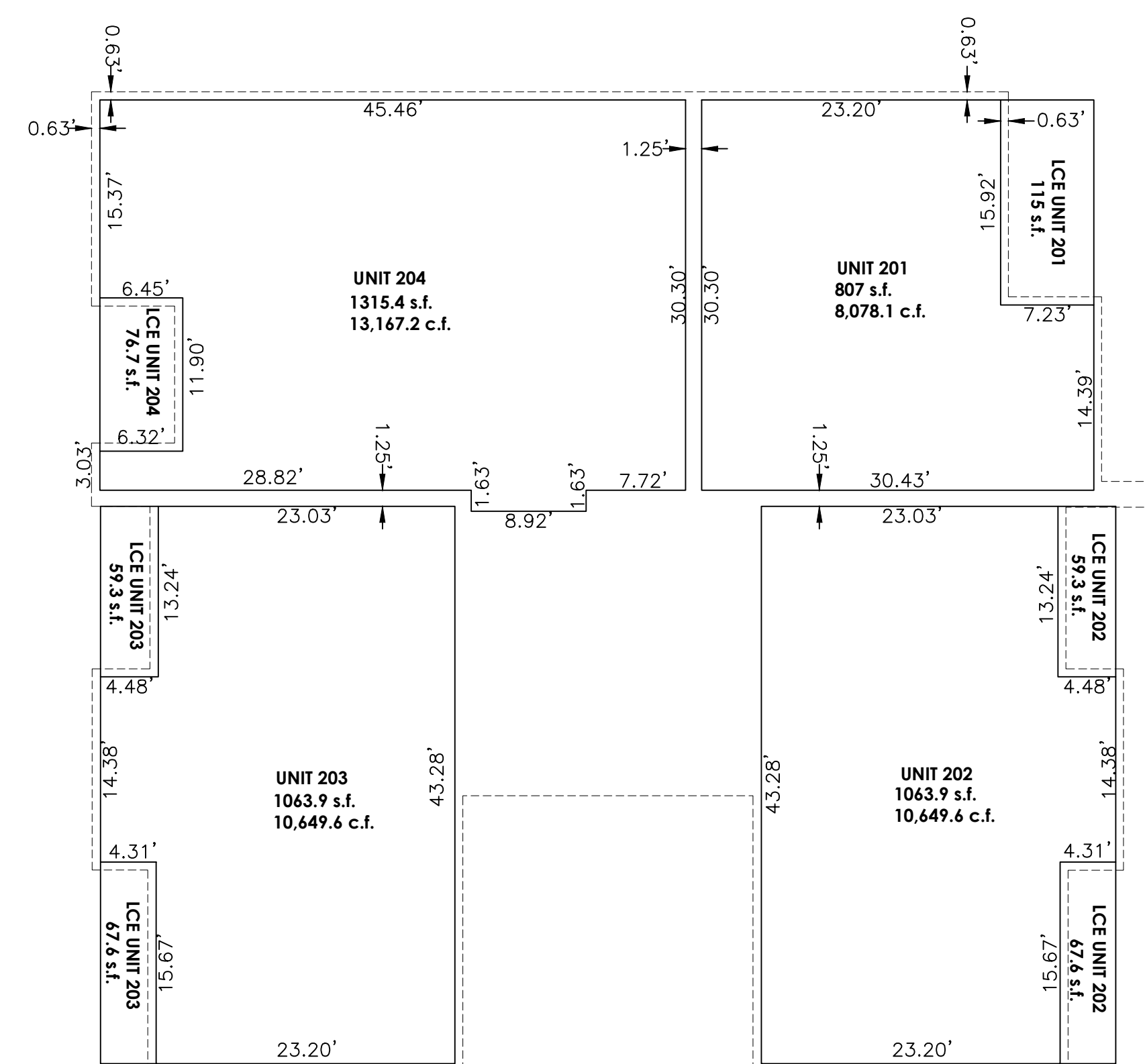
PROJECT NO. 18275
 REVISIONS:
 FN SHEET-03.DWG
 DATE: 4/16/20
 DESIGNED BY:
 DRAWN BY:
 CHECKED BY: KVH
 VERT SCALE: N/A
 HOR SCALE: 1"=40'

PRELIMINARY PLAT FOR PONDEROSA PARKWAY CONDOMINIUMS

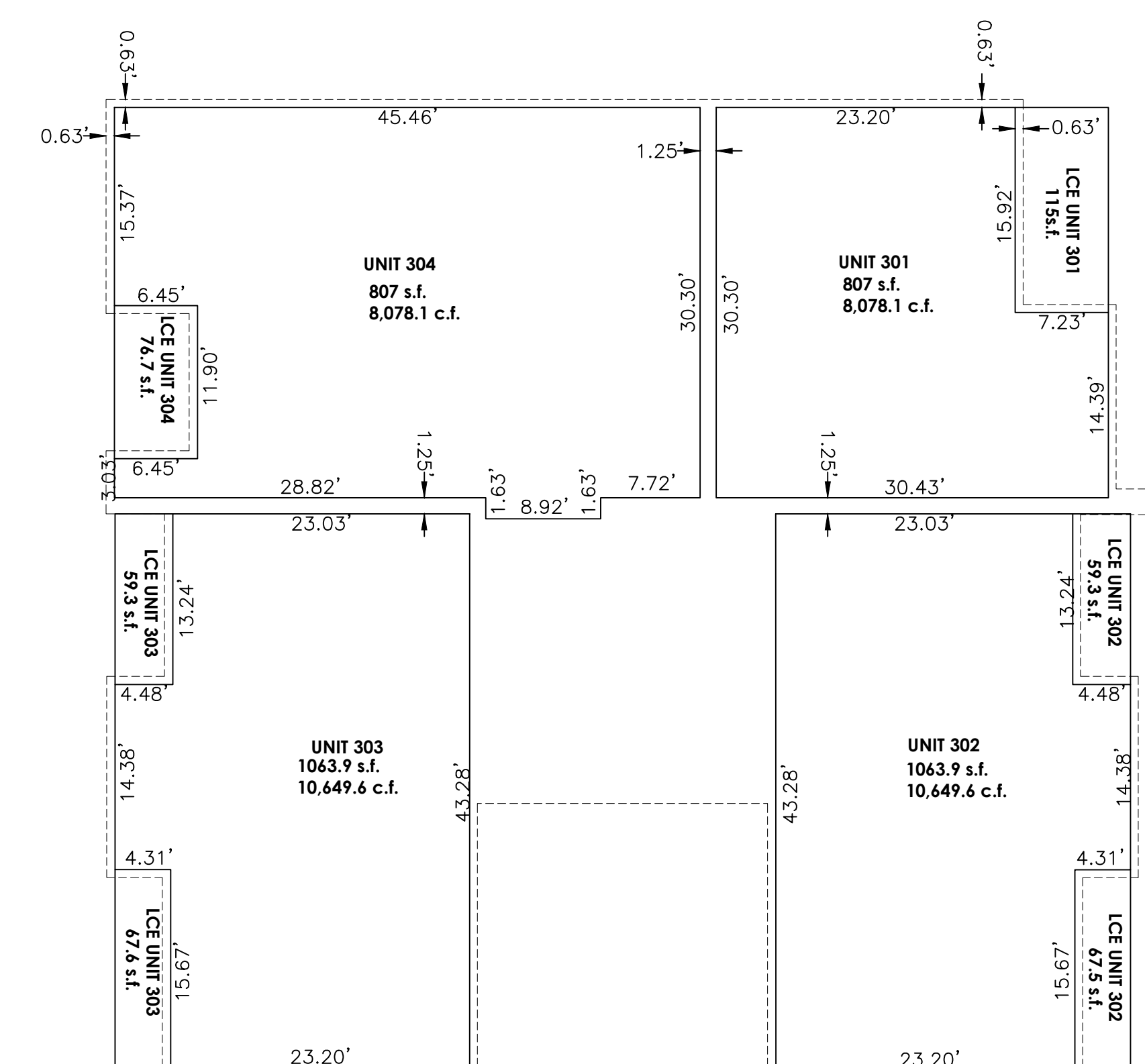
LOCATED IN THE SW 1/4 OF SECTION 14,
TOWNSHIP 21 NORTH, RANGE 7 EAST, G&S.R.M.
FLAGSTAFF, COCONINO COUNTY, ARIZONA



FIRST FLOOR LOTS

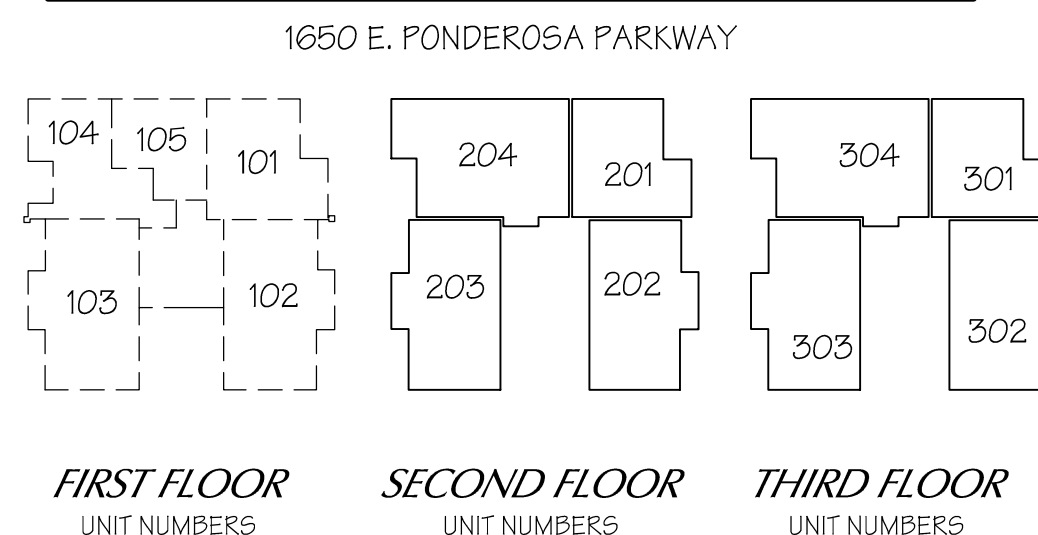


SECOND FLOOR LOTS



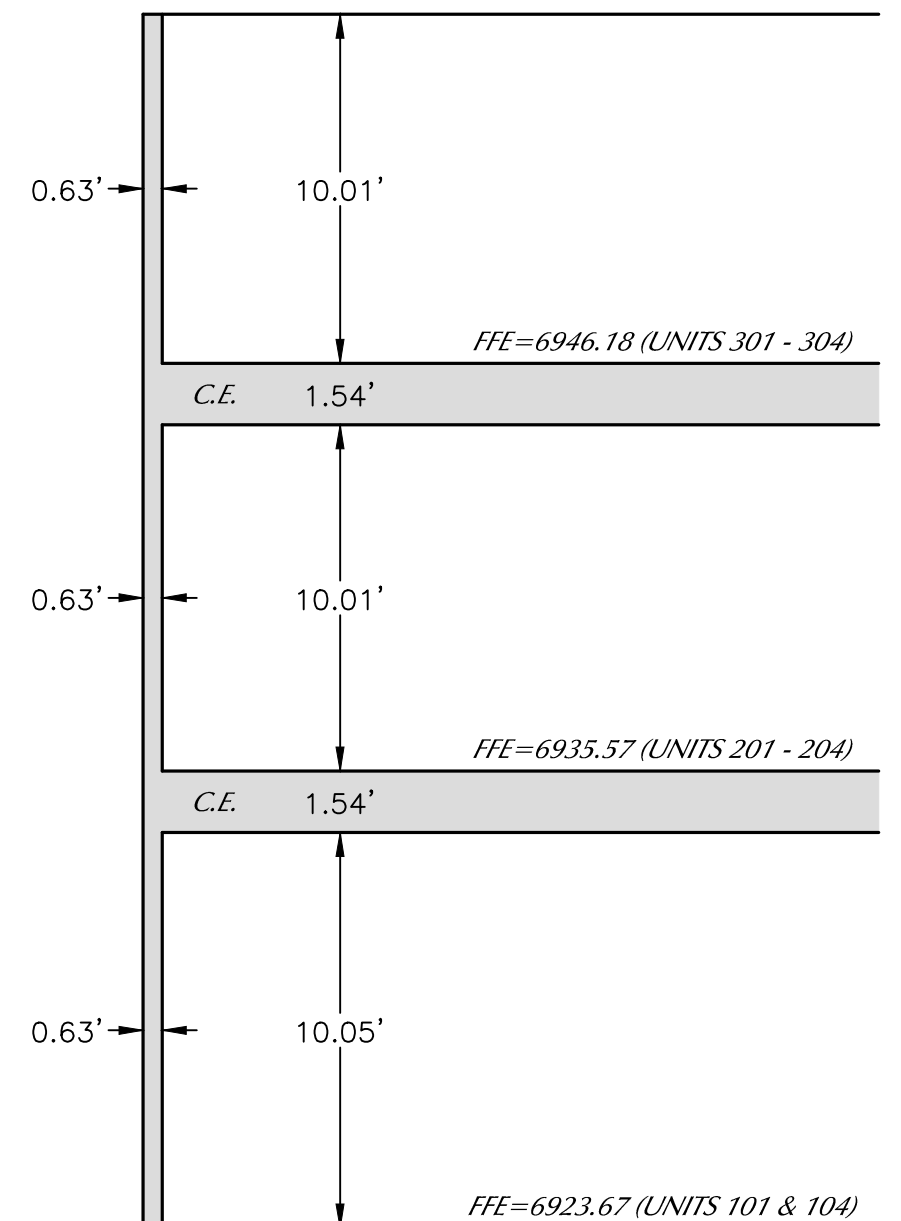
THIRD FLOOR LOTS

ADDRESSING



FIRST FLOOR AREAS

UNITS 101 - 104 SQUARE FOOTAGE:	2,828
1ST FLOOR C.E. SQUARE FOOTAGE:	486
1ST FLOOR L.C.E. SQUARE FOOTAGE:	481
BREEZWAY C.E. SQUARE FOOTAGE:	197
COURTYARD C.E. SQUARE FOOTAGE:	1,097



BUILDING ELEVATIONS
SCALE: 1"=5'

FINISH FLOOR ELEVATION	FINISH FLOOR ELEVATION
Building 1 6875.25 Units 101, 102, 103, 104, & 105	Building 8 6874.75 Units 102 & 103 6880.25 Units 101, 104, & 105
Building 2 6874.40 Units 101, 102, 103, 104, & 105	Building 9 6900.85 Units 102 & 103 6906.35 Units 101, 104, & 105
Building 3 6874.75 Units 103, 104, & 105 6872.70 Units 101 &, 102	Building 10 6902.90 Units 102 & 103 6908.40 Units 101, 104, & 105
Building 4 6878.15 Units 103, 104, & 105 6875.65 Units 101 & 102	Building 11 6902.62 Unit 103 6902.12 Unit 102 6908.12 Units 101, 104, & 105
Building 5 6882.10 Units 102 & 103 6887.60 Units 101, 104, & 105	Building 12 6902.09 Unit 103 6901.59 Unit 102 6907.59 Units 101, 104, & 105
Building 6 6879.50 Unit 103 6885.00 Units 101, 104, & 105 6877.50 Unit 102	Building 13 6901.56 Unit 103 6901.06 Unit 102 6907.06 Units 101, 104, & 105
Building 7 6877.00 Unit 103 6875.50 Unit 102 6882.50 Units 101, 104, & 105	

ABBREVIATIONS

FFE	FINISH FLOOR ELEVATION
S.F.	SQUARE FEET
C.F.	CUBIC FEET
HT	HEIGHT
C.E.	COMMON ELEMENT
L.C.E.	LIMITED COMMON ELEMENT



Mogollon ENGINEERING & SURVEYING
411 W. Santa Fe Avenue
Flagstaff, Arizona 86001
Phone: 928-214-0214

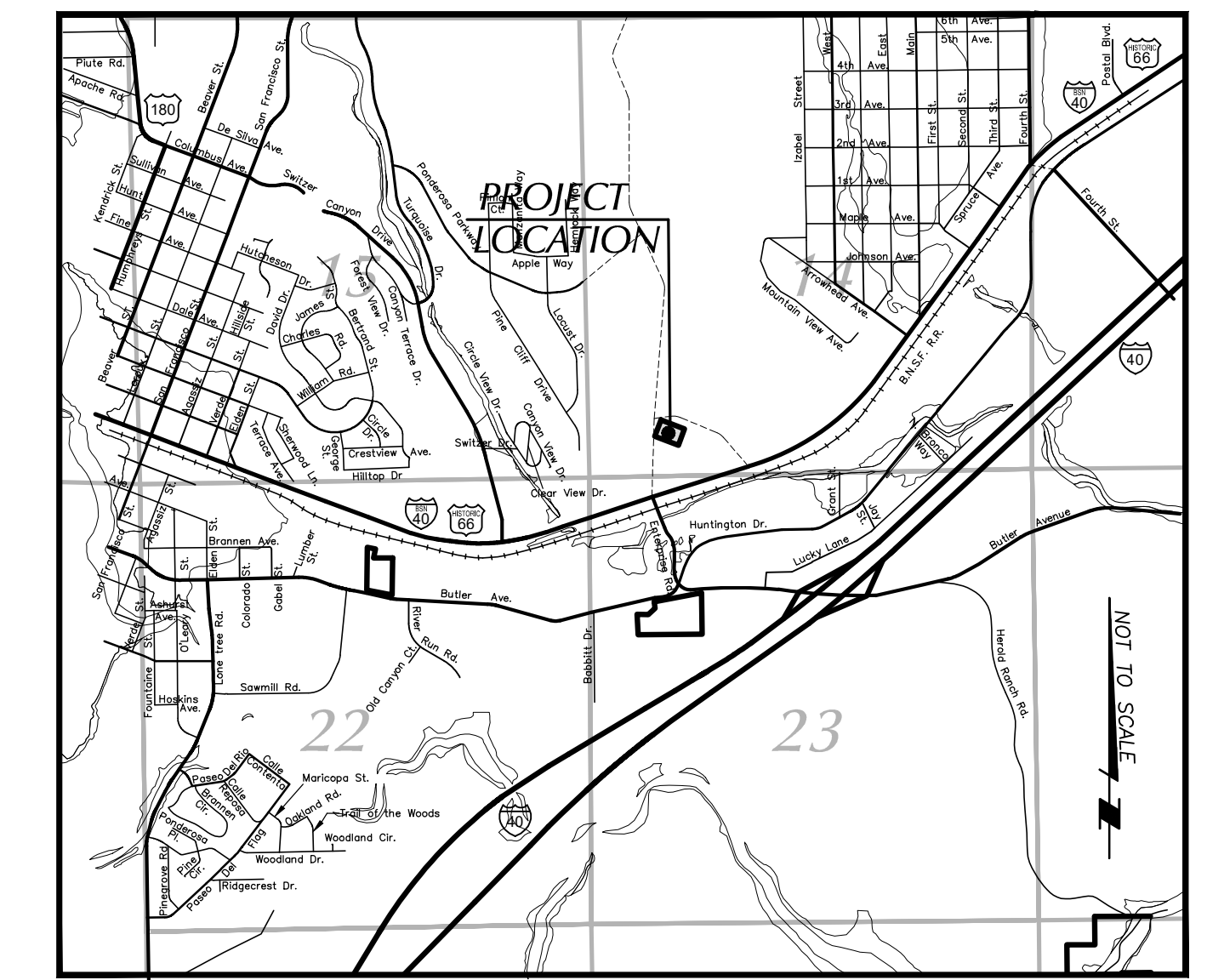
PROJECT NO. 18275
DATE: 4/16/20
DESIGNED BY:
DRAWN BY:
CHECKED BY:

REVISIONS:
FNI SHEET-04
VERT SCALE: N/A
HOR SCALE: 1"=10'

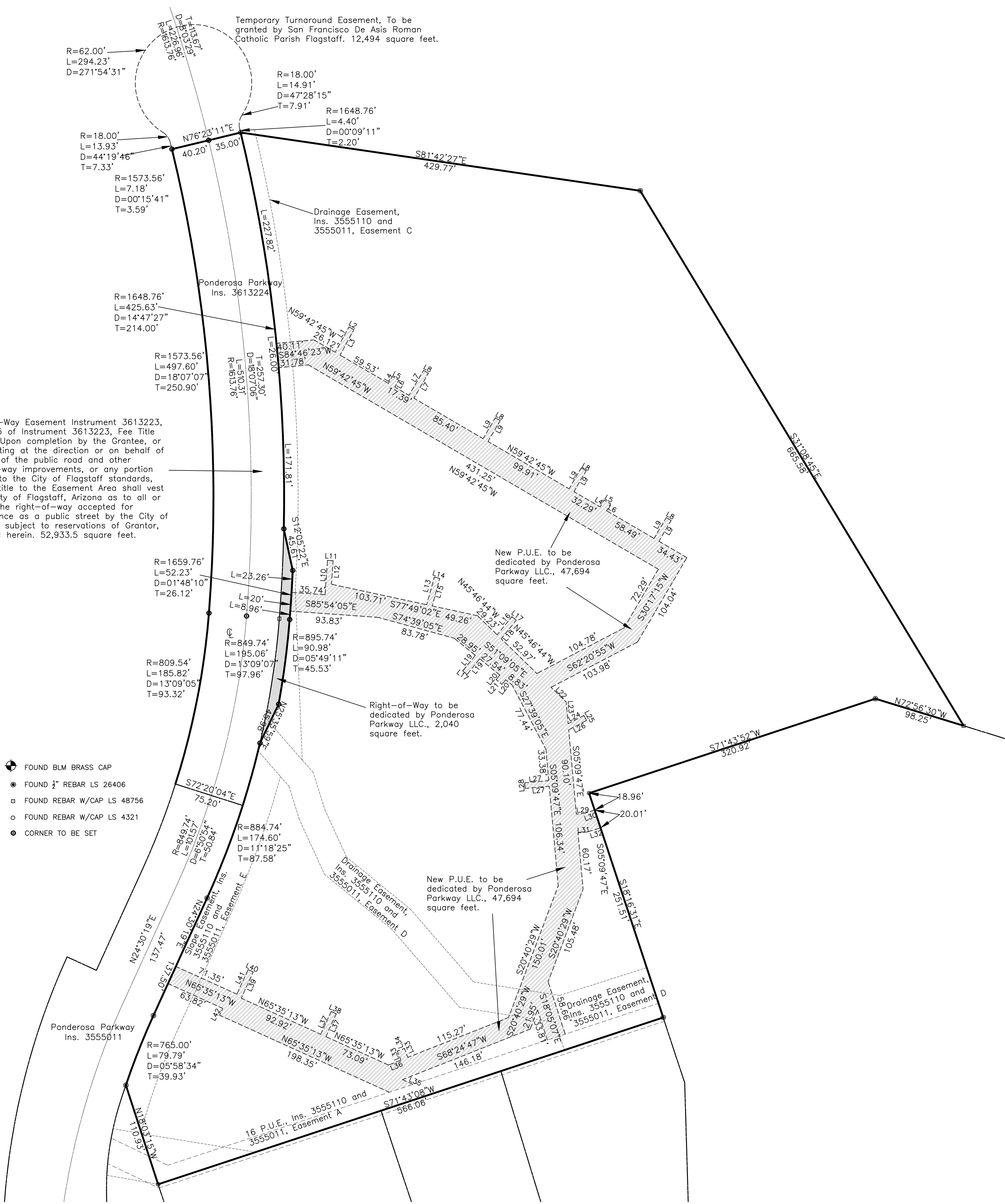
PONDEROSA PARKWAY
CONDOMINIUM PRELIMINARY PLAT
UNIT FLOOR PLANS AND UNIT ELEVATIONS
4/16/20
MES# 18275

PRELIMINARY PLAT FOR PONDEROSA PARKWAY CONDOMINIUMS

LOCATED IN THE SW 1/4 OF SECTION 14,
TOWNSHIP 21 NORTH, RANGE 7 EAST, G&S.R.M.
FLAGSTAFF, COCONINO COUNTY, ARIZONA



VICINITY MAP
N.T.S.



Right-of-Way Easement Instrument 3613223, Section 5 of Instrument 3613223, Fee Title states: Upon completion by the Grantee, or those acting at the direction or on behalf of Grantee, of the public road and other right-of-way improvements, or any portion thereof, to the City of Flagstaff standards, the fee title to the Easement Area shall vest in the City of Flagstaff, Arizona as to all or part of the right-of-way accepted for maintenance as a public street by the City of Flagstaff, subject to reservations of Grantor, contained herein. 52,933.5 square feet.

- FOUND BLM BRASS CAP
- FOUND 3/4" REBAR LS 26406
- FOUND REBAR W/CAP LS 48756
- FOUND REBAR W/CAP LS 4321
- CORNER TO BE SET

LINE	BEARING	DISTANCE
L1	S28°31'23"W	30.65'
L2	S61°28'37"E	6.00'
L3	S28°31'23"W	30.84'
L4	S29°17'15"W	8.43'
L5	S60°42'45"E	8.00'
L6	S29°17'15"W	8.57'
L7	S30°17'15"W	30.73'
L8	S59°42'45"E	6.00'
L9	S30°17'15"W	25.73'
L10	S04°05'55"W	36.73'
L11	S85°54'05"E	6.00'
L12	S04°05'55"W	25.05'
L13	S15°20'55"W	30.66'
L14	S74°39'05"E	6.00'
L15	S15°20'55"W	30.33'
L16	S38°50'55"W	24.93'
L17	S51°09'05"E	6.00'
L18	S38°50'55"W	25.50'
L19	N38°50'55"E	21.37'
L20	N38°50'55"E	6.26'
L21	N51°09'05"W	8.00'
L22	N45°46'44"W	22.50'
L23	S05°09'47"E	23.19'
L24	S62°20'55"W	18.96'
L25	S27°39'05"E	6.00'
L26	S62°20'55"W	21.45'
L27	N84°50'13"E	25.73'
L28	N05°09'47"W	6.00'
L29	S84°50'13"W	7.81'
L30	N73°18'19"E	12.24'
L31	S84°50'13"W	9.83'
L32	N73°18'19"E	14.81'
L33	S20°35'13"E	10.19'
L34	N69°24'47"E	8.00'
L35	N65°35'13"W	12.22'
L36	S68°24'47"W	14.15'
L37	S24°24'47"W	26.73'
L38	S65°35'13"E	6.00'
L39	S24°24'47"W	30.73'
L40	S65°35'13"E	6.00'
L41	S24°24'47"W	28.73'
L42	S24°24'47"W	8.00'

PROJECT NO. 18275
 DATE: 4/16/20
 DESIGNED BY: [Signature]
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]

REVISIONS:
 FRI 10-1-2022.ajg
 VERT SCALE: 1"=40'
 HOR SCALE: 1"=60'

Mogollon
 ENGINEERING & SURVEYING
 411 W. Santa Fe Avenue
 Flagstaff, Arizona 86001
 Phone: 928-214-0214

Mogollon
 ENGINEERING & SURVEYING
 4/16/20
 MES# 18275

Mogollon
 ENGINEERING & SURVEYING
 PONDEROSA PARKWAY
 DEDICATION AND
 EASEMENT EXHIBIT

RAINWATER HARVESTING REQUIREMENTS

USE ALL NATIVE/DROUGHT TOLERANT PLANTS IN COMPLIANCE WITH COF LANDSCAPING STANDARDS & UTILIZE PASSIVE RAINWATER HARVESTING.

- NOTES:
1. ROOF RUNOFF COLLECTED IN GUTTERS/DOWNSPOUTS WILL PASSIVELY IRRIGATE AT-GRADE LANDSCAPING
 2. ALL LANDSCAPING INSTALLED PER CITY OF FLAGSTAFF LANDSCAPE STANDARDS SECTION 10-50.60

PROJECT INFORMATION

PROJECT NAME: MIRAMONTE AT PONDEROSA PARKWAY
 PROJECT LOCATION: 1650 E. PONDEROSA PARKWAY
 APNs: 107-07-002E
 TOTAL SQUARE FOOTAGE: 521,413.2 SQUARE FEET
 TOTAL ACREAGE: 11.97 ACRES
 CURRENT ZONING DISTRICT: RURAL RESIDENTIAL (RR)
 PROPOSED ZONING DISTRICT: HIGH DENSITY RESIDENTIAL (HR)
 TOTAL NUMBER OF RESIDENTIAL: 169 UNITS
 DENSITY: 14.11 UNITS/ACRE
 HEIGHT: 3 STORIES
 CURRENT USE: VACANT
 DEVELOPER: MIRAMONTE HOMES
 102 S. MIKES PIKE ST.
 FLAGSTAFF, AZ 86001
 928-774-0028

LANDSCAPE NOTES

1. ALL MAINTENANCE SHALL BE PERFORMED PER FLAGSTAFF CITY CODE SECTION #910.12.
 - A. PRUNING AND CLIPPING FOR PEDESTRIAN VEHICULAR ACCESS
 - B. REPLACEMENT OF DEAD AND UNHEALTHY PLANTS WITH PLANTS OF THE SAME SIZE AND FORM
 - C. REPLACEMENT OF ERODED OR WASHEDOUT D.G. WITH SAME.
 - D. MAINTENANCE OF IRRIGATION SYSTEM.
2. DECOMPOSED GRANITE (D.G.) SHALL BE INSTALLED TO A 2" DEPTH OVER ALL PLANTERS AND DISTURBED AREAS INCLUDING ADJACENT RIGHTS OF WAY .
3. MATERIALS WITHIN SITE VISIBILITY TRIANGLES SHALL BE PLACED AND MAINTAINED SO AS NOT TO INTERFERE WITH A VISIBILITY PLANE DESCRIBED BY 2 HORIZONTAL LINES 30 INCHES AND 72 INCHES ABOVE FINISHED GRADE OF THE ROADWAY SURFACE.

IRRIGATION NOTES

1. MAINLINE & VALVE LOCATIONS SHOWN FOR CLARITY LOCATE IN PLANTER AREAS AND WITHIN PROJECT BOUNDARY.
2. ALL MAINLINE SHOWN IS CL200 PVC., ALL POLY SHOWN IS 1/2". INSTALL TRACER WIRE AT ALL MAINLINES.
3. INSTALL ALL PIPE BENEATH WALKS AND PAVING WITHIN A SCH 40 PVC SLEEVE 2 SIZES LARGER THAN IRRIGATION PIPE (PVC AND POLYETHYLENE (PE)).
4. SEE CIVIL DWG. FOR WATER SOURCE SIZE & LOCATION PROVIDE METER PER WATER CO. REQ'S.
5. IRRIGATION DESIGN PRESSURE 30 PSI FOR SYSTEM. CONTRACTOR SHALL VERIFY EXIST. WATER PRESSURE AT VALVE & NOTIFY LANDSCAPE ARCHITECT OF DISCREPANCIES, BETWEEN EXISTING & DESIGN PRESSURE PRIOR TO CONTINUING WORK.
6. ELECTRIC POWER TO THE CONTROLLER IS SUPPLIED BY ELECTRICAL CONTRACTOR IN LOCATIONS SHOWN.
7. COORDINATE WITH ELECTRICAL CONTRACTOR FOR POWER SOURCE.
8. EACH CONTROLLER TO BE EQUIPPED WITH RAIN SHUT OFF SENSOR AND MOISTURE SENSOR.

TABULATIONS

STREET BUFFER: 1050.23 LF/25 = 42 TREES 84 SHRUBS
 84 GROUND COVERS REQUIRED

EXISTING TREES CREDITS: 4 TREES 8 SHRUBS
 8 GROUND COVERS

PERIPHERAL BUFFER: 1249.42 LF/25 = 50 TREES 100 SHRUBS
 100 GROUND COVERS REQUIRED

EXISTING TREES CREDITS: 8 TREES 16 SHRUBS
 16 GROUND COVERS

PARKING AREAS: 273 / 8 * 2 = 68 TREES 136 GROUND COVERS

EXISTING TREES CREDITS: 40 TREES 80 SHRUBS
 80 GROUND COVERS

BUILDING FOUNDATIONS (PER BLDG): 367 LF/25 = 14.68 TREES 29.36 SHRUBS
 TOTAL FOR 13 BUILDINGS: 191 TREES 382 SHRUBS
 382 GROUND COVERS REQUIRED

EXISTING TREES CREDITS: 24 TREES 48 SHRUBS
 48 GROUND COVERS

TOTAL PLANTS REQUIRED: WITHOUT CREDITS 351 TREES 702 SHRUBS
 702 GROUND COVERS REQUIRED

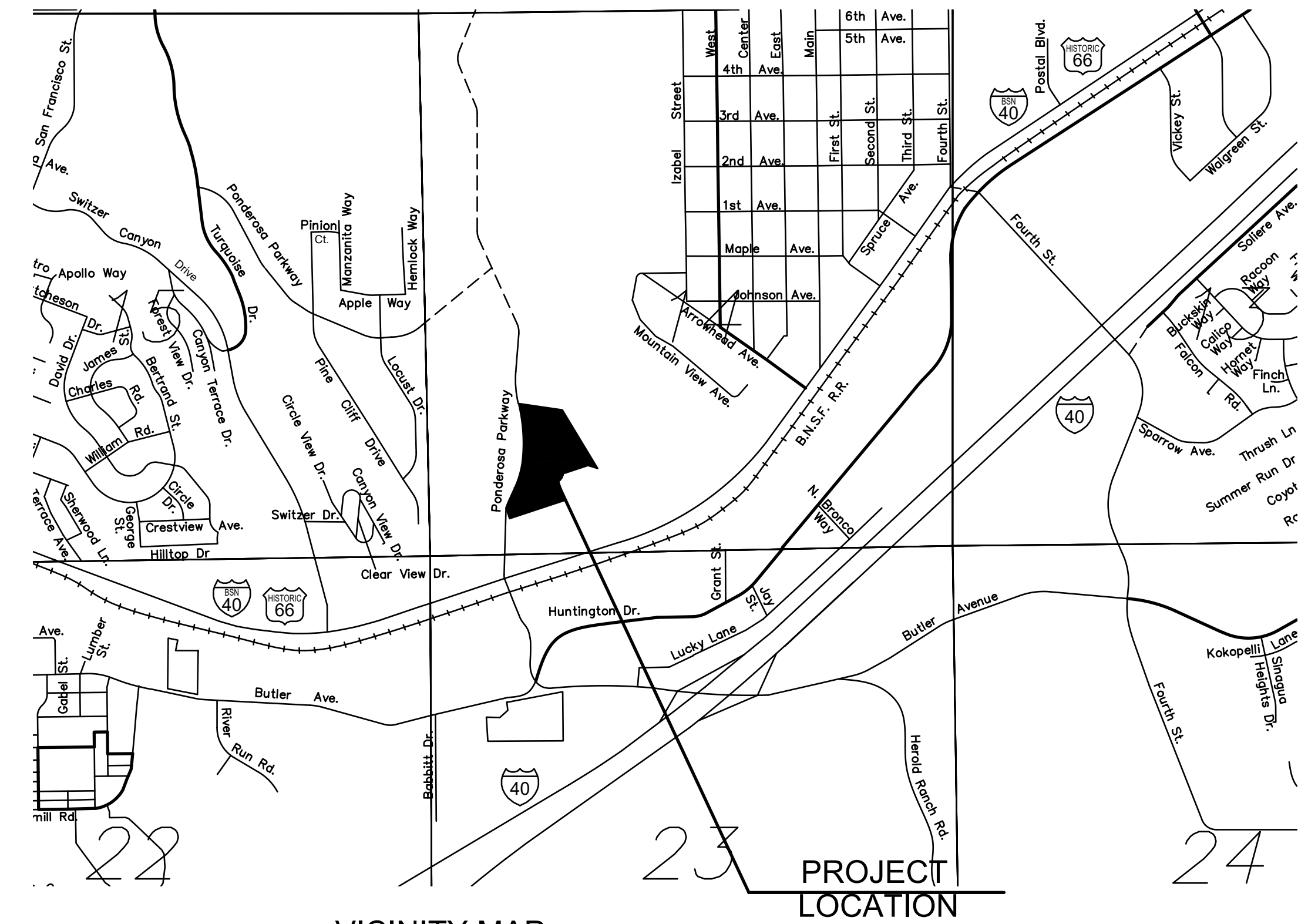
TOTAL PLANTS REQUIRED: WITH CREDITS 275
 NEW TREES PROVIDED: 550 (2 PLANTED @ EACH TREE)
 NEW SHRUBS PROVIDED: 550 (2 PLANTED @ EACH TREE)
 NEW GROUND COVER PROVIDED: 550 (2 PLANTED @ EACH TREE)

PONDEROSA PARKWAY LANDSCAPE PLAN

LOCATED IN THE SW 1/4 OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 7 EAST, G&S.R.M. FLAGSTAFF, COCONINO COUNTY, ARIZONA

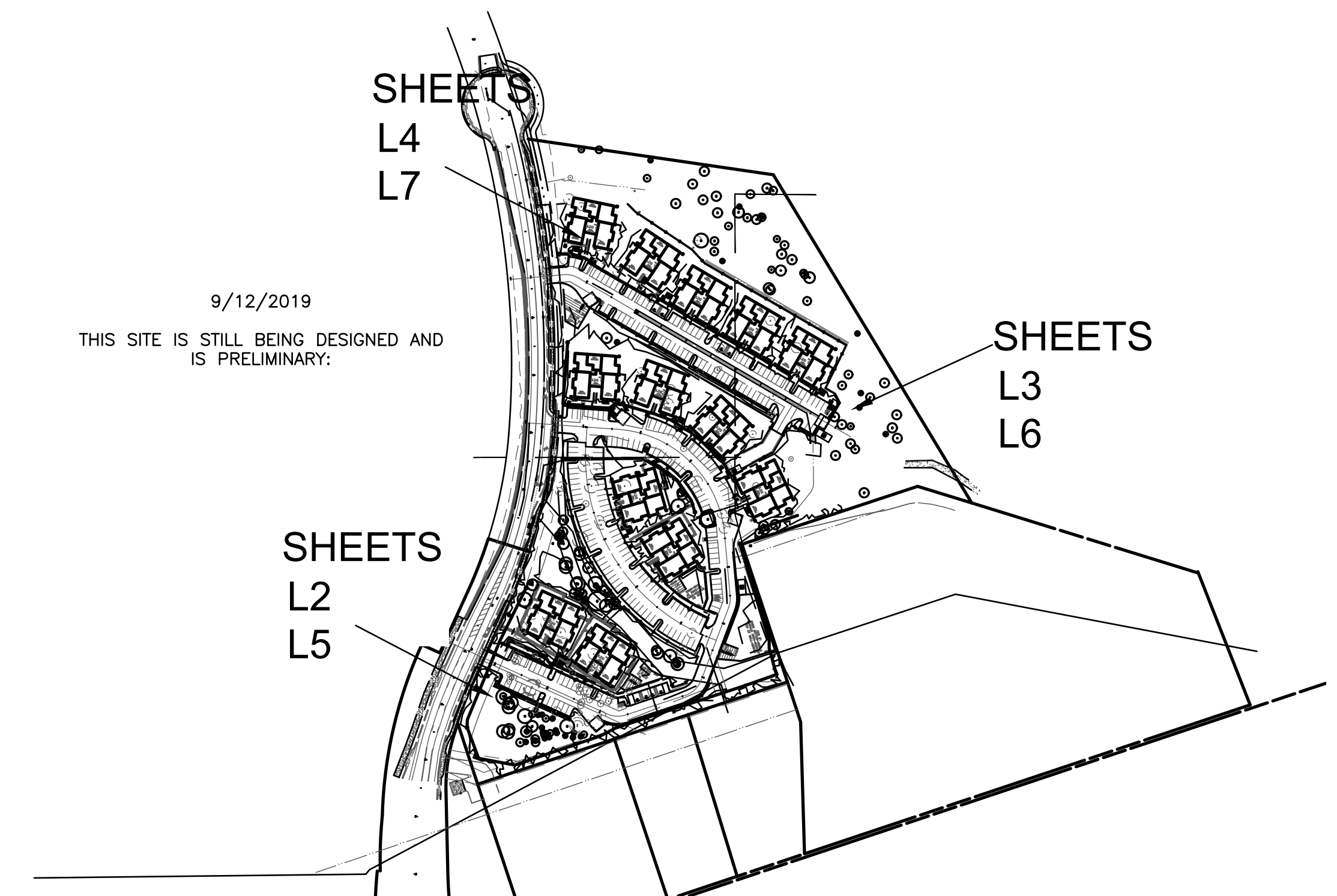
PLANT LIST

KEY	BOTANICAL NAME	COMMON NAME	REMARKS	SIZE	QTY.
TREES					
	ACER FREEMANII	AUTUMN BLAZE MAPLE		6' HT.	16
	CERCIS OCCIDENTALIS	WESTERN REDBUD		6' HT.	27
	FRAXINUS VELUTINA	ARIZONA ASH	NATIVE	15 G.C.	47
	GLEDTISIA TRIACANTHUS 'INERMIS'	HONEY LOCUST		6' HT	63
	MALUS SPECIES	FLOWERING CRAB APPLE		6' HT	20
	PICEA PUNGENS	COLORADO BLUE SPRUCE		6' HT	59
	PINUS EDULIS	PINYON PINE	NATIVE	15 G.C.	43
SHRUBS					
	ARCTOSTAPHYLOS PUNGENS	MANZANITA	NATIVE	1 G.C.	151
	BERBERIS FREMONTII	FREMONT BARBERRY	NATIVE	1 G.C.	76
	FALLUGIA PARADOXA	APACHE PLUME	NATIVE	1 G.C.	99
	JUNIPERUS CHINENSIS	SEA GREEN JUNIPER		5 G.C.	109
	MAHONIA AQUIFOLIUM	OREGON GRAPE		5 G.C.	117
GROUND COVERS AND ACCENTS					
	ARABIS CAUCASICA	WALL ROCKCRESS		1 G.C.	201
	CALYLOPHUS HARTWEGII	SIERRA SUNDROP		1 G.C.	265
	JUNIPERUS HORIZONTALIS	PROSTRATE JUNIPER		1 G.C.	96



VICINITY MAP

N.T.S.

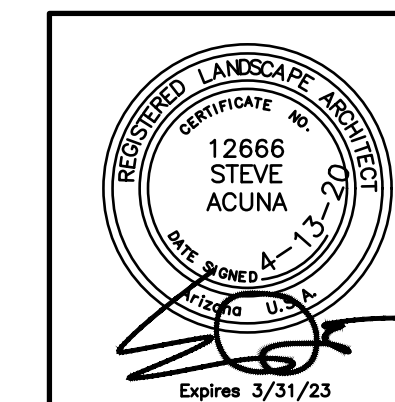


KEY PLAN

SCALE 1" = 200'

IRRIGATION EQUIPMENT SCHEDULE

SYMBOL	DESCRIPTION	SPECIFICATION	QUANTITY
	CONTROLLER	RAINBIRD ESP-SMT - WALL MOUNT	4 STA. 3
	CONTROLLER	RAINBIRD ESP-SMT - WALL MOUNT	6 STA. 1
	BACKFLOW PREVENTER	FEBCO 825Y 3/4"	4
	DRIP VALVE ASSEMBLY	RAINBIRD XCZ-075-PRF	17
	PRESSURE REGULATOR	RAINBIRD PSA L30X-075	3
	TREE EMITTER	RAINBIRD XB-10-6	275
	SHRUB EMITTER	RAINBIRD XB-10-6	1114



PONDEROSA PARKWAY
 LANDSCAPE PLAN COVER SHEET

Acuña Coffeen
 Landscape Architects
 3532 N. Avenida Albor Tucson, Arizona 85745
 (520) 441-2754

HORIZ.	
VERT.	
F.B.	
DESIGN	SA
DRAWN	SA
CHKD.	SA
JOB NO.	

L1 OF 7

NOT TO SCALE

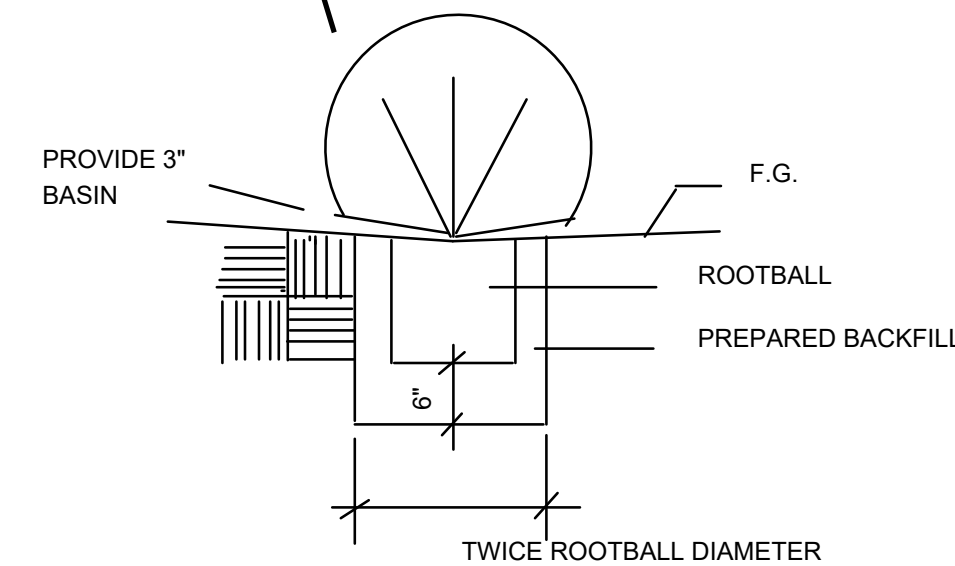
BLDG FOUNDATION EXISTING TREE CREDITS		
CALIPER	CALCULATIONS	CREDITS
6"-10"	3 @ 1:1	3
10"-18"	8 @ 2:1	16
>18"	1 @ 3:1	3
TOTAL		22

STREET BUFFER EXISTING TREE CREDITS		
CALIPER	CALCULATIONS	CREDITS
6"-10"	0 @ 1:1	0
10"-18"	2 @ 2:1	4
>18"	0 @ 3:1	0
TOTAL		4

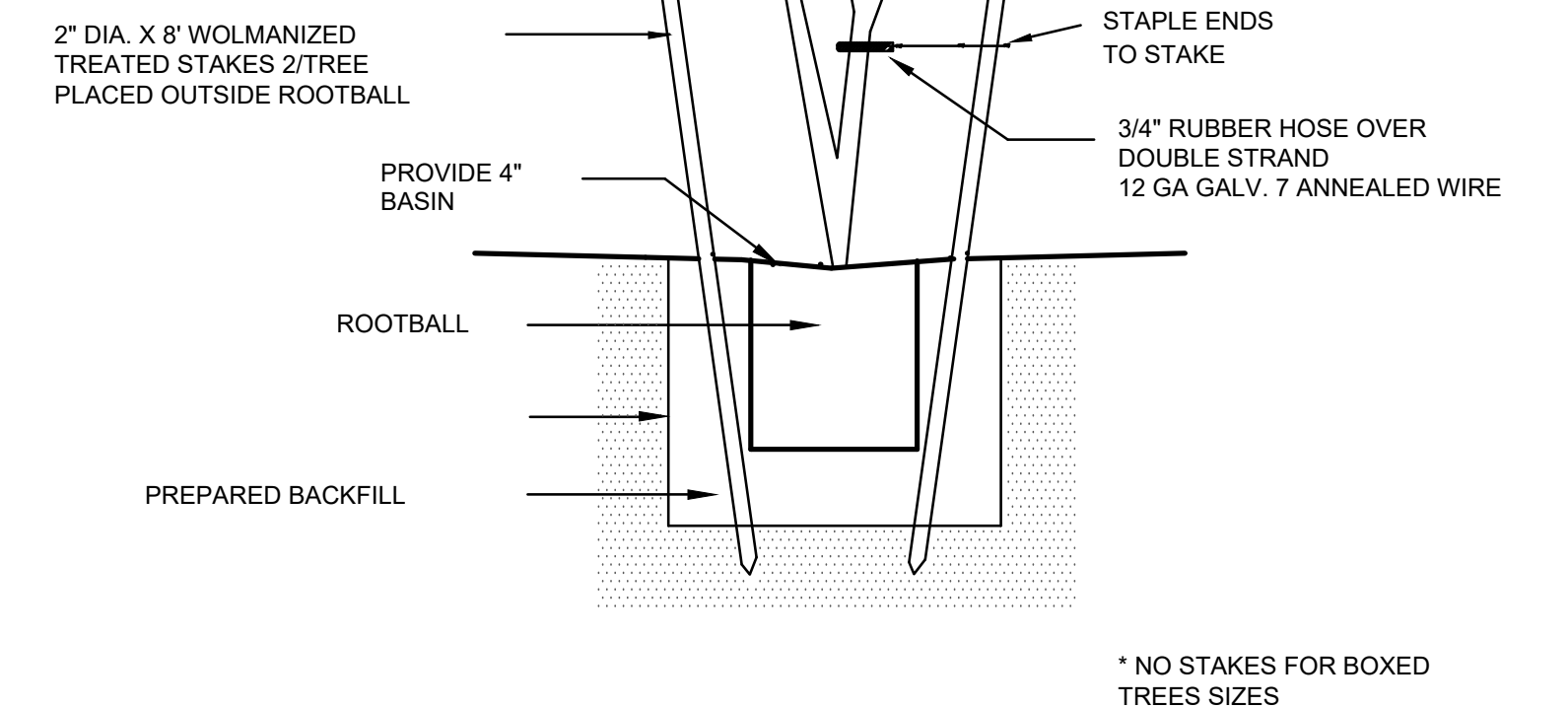
PARKING AREA EXISTING TREE CREDITS		
CALIPER	CALCULATIONS	CREDITS
6"-10"	9 @ 1:1	9
10"-18"	14 @ 2:1	28
>18"	1 @ 3:1	3
TOTAL		40

EXISTING TREE LEGEND	
SYMBOL	DESCRIPTION
	EXISTING TREE TO BE REMOVED NUMBER WITHIN DENOTES CALIPER
	EXISTING TREE TO BE PRESERVED IN PLACE NUMBER WITHIN DENOTES CALIPER

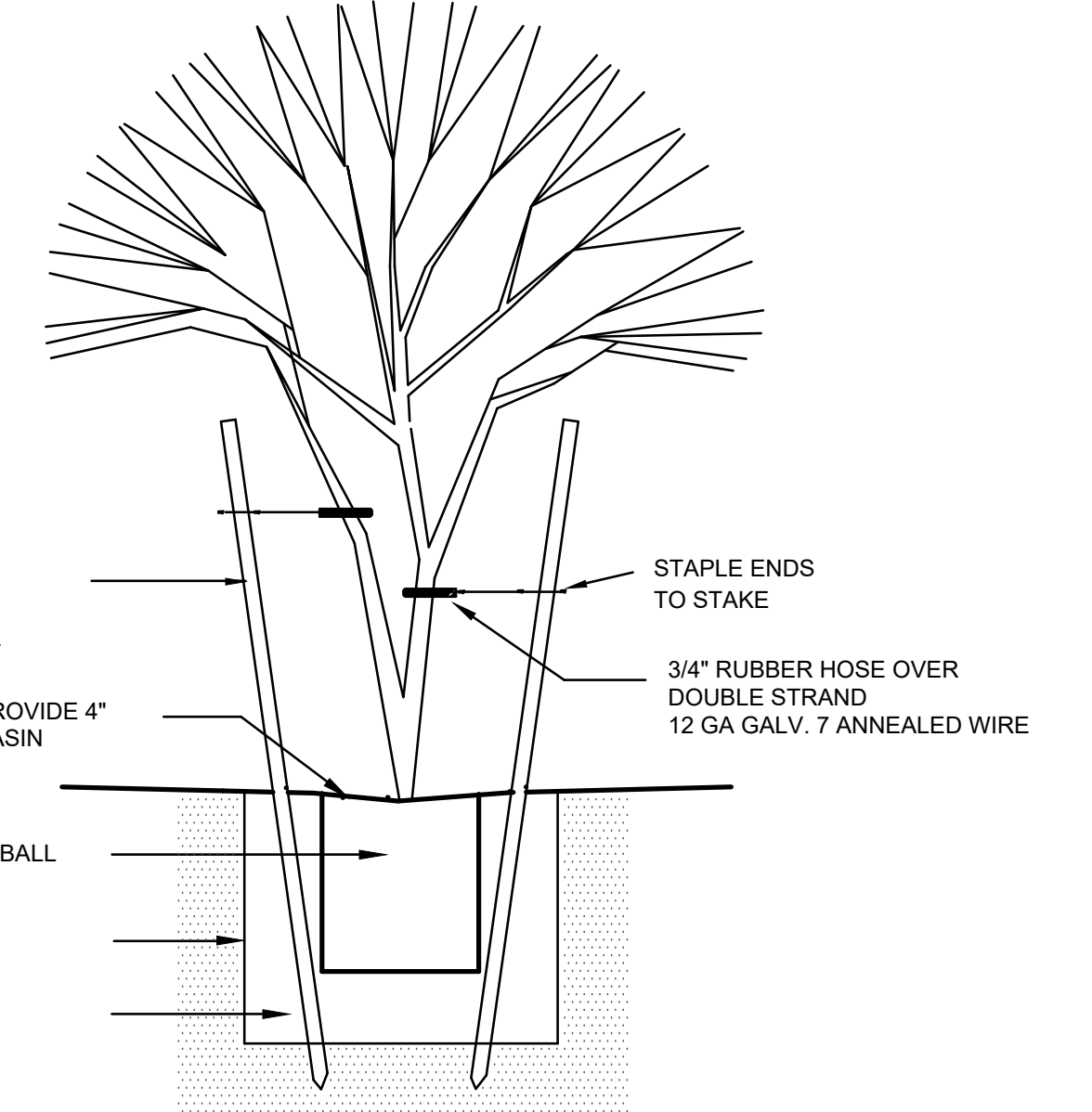
1 SHRUB PLANTING DETAIL NTS



2 TREE PLANTING DETAIL NTS

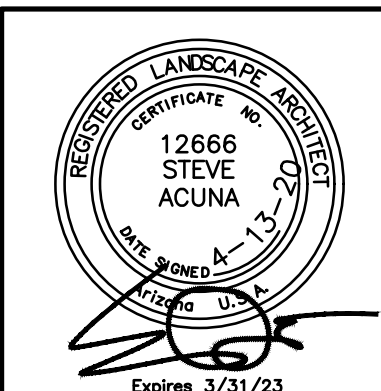
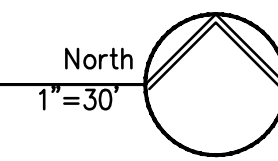


PLANT LIST		
KEY	BOTANICAL NAME	COMMON NAME
TREES		
	ACER FREEMANII	AUTUMN BLAZE MAPLE
	CERCIS OCCIDENTALIS	WESTERN REDBUD
	FRAXINUS VELUTINA	ARIZONA ASH
	GLEDITSIA TRIACANTHUS 'INERMIS'	HONEY LOCUST
	MALUS SPECIES	FLOWERING CRAB APPLE
	PICEA PUNGENS	COLORADO BLUE SPRUCE
	PINUS EDULIS	PINYON PINE
SHRUBS		
	ARCTOSTAPHYLOS PUNGENS	MANZANITA
	BERBERIS FREMONTII	FREMONT BARBERRY
	FALLUGIA PARADOXA	APACHE PLUME
	JUNIPERUS CHINENSIS	SEA GREEN JUNIPER
	MAHONIA AQUIFOLIUM	OREGON GRAPE
GROUND COVERS AND ACCENTS		
	ARABIS CAUCASICA	WALL ROCKCRESS
	CALYLOPHUS HARTWEGII	SIERRA SUNDROP
	JUNIPERUS HORIZONTALIS	PROSTRATE JUNIPER



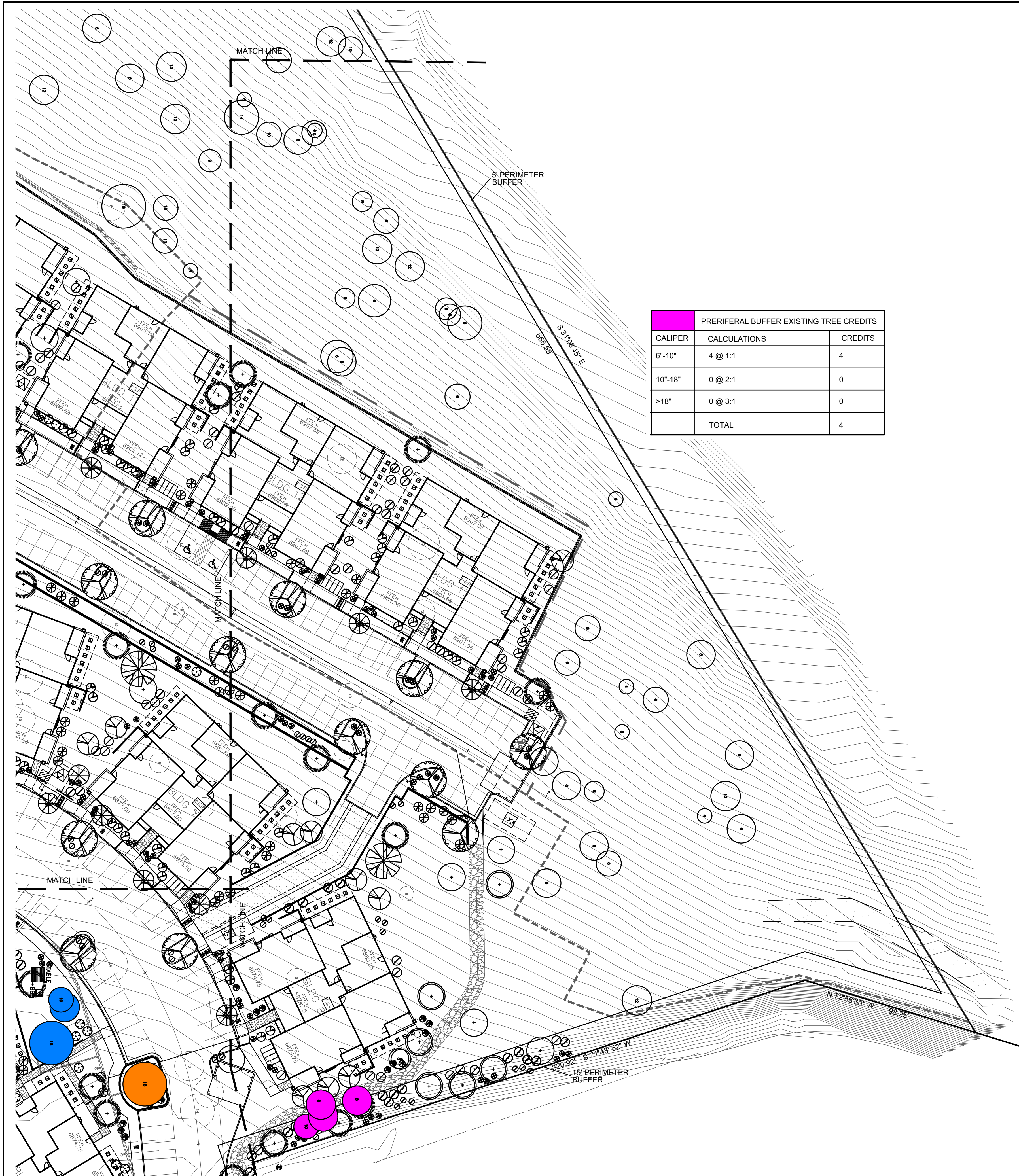
* NO STAKES FOR BOXED TREES SIZES

LANDSCAPE PLAN



PONDEROSA PARKWAY
LANDSCAPE PLAN
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 Landscape Architects
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 (520) 441-2754

HORIZ.	
VERT.	
F.B.	
DESIGN	SA
DRAWN	SA
CHKD.	SA
JOB NO.	L2 of 7

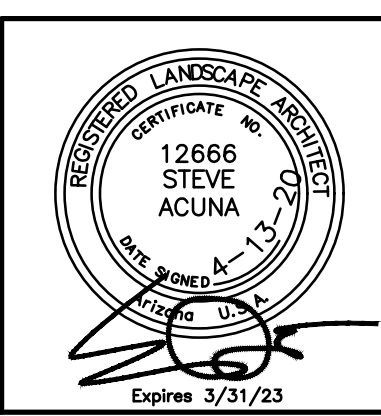
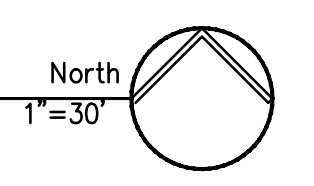


PRERIFERAL BUFFER EXISTING TREE CREDITS		
CALIPER	CALCULATIONS	CREDITS
6"-10"	4 @ 1:1	4
10"-18"	0 @ 2:1	0
>18"	0 @ 3:1	0
TOTAL		4

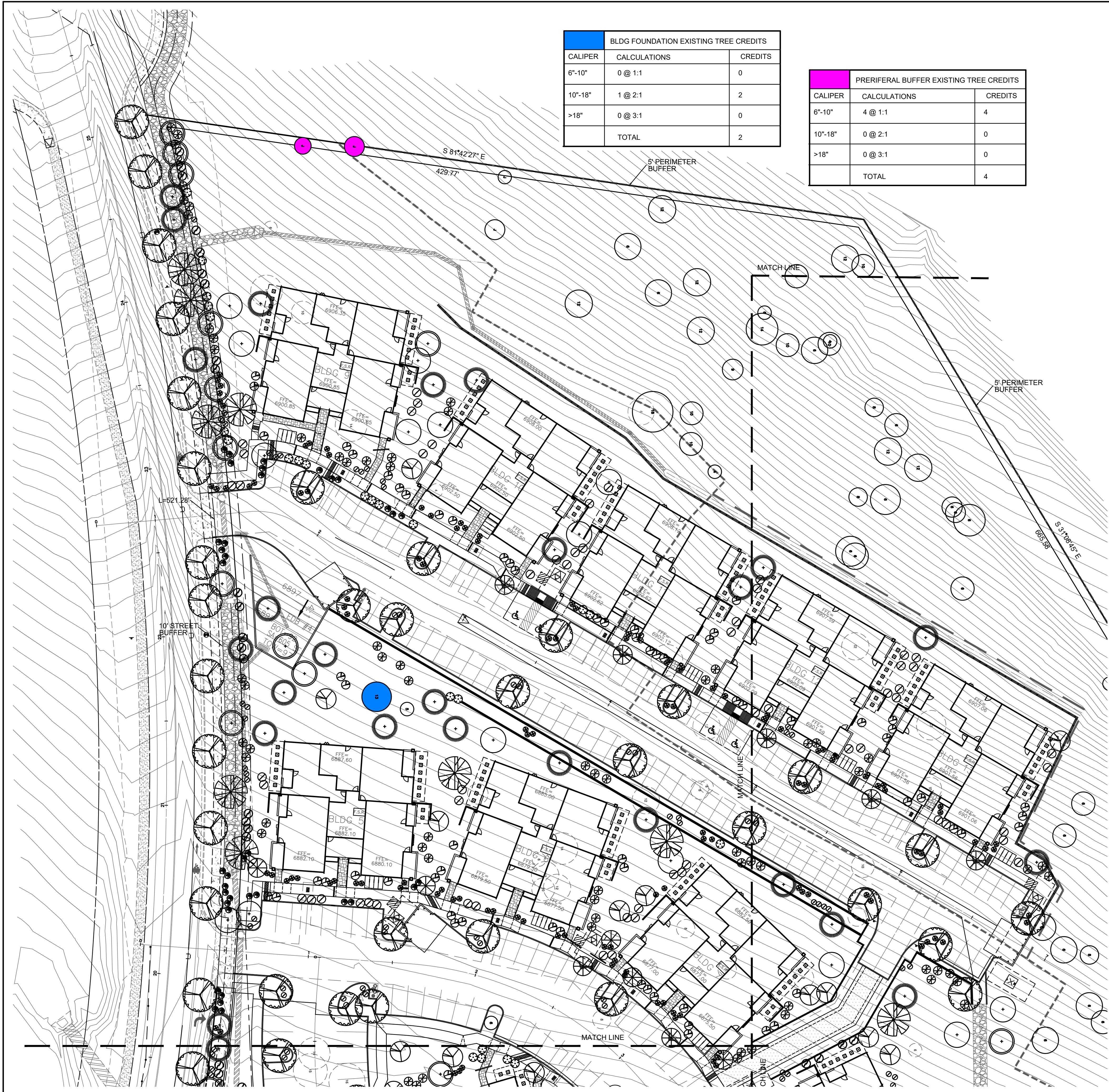
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TREES		
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	CERCIS OCCIDENTALIS	WESTERN REDBUD
	FRAXINUS VELUTINA	ARIZONA ASH
	GLEDITSIA TRIACANTHUS 'INERMIS'	HONEY LOCUST
	MALUS SPECIES	FLOWERING CRAB APPLE
	PICEA PUNGENS	COLORADO BLUE SPRUCE
	PINUS EDULIS	PINYON PINE
SHRUBS		
	ARCTOSTAPHYLOS PUNGENS	MANZANITA
	BERBERIS FREMONTII	FREMONT BARBERRY
	FALLUGIA PARADOXA	APACHE PLUME
	JUNIPERUS CHINENSIS	SEA GREEN JUNIPER
	MAHONIA AQUIFOLIUM	OREGON GRAPE
GROUND COVERS AND ACCENTS		
	ARABIS CAUCASICA	WALL ROCKCRESS
	CALYLOPHUS HARTWEGII	SIERRA SUNDROP
	JUNIPERUS HORIZONTALIS	PROSTRATE JUNIPER

EXISTING TREE LEGEND	
SYMBOL	DESCRIPTION
	EXISTING TREE TO BE REMOVED NUMBER WITHIN DENOTES CALIPER
	EXISTING TREE TO BE PRESERVED IN PLACE NUMBER WITHIN DENOTES CALIPER

LANDSCAPE PLAN



PONDEROSA PARKWAY		HORIZ.
LANDSCAPE PLAN		VERT.
Acuña Coffeen Landscape Architects		F.B.
3532 N. Avenida Albor Tucson, Arizona 85745 (520) 441-2754		DESIGN SA
L3 OF 7		DRAWN SA
		CHKD. SA
		JOB NO.



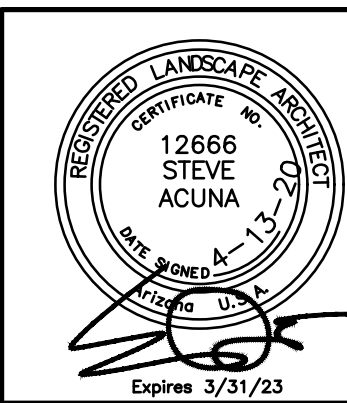
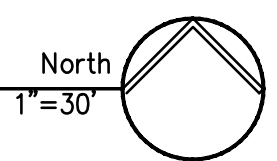
BLDG FOUNDATION EXISTING TREE CREDITS		
CALIPER	CALCULATIONS	CREDITS
6"-10"	0 @ 1:1	0
10"-18"	1 @ 2:1	2
>18"	0 @ 3:1	0
TOTAL		2

PRERIFERAL BUFFER EXISTING TREE CREDITS		
CALIPER	CALCULATIONS	CREDITS
6"-10"	4 @ 1:1	4
10"-18"	0 @ 2:1	0
>18"	0 @ 3:1	0
TOTAL		4

PLANT LIST		
KEY	BOTANICAL NAME	COMMON NAME
TREES		
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	CERCIS OCCIDENTALIS	WESTERN REDBUD
	FRAXINUS VELUTINA	ARIZONA ASH
	GLEDITSIA TRIACANTHUS 'INERMIS'	HONEY LOCUST
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SHRUBS		
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	EXISTING TREE TO BE REMOVED NUMBER WITHIN DENOTES CALIPER
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LANDSCAPE PLAN



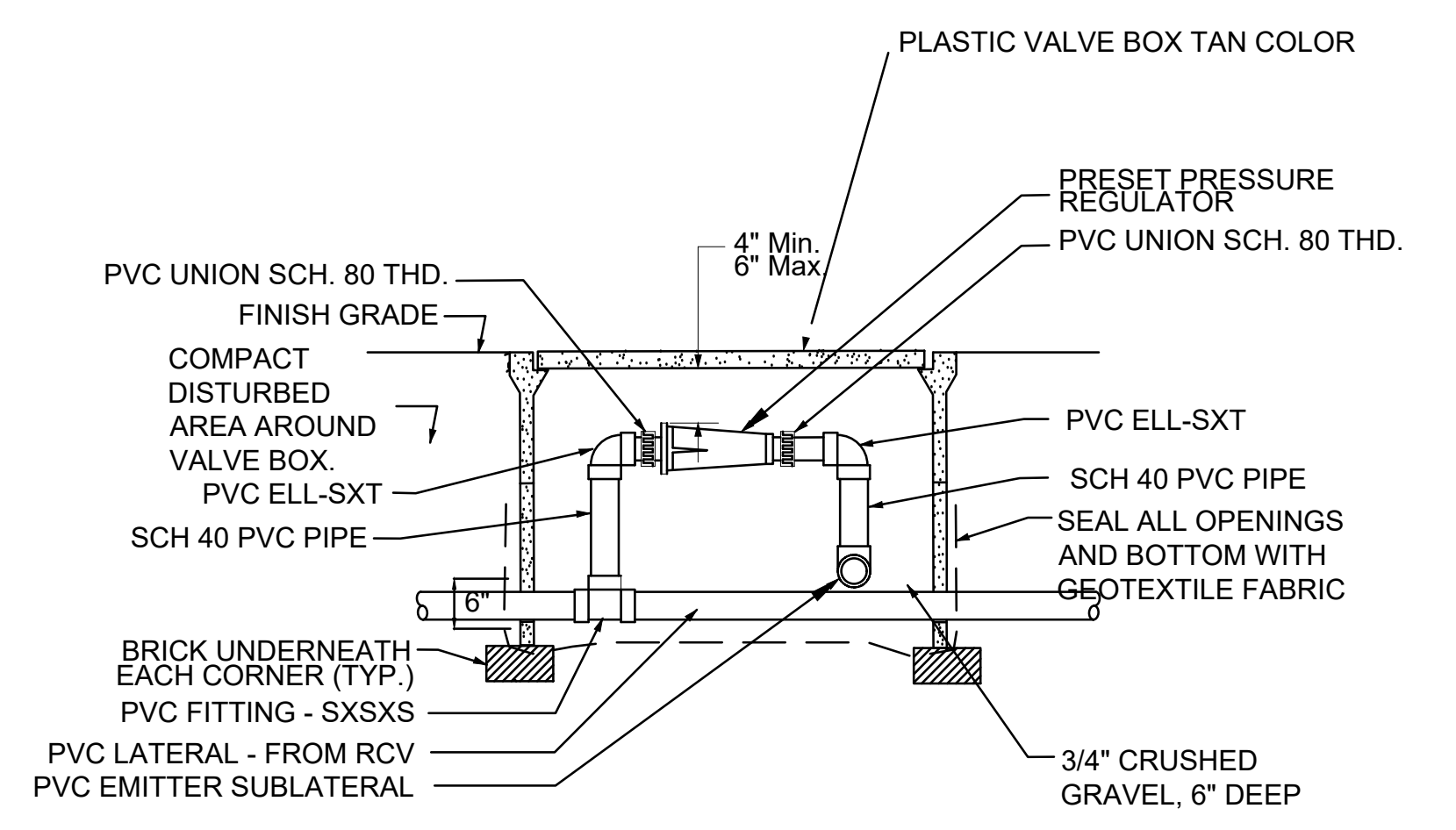
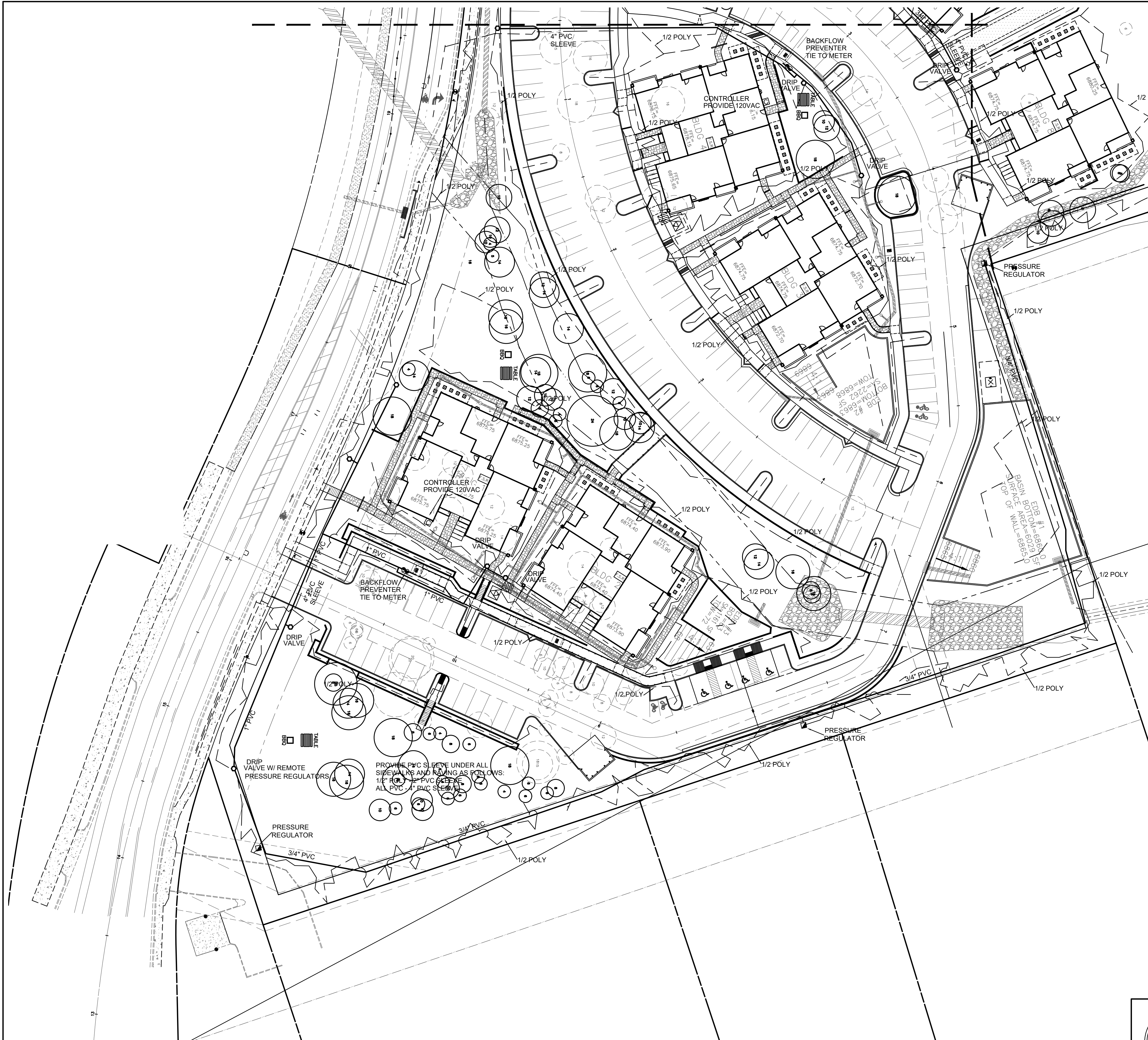
PONDEROSA PARKWAY

LANDSCAPE PLAN

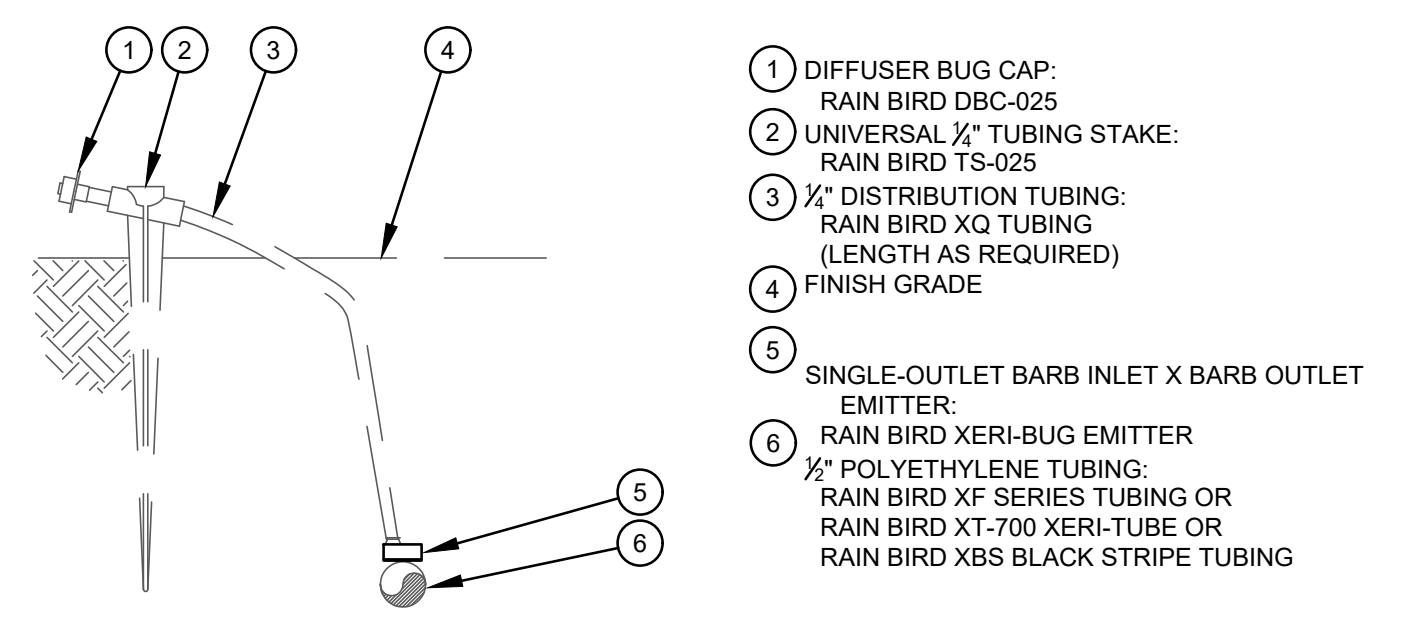
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HORIZ.	
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DRAWN	SA
CHKD.	SA
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L4 OF 7

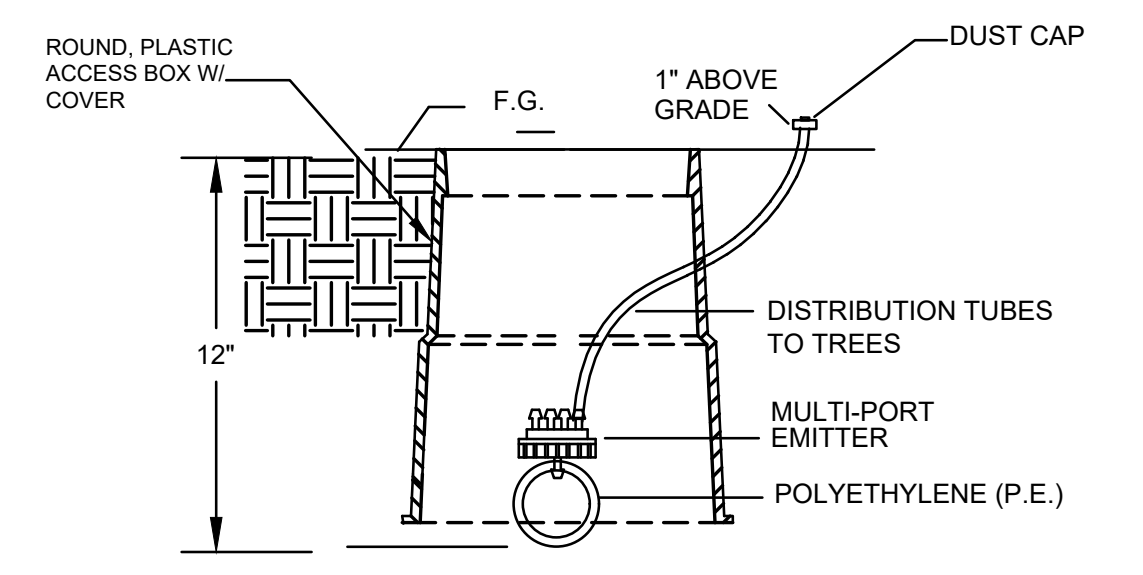


1 ALL PIPE SCH. 40 EXCEPT SCH. 80 UNIONS
PRESSURE REGULATOR
 NTS



2 **SINGLE OUTLET EMITTER DETAIL**
 NTS

NOTES:
 1. USE RAIN BIRD XERIMAN TOOL XM-TOOL TO INSERT EMITTER DIRECTLY INTO 1/2\"/>

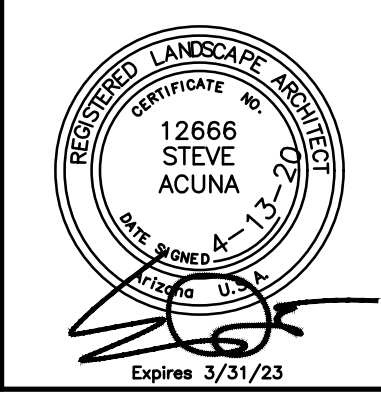
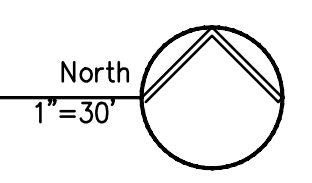


2A **MULTI OUTLET EMITTER DETAIL**
 NTS

IRRIGATION EQUIPMENT SCHEDULE			
SYMBOL	DESCRIPTION	SPECIFICATION	QUANTITY
☐	CONTROLLER	RAINBIRD ESP-SMT - WALL MOUNT	4 STA. 3
☐6	CONTROLLER	RAINBIRD ESP-SMT - WALL MOUNT	6 STA. 1
⊗	BACKFLOW PREVENTER	FEBCO 825Y 3/4"	4
⊙	DRIP VALVE ASSEMBLY	RAINBIRD XCZ-075-PRF	17
▣	PRESSURE REGULATOR	RAINBIRD PSA L30X-075	3
○	TREE EMITTER	RAINBIRD XB-10-6	275
○	SHRUB EMITTER	RAINBIRD XB-10-6	1114

PROVIDE PVC SLEEVE UNDER ALL SIDEWALKS AND PAVING AS FOLLOWS:
 1/2\"/>

IRRIGATION PLAN



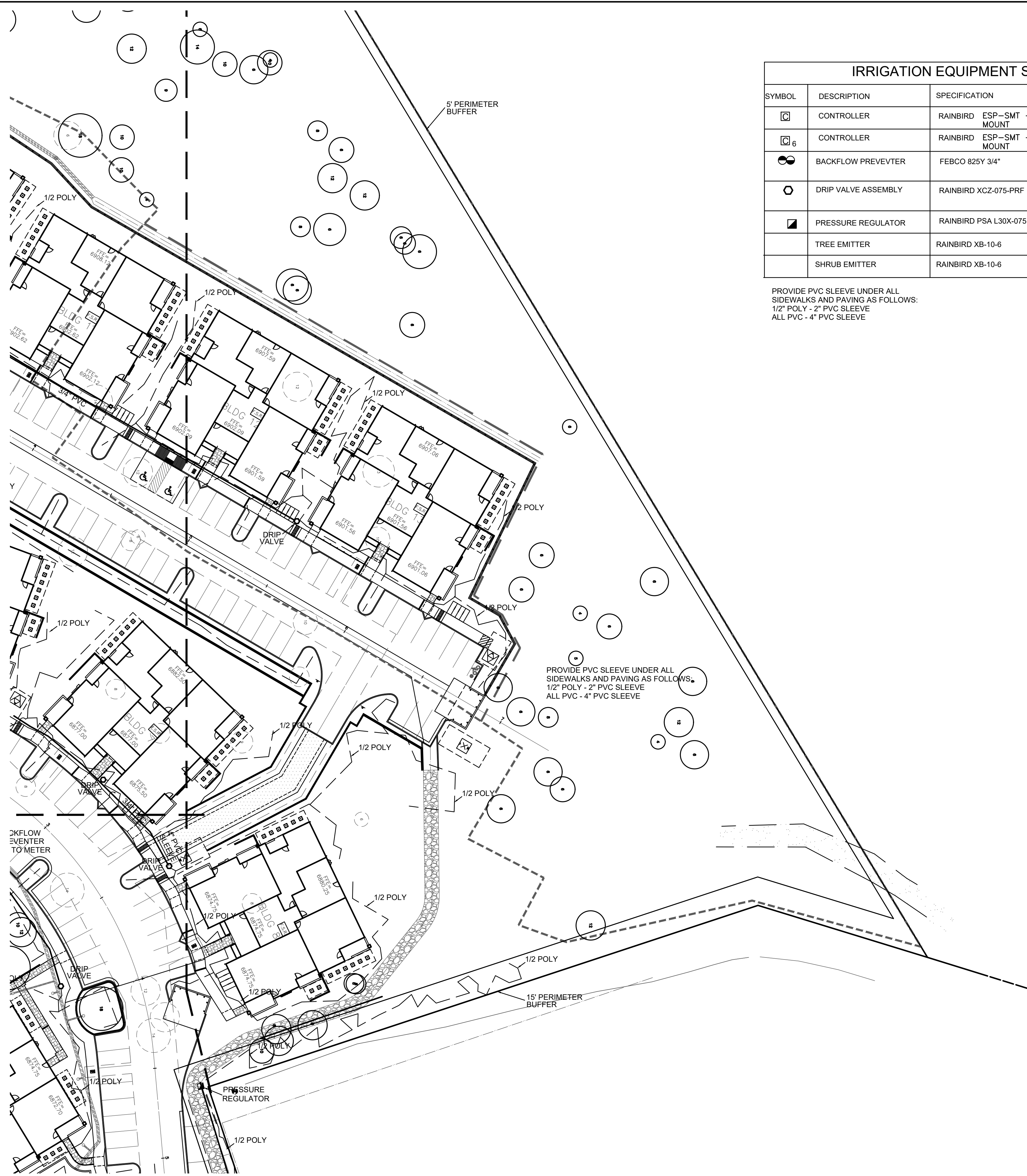
PONDEROSA PARKWAY

IRRIGATION PLAN

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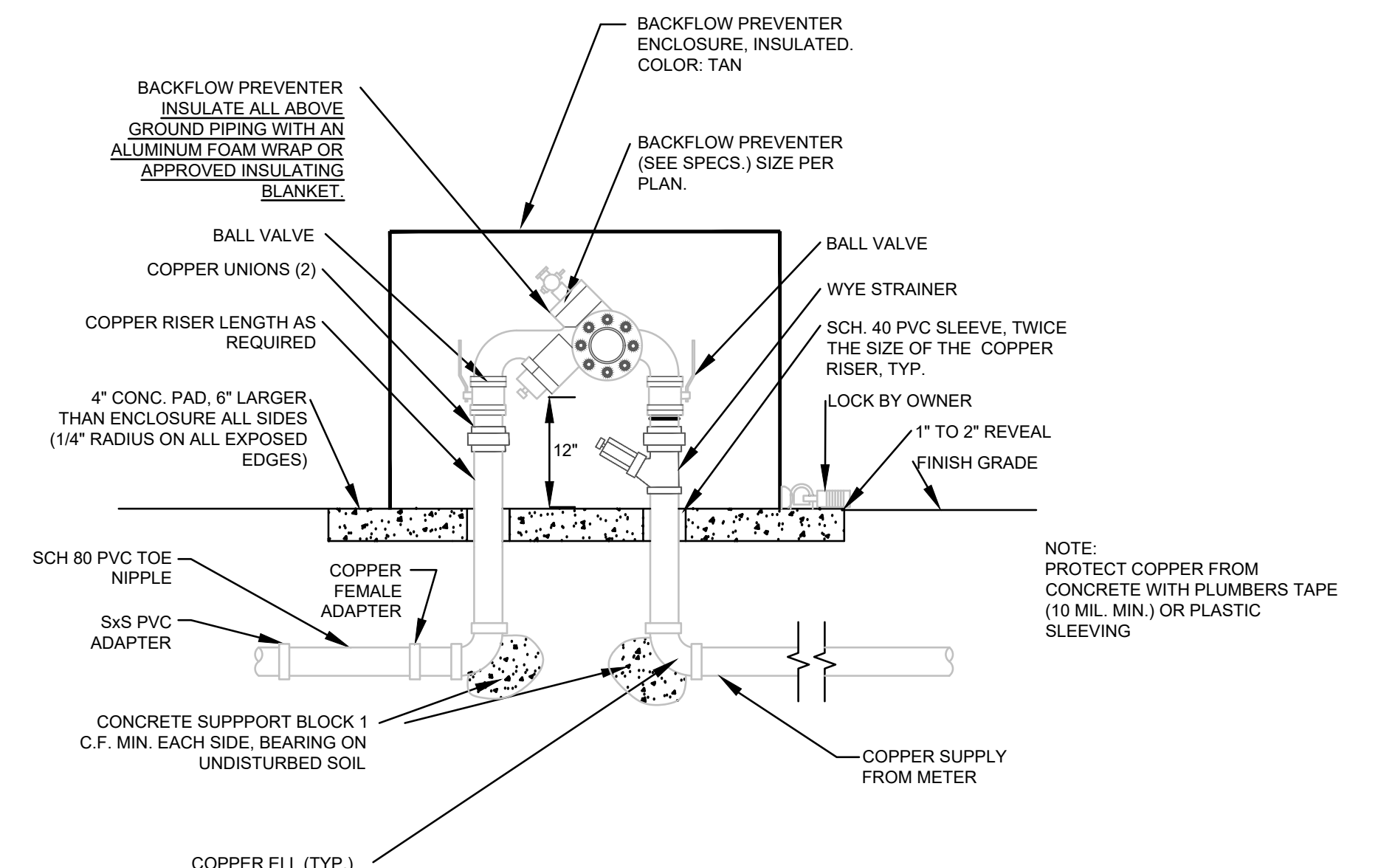
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VERT.	
F.B.	
DESIGN	SA
DRAWN	SA
CHKD.	SA
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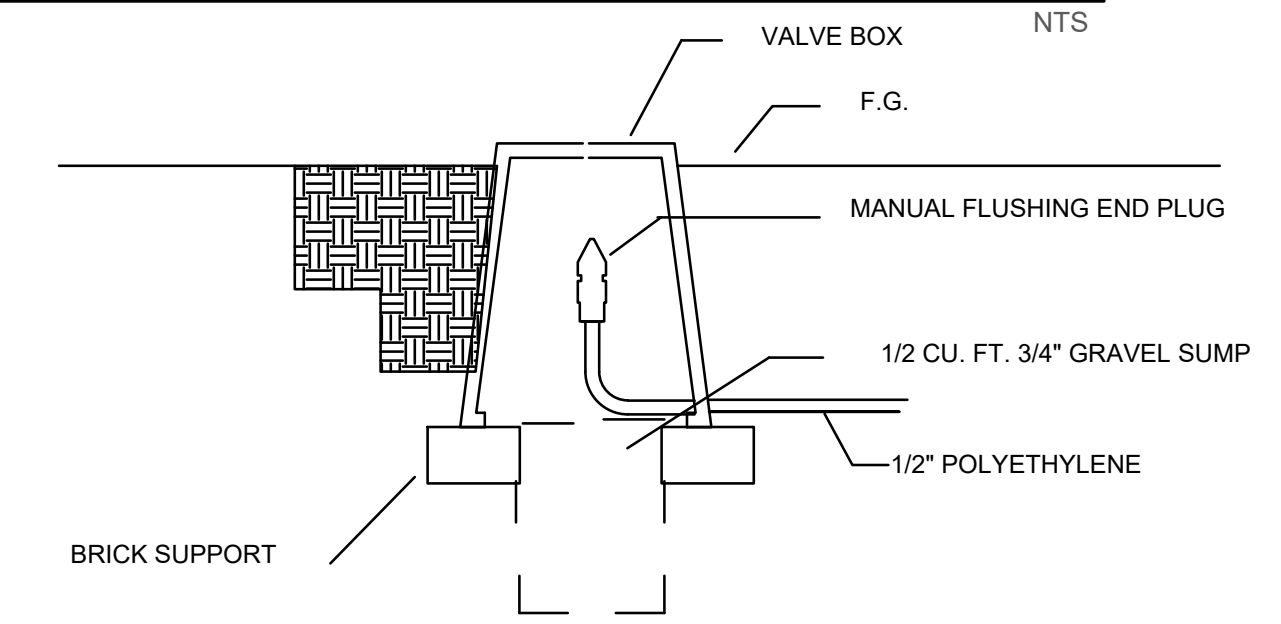
IRRIGATION EQUIPMENT SCHEDULE			
SYMBOL	DESCRIPTION	SPECIFICATION	QUANTITY
☐	CONTROLLER	RAINBIRD ESP-SMT -- WALL MOUNT	4 STA. 3
☐6	CONTROLLER	RAINBIRD ESP-SMT -- WALL MOUNT	6 STA. 1
⊗	BACKFLOW PREVENTER	FEBCO 825Y 3/4"	4
⊙	DRIP VALVE ASSEMBLY	RAINBIRD XCZ-075-PRF	17
▣	PRESSURE REGULATOR	RAINBIRD PSA L30X-075	3
	TREE EMITTER	RAINBIRD XB-10-6	275
	SHRUB EMITTER	RAINBIRD XB-10-6	1114

PROVIDE PVC SLEEVE UNDER ALL SIDEWALKS AND PAVING AS FOLLOWS:
 1/2" POLY - 2" PVC SLEEVE
 ALL PVC - 4" PVC SLEEVE

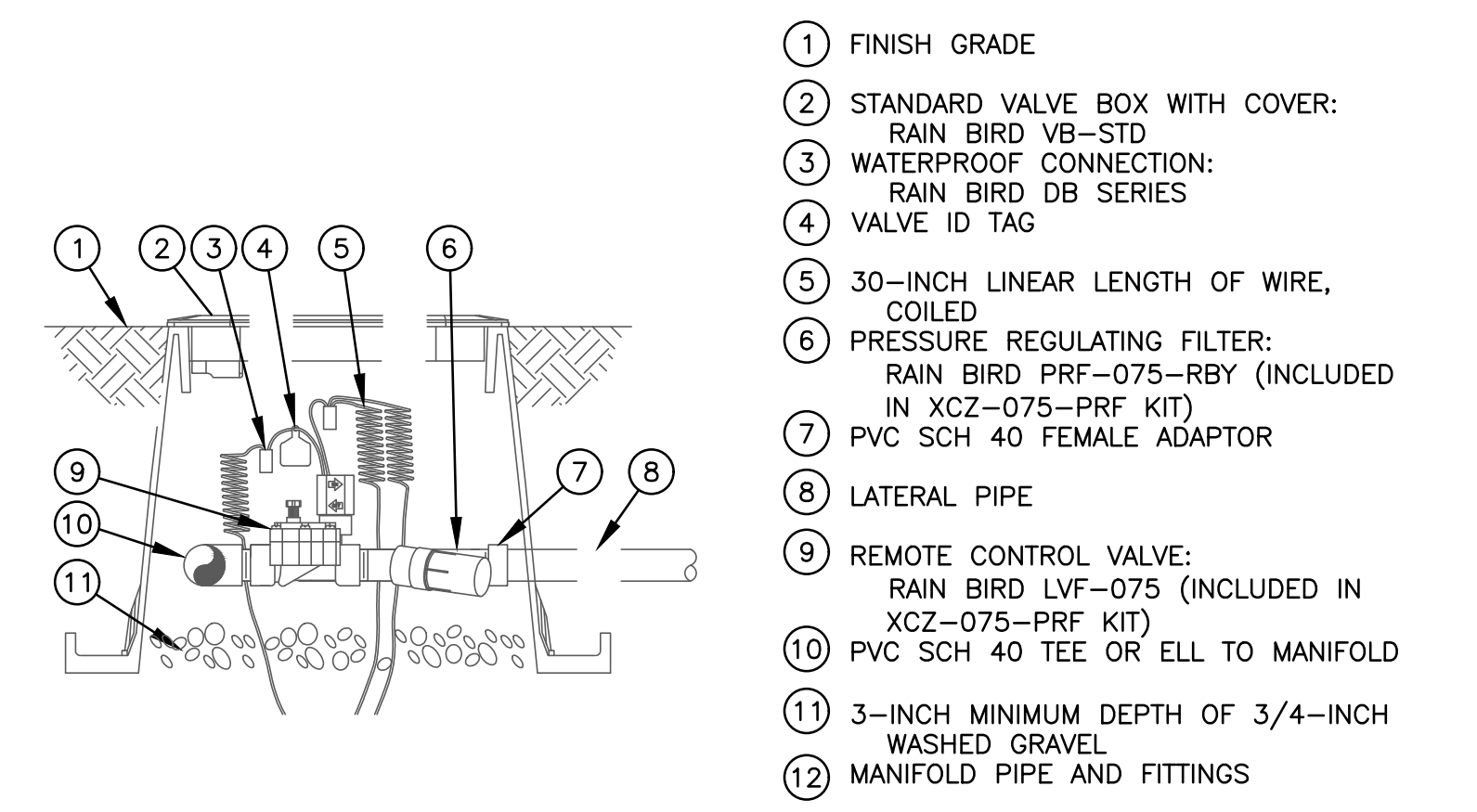
PROVIDE PVC SLEEVE UNDER ALL SIDEWALKS AND PAVING AS FOLLOWS:
 1/2" POLY - 2" PVC SLEEVE
 ALL PVC - 4" PVC SLEEVE



1 BACKFLOW PREVENTER DETAIL

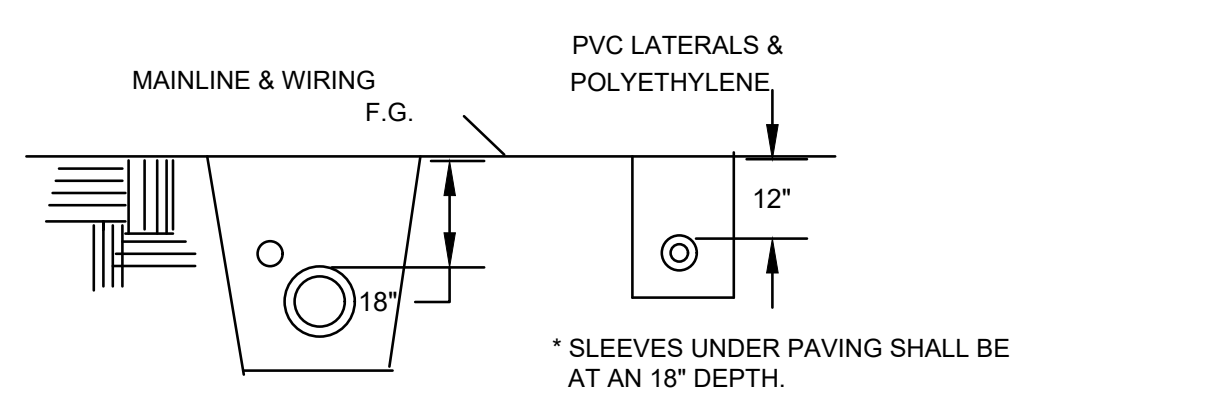


2 HOSE END CAP DETAIL



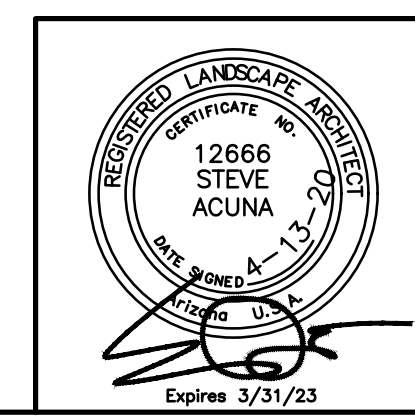
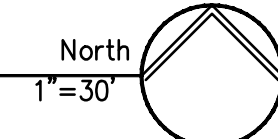
3 DRIP VALVE ASSEMBLY

USE NON PRESSURE REGULATING FILTER WHERE REMOTE PRESSURE REGULATORS ARE USED.



4 TRENCHING DETAIL

IRRIGATION PLAN



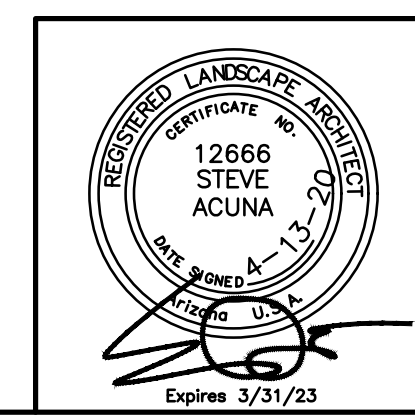
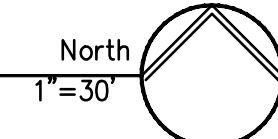
PONDEROSA PARKWAY		HORIZ.
IRRIGATION PLAN		VERT.
Acuña Coffeen Landscape Architects		F.B.
3532 N. Avenida Albor Tucson, Arizona 85745 (520) 441-2754		DESIGN SA
L3 OF 7		DRAWN SA
		CHKD. SA
		JOB NO.

IRRIGATION EQUIPMENT SCHEDULE			
SYMBOL	DESCRIPTION	SPECIFICATION	QUANTITY
☐	CONTROLLER	RAINBIRD ESP-SMT - WALL MOUNT 4 STA.	3
☐6	CONTROLLER	RAINBIRD ESP-SMT - WALL MOUNT 6 STA.	1
⊗	BACKFLOW PREVENTER	FEBCO 825Y 3/4"	4
○	DRIP VALVE ASSEMBLY	RAINBIRD XCZ-075-PRF	17
▣	PRESSURE REGULATOR	RAINBIRD PSA L30X-075	3
	TREE EMITTER	RAINBIRD XB-10-6	275
	SHRUB EMITTER	RAINBIRD XB-10-6	1114

PROVIDE PVC SLEEVE UNDER ALL SIDEWALKS AND PAVING AS FOLLOWS:
 1/2" POLY - 2" PVC SLEEVE
 ALL PVC - 4" PVC SLEEVE



IRRIGATION PLAN



PONDEROSA PARKWAY		HORIZ.
IRRIGATION PLAN		VERT.
Acuña Coffeen Landscape Architects		F.B.
3532 N. Avenida Albor Tucson, Arizona 85745 (520) 441-2754		DESIGN SA
L4 OF 7		DRAWN SA
		CHKD. SA
		JOB NO.



PRE DEVELOPMENT TREE POINTS

1 POINT TREES	69 x 1 =	69
2 POINT TREES	57 x 2 =	114
4 POINT TREES	45 x 4 =	180
8 POINT TREES	19 x 8 =	152
20 POINT TREES	0 x 20 =	0
TOTAL TREE POINTS		515
50% OF TOTAL		258

POST DEVELOPMENT TREE POINTS

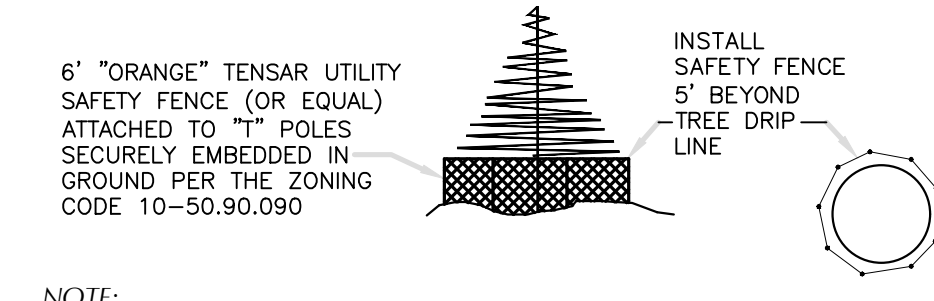
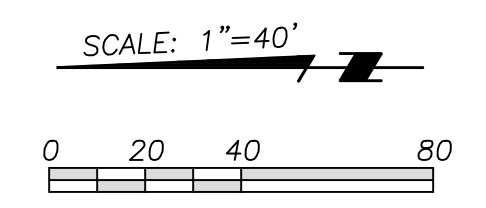
1 POINT TREES	28 x 1 =	28
2 POINT TREES	19 x 2 =	38
4 POINT TREES	22 x 4 =	88
8 POINT TREES	11 x 8 =	88
20 POINT TREES	0 x 20 =	0
SUB TOTAL TREE POINTS		242
EXCESS SLOPE POINTS		21
TOTAL TREE POINTS		263
TREE SAVE PERCENTAGE		51.1

- TREE TO BE SAVED
- TREE TO BE REMOVED

SLOPE CALCULATIONS

NO SLOPES OVER 24.99%
 17-24.99% SLOPE: 133,440 S.F.
 MAX. 30% DISTURBANCE: 40,032 S.F.
 SLOPE DISTURBANCE: 38,990 S.F.
 SLOPE DISTURBANCE: 29.2 %
 EXCESS SLOPE: 1,042 S.F.
 EXCESS SLOPE TREE POINTS: 21
 (1,042 / 50 = 20.8)

THE CROWN DITCH WITH BERM IS INCLUDED IN THE SLOPE DISTURBANCE CALCULATIONS.



NOTE: PROTECTIVE FENCING IS REQUIRED AT THE LIMITS OF DISTURBANCE FOR ALL STREETS, TRACTS, AND UTILITY EASEMENTS. FENCING MUST BE IN PLACE AND INSPECTED BY THE CITY OF FLAGSTAFF PLANNING DIVISION PRIOR TO COMMENCEMENT OF GRADING.

TREE PROTECTION DETAIL
N.T.S.

107-07-002H
SAN FRANCISCO DE ASIS
ROMANS CATHOLIC PARISH
FLAGSTAFF
(ZONE RK)

107-09-001D
HARMON STEVEN B
and MEGHAN
(ZONE HC)

107-08-004C
CF CARWASH
FLAGSTAFF LLC
(ZONE HC)

107-08-004E
MAYER MOUNTAIN
PROPERTIES LLC
(ZONE HC)

107-08-002E
NEMEC FAMILY TRUST
(ZONE HC)

107-07-002H
SAN FRANCISCO DE ASIS
ROMANS CATHOLIC PARISH
FLAGSTAFF
(ZONE RK)

STARBUCKS
107-07-001G
249 A STREET LLC
(ZONE HC)

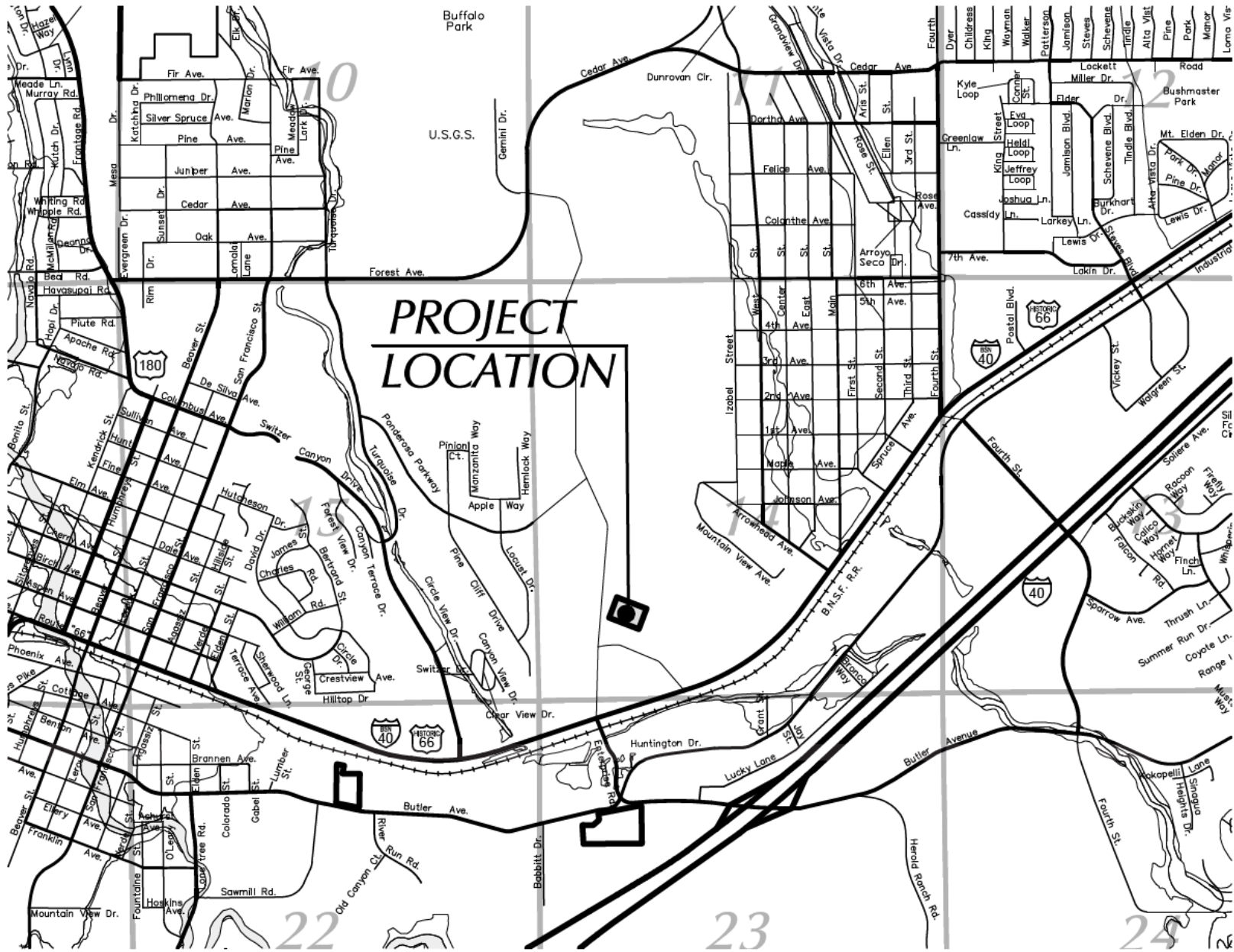


C.O.F. FIRE STATION #2

SHEET NO. 27 OF 29

C.O.F. PROJECT # PZ-17-00227-01





**PROJECT
LOCATION**

NOT TO SCALE

VICINITY MAP

N.T.S.

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

PRELIMINARY PLAT

PZ-17-00227-08

DATE: May 28, 2020
MEETING DATE: June 10, 2020
REPORT BY: Genevieve Pearthree

REQUEST:

Ponderosa Parkway LLC requests preliminary plat approval for Ponderosa Parkway Condominiums—a 169-unit residential condominium subdivision at 1650 E. Ponderosa Parkway. The condominium plat is on 11.97 acres in the HR (High Density Residential) Zone. The development site is located within the Resource Protection Overlay (RPO).

STAFF RECOMMENDATION:

Staff recommends the Planning and Zoning Commission, in accordance with the findings presented in this report, forward the preliminary plat to the City Council with a recommendation for approval.

PRESENT LAND USE:

The site is currently vacant.

PROPOSED LAND USE:

Ponderosa Parkway Condominiums is a residential condominium subdivision development that consists of 169 dwelling units located on 11.96-acres. The condominium units will be built in 13 three-story buildings consisting of 13 units each. The development will include 10% “attainable” for-sale units. The site contains the required civic space, common open space, protected tree and slope resources, and on-site surface parking.

NEIGHBORHOOD DEVELOPMENT:

See the attached vicinity map.

North: San Francisco de Asis Church zoned Rural Residential (RR) and Medium Density Residential (MR)
East: Village Shopping Center zoned Highway Commercial (HC)
South: Commercial uses (including Starbucks, Culvers, and Clean Freak Car Wash) zoned Highway Commercial (HC)
West: City of Flagstaff Fire Station zoned Rural Residential (RR)

REQUIRED FINDINGS:

The Planning and Zoning Commission shall find the proposed preliminary plat meets the requirements of the 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:

I. Project Information

A. Background

On February May 28, 2019 the Inter-Division Staff approved a site plan for 169 new residential units distributed across 13 three-story buildings (PZ-17-00277-02). Approval was based on conformance with all relevant City Development Standards, as discussed in Section C, below.

The 13 three-story buildings contain 13 units each, and include studio to three-bedroom units. The units are approximately 500 to 1,300 square feet. The unit mix includes the following:

<u>UNIT DESCRIPTION</u>	<u>NO. OF UNITS PER BLDG.</u>	<u>NO. OF UNITS TOTAL</u>
Studio	1	13
1 Bed/1 Bath	4	52
2 Bed/2 Bath	6	78
3 Bed/2 Bath	2	26
	13	169

The applicant has elected to construct the buildings according to the Apartment Building Type (10-50.110.170) and the Forecourt Private Frontage (10-50.120.080) standards, in addition to the Residential Sustainability Building Standards in Section 10-30.70.040. Some of the buildings are split-level to accommodate site topography, but the airspace inside each unit type is consistent between the even and split-level buildings.

The applicant has also committed to providing 16 “Attainable Housing Units.” These units will be disbursed throughout the development to the greatest extent feasible (with no exterior difference between the attainable and market rate units). The units will be sold at or below 100% of the Area Median Income (“AMI”) affordability level.

City Council approved a Large-Scale Zoning Map Amendment on September 3, 2019 (Ordinance No. 2019-27) to change the zoning designation from RR (Rural Residential) to HR. City Council also approved Ordinance No. 2019-29 on September 3, 2019 to formally accept all easements on the site received in 2010, and to include maintenance, access, exclusivity, and overall purpose of the easements. Civil engineering plans for the project are currently under review (PZ-17-00277-07).

B. Type of Plat

This application is for a condominium plat, which takes a multi-unit complex, such as the subject property, and creates the potential for individually owned units. The preliminary plat delineates all the elements affiliated with the individual units. In this case, the units are defined as the airspace within each unit. The vertical boundaries start at the finish floor elevation (FFE) of each unit and extend to the ceiling of that unit. The horizontal boundaries start at the inside of the walls enclosing each unit. Each unit also has one or two limited common elements associated with it, which include decks and porches.

Shared areas inside each building and the spaces between the floor plates and walls are considered “common elements.” Tract “A” contains all areas outside of the buildings and the limited common elements. It is dedicated to the owner association as a common element and it is dedicated as a public utility easement for service to the condominiums. It includes tree and slope resources, amenities, private access easements, and drainage and detention basins.

II. Required Findings: Conformance with City Development Standards and Regional Plan

Staff reviewed and approved the site plan and preliminary plat for this project based on conformance with 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.

A. City of Flagstaff Zoning Code

i. High Density Residential (HR) Zone and Regional Plan Development Standards

The property is zoned HR (High Density Residential), which has the following minimum setbacks: Front (10’, and 15’ above the 2nd floor), Side (5’), and Rear (15’). All buildings will be built outside of the minimum required setbacks.

The minimum density requirement in the HR zone is 10 units per acre and the maximum density allowed is 22 units per acre (within the Resource Protection Overlay). However, the site is located within a Suburban Activity Center identified in the Flagstaff Regional Plan 2030 which supports a maximum density of 13 units per acre. Based on the

entire project area (11.97 acres) the Regional Plan supports a total 156 units. However, the applicant has committed to meeting the City's Residential Sustainable Building Standards, which allows a maximum 25% density bonus. This bonus results in an additional 39 units allowed for a total of 195 units, although the proposal is for only 169 units.

The HR zone permits a maximum building height of 60 feet, or 65 feet for buildings with roofs with a pitch greater than 6:12. However the Regional Plan limits building height in a suburban area to three-stories. The highest roofline of the proposed three-story buildings will be just under 48 feet from finished grade.

II. Pedestrian and Bicycle Circulation Systems

The applicant will be installing a 5-foot-wide parkway and 5-foot wide sidewalk along the east side of Ponderosa Parkway. On site, the applicant has proposed sidewalks connecting the buildings, parking areas, the public sidewalks, and the recreational areas. Each building provides bike racks, and the existing FUTS on the west side of Ponderosa Parkway continues into an extensive trail system on McMillian Mesa and ties into Buffalo Park.

III. Parking and Automobile Access

Minimum parking requirements for market rate units on this site are: 302 resident spaces and 26 guest spaces, for a total of 328 required parking spaces. The development is eligible for a 20% reduction in required parking: 10% for being within ¼ mile of transit, 5% for providing bike racks, and 5% for protecting trees in the parking area. These reductions result in the requirement for 262 parking spaces. The proposed development includes 273 surface parking spaces, including 8 ADA accessible parking stalls. There are also 7 motorcycle parking spaces.

Vehicle access to the site is through three driveways off Ponderosa Parkway. The site has two interior drive aisles that provide parking and pedestrian connectivity (the southern drive aisle is a loop and the northern one is a dead end). Parking access for the residential units is rows of surface parking spaces along each side of the drive aisles.

iv. Landscaping

A conceptual landscape plan was approved at site plan, showing substantial conformance with the requirements of parking lot landscaping, street buffer landscaping, building foundation, and peripheral buffer landscaping found within Section 10-50.60 of the Zoning Code. The final landscape plan will be approved through civil engineering plan review. Landscaping requirements for 351 trees (and associated shrubs and groundcover) will be met through existing and new vegetation.

v. Natural Resources

The subject property is in a Resource Protection Overlay Zone. The Zoning Code requires 50% of the tree resources and 70% of the steep slope area be saved. A Natural Resources Protection Plan was included in the 2019 approved site plan. The developer proposes to save 52.4% of the tree resources and 70.8% of the steep slope areas. Tract A of this plat is reserved for natural resource protection.

vi. Open Space & Civic Space

The HR zone requires 15% of the gross lot area to be Common Open Space (Table 10-40-30.030.A). A minimum of 78,176 square feet of open space is required for the proposed residential project. The applicant is proposing 287,130 square feet of common open space, which is 55% of the site area. Most of the open space is positioned at the northern portion of the site, where the protected steep slope is located.

Section 10-30.60.060.B.1.b of the Zoning Code requires developments with 50 or more dwelling units to provide a minimum of 5% of the site as Civic Space. A total of 26,059 square feet of civic space is required. The site plan identifies 27,990 square feet of civic space within the residential development, which is 5.4% of the site area.

vii. Historic/Cultural Resources

A Cultural Resource Letter Report was completed for the subject property on February 12, 2019. The report states that no archaeological or historic resources of any kind were observed on the property.

viii. Residential Sustainable Building Standards

To obtain up to a possible 25% density bonus, this project is meeting the standards listed in Section 10-30.70.040. There are four sections which must be met: 1) Water Resource Protection, 2) Transportation/Air Quality, 3) Waste Reduction During Construction, and 4) Energy Efficiency.

To meet the Water Resource Protection requirement, the landscape design for the development shall not include an oasis zone (Hydrozone 1) as otherwise permitted in Section 10-50.60.050(C), Oasis Allowance, and Section 10-50.60.060, Hydrozones. The Transportation/Air Quality requirements are achieved because the development site is located within at least one-quarter mile of a bus stop. In addition, the development is located within at least one-quarter mile of a FUTS trail. The applicant is also considering providing for electric vehicle charging. To achieve the Waste Reduction During Construction requirements, the new development shall have a written solid waste program that includes a plan for the recycling or reuse of all paper, cardboard, plastics, and metals; a plan for the recycling or reuse of all lumber scraps so that they are diverted from the landfill; and a plan for the diversion of all masonry and cementitious materials so that they are diverted from the landfill. The Energy Efficiency component is achieved by applying the HERS rating system. The applicant shall obtain independent third-party verification that the minimum HERS rating has been achieved.

B. Title 13: City of Flagstaff Engineering Standards

Staff conducted a public systems analysis as part of site plan approval to verify conformance with City Engineering Standards.

i. Traffic/Right-of-Way Impact

The size of the proposed development did not trigger a full Traffic Impact Analysis. Instead, an analysis was required to determine if the new driveways warranted a right turn deceleration lane. The analysis showed that the middle driveway, which serves the greatest number of units, required a right turn lane, as shown on the site plan. The new right turn deceleration lane shall be constructed according to City of Flagstaff Standards.

ii. Water and Wastewater Impact

A Water and Sewer Impact Analysis (WSIA) was completed by the City on November 30, 2018. The proposed development is located within the City of Flagstaff urban growth boundary and can be served by City water and sewer utilities. Currently there is no infrastructure in the ground on-site to support this development, so all on-site sewer and water systems will have to be designed and built. No off-site water or sewer improvements will be required. It is the developer's responsibility to design and construct all on-site and connecting water infrastructure per the City of Flagstaff Engineering Standards.

iii. Water

The existing 12" water main stops just north of the project's first driveway. The applicant plans to extend the 12" water main across the entire frontage. Extending the waterline in the right-of-way shall be done according to City of Flagstaff Standards.

iv. Wastewater

There is an existing 12" sewer line running within a public utility easement along the southern boundary that will serve this project. The developer also plans to extend the existing 12" sewer line along the Ponderosa Parkway frontage. Tapping the sewer line in the easement and constructing the sewer in the right-of-way shall be done according to City of Flagstaff Standards.

v. Stormwater Analysis

A Drainage Impact Analysis (DIA) was required as part of the rezoning request. The intent was to determine any potential adverse downstream drainage impacts and to identify mitigation options. The project's overarching drainage concept is in response to the requirements identified in the DIA: to provide peak flow stormwater

discharge mitigation (detention), partial stormwater runoff volume mitigation (LID ROCV) and improvement to the water quality of site discharges (LID) and onsite stormwater conveyance improvements.

C. Title 11: General Plans and Subdivisions, Chapter 11-20: Subdivision and Land Split Regulations

i. Preliminary Plat

IDS approved the Preliminary Plat based on conformance with the procedures and application requirements outlined in Section 11-20.60: Preliminary Plat.

ii. Subdivision Standards and Regulations

IDS also approved the Preliminary Plat based on conformance with relevant standards in Section 11-20.120: Subdivision Design Standards and Requirements. Not all of the standards are applicable to this plat, however, because it is a condominium plat.

ii. Minimum Required Subdivision Improvements

Staff review of the preliminary plat along with the impact analyses discussed above identified the required improvements to adjacent streets and pedestrian ways, in conformance with Section 11-20.130: Minimum Required Subdivision Improvements. These improvements will commence once Civil Engineering Plans are approved.

REQUIRED FINDINGS:

The Planning and Zoning Commission shall find the proposed preliminary plat meets the requirements of the 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.

Recommendation

Staff recommends the Planning and Zoning Commission, in accordance with the required findings presented in this report, forward the preliminary plat to the City Council with a recommendation for approval.

Attachments:

- Application
- Preliminary Plat (5 sheets, 24 x 36")
- Landscape Plan (7 sheets, 24 x 36")
- Natural Resource Protection Plan (1 sheet, 24 x 36")
- Vicinity Map

Ponderosa Parkway Condominiums

Preliminary Plat Approval Request

City Council | July 7, 2020

Genevieve Pearthree | Planning Development Manager

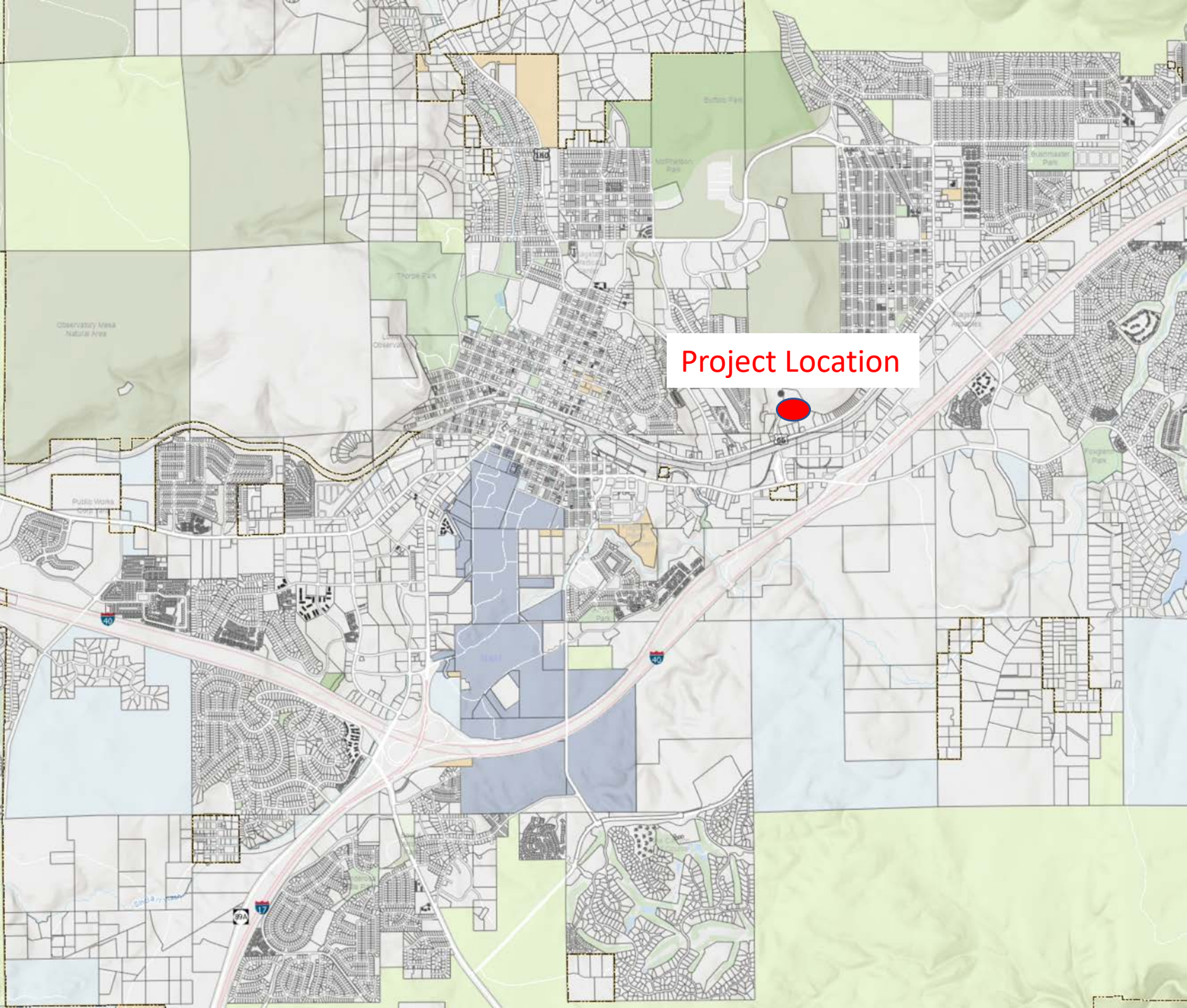




Request Overview

- Request from Ponderosa Parkway LLC for preliminary plat approval for a 169-unit residential condominium subdivision on 11.97 acres at 1650 E. Ponderosa Parkway in the HR Zone
- **Condominium plat creates individually owned units**
 - Ownership is of the airspace within each unit plus the limited common elements associated with each unit (porches and decks)

Vicinity Map



Project Location



TEAM FLAGSTAFF
WE MAKE THE CITY BETTER



Development Overview

- 169 units across 13 3-story buildings (13 units per building)
- Approval history
 - Staff approved site plan in May 2019
 - Council approved Large-Scale Zoning Map Amendment from RR to HR in September 2019
 - Civil engineering plans approved June 2020
 - Building plans currently under review
- **Focus of preliminary plat development request:** owner wants to create a condominium project to enable individually-owned units

Ponderosa Parkway Condominiums Preliminary Plat



TEAM FLAGSTAFF

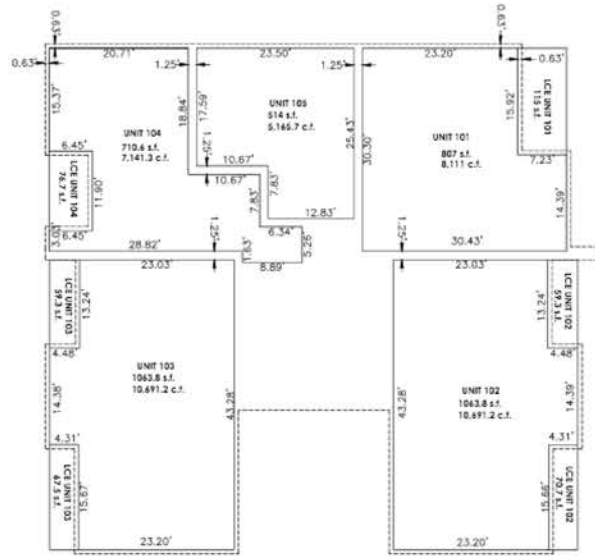
WE MAKE THE
CITY BETTER



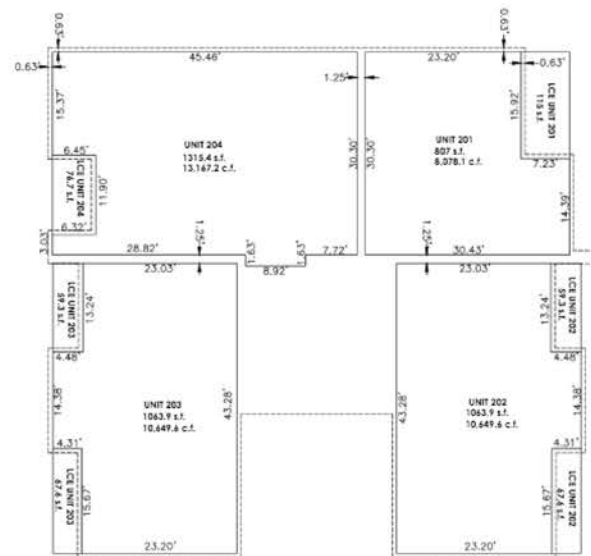
Floor Plans

PRELIMINARY PLAT FOR PONDEROSA PARKWAY CONDOMINIUMS

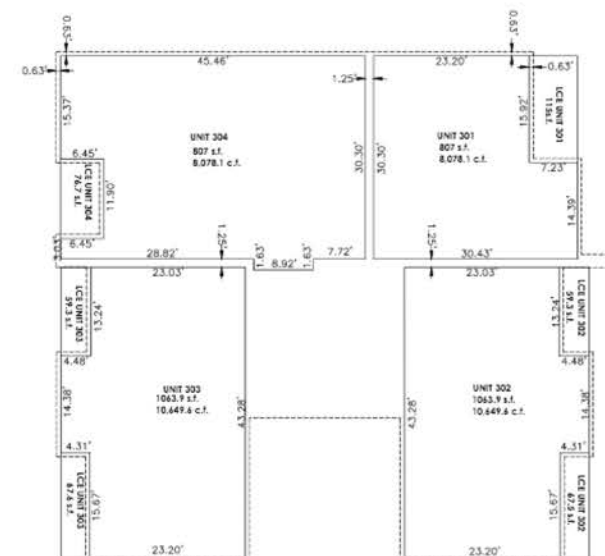
LOCATED IN THE SW 1/4 OF SECTION 14,
TOWNSHIP 21 NORTH, RANGE 7 EAST, G&S.R.M.
FLAGSTAFF, COCONINO COUNTY, ARIZONA



FIRST FLOOR LOTS



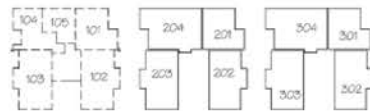
SECOND FLOOR LOTS



THIRD FLOOR LOTS

ADDRESSING

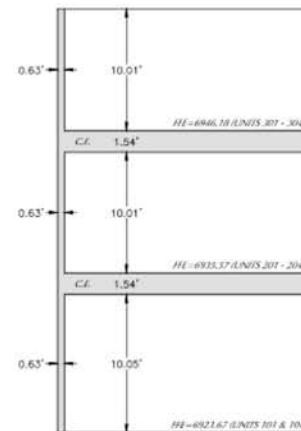
1650 E. PONDEROSA PARKWAY



FIRST FLOOR UNIT NUMBERS
SECOND FLOOR UNIT NUMBERS
THIRD FLOOR UNIT NUMBERS

FIRST FLOOR AREAS

UNITS 101 - 104 SQUARE FOOTAGE: 2,828
1ST FLOOR C.E. SQUARE FOOTAGE: 486
1ST FLOOR L.C.E. SQUARE FOOTAGE: 481
BREEZEWAY C.E. SQUARE FOOTAGE: 197
COURTYARD C.E. SQUARE FOOTAGE: 1,097



BUILDING ELEVATIONS

FINISH FLOOR ELEVATION

FINISH FLOOR ELEVATION	FINISH FLOOR ELEVATION
Building 1 6875.25 Units 101, 102, 103, 104, & 105	Building 8 6874.75 Units 102 & 103 6880.25 Units 101, 104, & 105
Building 2 6874.40 Units 101, 102, 103, 104, & 105	Building 9 6900.85 Units 102 & 103 6906.35 Units 101, 104, & 105
Building 3 6874.75 Units 103, 104, & 105 6872.70 Units 101 & 102	Building 10 6902.90 Units 102 & 103 6908.40 Units 101, 104, & 105
Building 4 6878.15 Units 103, 104, & 105 6875.65 Units 101 & 102	Building 11 6902.62 Unit 103 6902.12 Unit 102 6906.12 Units 101, 104, & 105
Building 5 6882.10 Units 102 & 103 6887.60 Units 101, 104, & 105	Building 12 6902.09 Unit 103 6901.59 Unit 102 6907.59 Units 101, 104, & 105
Building 6 6879.50 Unit 103 6885.00 Units 101, 104, & 105 6877.50 Unit 102	Building 13 6901.56 Unit 103 6901.06 Unit 102 6907.06 Units 101, 104, & 105
Building 7 6877.00 Unit 103 6875.50 Unit 102 6882.50 Units 101, 104, & 105	



ABBREVIATIONS

FFE FINISH FLOOR ELEVATION
S.F. SQUARE FEET
C.F. CUBIC FEET
HT HEIGHT
C.E. COMMON ELEMENT
L.C.E. LIMITED COMMON ELEMENT



E1 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



E6 NORTH ELEVATION
SCALE: 1/8" = 1'-0"

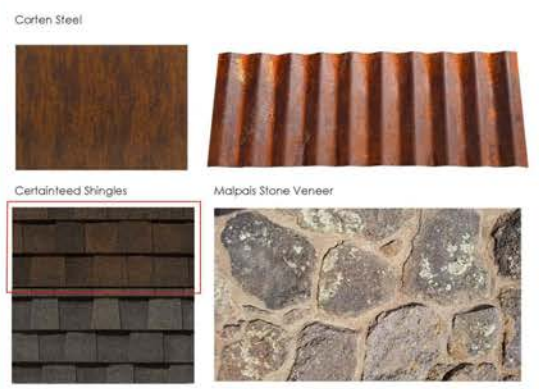


A1 WEST ELEVATION
SCALE: 1/8" = 1'-0"



A6 EAST ELEVATION
SCALE: 1/8" = 1'-0"

Scheme 1	Scheme 2	Scheme 3	Scheme 4	Scheme 5	Scheme 6
Rookwood Brown	Weathered Shingles	Weathered Shingles	Rookwood Medium Brown	Sycamore Tan	Dawning Earth
Renwick Olive	Roycroft Brass	Rookwood Brown	Dawning Earth	Roycroft Pewter	Roycroft Bronze Green
Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown
Aurora Brown	Aurora Brown	Aurora Brown	Aurora Brown	Aurora Brown	Aurora Brown





E1 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



E6 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



A1 WEST ELEVATION
SCALE: 1/8" = 1'-0"



A6 EAST ELEVATION
SCALE: 1/8" = 1'-0"

Scheme 1	Scheme 2	Scheme 3	Scheme 4	Scheme 5	Scheme 6	Carfen Steel
Rookwood Brown	Weathered Shingle	Weathered Shingle	Rookwood Medium Brown	Sycamore Tan	Downing Earth	
Renwick Olive	Roycroft Brass	Rookwood Brown	Downing Earth	Roycroft Pewter	Roycroft Bronze Green	
Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	
Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	Rookwood Dark Brown	
						Certaineed Shingles
						Malpais Stone Veneer





Required Finding #1



Meets Zoning Code (Title 10) Standards

- **HR Zone:** meets density, height, setbacks, etc.
- **Circulation/Parking:** Providing > min. required parking spaces, providing new pedestrian/bikeways
- **Landscaping:** requirements met through existing and new plants
- **Open Space and Civic Space:** Providing > min. (55% and 5.4% of site area)
- **Heritage Preservation:** Letter report found no arch./hist. resources
- **Resource Protection:** Protecting > min. trees and steep slopes



Required Finding #2

Meets Engineering Standards (Title 13)

- **Traffic Impact Analysis:** project will provide right turn lane for middle driveway
- **Water/Sewer Impact Analysis:** project will provide new 12" water and sewer mains across frontage on Ponderosa Pkwy
- **Drainage Impact Analysis:** project will provide 4 LID basins to capture and meter out stormwater



Required Finding #3

Meets Meets Subdivision and Land Split Regulations (Chapter 11-20)

- Meets preliminary plat **procedures, application requirements**
- Meets **Subdivision Standards and Regulations**
- Meets **Minimum Required Subdivision Improvements**
(identified in impact analyses)



Findings and Recommendation

Required Findings

- Staff and Planning and Zoning Commission have found **the preliminary plat meets the requirements** of:
 - City Code Title 10, Flagstaff Zoning Code
 - City Code Title 11, General Plans and Subdivisions
 - City Code Title 13, Engineering Design Standards & Specifications

Staff Recommendation

- Staff recommends, based on the required findings and the Planning and Zoning Commission recommendation of approval (5-0 vote), the **City Council approve the preliminary plat**

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Adam Miele, Senior Project Manager
Co-Submitter: Stacey Brechler-Knaggs
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Approval of Contract: Professional Architectural Design Services Contract for the Airport Snow Removal Equipment Building in the amount of \$859,977.

STAFF RECOMMENDED ACTION:

1. Approve a Professional Architectural Design Services Contract with APMI, Inc. for the programming and design phased services in the amount of \$859,977 with a contract time of 365 calendar days; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Award of this Professional Architectural Design Services Contract ("Contract") will authorize the final programming and design of the new Snow Removal Equipment Building to proceed. The new facility will bring together snow removal services into one centralized location (currently these services are spread throughout the existing airport fire station).

Financial Impact:

This project is 100% funded by a grant from the U.S. Department of Transportation, Federal Aviation Administration. Since the grant offer is based on bids the grant agreement has not been received and approved by council, however the city has received FAA approval to proceed with the design services per an FAA Go Letter in the amount of \$1,098,177, attached to this staff summary. Staff will be presenting the FAA Grant Offer to council sometime in August. This project is budgeted in 221-07-222-3423-0-4421 in FY 2020-21.

Policy Impact:

No anticipated policy impacts anticipated.

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

Maintain and deliver quality, reliable infrastructure. This facility will provide maintenance and support of the delivery of core winter services needed for all aircraft (fixed wing and non-fixed) operations. In addition to housing all of the snow removal equipment, this facility will relieve the current space needs deficit for the fire station. The increase in the available space at the fire station we be made by housing all of the snow operations equipment in the new facility.

Has There Been Previous Council Decision on This:

Yes. Council in 2018 (December) was presented with the updated airport master plan that identified the need and recommended location for the new facility.

Options and Alternatives:

1. Authorize the acceptance of the Contract from APMI, Inc. for professional services.
2. Reject the acceptance of the Contract from APMI, Inc. for professional services and re-solicit for the services.
3. Reject the Contract and continue existing operations in the existing facility.

Background/History:

The newly updated master plan indicates the need to centralize the snow removal equipment away from fire operations. Due to the addition of the second commercial carrier, the federal requirements for winter operations (snow removal) require additional removal equipment and more stringent service times. In order to achieve the federal requirements, additional operations equipment was ordered.

Per Arizona State Law, a Request for Statement of Qualifications (RSOQ) solicitation was used to select the Design firm. A five-person evaluation committee was established that consisted of four (4) City staff, one of which is a registered engineer, one of which is a registered architect and one (1) principal of a commercial licensed general contractor. Specific evaluation criteria were provided within the RSOQ and were used by the committee during the selection process.

Procurement and the review panel conducted an initial review of all six (6) proposals for responsiveness to the requirement presented in the RSOQ. All six (6) proposals were accepted and passed on to the evaluation committee.

Key Considerations:

The solicitation for the contractor was very successful and generated six (6) interested bids. The highest scored design professional is very much aware of the preferred design/construction timeline. The contractor is confident the project will be completed on time and on budget.

Community Benefits and Considerations:

The City will benefit in numerous ways with the completion of this project. There will be a consolidation of facility resources (staff, equipment...) and thus, efficiency in these services is expected to increase.

Community Involvement:

Consult – Staff will continue to share the design progress with the airport commission as well as City Council. Empower – The Federal Aviation Administration and City Council have been very supportive of the project.

Expanded Options and Alternatives:

1. Authorize the acceptance of the Contract from APMI, Inc. for professional services.
 2. Reject the acceptance of the Contract from APMI, Inc. for professional services and re-solicit for the services.
 3. Reject the Contract and continue existing operations in the existing facility.
-

Attachments: FAA - Go Letter
 Contract
 Notice of Grant Award



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airports
Western-Pacific Region
Phoenix Airports District Office

3800 N. Central Avenue
Suite 1025, 10th Floor
Phoenix, AZ 85012

September 5, 2019

Mr. Barney Helmick
Flagstaff Airport
Manager
6200 S. Pulliam Dr. #204
Flagstaff, Arizona 86005

Dear Barney,

Based upon the most recent information the FAA has finalized a project list for your airport that will be considered for funding in the Fiscal Year (FY) 2020 Airport Improvement Program (AIP). Those projects are:

1. Design Snow Removal Equipment Building – 30,000 square feet
\$1,098,177 Total Project Estimate (Design) (\$1,000,000 Federal Share)

We trust that you still intend to proceed with this work in the upcoming FY 2020 AIP cycle. Please provide our office a written response with your concurrence. Alternatively, if the above project(s) or estimate(s) are not accurate, or if you no longer desire to accomplish this work in the given FY please respond applicably.

This is not a guarantee of funding, nor is the value of the project considered a final determination by the FAA. The Congressional notification of funding, if issued, will serve as your official announcement that funding is available for your location. We ask that you portray all work activities performed prior to Congressional release of funds as a sponsor initiative as opposed to a confirmation of Federal funding.

As a reminder, the FAA environmental review for the referenced project(s) is to be complete by December 28, 2019. Therefore, submission of your National Environmental Policy Act (NEPA) documentation is due NLT October 1, 2019. Please coordinate with your respective FAA Environmental Protection Specialist (EPS).

Additionally, the Grant Application (Form SF-424 and Form 5100-100/101, available for download at <https://www.faa.gov/airports/resources/forms/>), should also be submitted to our office no later than December 28, 2019.

Sponsor procurement of professional consulting services must comply with the most current version of FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects. Currently, your procurement process should be

initiated or completed. Please consult with your assigned FAA planner or engineer regarding status and required documentation.

For construction and equipment contracts, the deadline for opening bids is tentatively May 1, 2020. This means the sponsor must undertake developing plans & specifications in accordance with all applicable AIP standards before grant issuance. Eligible project formulation costs are reimbursable under future grants. Please work closely with your assigned FAA planner or engineer throughout this process to ensure eligibility and concurrence.

We look forward to your response. Please continue to keep close coordination every step through process.

Sincerely,

A handwritten signature in cursive script that reads "Jared M. Raymond".

Jared Raymond

CONTRACT FOR PROFESSIONAL SERVICES
Contract No.: 2020-54

This Contract is entered into this ____ day of _____, 20__ by and between the City of Flagstaff, a political subdivision of the State of Arizona ("City"), and APMI, Inc., an Arizona corporation ("Contractor").

WHEREAS, the City of Flagstaff desires to receive and Contractor is able to provide professional services;

NOW THEREFORE, in consideration for the mutual promises contained herein, the City and Contractor (the "parties") agree as follows:

SERVICES

1. **Scope of Work:** Contractor shall provide the professional services generally described as follows:

**PROFESSIONAL ARCHITECTURAL SERVICES
FOR
AIRPORT ARCHITECTURAL SERVICES**

and as more specifically described in the scope of work attached hereto as Exhibit A.

2. **Schedule of Services:** Contractor shall perform all work per the schedule set forth in Exhibit A.
3. **Grant Provisions:** The parties agree to comply to the Grant Provisions attached hereto as Exhibit D.
4. **Standard Terms and Conditions:** The City of Flagstaff Standard Terms and Conditions, attached hereto as Exhibit B are hereby incorporated by reference by reference and shall apply to performance of this Contract, except to the extent modified in Exhibit A.
5. **Key Personnel/Subcontractors:** Contractor's Key Personnel, Subcontractors (if any), and contact information are designated in Exhibit A. Key Personnel are those employees whose license number and signature will be placed on key documents and those employees who have significant responsibilities for completion of the services. The City Representative for this Contract has the right to approve any proposed substitution of Key Personnel or Subcontractors.

CITY RESPONSIBILITIES

6. **City Representative:** The City Representative is Matthew Luhman, Purchasing Manager, or his/her designee. All communications to the City shall be through the City Representative. City Representative is responsible for bringing any request for a Contract amendment or price adjustment to the attention of the City Buyer.
7. **City Cooperation:** City will cooperate with Contractor by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for Contractor's performance of this Contract.

CONTRACT TERM

8. Contract Term: The Contract shall be effective as of the date signed by both parties. Performance shall commence within ten (10) days from the City's issuance of the Notice to Proceed and shall be in force for an initial term of three (3) consecutive years.
9. Renewal: This Contract may be renewed for up to two (2) additional one (1) year terms by mutual written consent of the parties. The City Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.
10. Termination: This Contract may be terminated pursuant to the Standard Terms and Conditions attached hereto.

PAYMENT

11. Compensation: Contractor shall be paid eight hundred fifty-nine thousand nine hundred seventy-seven dollars and zero cents (\$859,977.00) for satisfactory performance of the work identified in the scope of work attached hereto as Exhibit A.
12. Price Adjustment: If price adjustments are permitted (see Exhibit A), any price adjustment must be approved by the City in writing as a formal Contract Amendment. The City Council must approve the price adjustment if the annual contract price exceeds \$50,000; otherwise the City Manager or his designee (the Purchasing Director) shall have authority to approve a price adjustment on behalf of the City.

DATA AND RECORDS

13. City Ownership of Document and Data: Any original documents prepared or collected by Contractor in performance of this Contract such as models, samples, reports, test plans, survey results, graphics, tables, charts, plans, maps, specifications, surveys, computations and other data shall be the property of City ("City's work product"), unless otherwise agreed by the parties in writing. Contractor agrees that all materials prepared under this Contract are "works for hire" within the meaning of the copyright laws of the United States and hereby assigns to the City all rights and interests Contractor may have in the materials it prepares under this Contract, including any right to derivative use of the material.
14. Re-Use: City may use City's work product without further compensation to Contractor; provided, however, City's reuse without written verification or adaption by Contractor for purposes other than contemplated herein is at City's sole risk and without liability to Contractor. Contractor shall not engage in any conflict of interest nor appropriate any portion of City's work product for the benefit of Contractor or any third parties without City's prior written consent.
15. Delivery of Document and Data: Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Contractor shall immediately deliver to City copies all of City's work product and any other documents and data accumulated by Contractor in performance of this Contract, whether complete or in process.

INSURANCE

16. Insurance: Contractor shall meet insurance requirements of the City, set forth in Exhibit C.

MISCELLANEOUS

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

To the City:

Matthew Luhman, Purchasing Manager
City of Flagstaff
211 W. Aspen
Flagstaff, Arizona 86001
mluhman@flagstaffaz.gov

To Contractor:

Adam Siros, Principal
APMI, Inc.
323 North Leroux Street; Suite 202
Flagstaff, Arizona 86001
asiros@apmi.com

18. Authority. Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

CONTRACTOR

Print name: _____

Title: _____

CITY OF FLAGSTAFF

Print name: _____

Title: _____

Attest:

City Clerk

Approved as to form:

City Attorney's Office

EXHIBIT A
SCOPE OF WORK

(Found on following pages)



architecture
planning
management
interiors



Proposal . Bid Response

for

Snow Removal Equipment Building (Airport Architectural Services)

RSOQ 2020-54
Submitted: May 11th, 2020

FLAGSTAFF
323 North Leroux Street
Suite 202
Flagstaff, Arizona 86001
o 928.699.6226
apmi.com

Design. Experience.



architecture
planning
management
interiors

Date: 11 May 2020

Hello:

To:

Adam Miele
City of Flagstaff
211 West Aspen Avenue
Flagstaff, AZ 86001

APMI, Inc. is pleased to have this opportunity to submit the following proposal for Architectural and Engineering Services to develop the design of the Snow Removal Equipment Building at Pulliam Airport. This proposal is being submitted in accordance with the RSOQ documents provided to APMI outlining the project scope, including the Architectural & Engineering Services Contract, grant provisions, and attachment documents. This proposal is also based on email exchanges between City Staff and APMI. This proposal will act as the basis of our proposed scope of services with the following exclusions and assumptions. This proposal shall govern should there be any modifications of or discrepancies between the proposal and the attached documents.

Re:

A/E Proposal
Pulliam Airport -
Snow Removal
Equipment Building

Project Scope (Listed by Discipline):

General:

It is understood that the project will consist of developing a Snow Removal Equipment Building on an existing site for City of Flagstaff's Aviation Department at Pulliam Airport. The total site improvement area will include approximately 2 acres. The site will house (1) new building of approximately 30,000 s.f. to support vehicle storage, maintenance shop and office space. The building will be capable of supporting the Flagstaff Airport's Snow and Ice Control Plan for multiple 24-hour operational periods. The building is anticipated to be constructed conventionally (masonry or steel frame). Project design will be determined through an extensive programming effort to be completed as a part of this scope of work and the total design and construction budget is yet to be established.

It is understood that the site plan and building elevations have yet to be established however the master plan does show the proposed building site northeast of the existing AARF building. The APMI team will complete programming, design and construction administration to support this new building. The new snow removal equipment building will incorporate LEED Silver Certification requirements. Services for LEED shall include but not be limited to energy modeling, documentation submittal and commissioning. It understood that the project design will be delivered in a single phase.

FLAGSTAFF

323 North Leroux Street
Suite 202
Flagstaff, Arizona 86001
o 928.699.6226

apmi.com

Design. Experience.

Architecture:

APMI Inc. will provide Architectural design and project management services for the Snow Removal Equipment Building at Pulliam Airport for the City of Flagstaff. This includes the architectural design, construction administration and project management services required for the proposed improvements noted above.

APMI's scope of work is as follows:

- Task 1 – Field Investigations: APMI will visit the site to confirm that the as-built documentation provided is accurate and can be used as a basis for the initial programming and design of the site. Preliminary backgrounds will be prepared for distribution to the project team.
- Task 2 – Programming: APMI will lead and conduct a single day programming work and interview session with the appropriate City staff to develop the space needs for the facility. Using that data, APMI will prepare a program report and space plan for the facility. This will include:
 - i. Review all available material to familiarize ourselves with any previously completed work effort and the background data used to develop that work.
 - ii. Interview key staff to determine functional requirements and operational characteristics of the operation to develop a space program for all operational and maintenance spaces.
 - iii. Review fleet size, mix, and projected growth.
 - iv. Review current and projected space requirements.
 - v. Develop space plans to reflect the discussions held during the interviews.
- Task 3 – Schematic Design: Based on the outcome of the data obtained during programming, APMI will guide the Team through schematic design. During the schematic design phase we will:
 - i. Develop site layouts based on circulation patterns for vehicles. This will include review of site area relationships. The site plan will be adjusted as needed to accommodate the City's needs and desires.
 - ii. APMI will prepare and develop site plans, building elevations and massing models too convey the overall site and building schematic design. Those plans will be used for submission to the City of Flagstaff for concept plan submittal.
 - iii. APMI will also review and refine building floor plans and layouts.

- iv. Preliminary equipment and infrastructure layouts will be prepared.
 - v. APMI will begin to establish preliminary estimates of probable cost.
- Task 4 – Design Development: During the design development phase, APMI will continue to refine the drawings adding additional detail needed to further define the project scope.
 - i. APMI will work to develop an approach for constructability and prepare preliminary detailing for the project.
 - ii. APMI will prepare preliminary specifications for the project.
 - iii. Spatial needs for equipment and functional workflow will be refined. APMI will coordinate with WRA, KLH and the Team to develop requirements specific to equipment.
 - iv. APMI will further develop estimates of probable cost.
- Task 5 – Construction Documents: During construction document phase, APMI will continue to refine the drawings adding additional detail needed to finalize the project scope.
 - i. APMI will develop complete construction documents, including all plans and specifications for the project based on the direction determined during previous task efforts.
 - ii. APMI will finalize the estimates of probable cost.
- Task 6 – Approvals / Permitting: APMI will submit all required plans to obtain permits through City of Flagstaff Building and Engineering departments. It is assumed that Fire Sprinkler plans will be prepared by the Fire Protection sub-contractor and will be dealt with as a deferred submittal. APMI will address all City comments and resubmit plans as required to obtain a building permit. Plan review fees are not included in our proposal.
- Task 7 – Bidding / Contract Award: It is assumed that this project will be hard bid. APMI will respond to bid questions and RFI's as needed. APMI will prepare any required addenda to the construction documents.
- Task 8 – Construction Office: The construction phase shall include the office support that will be required to review all Contractor Submittals, respond to contractor questions and respond to RFI's. This will include providing field reports for required FAA documentation and assisting the City in Davis-Bacon compliance documentation and certified payroll reviews.
- Task 9 – Construction Field: APMI has assumed a construction duration of approximately nine and a half months. Weekly construction progress meetings are anticipated. A total of (40) forty meetings for progress/site visits during

construction and (4) four meetings for punchlist and closeout have been included in this scope. Site visits have been allocated according to the quantity outlined above. If either fewer or additional site visits are required by the project, the fee will be adjusted accordingly.

- Task 10 – LEED Documentation / Compliance / Commissioning: APMI will coordinate the overall LEED Certification effort and act as the LEED project administrator. APMI will coordinate all design team members and prepare the required documents for the design portion of the USGBC submittal to LEED Online. APMI will require that the general contractor assign a LEED coordinator to prepare all documentation for the construction related credits and provide them to APMI for review prior to upload to LEED Online. APMI will also participate in the commissioning effort and assist the team in ensuring that all systems are functioning as designed.
- Task 11 – Cost Estimating: APMI will prepare estimates of probable construction cost at the key milestone phases notes above.
- Task 12 – Record Drawings: APMI will prepare record drawings based on redlines provided by the contractor. APMI will provide one (1) hard copy set of Record Drawings. APMI will also provide an electronic set of drawings on CD in CAD and in PDF format. A complete digital copy of all submittals will also be provided at closeout.
- Task 13 – Project Closeout: The project is being delivered under a design-build contract and CORE will be responsible for providing project closeout.

Landscape Architecture:

Colwell-Shelor will provide Landscape Architecture design services for the Snow Removal Equipment Building at Pulliam Airport for the City of Flagstaff. Their scope includes a concept plan for submission to the City of Flagstaff and includes all landscaping services required to obtain permits in the City of Flagstaff. Colwell-Shelor's complete proposal is attached for reference.

Civil Engineering:

Peak Engineering will provide Civil Engineering design services for the Snow Removal Equipment Building at Pulliam Airport for the City of Flagstaff. Civil engineering work includes site grading and paving, utility connection and drainage design from concept design through construction phase support services.

The proposed site is located north of the existing Fire Station on Tract 2 of the Pulliam Airport Airpark subdivision. Peak Engineering's complete proposal is attached for reference.

Structural Engineering:

Hubbard-Merrell Engineering (HME) will provide Structural engineering design services for the Snow Removal Equipment Building at Pulliam Airport for the City of Flagstaff. HME's complete proposal is attached for reference.

Mechanical/Plumbing/Electrical/Fire Protection Engineering:

IMEG Corporation (IMEG) will provide Mechanical, Plumbing, and Electrical engineering design services for the Snow Removal Equipment Building at Pulliam Airport for the City of Flagstaff. IMEG's complete proposal is attached for reference.

Maintenance Equipment Consulting Services:

Maintenance Facility Consultants (MFC), a division of WRA, will provide maintenance equipment consulting services for the Snow Removal Equipment Building at Pulliam Airport for the City of Flagstaff. Their scope includes all consulting services required to program, plan and assist the design team to achieve proper operational workflow. MFC's complete proposal is attached for reference.

LEED Documentation/Certification/Commissioning Services:

APMI, IMEG Corporation (IMEG), Colwell-Shelor and Peak Engineering will provide LEED Documentation and Certification services for the Snow Removal Equipment Building project. LEED Commissioning services will be provided by IMEG. This includes achieving a minimum certification level of Silver. The LEED project scope is further clarified as follows:

- a. APMI will be submitting this under the BD+C guidelines.
- b. APMI, IMEG, Colwell-Shelor and Peak will develop, document and submit all required documentation to LEED® On-line.
- c. LEED Fees are based on the USGBC fee schedule as of the date of this proposal. If USGBC registration and certification fees increase or decrease, the fee structure will need to be adjusted.
- d. Energy modeling to comply with LEED requirements will be included.
- e. APMI, IMEG, Colwell-Shelor and Peak Engineering will provide the periodic onsite observations to LEED compliance during construction.
- f. Provide pre-functional check lists for commissioned systems.

- g. Prepare documentation and conduct Functional Testing of systems to be commissioned.
- h. Attend final Cx meeting/Project Closeout
- i. Prepare Final Commissioning Report.
- j. Submission of documentation to LEED® On-line.

ADDITIONAL SERVICE ITEMS – OUTSIDE SERVICES:

Land Surveying Services:

Northland will provide topographic survey and basemap services for the Snow Removal Equipment Building at Pulliam Airport for the City of Flagstaff. Northland will be a sub-consultant to Peak Engineering. Peak's complete proposal is attached for reference.

Geotechnical/Soils Investigation Services:

Speedie and Associates will provide Geotechnical Investigation for the Snow Removal Equipment Building at Pulliam Airport for the City of Flagstaff. Speedie's complete proposal is attached for reference.

Technology System Design Services:

IMEG Corporation (IMEG) will provide technology systems design for the Snow Removal Equipment Building at Pulliam Airport for the City of Flagstaff. IMEG's complete proposal is attached for reference.

Airport Specialty Consultant Services:

Kimley Horn (KLH) will provide airport specialty consulting services for the Snow Removal Equipment Building at Pulliam Airport for the City of Flagstaff. KLH's complete proposal is attached for reference.

PROJECT EXCLUSIONS:

All of the following exclusions can be provided by the APMI Team should they become necessary or should The City of Flagstaff desire them. These services would be individually negotiated, based on the scope of services desired.

1. Design services that would be required to manage, coordinate and prepare separate design packages to facilitate a multi-phased or fast track construction process.
2. Work outside of the immediate site area, except for that which may be required to support grading/drainage design and utility connections.

3. Design and specification of "special systems", i.e., telecommunications, security, data, etc. An empty conduit raceway system will be provided based on equipment supplier's layouts provided by Client's Vendor.
4. Permitting and plan review fees to the City of Flagstaff or to local utility companies. It is understood that the City will pay these fees directly.
5. Construction and materials testing.
6. Special inspection services, including special structural, architectural and electrical inspections.
7. Archeological monitoring. It is assumed that this is not required.
8. Resource Protection. It is assumed that this is not required.
9. Water and sewer impact analysis. It is assumed that this is not required.
10. Design of off-site infrastructure is excluded.
11. Construction staking is not included.
12. Fire Protection Design is excluded.
13. FFE design or specification. It is assumed that any owner FFE items such as systems furniture will be dealt with separately. This exception does not apply to the maintenance equipment. The design team will design and specify any maintenance equipment such as lifts, machine tools, etc.
14. See exclusions on the attached consultant proposals for additional applicable items.

PROJECT ASSUMPTIONS:

The proposed fee for professional services has been based on the anticipated level of services that will be required to accomplish the project as described. The following assumptions have been made in determining the extent of professional services required and the resultant professional fee:

1. See assumptions on the attached consultant proposals for additional applicable items.

FEE PROPOSAL SECTION:

Attached is a proposed Cost Proposal Breakdown for the project and services as described. Should the scope of the project or services change in any way, the professional fee shall be modified accordingly. The proposed professional fee is exclusive of reimbursable expenses as defined under reimbursable expenses.

REIMBURSABLE EXPENSES:

An estimate of reimbursable expenses is included on the attached Cost Proposal Breakdown. The estimate of reimbursable expenses does not include cost of reproduction or distribution for bidding or construction purposes or the cost of agency document reviewing or permitting fees. Reimbursable expenses shall be defined as all reproduction, plotting, postage, messenger services, shipping, mileage paid to staff, out of town travel expenses and other similar out of pocket expenses. Expenses shall be billed at the cost of the expenses to APMI plus ten percent (10%) to cover processing. Expenses will be billed and will become due on a monthly basis. Cost of all agency fees shall be paid for by others.

PROPOSAL CONCLUSION:

I trust that this proposal meets with your approval. After acceptance of this proposal from the City of Flagstaff, we can proceed to contract execution. Upon receipt of an executed contract based on this proposal, APMI, Inc. shall commence work on the referenced project in accordance with the accepted project schedule.

Sincerely,

APMI, Inc.



Adam Siros, AIA
Principal

Attachments: APMI Cost Proposal Breakdown
 APMI Hourly Rate Schedule

Basic Services Consultant Proposals:

- Peak Proposal dated 5/4/2020
- Colwell-Shelor Proposal dated 5/5/2020
- HME Proposal dated 4/30/2020
- IMEG Proposal dated 5/6/2020
- MFC Proposal dated 5/4/2020
- Speedie Proposal dated 5/5/2020
- KLH Proposal dated 5/1/2020

cc: File



APMI, Inc. - Architects / Planners / Interiors

File Name: 2020-05-11 Pulliam SRE - FeePropForm.xls

Date Prepared: 5/11/2020

Date Revised: N/A

Client: City of Flagstaff
 Sub-Project Name: Pulliam - Snow Removal Equipment Building
 Client Project Number: 2020-54
 Contract Type: Lump Sum
 Contract Number: NA
 APMI Project Number: APMI Project No. 20134.00
 Discipline: Architectural & Engineering Summary

SUMMARY - COST PROPOSAL
DESIGN - ARCHITECTURAL & ENGINEERING SUMMARY

ESTIMATED DIRECT LABOR A/E SERVICES

No.	TASK	APMI, Inc.	Civil Engineering	Structural Engineering	Mech/Plumb Engineering	Electrical Engineering	Maint Specialist	Landscape Architecture	Other	Total By Phase
1	Field Investigations	\$5,400.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,400.00
2	Programming	\$34,920.00	\$0.00	\$0.00	\$0.00	\$0.00	\$11,200.00	\$0.00	\$0.00	\$46,120.00
3	Schematic Design	\$27,360.00	\$8,495.00	\$0.00	\$14,000.00	\$0.00	\$8,600.00	\$2,730.00	\$0.00	\$61,185.00
4	Design Development	\$27,360.00	\$20,720.00	\$30,650.00	\$15,000.00	\$8,000.00	\$5,160.00	\$3,640.00	\$0.00	\$110,530.00
5	Construction Documents	\$93,680.00	\$23,305.00	\$18,600.00	\$30,180.00	\$22,120.00	\$5,160.00	\$7,280.00	\$0.00	\$200,325.00
6	Approvals / Permitting	\$7,200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$7,200.00
7	Bidding / Contract Award	\$9,100.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,100.00
8	Construction - Office	\$39,920.00	\$13,840.00	\$7,300.00	\$7,650.00	\$7,650.00	\$0.00	\$0.00	\$0.00	\$76,360.00
9	Construction - Field	\$56,900.00	\$0.00	\$2,500.00	\$0.00	\$0.00	\$6,200.00	\$4,550.00	\$0.00	\$70,150.00
11	Cost Estimating	\$24,160.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$24,160.00
12	Record Drawings	\$5,570.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,570.00
13	Project Closeout	\$6,930.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$6,930.00

TOTAL HOURS:	2842	67860	59050	82830	45770	36320	20700	0	
LABOR COST:	\$338,500.00	\$66,360.00	\$59,050.00	\$66,830.00	\$37,770.00	\$36,320.00	\$18,200.00	\$0.00	

Total Estimated Professional Fees: \$623,030

Total Estimated Expenses: \$32,860

TOTAL ESTIMATED PROFESSIONAL SERVICES FEE WITH EXPENSES: \$655,890

ESTIMATED DIRECT LABOR LEED/COMMISIONING SERVICES

No.	TASK	Arch	Civil	Struct	Mech/Plumb	Elect	Cx Agent	Lndscop	Other	Total
10	LEED Documentation/Compliance	\$30,340.00	\$1,500.00	\$0.00	\$16,000.00	\$8,000.00	\$18,000.00	\$2,500.00	\$0.00	\$76,340.00
										\$0.00

Total Estimated LEED Services Fees: \$76,340
USGBC Registration/Certification Fees: \$13,600

TOTAL ESTIMATED LEED SERVICES FEE WITH EXPENSES: \$89,940

ESTIMATED OUTSIDE SERVICES - CONSULTANTS

Listed by Firm or Name at Estimated Cost

Task	Method of Compensation		Cost
	Firm	T&M, LS, etc.	
Land Survey & Mapping	Northland	LS	\$6,495.00
Soils Borings / Report	Speedie	LS	\$9,275
Technology System Design	IMEG	LS	\$20,000
Fire Line Flow Test	TBD	Allowance	\$1,000
Airport Consultant - Site Interviews / Documentation Review	Kimley Horn	LS	\$47,000
Airport Consultant - Develop Space Requirements	Kimley Horn	T&M	\$20,000

Total Estimated Outside Services: \$103,770
10.00% Multiplier: \$10,377
Total Estimated Consultants: \$114,147

TOTAL ESTIMATED FEE WITH LEED AND OUTSIDE SERVICES: \$859,977

Schedule of Hourly Rates for Professional Services

Rates Valid through December 31st, 2020

Design Services:

Principal	\$205.00
Project Manager / Architect	\$170.00
Senior Architect	\$150.00
Architect / Designer	\$135.00
Interior Designer	\$125.00
Job Captain	\$115.00
CAD – Draftsperson	\$95.00
Word Processing / Clerical	\$75.00

Construction Services:

Construction Manager	\$165.00
Construction Observer	\$130.00
Roof Inspector	\$130.00

Increases are normally anticipated the first of each year.

Increases for 2021 could be in the range of 5% to 8%.

Pulliam Airport Snow Removal Equipment Building

Scope of Services

Peak Project No: 20APMI01

May 4, 2020

This scope of work is for civil engineering in support of a new Snow Removal Equipment Building at Pulliam Airport in Flagstaff, Arizona. Civil engineering work includes site grading and paving, utility connection and drainage design from concept design through construction phase support services.

The proposed site is located north of the existing Fire Station on Tract 2 of the Pulliam Airport Airpark subdivision.

Task	Description	Proposed Fee
1	<p>Topographic Survey, Basemap, Schematic Design. Peak Engineering will perform the following tasks:</p> <p>Topographic survey & basemap by Northland Exploration Surveys for a ~2 acre area north of the fire station. Refer to the attached proposal and location map, attached as <u>Exhibit A</u>. Data collection includes utility appurtenances for water and sewer in the immediate area, which may be located outside of the area shown on the exhibit.</p> <p>Participate in a pre-application meeting at the City of Flagstaff. It is assumed that APMI will prepare the application and provide supporting documentation for the pre-application meeting.</p> <p>Attend team kickoff meeting (1) and coordination meetings (2).</p> <p>Contact franchise utility companies and request capacity and connection information to serve the project (electrical, natural gas and communications).</p> <p>Perform a preliminary evaluation of potential water and sewer connection locations and requirements to establish basis of design for concept.</p> <p>Review architectural site layout for impacts to access and drainage.</p>	\$6,495
2a	<p>City of Flagstaff Concept Plan Submittal</p> <p>Peak Engineering will prepare content specific to civil engineering items in the concept plan checklist. See <u>Attachment 1</u>.</p>	\$6,055
2b	<p>Concept Plan Resubmittal</p> <p>Peak Engineering will address City review comments in one resubmittal.</p> <p>Participate in team and/or comment resolution meeting(s) with City (2).</p>	\$2,440
3a	<p>City of Flagstaff Site Plan Submittal</p> <p>Peak Engineering will prepare project content specific to civil engineering items listed in the site plan checklist, <u>Attachment 2</u>. In summary, this is approximately 60% design and includes:</p>	\$16,750

	<p><i>Grading & drainage design plans</i> – includes finished grade topography, select spot elevations & grading limits.</p> <p><i>Preliminary drainage report</i> - perform stormwater runoff analysis for on-site drainage basins to establish stormwater routing. Includes design for Low Impact Development (LID)/ First flush stormwater treatment volume. Peak will prepare a preliminary drainage report per the City of Flagstaff (COF) Stormwater Design Manual.</p> <p><i>Water & sewer design.</i> Includes onsite water and sewer service design, coordination with MEP engineer to establish service sizes. The nearest water and sewer main connections are west of Liberator Lane and we anticipate that water may require extension of a main of a few hundred feet.</p> <p><i>Project Narrative.</i> Peak will provide content for inclusion in the project narrative.</p> <p>Separate from the City of Flagstaff Site Plan Submittal requirements, we will prepare an Opinion of Probable Construction Cost (OPCC) for site civil items.</p> <p>Separate from the City of Flagstaff Site Plan Submittal requirements, we will evaluate LEED certification requirements for stormwater quality and quantity and recommend strategies to achieve these goals.</p>	
3b	<p>Site Plan Resubmittal</p> <p>Peak Engineering will address City review comments in one resubmittal.</p> <p>Participate in team and/or comment resolution meeting(s) with City staff (2).</p>	\$4,720
4a	<p>Construction Documents & Reports (Final 1 Plans)</p> <p>Peak Engineering will prepare Final 1 Plans, sealed by a registered professional engineer per the COF Civil Improvement Plan Submittal, see Attachment 3 for checklist.</p> <p><i>On-site grading & drainage design plans</i> – preparation of detailed plans per the City’s Civil Improvement plan submittal requirements, see Attachment 3. Peak will prepare stormdrain/channel and detention design sheets, an erosion control plan and construction control plan. See notes on the attached for documents to be prepared by others.</p> <p><i>Final drainage report</i> - perform stormwater runoff analysis for on-site drainage basins to establish stormwater routing. Includes design for stormwater treatment volume required by the COF. We will prepare a final drainage report per COF Stormwater Design Manual.</p> <p><i>On-site water & sewer design.</i> Includes onsite water main extension, water and sewer service design, coordination with MEP engineer to establish service sizes and connection locations and an on-site model of the domestic water system for submittal to ADEQ and the COF. This task also includes preparation of an engineer’s design report and an engineer’s opinion of probable construction cost for submittal to ADEQ</p>	\$17,855

	and COF for the water main extension. This proposal assumes a sewer service connection to the nearby sewer main is sufficient to serve the building and that sewer main design or review by ADEQ is not required. Separate from the City of Flagstaff Civil Plan Submittal requirements, Peak Engineering will prepare LEED certification documentation for stormwater quality and quantity, if applicable, and prepare an opinion of probable construction costs for site improvements.	
4b	Construction Document Re-submittals (Final 2 Plans) Peak Engineering will address ADEQ and City review comments in one resubmittal which will be an addendum to the plan set. Participate in team and/or comment resolution meeting(s) with City (1).	\$6,200
	TOTAL DESIGN PHASE SERVICES	\$60,515
5	Rough Grading Certificate This includes a site visit and preparation of the City's forms. We will rely on the Contractor's licensed surveyor to provide grades and measurements of drainage structures and retaining walls to ensure conformance with the permitted plans.	\$2,580
6	Final Grading Certificate This includes preparation of record drawings, a site visit and preparation of the City's forms. We will rely on the Contractor's redlines and the Contractor's licensed surveyor to provide the documentation required for preparation of record, or as-built, plans	\$4,010
7	Construction Phase Services We propose an allowance for construction phase services. Services may include attendance at pre-bid and construction meetings, response to the Contractor's requests for information, site visits, payment application review and punchlist walk-throughs. Services will be provided as needed and requested by APMI. We will notify APMI if we are approaching the allowance limit. Un-used budget would not be billed.	\$7,250
	TOTAL CONSTRUCTION PHASE SERVICES	\$13,840
	ALLOWANCE FOR PROJECT EXPENSES	\$750
	TOTAL CIVIL ENGINEERING PROPOSED FEE	\$75,105

SCHEDULE

Peak Engineering anticipates the tasks beginning immediately upon issuance of a contract and extending through 2021 (substantial completion).

ASSUMPTIONS & EXCLUSIONS

APMI will make the concept and site plan submittals to the City of Flagstaff.

Submittal fees are not included. There will be a City Civil Improvement Plan review fee and ADEQ submittal fee. These fees are calculated at time of submittal.

Per the final plat for Pulliam Airpark, Tract 2 Resource calculations are based on the Terminal Construction Project. Tract 2 is reserved for Airport use. This proposal assumes that a resource protection plan and calculations are not required.

A water & sewer impact analysis is not required for the project.

We assume that there will be a water main extension to serve a hydrant and domestic water service to the proposed building.

A fire flow test may be required for the project and this is not included.

We assume that a sewer main extension is not required. Rather, a sewer service can be extended from the building to a nearby main. We assume that this will be a gravity sewer service.

Public outreach is not included.

Traffic engineering is not required. This assumes that the City will not require a Traffic Impact Statement (TIS) or Analysis (TIA) for this project.

Construction phase excludes inspection and quality control testing.

- END -

Client Name: APMI
 Project Name: Pulliam Airport Snow Removal Equipment (SRE) Building
 Project Number: 20APMI01

Client Information
 Name: Adam Siros
 Address:

Project Budget Summary

Task	Task Description	Principal Engineer		Project Manager		Project Engineer		Designer		Engineering Intern		Technical Drafter		Clerical		Total Hours	Labor Cost per Task
		Hours	Dollars	Hours	Dollars	Hours	Dollars	Hours	Dollars	Hours	Dollars	Hours	Dollars	Hours	Dollars		
Hourly Rate:		\$190		\$170		\$155		\$125		\$85		\$90		\$75			
1	Topographic Survey, Basemap & SD	-	\$ -	6.00	\$ 1,020	9.00	\$ 1,395	8.00	\$ 1,000	-	\$ -	-	\$ -	-	\$ -	23.00	\$ 3,415
2	COF Concept Plan Submittal	-	\$ -	5.00	\$ 850	11.00	\$ 1,705	28.00	\$ 3,500	-	\$ -	-	\$ -	-	\$ -	44.00	\$ 6,055
3	COF Concept Plan Resubmittal	-	\$ -	3.00	\$ 510	6.00	\$ 930	8.00	\$ 1,000	-	\$ -	-	\$ -	-	\$ -	17.00	\$ 2,440
4	COF Site Plan Submittal	-	\$ -	15.00	\$ 2,550	40.00	\$ 6,200	64.00	\$ 8,000	-	\$ -	-	\$ -	-	\$ -	119.00	\$ 16,750
5	COF Site Plan Re-Submittal	-	\$ -	8.00	\$ 1,360	12.00	\$ 1,860	12.00	\$ 1,500	-	\$ -	-	\$ -	-	\$ -	32.00	\$ 4,720
6	Construction Docs & Reports (Final 1 Plans)	-	\$ -	21.00	\$ 3,570	47.00	\$ 7,285	56.00	\$ 7,000	-	\$ -	-	\$ -	-	\$ -	124.00	\$ 17,855
7	Construction Docs & Reports (Final 1 Plans) RE-submittal	-	\$ -	9.00	\$ 1,530	14.00	\$ 2,170	20.00	\$ 2,500	-	\$ -	-	\$ -	-	\$ -	43.00	\$ 6,200
8	Rough Grading Cert	-	\$ -	2.00	\$ 340	8.00	\$ 1,240	8.00	\$ 1,000	-	\$ -	-	\$ -	-	\$ -	18.00	\$ 2,580
9	Final Grading Cert	-	\$ -	2.00	\$ 340	14.00	\$ 2,170	12.00	\$ 1,500	-	\$ -	-	\$ -	-	\$ -	28.00	\$ 4,010
10	Construction Phase Services (Allowance)	-	\$ -	8.00	\$ 1,360	38.00	\$ 5,890	-	\$ -	-	\$ -	-	\$ -	-	\$ -	46.00	\$ 7,250
LABOR TOTAL:			\$ -		\$ 13,430		\$ 30,845		\$ 27,000		\$ -		\$ -		\$ -		\$ 71,275

Reimbursable Project Expenses

A	Printing & Reprographics	\$ 750
B	Mileage	\$ -
C	Meals & Lodging	\$ -
D	Equipment	\$ -
E	Other (Parking)	\$ -
RPE TOTAL:		\$ 750

Sub-Consultants

Survey	\$ 3,080 (includes 10% administrative fee)	
Landscape Architect	\$ -	
Architect	\$ -	
Geotechnical	\$ -	
Other	\$ -	
SUB-CONSULTANT TOTAL:		\$ 3,080

PROJECT TOTAL:
\$ 75,105

COLWELL SHELOR LANDSCAPE ARCHITECTURE

4450 NORTH 12TH STREET, SUITE 104
PHOENIX, ARIZONA 85014

May 5, 2020

Adam Siros AIA
APMI
8300 N Hayden Road Unit 209
Scottsdale, AZ 85258

Re: Landscape Architectural Design Services for snow removal equipment building (+/- 30,000 s.f. in size) immediately east of the ARFF (air rescue and fire-fighting) building

Dear Adam,

COLWELL SHELOR is pleased to present this proposal for Landscape Architectural design services for the project referenced above. Based on the information emailed on 04.27.20, our role as the Landscape Architects for the project will include services as outlined in this proposal.

PROJECT UNDERSTANDING

The project is located within the City of Flagstaff. There are two existing buildings and a large parking lot surrounding the building on all sides. Scope will be hardscape and landscape design of the perimeter of the building and adjacent roads.

PROJECT ASSUMPTIONS

- The Client will lead the Design Review and construction permitting process with support from the Landscape Architect.
- Utilities and connections will be provided by the Client's MEP and civil engineering consultants
- Grading, horizontal control, and drainage plans are not part of this scope of services. However, the Landscape Architect will coordinate with the civil, structural and MEP engineers responsible for the preparation of the grading and drainage plans for the ground level and site.
- The project drawings will be produced in AutoCAD "DWG" format.
- ADA compliant pedestrian routing and compliance is by others.
- The proposed development of the site will not require any archaeological or historical evaluations or studies under scope of services.
- Services associated with LEED certification are not part of this scope of services.
- CSI-format specifications are required for this project and will be provided for Landscape Scope.
- Updated topographic boundary surveys and geotechnical reports will be provided by the Client.
- The Client will hire a service to accurately locate (horizontally and vertically) all existing utilities within the property and within the public right-of-way where they may cross proposed service connections.
- **Structural Engineering of hardscape elements, if added to the scope, shall be included in the structural engineer's scope and Pool/Water Feature Engineering is not included in the landscape architects scope.**

SCOPE OF SERVICES:

TASK 1: SCHEMATIC DESIGN

COLWELL SHELOR will establish the landscape design character of the project. We anticipate information gathering sessions to discuss the design intent/ideas with the team, obtain project budget and schedule information, and will visit the site to take photos and observe its existing qualities and surrounding context. This task includes those services necessary to prepare landscape architectural drawings for the preliminary site plan approval required by the City of Flagstaff and FAA. This task is limited to the boundaries described in the Project Understanding section and the Project Assumptions section of this proposal.

1.1 Site Inventory / Data Collection / Site Analysis

- Site Visit and photo inventory.

- Landscape inventory & salvage plan; record existing conditions.
- Review applicable ordinances, design stipulations and guidelines for Phoenix.

1.2 Schematic Design, including hardscape and planting vibe.

1.3 Coordination with Design Team

1.4 Meetings, including (1) project kick off meeting, (2) internal Design Team meetings and (1) Progress Meeting/Presentation with the Client.

1.5 Deliverables:

- Tree Inventory Plan
- One (1) preliminary-level black and white landscape plan for internal review and submittal to the City of Flagstaff

TASK 2: DESIGN DEVELOPMENT

From the approved Schematic Design Documents, COLWELL SHELOR shall prepare Design Development Documents in AutoCAD format, from base files provided by others, to illustrate the scope of the project to a Design Development level of detail, identify jurisdictional permitting process and submittal requirements as it relates to the landscape. This task includes those services necessary to prepare landscape architectural drawings for Design Review to the City of Flagstaff and FAA. The Landscape Architect will advance the City preliminary site plan approved drawings to the required level for DR submittal. This task will consist of the following:

2.1 Design Development landscape design

- DD level Hardscape Design: the Landscape Architect will develop hardscape plans, based on the preliminary site plan approved by the Client and the City of Flagstaff, incorporating feedback. The plans shall include a detailed layout of proposed improvements to the site.
- DD level Planting Design: the Landscape Architect will develop planting plans, based on the preliminary site plan approved by the Client and the City of Flagstaff, incorporating feedback. The planting plans shall include a detailed layout of proposed plantings with a plant list identifying species, quantities, size and notes.
- DD level Irrigation Design: the Landscape Architect Consultant will develop irrigation plans, based on the preliminary site plan approved by the Client and the City of Flagstaff. The irrigation plans for the overall site will include POC, mainline routing and controller locations.

2.2 Coordination with other consultants

2.3 Landscape Lighting collaboration – provide feedback on fixtures and intended landscape lighting intent. Photometrics, specifications and fixture selection by others.

2.4 Review of Probable Cost prepared by Others

2.5 Meetings: The Landscape Architect will attend up the following meetings in-person or via teleconference as required.

- (2) Design Team meetings for coordination and development of the design
- (1) Preliminary Site Plan meeting with City
- (1) Design Development Presentation to Client

2.6 Deliverables:

- Preliminary Hardscape Plan and Details
- Preliminary Planting Plan and Details
- Preliminary Irrigation Design and Details
- Outline Landscape and Irrigation Specifications
- Required Preliminary Site Plan Submittal to City

Note: Optional Additional Services are listed on page 4 of this document.

TASK 3: CONSTRUCTION DOCUMENTATION

From the approved Design Development Documents, COLWELL SHELOR shall prepare Construction Documents, including drawings and specifications describing in detail the requirements for construction and permitting of the landscape design. Drawings shall be prepared in AutoCAD format.

3.1 Construction Documentation of hardscape and landscape design, which include the following deliverables:

- **Hardscape Construction Plans & Details:** the Landscape Architect will develop final hardscape plans and details for site walls, paving materials/design, non-structural planter details, and approved design hardscape features. The hardscape plan will include material layout, type and their relationship to access doors, steps, planters, within the ground floor, and overall site.
- **Landscape Construction Plans and Details:** the Landscape Architect will develop a final landscape plan to include street trees and other plantings. The landscape plans will include a detailed layout of proposed plantings with a plant list, identifying species, quantities and sizes. Planting details will be provided on the plans.
- **Irrigation Construction Plans:** the Landscape Architect will develop irrigation plans and details to include areas outlined in the Project Understanding above, within the property lines and over-structure decks. The irrigation construction plans will include the following:
 - Calculation of irrigation system requirements, based on City of Flagstaff requirements.
 - Irrigation mainline and sub-mainline sizing with recommended routing.
 - Coordinate with project's civil engineer and MEP, showing the location of irrigation sleeves and mainline routing, as applicable.
 - Master central control evaluation and recommendation, including analysis of system operation. A conceptual irrigation operation schedule for the project will be included.
 - Irrigation controller locations with power supply drop locations (electrical design and permitting for controllers will be provided by the Contractor), as necessary.
 - Irrigation plans will include detailed zones and head/emitter layout only.
 - Material legend of components.
 - Ancillary notes, calculations and labels required to develop an irrigation system.

3.2 Review of Probable Cost provided by others.

3.3 Coordination with other sub-consultants

3.4 GMP Setting process, including incorporation of Value Engineered items and revisions to meet project budget.

3.5 Meetings: As part of this Task, the Landscape Architect will attend one meeting in Phoenix Metro-Valley with the Client, Client's design team and/or governmental agencies.

3.6 Contract Documents Deliverables:

- 24" x 36" signed and sealed contract documents and specifications for landscape scope as defined in this proposal
- Required Landscape Submittal for Permit to City of Flagstaff, incorporate comments and resubmit

Note: Optional Additional Services are listed on page 4 of this document.

Task 4: CONSTRUCTION PHASE SERVICES

The Landscape Architect will perform the following services during the construction phase of the landscape architecture elements of the project. The Landscape Architect shall visit the project site for the purpose of observing the Contractor's installation progress, and to confirm that the intent of the plans is being followed. Although we may observe and discuss potential problems, these visits are not construction inspections or a guarantee that there will not be construction deficiencies. We shall not have control over and shall not be responsible for construction means, methods, or techniques, or for safety precautions.

The Landscape Architect shall have authority to reject Work which does not conform to the Construction Documents and will have authority to require additional inspection or testing of the work whenever, in our reasonable opinion, it is necessary or advisable for the implementation of the intent of the Construction Documents.

Scope of Work Summary / Deliverables:

- 4.1 Attend one (1) preconstruction meeting
- 4.2 Drawing clarifications
- 4.3 Preparation of addenda, ASI's or RFI's, if required
- 4.4 Review of shop drawings and submittals
- 4.5 Attend coordination meetings as required
- 4.6 Select specimen plant material for the project. (1) Visit to nurseries within the Prescott-Sedona-Flagstaff area. Additional visits within the Prescott-Sedona-Flagstaff area or to any locations outside the Prescott-Sedona-Flagstaff area shall be billed per our hourly rate schedule, plus expenses.
- 4.7 Site visits/Progress Meetings: COLWELL SHELOR shall visit the site during construction at times appropriate to the stage of construction or as otherwise agreed upon by in writing. We anticipate a need three (3) meetings or site visits. We shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. We shall keep APMI informed of the progress and quality of the Work. Field Reports are included.
- 4.8 Punchlist walkthrough and report (1) site visit each for Landscape Architect and Irrigation consultant
- 4.9 As-Built drawings, including AutoCAD files

OPTIONAL ADDITIONAL SERVICES:

Optional Additional Services include any services or deliverables not specifically provided for in the above scope will be billed as additional services and performed at our current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Water feature design with water feature engineering provided by sub-consultant to the Landscape Architect. Fees will be determined if applicable.
- Enhanced graphics of outdoor spaces
- Significant revisions to the plans following the Client's approval of the design development phase plans. Services required by additional governmental regulations, which might be put into effect after the date of this agreement. Fees for these to be negotiated based on extent of revisions.

EXCLUSIONS:

- Boundary/Topographic survey of the site
- Renderings, at the request of the Client, are not included
- Utilities and connections, grading, horizontal control, and drainage plans are not part of this scope of services. However, the Landscape Architect will coordinate with the Project's civil and MEP engineers responsible for the preparation of the grading and drainage plans for the project.
- The project drawings will be produced in AutoCAD "dwg" (2-D) format. The scope of services does not include the development of a 3-D Building Information Model (BIM).
- ADA compliant pedestrian routing and compliance is by Civil. It is intended the design shall meet ADA Accessibility Guidelines
- Archaeological or historical evaluations or studies
- Specifications for sections outside of landscape scope
- Permit applications fees, impact fees, lobbyist fees and plan review fees.
- All required geotechnical reports and recommendations.

- Significant revisions to the plans following the Client's approval of the design development phase plans.
- Services required by additional governmental regulations, which may put into effect after the date of this agreement.
- Water Feature/Pool design and engineering.
- Structural, electrical or plumbing engineering that may be required for landscape scope. The Landscape Architect will submit drawings to the engineers for engineering calculations and information required and will pick up any redlines provided by the engineers. The engineers will co-seal relevant details.

SCHEDULE:

During the course of the project, anticipated and unanticipated events may impact the project schedule. We will provide our services in an expeditious and orderly manner to meet the written schedule mutually agreed to by the Client and the Landscape Architect for the various elements of the Project.

FEES AND EXPENSES:

The Landscape Architect will perform the services in Tasks 1-4 for the fees below, broken out as requested. Optional Services are also broken out. All permitting, application and similar project fees will be paid directly by the Client.

Task 1 Schematic Design	\$ 2,730.00
Task 2 Design Development	\$ 3,640.00
Task 3 Construction Documentation	\$ 7,280.00
Task 4 Construction Phase Services	\$ 4,550.00
Total lump sum:	\$ 18,200.00

Anticipated reimbursable allowance: \$ 1,000.00


Irrigation + LEED \$ 2,500.00

SCHEDULE OF HOURLY RATES:

Principal/Landscape Architect	\$200.00
Project Landscape Architect	\$175.00
Project Manager	\$150.00
Designer	\$110.00
Technical	\$ 95.00
Administrative	\$ 75.00

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute two copies of this Agreement in the spaces below, retain one copy, and return the other to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in the Agreement are valid for sixty (60) days after the date of this letter.

Respectfully submitted,



Michele Shelor, ASLA
Principal
Colwell Shelor, LLC

Proposal Accepted and Authorization to Proceed

By: _____ Date: _____

Adam Siros or Authorized Representative

TERMS AND CONDITIONS:

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to the following Terms and Conditions. The term, "Client" refers to APMI and "Landscape Architect" refers to Colwell Shelor.

Pre-existing Conditions: This Agreement pertains to the design of specific improvements and modifications to certain building or site components that are described in the Scope of Work. The Landscape Architect has not executed and has not been commissioned to execute a survey of pre-existing conditions and therefore, the Landscape Architect shall not be held responsible or liable for the improvement of and/or discovery of existing site conditions which are faulty or inoperative. In addition to the foregoing, the Landscape Architect shall have no responsibility or liability for any existing non-conforming or substandard conditions on the site which may be set forth in any agreements, reports or understandings which are not expressly set forth herein.

Termination: Either the Client or Landscape Architect may terminate this Agreement upon seven days written notice. If terminated, the Client agrees to pay the Landscape Architect and all sub consultants for all basic and additional services rendered and all reimbursable expenses incurred up to the date of termination. Upon not less than seven days' written notice, the Landscape Architect may suspend the performance of its services if the Client fails to pay the Landscape Architect in full for services rendered or expenses incurred. The Landscape Architect shall have no liability because of such suspension or services or termination due to nonpayment.

Unauthorized Changes: In the event anyone other than the Landscape Architect consents to, allows, authorizes or approves of changes to any plans, specifications or other Construction Documents, and these changes are not approved in writing by the Landscape Architect, it shall be recognized that such changes thereof are not the responsibility of the Landscape Architect. Therefore the Landscape Architect shall be released from any liability arising from the construction, uses or result of such changes.

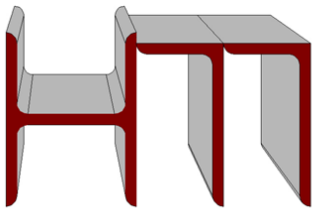
Mediation: Parties will attempt to resolve any disputes arising out of the performance of this contract by participating in mediation, each party sharing equally in the costs of the mediation. No litigation shall be commenced prior to the completion of the mediation process. The mediation process shall commence by one party notifying the other party of the dispute and demanding mediation. The party commencing mediation shall provide a list of three proposed mediators. The other party may strike one of the names without cause. At least four hours of mediation with a neutral third-party mediator is required. Mediation must be commenced within 90 days of the initial notification of mediation.

Use and Ownership of Documents: It shall be acknowledged that the design professional's plans and specifications are the instruments of professional services and shall remain the property of the Landscape Architect. Reproducible copies may be retained by involved parties for information and reference in connection with this specific project only.

Information Provided By Client: The Landscape Architect shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by the Landscape Architect during the project, including but not limited to the following:

- Boundary/Topographic survey of the site including the right of way fronting the site prepared by a Professional Land Surveyor retained by the Client. The survey shall be provided in both electronic (AutoCAD) and as hardcopies, signed and sealed by a professional land surveyor. The survey shall include all surface structure, utility structures with inverts, landscape and hardscape features.
- Scaled Drawing of architectural site plan in relation to property boundaries, provided in AutoCAD "dwg" computer file format and hard copy.
- Access to the site
- All required geotechnical reports and recommendations

END OF TERMS AND CONDITIONS



Proposal for Structural Engineering Services

Client: APMI 8300 North Hayden Road Suite A-209 Scottsdale, Arizona 85258	Sent to: asiros@apmi.com	Date: April 30, 2020
		Valid Until: June 30, 2020
Project Name and Location: Flagstaff Pulliam Airport – Maintenance Facility 6200 S Pulliam Dr Flagstaff, AZ 86005		
Basic Scope of Services: <p>Project Understanding / Assumptions- This project includes the construction of a new approximately 30,000 sq. ft., single story maintenance/storage facility. The facility will include the storage of snow removal equipment as well as other maintenance/storage uses and garage areas. The structure will consist of wood and / or steel roof framing, masonry and / or steel walls, concrete slab on grade and conventional spread footings.</p> <p>Design Phase Services- Schematic Design, Design Development and Construction Documents: We will provide 60% and 100% structural engineering design and drafting of the structural construction drawings, and coordination throughout the design and permitting phases. Our deliverables include sealed structural construction drawings and structural calculations. Premanufactured wood and steel truss and joist designs and layouts, if any, shall be provided by the truss and joist suppliers. We will not provide a Specification document (other than General Structural Notes on our drawings) but will review and redline Specifications provided by others if necessary. Our services do not include structural construction pricing or opinions of probable cost.</p> <p>Pre-Construction Phase Services (if necessary)- We will redesign the foundations if the general contractor suggests and the City accepts, a premanufactured steel building system in alternate of the building designed in the design Phase Services.</p> <p>Construction Phase Services- We will provide shop drawing reviews as required, respond to RFI's, and reviews of Special Structural Inspection reports. We will also include up to 3 site visits/meetings as requested by APMI.</p> <p>All other services are excluded from this proposal but can be provided at the Client's request as Additional Services, as listed below.</p>		
Fee for Services: Design Phase Services- 60% Design Phase ----- \$30,650.00 Lump Sum 100% Design Phase ----- \$18,600.00 Lump Sum Pre-Construction Phase Service ----- \$14,220.00 Lump Sum Construction Phase Service ----- \$9,800.00 Hourly, Not to exceed		
All fees exclude reimbursable expenses as listed below, which will be invoiced at cost. See <i>Terms and Conditions</i> for payment terms.		

Payment for Additional Services:


Additional services may be authorized by the client. The following additional services are specifically not included in the above stated fee but can be provided at the hourly rates listed in the Terms and Conditions. The availability of other additional services should be discussed with Hubbard Merrell Engineering if desired. Written authorization by the Client is required prior to Hubbard Merrell Engineering proceeding with any Additional Services, including but not limited to those listed below. Any other entity requesting to retain these services may require an additional and separate agreement with your approval.

1. Major revisions or scope changes during design and/or construction.
2. Special Structural Inspections and Reports.
3. Project site visits during design and / or construction except as noted above.
4. Evaluation of design or construction alternates, except as listed above.
5. Resolution of construction errors caused by others.
6. Redesign of due to unanticipated conditions.
7. Site Structures (Fences, Walls, Dumpster Enclosures, Signs, etc.)
8. Construction Administration.

The Terms and Conditions on Pages 3 through 5 of this form are incorporated and made a part of this Agreement. Signature of this proposal constitutes acceptance of Terms and Conditions, and asserts that the Client accepts the "Limitation of Liability" terms.

Offered by: HUBBARD MERRELL ENGINEERING, CORP.

Accepted by Client: APMI



David S. Merrell, P.E., S.E.
Principal

Signature
Mr. Adam Siros

Date

Terms and Conditions for Professional Services

Fee: To be paid monthly based upon the estimated percent completion of the construction documents. In the event the project is delayed or stopped, fees shall be paid for services rendered to date. Our fee for services as listed in the proposal does not include reimbursable expenses, as applicable. Reimbursable expenses for project-related out-of-town travel, printing, postage, courier costs, etc., will be billed at cost. Mileage will be charged at the standard mileage rate for *transportation or travel expenses* as posted by the IRS for the current calendar year. If the Client fails to make payment to Hubbard Merrell Engineering in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination by Hubbard Merrell Engineering. Payment may be made with a credit card (VISA/MC, Discover, AMEX) and will include a 4.00% surcharge.

Owner's Consultants: The Client agrees that Hubbard Merrell Engineering shall have no responsibility for any portion of the project designed by the Client's other consultants. Hubbard Merrell Engineering shall not be required to check or verify other consultants' construction documents and shall be entitled to rely on the accuracy and completeness thereof, as well as the compliance of such documents with applicable laws, codes, statutes, ordinances and regulations. The Client agrees, to the fullest extent permitted by law, to indemnify and hold Hubbard Merrell Engineering harmless from any damage, liability or cost, including reasonable attorneys'; fees and defense costs, arising in any way from the services performed by other consultants to the Client.

Soil Conditions: This fee is based on the use of conventional spread footings and foundation systems for Aerial Adventure Courses, using an allowable soil bearing pressure per the applicable Building Code, unless a geotechnical investigation and report is provided for this site. Adverse soil and/or foundation conditions or requirements may cause this agreement to become null and void.

Design Without Construction Phase Services: It is understood and agreed that Hubbard Merrell Engineering's Services under this Agreement do not include project observation or review of the Contractor's performance or any other construction phase services, and that such services will be provided by the Client. If the Client requests in writing that Hubbard Merrell Engineering provide any specific construction phase services and if Hubbard Merrell Engineering agrees in writing to provide such services, then they shall be compensated for as Additional Services as listed in the proposal.

Ownership of Instruments of Service: All reports, plans, specifications, field data and notes, and other documents, including all documents on electronic media, prepared by Hubbard Merrell Engineering as instruments of service shall remain the property of Hubbard Merrell Engineering.

Delays: Hubbard Merrell Engineering is not responsible for delays caused by factors beyond Hubbard Merrell Engineering's control. When such delays beyond our reasonable control occur, the Client agrees that Hubbard Merrell Engineering is not responsible for damages, nor shall Hubbard Merrell Engineering be deemed to be in default of this Agreement.

Governing Law: This agreement shall be governed by the laws of the state of Arizona. Any litigation arising in any way from this agreement shall be brought in that state.

Dispute Resolution: In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the Client and Hubbard Merrell Engineering agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

Time Bar to Legal Action: All legal actions by either party against the other arising out of or in any way connected to this Agreement or the services to be performed hereunder shall be barred and under no circumstances shall any such legal action be initiated by either party after two (2) years have passed from the date of Substantial Completion, unless this Agreement is terminated earlier, in which case the date of termination of this Agreement shall be the date on which such period shall commence.

Consequential Damages: Notwithstanding any other provision of this agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of the fault or whether it was committed by the Client or Hubbard Merrell Engineering, their Employees, agents, sub-consultants or subcontractors. Consequential damages include, but are not limited to loss of use and loss of profit.

Limitation of Liability: To the maximum extent permitted by law, and notwithstanding any other provision of this agreement, the Client agrees to limit Hubbard Merrell Engineering Corporation's liability for the Client's damages to the lesser of \$50,000.00 or the total invoiced dollar value of the Services provided by Hubbard Merrell Engineering under this Agreement and paid by the client, but in no event shall Hubbard Merrell Engineering's liability exceed the amount of Hubbard Merrell Engineering's available insurance proceeds. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

Indemnification: In addition, and notwithstanding any other provisions of this Agreement, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Hubbard Merrell Engineering Corporation, his or her officers, directors, employees, agents and sub-consultants from and against all damage, liability or cost, including all attorneys' fees and defense costs, arising out of or in any way connected with this project or the performance by any of the parties above named of the services under this Agreement, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of Hubbard Merrell Engineering Corporation.

Termination: Either the Client or Hubbard Merrell Engineering may terminate this Agreement at any time with or without cause upon giving the other party Seven (7) calendar days prior written notice. The Client shall within Thirty (30) calendar days of termination pay Hubbard Merrell Engineering for all services rendered and all costs incurred up to the date of termination, in accordance with the compensation provisions of this contract.

Corporate Protection: It is intended by the parties to this Agreement that Hubbard Merrell Engineering's services in connection with the project shall not subject Hubbard Merrell Engineering's individual employees, officers or directors to any personal legal exposure for the risks associated with this project. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Hubbard Merrell Engineering, an Arizona corporation, and not against any of Hubbard Merrell Engineering's employees, officers or directors.

Right to Retain Sub-consultants: Hubbard Merrell Engineering may use the services of sub-consultants when, in Hubbard Merrell Engineering's sole opinion, it is appropriate and customary to do so. Hubbard Merrell Engineering's use of other consultants for additional services shall not be unreasonably restricted by the Client provided Hubbard Merrell Engineering notifies the Client in advance.

Extension of Protection: The Client agrees to extend any and all liability limitations and indemnifications provided by the Client to Hubbard Merrell Engineering to those individuals and entities Hubbard Merrell Engineering retains for performances under this agreement, including but not limited to Hubbard Merrell Engineering's sub-consultants' individual employees, officers or directors.

Third Party Beneficiaries: Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Hubbard Merrell Engineering. Hubbard Merrell Engineering's services under this Agreement are being performed solely for the Client's benefit, and no other entity shall have any claim against Hubbard Merrell Engineering because of this Agreement or the performance or nonperformance of services hereunder.

Hazardous Materials: It is acknowledged by both parties that Hubbard Merrell Engineering's scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event Hubbard Merrell Engineering or any other party encounters asbestos or hazardous or toxic materials at the jobsite, or should it become known in any way that such materials may be present at the jobsite or any adjacent areas that may affect the performance of Hubbard Merrell Engineering's services, Hubbard Merrell Engineering may, at its option and without liability for consequential or any other damages, suspend performance of services on the project until the Client retains appropriate specialist consultant(s) or contractor(s) to identify, abate and or remove the asbestos or hazardous or toxic materials, and warrant that the jobsite is in full compliance with applicable laws and regulations.

Interpretation: Limitations on liability and indemnities in this Agreement are business understandings between the parties and shall apply to all the different theories of recovery, including breach of contract or warranty, tort (including negligence), strict or statutory liability, or any other cause of action. "Parties" means the Client and Hubbard Merrell Engineering, and their officers, partners, employees, agents and sub-consultants. The parties also agree that the Client will not seek damages in excess of the contractually agreed limitations indirectly through suits with other parties who may join Hubbard Merrell Engineering as a third-party defendant.

Severability and Survival: Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the Client and Hubbard Merrell Engineering shall survive the completion of the services hereunder and the termination of this Agreement.

Standard of Care: Services provided by Hubbard Merrell Engineering under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Upon notice to Hubbard Merrell Engineering and by mutual agreement between the parties, Hubbard Merrell Engineering will correct those services not meeting such a standard without additional compensation.

Unauthorized Changes: In the event the Client consents to, allows, authorizes or approves of changes to any plans, specifications or other construction documents, and these changes are not approved in writing by Hubbard Merrell Engineering, the Client recognizes that such changes and the results thereof are not the responsibility of Hubbard Merrell Engineering. Therefore, the Client agrees to release Hubbard Merrell Engineering from any liability arising from the construction, use or result of such changes. In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold Hubbard Merrell Engineering harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) arising from such changes, except only those damages, liabilities and costs arising from the sole negligence or willful misconduct of Hubbard Merrell Engineering.

Jobsite Safety: Neither the professional activities of Hubbard Merrell Engineering, nor the presence of Hubbard Merrell Engineering or his or her employees and sub-consultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Hubbard Merrell Engineering and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The Client agrees that the General Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident in the Client's agreement with the General Contractor. The Client also agrees that the Client, Hubbard Merrell Engineering and Hubbard Merrell Engineering's consultants shall be indemnified and shall be made additional insureds under the General Contractor's general liability insurance policy.

Existing Structure and Conditions: This scope of work shall not act to assume any responsibility for the design and/or construction of any existing structure(s), except for the specific structural design performed under the terms and conditions of this contract.

Collection Costs: In the event legal action is necessary to enforce the payment provisions of this Agreement, Hubbard Merrell Engineering shall be entitled to collect from the Client any judgment or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by Hubbard Merrell Engineering in connection therewith and, in addition, the reasonable value of Hubbard Merrell Engineering's time and expenses spent in connection with such collection action, computed at Hubbard Merrell Engineering's prevailing fee schedule and expense policies.

Suspension of Services: If the Client fails to make payments when due or otherwise is in breach of this Agreement, Hubbard Merrell Engineering may suspend performance of services upon five (5) calendar days' notice to the Client. Hubbard Merrell Engineering shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client.

Set-offs, Back-charges, Discounts: Payment of invoices is in no case subject to unilateral discounting or set-offs by the Client, and payment is due regardless of suspension or termination of this Agreement by either party.

Hourly Rates:

Principal (P.E., S.E.)	\$180.00 / hour	CAD Designer	\$85.00 / hour
Project Manager (P.E.)	\$130.00 / hour	CAD Drafter	\$75.00 / hour
Project Engineer (P.E.)	\$120.00 / hour	Administrative	\$75.00 / hour
Structural Designer (E.I.T)	\$110.00 / hour	Project Intern	\$65.00 / hour
Structural Designer (Graduate)	\$100.00 / hour	Clerical	\$60.00 / hour

These hourly rates may be revised to our new hourly rates at the beginning of each new calendar year.



May 6, 2020

Mr. Adam Siros, AIA
APMI Architecture
8300 North Hayden Road, Suite 209
Scottsdale, Arizona 85258

RE: Proposal for Engineering Services
Flagstaff Pulliam Airport
Snow Removal Facility
Flagstaff, Arizona

Dear Adam:

Thank you for the opportunity to submit a Proposal for mechanical, electrical, and technology engineering services plus LEED commissioning for a new 30,000 square foot snow removal equipment facility, located at Flagstaff Pulliam Airport.

The project will include vehicle storage, vehicle and equipment maintenance bays, general storage, shop space, and offices to support snow removal operations at the airport. The facility will be able to support multiple twenty-four-hour operational periods. Design and documentation will support LEED Silver certification of the facility.

DESIGN PHASE SERVICES

1. Energy modelling services:
 - a. Base building modelling to support selection of HVAC equipment. (See detailed scope below)
 - b. LEED modelling to document target design performance and assist with selection of equipment to support LEED project goals. (See detailed scope below)
2. Design of mechanical systems including:
 - a. Fire protection systems:
 - 1) Incoming riser with valving.
 - 2) Sprinkler zone designations.
 - 3) This scope assumes adequate water supply and pressure are available to the site. If not, additional services will be required.
 - 4) Specifications for contractor-furnished hydraulically calculated piping installation drawings. Piping locations will not be shown on our documents.
 - b. Plumbing systems:
 - 1) Domestic hot and cold water.

- 2) Sanitary drainage and venting.
- 3) Interior roof drainage.
- 4) Plumbing design will be based on fixture counts and safety shower/eyewash station locations provided by others.
- c. HVAC systems:
 - 1) Heating, ventilating, and air conditioning.
 - 2) Direct digital control (DDC) system.
 - 3) Building makeup air.
 - 4) Toilet exhaust.
 - 5) Exhaust air heat recovery.
 - 6) General building exhaust. Vehicle exhaust capture will be limited to vehicle maintenance bays only. Vehicle storage bays are not anticipated to include direct connections to vehicle exhaust.
- d. Piping systems:
 - 1) Chilled water.
 - 2) Heating water.
 - 3) Natural gas.
 - 4) Compressed air.
 - 5) Vehicle service fluid piping at the vehicle service bays, extended from systems specified by others.
3. Design of electrical systems including:
 - a. Incoming electrical service, power distribution, and grounding.
 - b. Interior lighting and controls.
 - c. Site lighting per City of Flagstaff dark sky requirements.
 - d. Cable tray and/or horizontal raceway to allow routing of low voltage systems wiring.
 - e. Emergency power distribution including packaged engine/generator set and automatic transfer switch.
 - f. Fire alarm.
4. Design of technology systems including:
 - a. Information technology:
 - 1) EIA/TIA compliant premise structured cabling system.
 - 2) Telecommunication cross-connect room layout, including cabling and equipment racks, optical fiber backbone Inter-Building cabling, copper termination equipment, and cable management.
 - 3) Coaxial cable television distribution system for distribution of existing facility signal.
 - 4) Design preliminary layout for wireless 802.11b/g antennas.
 - a) Access points shall be provided and installed by owner. Owner to perform final antenna layout.



- b. Security management systems:
 - 1) Intrusion detection system.
 - 2) Access control system: system as specified by Owner for compatibility with existing City systems.
 - 3) Video surveillance system.
5. Establish performance requirements for seismic bracing (if required by code) of mechanical, electrical, and technology equipment specified by IMEG. Design and installation will be by others.
6. Prepare applicable mechanical, electrical, and technology specifications.
7. Prepare contract documents that are suitable for pricing and construction purposes.
8. Project design meetings:
 - a. Participate in approximately five project conference calls / web conferences as required.
 - b. Attend approximately three design coordination meetings in Flagstaff.
9. Prepare an opinion of probable construction cost for mechanical, electrical, and technology systems. Note that IMEG has no control over 1) the cost of labor, material, or equipment; 2) the means, methods and procedures of the contractor's work; or 3) the competitive bidding market at the time the project goes out to bid. IMEG's opinion of probable construction costs will be based on the firm's experience and qualifications and represents our judgment as Design Professionals. IMEG makes no warranty, express or implied, that the bids or the negotiated cost of the work will not vary from our opinion of probable cost.

BIDDING PHASE SERVICES

1. Respond to contractor questions.
2. Prepare addenda information as required.

CONSTRUCTION PHASE SERVICES

1. Contract administration related to IMEG scope of work including:
 - a. Answer contractor questions and Requests for Information (RFIs).
 - b. Prepare technical portions of Requests for Proposal (RFPs) for issue by others.
2. Review shop drawing submittals for items requested in the contract documents.
3. Conduct up to three job site observation(s) during construction, plus one final job site observation at the end of the construction period.
4. Owner/Architect/Contractor (OAC) meetings:
 - a. Attend OAC meetings at the project site in conjunction with the job site observations listed above.
5. Prepare record documents based upon contractor-supplied as-installed documents, with no additional verification.



LEED DOCUMENTATION

This project is planning to incorporate USGBC's Leadership in Energy and Environmental Design (LEED) standard. The following proposal deals with the additional documentation required to show compliance with the LEED Rating System.

Since the scope of this documentation depends on which points are pursued, we have based our services on the following preliminary evaluation of the project and those credits that appear appropriate for this project.

LEED v4 - New Construction and Major Renovation

GENERAL

- Integrative Process
Energy modeling is required; provided by IMEG as described later

SUSTAINABLE SITES

- Light Pollution Reduction

WATER EFFICIENCY

- PreReq - Outdoor Water Use Reduction
- PreReq - Indoor Water Use Reduction
- PreReq - Building-Level Water Metering
- Outdoor Water Use Reduction
- Indoor Water Use Reduction

ENERGY AND ATMOSPHERE

- PreReq - Fundamental Commissioning and Verification
Provided by IMEG as described later
- PreReq - Minimum Energy Performance
Energy modeling is required; provided by IMEG as described later
- PreReq - Building-Level Energy Metering
- PreReq - Fundamental Refrigerant Management
- Optimize Energy Performance
Energy modeling is required; provided by IMEG as described later

INDOOR ENVIRONMENTAL QUALITY

- PreReq - Minimum Indoor Air Quality Performance
- Low-Emitting Materials
- Construction Indoor Air Quality Management Plan
Specification requirements and review of contractor plan during construction; implementation and documentation to be by contractors
- Indoor Air Quality Assessment
Specification requirements and review during construction; performance of testing or documenting flush shall be by others or contractors and confirmed during commissioning
- Thermal Comfort



- Interior Lighting
- Daylight

INNOVATION

- Innovation
- LEED Accredited Professional

Where appropriate, the above requirements will be integrated into the systems design and shown on the drawings and specifications. In some cases, foundational calculations and documents will be developed that would not normally be required *except* for the LEED process. Some credits above require only an online declarative, indicating the component has been included into the building construction, but some will require upload of supporting information, documents, and drawings.

LEED components shown shaded above may not be feasible due to cost or building design type, but we have included here since a scorecard is not available. If the plan changes substantially, fees can be adjusted as required.

Assumptions related to LEED:

1. The Architect will serve as the primary LEED consultant for this project, including coordinating, monitoring, tracking, and collecting the various bits of information and documentation needed for submittal to the United States Green Building Council (USGBC). IMEG will be responsible for uploading and managing information related to credits assigned as consistent with the above listing.
2. LEED components will be incorporated into the project as the basis of design.
3. Commissioning will be provided by IMEG for Fundamental Commissioning only. Refer to other parts of this Proposal for fee and scope.
4. IMEG is not the acoustical consultant for the project. IMEG will collaborate with the consultant related to acoustic requirements, constraints, and LEED credits that may be pursued. Acoustic requirements will be provided to IMEG to incorporate into HVAC design.
8. Energy modeling to be provided by IMEG. Refer to other parts of this Proposal for fee and scope.
9. Daylight modeling will be provided by a separate consultant, not IMEG. We will collaborate with the consultant to provide information on systems and capacities related to the mechanical and electrical systems. We understand that IMEG will take partial responsibility for contributing to this analysis, but will require an energy model to be developed by the separate consultant to complete the associated credits.
10. Certification will require input and effort from the Owner, Architect, and IMEG, as well as other consultants, contractors, and parties associated with this project. Also, sustainable design often requires new technologies that may not perform as expected or may require additional effort during startup, commissioning, and ongoing operation. These issues should be discussed with the Owner prior to implementation.
11. The Project cannot achieve LEED certification until after substantial completion of construction and will be subject to the LEED certification processes and procedures as determined by the



- USGBC. These procedures are outside the control of IMEG, may not be uniformly implemented, and may be subject to change at any time.
12. IMEG cannot guarantee LEED certification or the actual performance of the building based on the design drawings, specifications, or the actual resource use based on conceptual consumption modeling, nor can it guarantee certain performance levels anticipated through the LEED certification process.
 13. The signing of declaration/affirmation for the purposes of LEED Certification with the USGBC is considered an Owner/Client service benefit and, as used to this effort, the words certify, affirm, and declare shall mean an expression of IMEG's professional opinion to the best of its information, knowledge, and belief, and does not constitute a warranty or guarantee.
 14. LEED components submitted to the USGBC will require no more than one clarification or appeal.
 15. Fees related to registration, applications, Credit Interpretation Requests (CIRs), or appeals will be considered reimbursable expenses.

ENERGY MODELING

Energy modeling is required to document those prerequisites and credits noted in the LEED Documentation Section of this Proposal. Most work required is for the Energy and Atmosphere credits to demonstrate code compliance and energy savings over a code baseline. This modeling will include energy usage and cost calculations related to energy-using systems. An energy savings goal will be set early in the project that is consistent with the proposed building envelope and conceptual systems and the project budget.

The scope of energy modeling includes:

1. Schematic Design:
 - a. Develop a preliminary energy consumption model of the baseline building.
 - b. Develop a preliminary energy consumption model of the proposed building incorporating preliminary energy saving design concepts to determine approximate energy savings and possible LEED credits.
 - c. Analyze up to three major system types to confirm overall direction of the project at an early stage of design.
2. Design Development:
 - a. Perform an additional iteration of the baseline and proposed building energy models based on the Design Development documents.
 - b. Analyze three energy efficiency measures relating to the building mechanical, electrical, or envelope systems as the design develops. These measures will be identified by the design team and the Owner.
 - c. Energy analysis results will be communicated to the team in a brief report or presentation. It is anticipated the design team will make decisions based on these results and incorporate the decisions into the final design.



3. Construction Documents:
 - a. Develop a final energy consumption model of the baseline and proposed buildings based on the 100% Construction Documents to determine probable LEED credits.
 - b. Complete required LEED online documentation and submittal information.
 - c. Respond to one credit audit from the GBCI related to credits pursued under the LEED Documentation section of this Proposal. Further correspondence or appeals will be considered additional services.

Assumptions related to Energy Modeling:

1. Modeling will be performed in compliance with ASHRAE 90.1 Appendix G guidelines as required by LEED.
2. An approved energy simulation software package (as required by LEED) will be used for energy consumption simulation.
3. Information pertaining to the systems that impact the building energy consumption that are not designed by IMEG (envelope characteristics, equipment loads, etc.) will be made available to IMEG prior to each energy model simulation.
4. IMEG cannot guarantee the actual performance of the building based on the design drawings, specifications, or the actual resource use based on conceptual consumption modeling. Actual building operation, annual climate conditions, and other factors are outside the control of IMEG, may not be uniformly implemented, and may be subject to change at any time. Energy modeling results are an expression of IMEG's professional opinion to the best of its information, knowledge and belief, and does not constitute a warranty or guarantee.

COMMISSIONING SCOPE

We will comply with the scope requirements as identified in the Scope of Work. The following description of services confirms this intent and provides some additional information.

Systems To Be Commissioned

The design has not yet been developed. Based on our experience commissioning similar size and type of market type buildings, we have estimated the following commissioned systems, equipment, and quantities.

Equipment/System	Quantity	Sampling Strategy ¹
Office HVAC Systems	2	100%
Maintenance Bay Make-Up and Exhaust	1	100%
Storage and Maintenance Heating Systems	4	100%
General Building Exhaust	2	100%
Lighting and Controls		100%

¹ All equipment will be commissioned at 100% unless noted otherwise.



Verification of the commissioned equipment and systems consists of testing to confirm they perform the intended functions through various modes of operation. Tests are typically performed by overriding temperature, flow, pressures, or adjusting setpoints in the building control system (or at the local controls for standalone controlled equipment) to simulate conditions in the sequence of operations. The response of the system will be observed at the graphic workstation or in the field, and documented on test procedure forms.

We propose the following scope of work from design through occupancy phases:

Design Phase

Fundamental Commissioning Requirements

1. Review the Owner's Project Requirements (OPR), developed by the Owner:
 - a. Requirements for exterior enclosures are limited to inclusion in the OPR as well as review of the OPR. NIBS Guideline 3-2012 for Exterior Enclosures provides additional guidance.
2. Review the Basis of Design (BOD), developed by the design team, to measure against the performance requirements outlined in the OPR:
 - a. Requirements for exterior enclosures are limited to inclusion in the BOD as well as review of the BOD. NIBS Guideline 3-2012 for Exterior Enclosures provides additional guidance.
3. Coordinate and integrate commissioning requirements into the project specifications prepared by the project client and design engineers.
4. Develop and implement a Commissioning Plan:
 - a. IMEG will develop the Cx Plan with the Owner's and user's direct input based on their expectations. We will manage the process throughout design and construction, making updates to the Plan as required.
5. Review of the project design with respect to the Building Exterior Enclosure. NIBS Guideline 3-2012 for Exterior Enclosures provides additional guidance.
6. Conduct a review of the design documents against the OPR and BOD to verify that the program's goals are properly included in the design documents.
 - a. Conduct one independent review at the mid-design documents so that the project team has time to make any necessary changes.
 - b. Record the review comments in an issues log.
 - c. Provide one backcheck review at the construction document phase (approximately 95% complete).
 - d. Design review meetings are not included.



Construction Phase

Fundamental Commissioning Requirements

1. Plan and conduct one commissioning kickoff meeting and distribute minutes to the commissioning team.
 - a. Organize the commissioning process components and conduct one pre- (or early) construction meeting where commissioning process requirements are reviewed with the commissioning team.
2. Coordinate the commissioning work with the General Contractor and/or Construction Manager to ensure that commissioning activities are included in their master schedule. These activities will be communicated to all necessary parties.
3. Perform five site visits, as coordinated with the above-mentioned meetings, during construction to observe component and system installations. IMEG will issue a Field Observation Report (FO) after each site visit. Additional site observation activities coordinated with our activities on site will include:
 - a. Observe a representative portion of the contractor's equipment startup procedures and witness a random sampling of the startup and initial checkout performed by the contractors on major commissioned equipment.
 - b. Observe a representative portion of the checkout procedures performed by the Temperature Controls Contractor to ensure the system is ready for test and balance and Functional Testing to proceed.
4. Maintain a Commissioning Issues Log.
 - a. The Issues Log will be used to document and track deficiencies identified during the Cx process and will include issue status, responsible party, and issue resolution.
5. Develop project and equipment specific checklists based on the project documents, submittals, and lessons learned. These documents will be managed and completed by the contractors, and then accepted by the Commissioning Authority (CxA).
 - a. Statistically sample completion of construction checklists on a periodic basis to verify the contractor's progress.
6. Develop project and equipment specific Functional Performance Test (FPT) procedures based on the project documents, submittals, and lessons learned.
 - a. With necessary assistance and review from installing contractors, we will customize the test procedures and submit to the design and construction teams for review.
 - b. These documents will be executed by the vendors, subcontractors, and IMEG. IMEG will manage and document.
 - c. IMEG will defer acceptance of the related systems and equipment on the Owner's behalf until after successful completion of the FPTs.
7. Perform Functional Procedures during both the heating and cooling season; however, some overwriting of control values to simulate conditions may be used if appropriate.
 - a. Any additional needed retesting will be performed as an additional service to the Owner.
 - b. Identify all seasonal testing required and identify in the Action Items Log.



Occupancy and Operations Phase

Fundamental Commissioning Requirements

1. Schedule and verify any deferred seasonal testing by the contractor.
2. Develop a Final Commissioning Report. This final deliverable will encompass all commissioning project documentation.
3. Prepare and maintain a Current Facility Requirements (CFR) and Operations and Maintenance (O&M) plan that contains the information necessary to operate the building efficiently. This information is covered in the OPR, BOD, and functional test scripts, but more information may be taken from specific submittals or equipment Operations and Maintenance manuals.

Commissioning Assumptions

1. IMEG will complete the services indicated above, but will require the contractors to operate the systems and provide any required specialized equipment.
2. An independent testing and balancing contractor, retained by others, will be included in the project.
3. Real-time building performance and energy analysis associated with the MBCx plan will be performed by others, furnished by the Owner.
4. Site visits and meetings required above and beyond what is stated in this Proposal will be addressed with the client and will be considered additional services.
5. IMEG will be given remote viewing access to the building automation system during the testing phase. This allows IMEG to comprehensively evaluate longer term trending of systems performance.
6. IMEG is entitled to rely upon the completeness and accuracy of all information provided by the Owner/Design Team. IMEG shall not be held responsible in any way for errors or omissions contained in any drawings or specifications prepared by others or for errors or omissions by others in incorporating IMEG's recommendations into the project reports, drawings, or specifications.
7. The Architect will serve as the primary LEED consultant for this project, including coordinating, monitoring, tracking, and collecting the various bits of information and documentation needed for submittal to the United States Green Building Council (USGBC). IMEG will be responsible for uploading and managing information related to commissioning.
8. IMEG cannot guarantee LEED certification or the actual performance of the building based on commissioning, nor can it guarantee certain performance levels anticipated through the LEED certification process.

COMMISSIONING ADDITIONAL SERVICES

IMEG can include the following as additional services. Additional services will be performed on a time and material basis using IMEG's standard hourly rates in effect at the time the service is performed, or for a negotiated fee, and only after approved in writing.



1. LEED v4 Enhanced Commissioning Credit Option 1: Path 2 - Enhanced and Monitoring Based Commissioning. Path 1 needs to be accepted and then the requirements for the additional one point can be achieved. This is often appropriate for projects that are energy intensive and will benefit from real-time data and the ability to track trends. The additional first costs may be offset by maintaining the proper energy usage over time.
2. LEED v4 Enhanced Commissioning Credit Option 2 - Envelope Commissioning. For an additional two points, this credit can be added, regardless if Option 1 (either path) is attempted.
3. Commissioning of systems and equipment (or quantities) not listed in the Proposal.
4. Field testing, adjusting, balancing, or field time to assist installation contractor. Initial startup is the responsibility of the various contractors and/or subcontractors.
5. Verifying accuracy or completeness of record documents.
6. Review contractor's training program to be presented to the Owner. Perform systems level overview training, which provides design intent and systems operations to the maintenance personnel.
7. Support the Owner with development of specific equipment maintenance activities. Coordinate activities within the Owner's Computerized Maintenance Management System (CMMS).

GENERAL ASSUMPTIONS

1. Exhibit A attached to this Proposal addresses the scope of service and responsibilities for 3D/Building Information Modeling (BIM).
2. Design, specifications, and drawings for building process systems, such as vehicle wash, paint booths, cranes or lifts, vehicle lifts, and vehicle fluid service systems will be provided by others, who will provide IMEG utility requirements similar to those described for Owner-supplied equipment as listed in Assumptions.
3. Documents prepared by the Engineer will be prepared based upon reasonable assumptions derived from existing information provided by the Owner and from limited observation of accessible and visible existing conditions by the Engineer without the benefit of extensive field measurements and investigation prohibited by expense and inconvenience to the Owner. It is understood and agreed that unforeseen conditions uncovered during the progress of the project may require changes in the project, resulting in additional cost and delay.
4. A complete list of Owner-furnished equipment will be provided to IMEG, along with utility connection locations, utility loads, heat dissipated to the space, disconnect requirement, start-stop controls, and other contractor coordination issues, prior to 25% completion of construction documents. Information on occupancy, loading, and associated personal/office equipment for each space will be provided to IMEG prior to completion of the Design Development phase.
5. Occupancy separations, fire assemblies, and fire/smoke separations will be determined by the Architect and provided to IMEG at, or prior to, completion of the Design Development phase.
6. Guardrails, ladders, stairs, platforms, or other components for supporting and accessing mechanical equipment will be designed and coordinated by others and will be part of the General Contractor's scope of work.



7. Identification, testing, and/or removal of hazardous materials will be by others.
8. Sanitary sewer, storm sewer, natural gas, domestic water service, and fire protection water service with adequate capacity will be available 5'-0" outside of the building.
9. Site utility design beyond 5'-0" of the building perimeter, including domestic water, fire water service, storm water, storm water detention, natural gas, and sanitary sewer shall be the responsibility of others.
10. Electric and telecommunications utility raceways for each service provider, and branch feeds outside the building (site lighting, CCTV, security, outbuildings, etc.) will be provided to the Civil Engineer for coordination with the overall site design.
11. For all security management systems, electrified door hardware will be designed and specified by the Architect.
12. An independent cost estimator will be engaged by the Owner or Architect. Opinions or comments made by IMEG related to the independent cost estimator's work shall not create or be interpreted as a warranty, express or implied, that the bids or the negotiated cost of the work will not vary from the cost estimator's valuation.
13. IMEG cannot guarantee the actual performance of the building based on the design drawings, specifications, or the actual resource use based on conceptual consumption modeling. Actual building operation, annual climate conditions, and other factors are outside the control of IMEG, may not be uniformly implemented, and may be subject to change at any time. Energy modeling results are an expression of IMEG's professional opinion to the best of its information, knowledge and belief, and does not constitute a warranty or guarantee.
14. The project will be awarded as a single prime contract for construction. Phased design and/or issue of early documents are not required.
15. IT department shall provide IMEG with a list of network equipment to be installed within the Telecommunications closet.
16. In-Building Distributed Antenna Systems or facility radio design and/or consulting has not been included within this proposal.
17. Audio/Video presentation system design is not included within this proposal.

COMPENSATION

We propose to provide the services described above for a fixed fee as follows:

Mechanical and Electrical Engineering	\$45,180
Electrical Engineering	\$30,120
Technology Systems Design & CA	\$20,000
LEED® Design and Documentation	\$24,000
MEP Construction Admin	\$15,300
Energy Modelling	\$14,000
Fundamental Commissioning - Mechanical	\$13,500
Fundamental Commissioning - Electrical	\$4,500
<hr/>	
Total Fee	\$166,600



PROJECT EXPENSES

The following reimbursable expenses **are not** included in the above fee and will be invoiced with a 1.0 multiplier of actual cost:

1. Postage and delivery charges.
2. Travel expense: 57.5¢ per mile for auto (adjusted annually) and other out of pocket expenses.
3. Meals and lodging, when required to travel overnight.
4. Project specific insurance coverage riders or amendments necessary to comply with required insurance requirements above current IMEG limits and conditions.
5. Payment of plan review fees or other imposed governmental agency fees.
6. Necessary consultants as approved by Client.

ADDITIONAL SERVICES

IMEG can include the following as additional services. Additional services will be performed on a time and material basis using IMEG's standard hourly rates in effect at the time the service is performed, or for a negotiated fee, and only after approved in writing.

1. Audit or field takeoff of existing or new furniture, fixtures, and equipment (FF&E) and associated utilities.
2. Invasive field takeoff to determine existing conditions that are not readily accessible or visible.
3. Structural design of any kind.
8. Telecommunications design to include Paging, Audio/Video presentation, In-Building Distributed Antenna and Radio System consulting, and telephone and network systems.
4. Creation of a separate technology equipment package for delayed issuance, necessitating the issuance of a separate rough-in package.
5. Our security design services will implement the system as desired and directed by the Client. The determination of a security solution, through a security audit and/or threat analysis, is an additional service.
6. Acoustical evaluation, design, or analysis of any kind.
7. Lightning protection system evaluation and design.
8. Development of an arc flash hazard analysis or modifications to an existing arc flash analysis for the facility.
9. Life cycle cost analysis.
10. ASHRAE 90.1 Energy Standards confirmation or building modeling.
11. Assist in compliance with ASHRAE Standard 188-2015 Legionellosis: Risk Management for Building Water Systems.
12. Assistance with grants and other related funding applications.
13. Detailed fire protection drawings, fire pump design, and hydraulic calculations. Fire protection design does not include location or quantity of fire extinguishers/cabinets.



14. Revising equipment layout and connections, and floor plan modifications, after IMEG's construction drawings and specifications are complete.
15. Value engineering or negotiating construction cost/scope with contractors and related document revisions after documents are complete.
16. Field testing, adjusting, balancing, or field time to assist installation contractor. Initial startup is the responsibility of the various contractors and/or subcontractors.
17. Performing a confirmation site observation after the final job site observation (punch list) has been completed.

GENERAL

The attached Terms and Conditions dated April 10, 2020 and Exhibit A are made a part of this Proposal. This Proposal is valid for 45 days from the date of this offer.

We will begin our services following acceptance of this Proposal for Engineering Services. We look forward to working with you and your staff on this project and appreciate this opportunity to be of service. Acceptance may be conveyed via email to the address listed below or by signing this offer and returning it to our office.

Sincerely,

IMEG CORP.



Joel D. DeHaven, PE
Client Executive | Principal
joel.d.dehaven@imegcorp.com

JDD/bnm

\\files\Corporate\Teams\BPXHE03\Proposals_2020\Flagstaff Airport Snow Removal Building\20200505 ProAgr Flagstaff AP Snow Removal Facility - IMEG MEPT-CX.docx

APMI ARCHITECTURE

Accepted:

Signature

Title

Date



TERMS AND CONDITIONS

Standard of Care: Services provided by IMEG Corp. (hereinafter referred to as "the Engineer") under this Agreement will be performed in accordance with generally accepted professional practices in a manner consistent with the level of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in the same or similar location.

Client Responsibilities: IMEG shall be entitled to rely on the accuracy of documentation presented to it by Client. In the event of updates or changes to any documentation provided to IMEG in furtherance of its services, the Client is responsible for advising IMEG personnel of such updates or changes in writing.

Additional Services: When additional services beyond the defined scope of work are requested, an amendment or change order will be prepared by the Engineer and approved by the Client prior to commencing work. Client's approval by email or payment of proposed additional services shall be deemed binding. Additional services shall be performed on a time and material basis or for a negotiated fee.

Compensation: Services provided by the Engineer on a time and material basis shall be performed in accordance with the Engineer's current fiscal year Standard Hourly Rate Schedule in effect at the time of performance. This schedule is updated yearly and is available upon request.

Performance: Engineer has multiple offices and has professional service agreements for additional engineering and production assistance. The Engineer may use any office or professional service in the completion of services required for the Project. Engineer shall perform work pursuant to an agreed-upon schedule and consistent with the orderly progress inherent in the Engineer's Standard of Care. Work performed in the States of New York or North Carolina may be performed by VPH Engineering Services, P.C. utilizing Engineer's processes and standards.

Billing/Payment: The Client agrees to pay the Engineer for all services performed and all costs incurred. Invoices for the Engineer's services shall be submitted either upon completion of such services or on a monthly basis. Invoices shall be due and payable within 30 days of invoice date (direct) or 15 days from payment by Owner (consultant). Client shall notify Engineer of any objections to the invoice within five working days of receipt and agrees to pursue, in good faith, all payments owed to Engineer for services rendered. Payment of any invoice indicates Client's acceptance of this Agreement, these Terms & Conditions, and satisfaction with Engineer's services. Payment of invoices is in no case subject to unilateral discounting, back-charges, or set-offs by the Client, and payment is due regardless of suspension or termination of this Agreement by either party. Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of 1.5% (or the maximum legal rate) on the unpaid balance. In the event any portion of an account remains unpaid 120 days after the billing, the Engineer may institute collection action and the Client shall pay all costs of collection, including reasonable attorney's fees.

Indemnification: The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Engineer, its directors, employees and agents against claims, damages, liabilities and costs arising from and in proportion to the negligent acts or failure to act of Client and its directors, employees and agents in the performance of services under this Agreement on a comparative basis of fault. The Client shall not be obligated to indemnify the Engineer and its directors, employee and agents for their own negligence or the negligence of others. The Engineer agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its directors, employees and agents against claims, damages, liabilities and costs arising from and in proportion to the negligent acts or failure to act of Engineer and its directors, employees and agents in the performance of services under this Agreement on a comparative basis of fault. The Engineer shall not be obligated to indemnify the Client and its directors, employee and agents for their own negligence or the negligence of others. The other provisions of this Agreement notwithstanding, in the event of any claim within the purview of the indemnification provisions of this section, each indemnitee shall control its defense, and at the time of claim resolution each indemnitor shall provide reimbursement for any reasonable defense cost, recoverable by law, caused by any negligence or other fault by or attributable to each indemnitor as determined by a competent trier of fact. As such, the parties recognize and expressly acknowledge that the duty to defend is not applicable to this Agreement and wholly separate and distinct from the duty to indemnify and hold harmless as set forth in this section.

Insurance: IMEG shall obtain and maintain the following insurance coverages: Commercial General Liability, Automobile Liability, Umbrella/Excess Liability, Workers Compensation/Employer's Liability, and Professional Liability. Certificates of insurance will be provided to the Client upon request. When stipulated by the Parties, Commercial General Liability, Automobile Liability, Umbrella/Excess Liability, Workers Compensation/Employer's Liability shall be written or endorsed to include named additional insureds, primary/non-contributory coverage, and other coverages subject to all terms, exclusions and conditions of the policies and any limitations as to coverage amounts as agreed upon by the Parties.

Certifications, Guarantees and Warranties: The Engineer shall not be required to execute any document or make any promise that would result in the Engineer certifying, guaranteeing or warranting the existence of any conditions.

Assignment: Neither party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including, but not limited to, monies that are due or monies that may be due, without the prior written consent of the other party, which shall not be unreasonably withheld. Subcontracting to subconsultants, normally contemplated by the Engineer as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.

Dispute Resolution: Any claims or disputes between the Client and the Engineer arising out of the services to be provided by the Engineer or out of this Agreement shall be submitted to non-binding mediation. The Client and the Engineer agree to include a similar mediation agreement with all contractors, subconsultants, subcontractors, suppliers and fabricators, providing for mediation as the primary method of dispute resolution among all parties. The laws of the State where the project is located govern the validity of this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in the courts of that State.

Construction Means and Methods: The Engineer shall not be responsible for, nor have control over or charge of, construction means, methods, sequences, techniques, or procedures, or for any health or safety precautions. Neither Client nor Engineer shall hold the other responsible for damages or delays in performance caused by acts of God, strikes, walkouts, accidents, Government acts, or other events beyond the control of the Client's or Engineer's directors, employees, agents, or consultants.

Construction Observation: When the Engineer does not explicitly provide construction observation services within its written scope of work, it is agreed that the professional services of the Engineer do not extend to or include the review or site observation of the contractor's work, performance, or pay request approval. During construction, the Client assumes the role of the engineer and will hold harmless the Engineer for the contractor's performance or the failure of the contractor's work to conform to the design intent and the contract documents.

Project Signs: Project signs displayed at the construction site shall include "IMEG Corp." as the Engineer. Articles for publication regarding this project shall acknowledge IMEG as the Civil, Structural, Mechanical, Electrical and/or Technology Engineer, as applicable.

Adjustments, Changes or Additions: It is understood that adjustments, changes, or additions may be necessary during construction. A contingency fund shall be maintained until construction is completed to pay for field changes, adjustments, or increased scope items. All change order amounts requested by contractors constructing Engineer-designed systems shall be submitted to the Engineer for review prior to being approved by contract holder. The Engineer will not approve amounts requested that are above a normal bid amount for the work involved. In no case will costs be assessed to the Engineer at the discretion of the contractor, the Client, or the Owner without prior agreement and approval of the Engineer. Engineer shall not be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.

Ownership: All drawings, specifications, BIM and other work product of the Engineer developed for this Project are instruments of service owned by IMEG. IMEG shall provide Client with a license to use said instruments of service for purposes consistent with successful project completion, including extensions, if mutually agreed. Reuse of any instruments of service of the Engineer by the Client, or others acting for the Client, for any other use without the express written permission



of the Engineer shall be at the Client's risk. Client agrees to defend, indemnify and hold harmless the Engineer for all claims, damages and expenses, including reasonable attorney's fees, arising out of unauthorized use of IMEG's instruments of service.

Electronic Files: The Client hereby grants permission for the Engineer to use electronic background information produced by the Client in the completion of the project. The Client also grants permission to the Engineer to release Engineers' documents (including their backgrounds) electronically to Client, contractors, and vendors as required in the execution of the project.

Employment: For the duration of this contract, plus six (6) months from the date of final payment received, neither the Engineer nor Client, nor their respective agents, will offer employment or contact any person for such purposes who is or was employed by Engineer, Client or their agents for the period of performance of this contract.

Termination: The Client or Engineer may, after giving seven (7) days written notice, terminate this agreement and the Engineer shall be paid for services provided up to the termination notice date, including reimbursable expenses due plus termination expenses. Termination expenses are defined as reimbursable expenses directly attributed to the termination. Until said reimbursable expenses are paid, Engineer shall not provide any outstanding instruments of services or any other deliverable generated under this Agreement.

Survivability: In the event any provisions of this agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party. Additionally, there shall be no legal presumption against the drafter of this Agreement in the event of a dispute as to the enforceability and/or interpretation of this Agreement.

Limitation of Liability: It is agreed that the Maximum Aggregate Liability of Engineer arising out of or related to this Agreement and for all work performed on this project, whether based in contract or tort, in law or equity or for negligent acts, errors, or omissions, and all claims, losses, costs, damages, cost of defense, or expenses from any cause, including Client, Contractors, and Attorney fees, will be limited to the greater of the compensation actually paid to Engineer for all work performed under this Agreement or \$25,000. This limitation of liability has been agreed upon after Client and Engineer discussed the risks and rewards associated with the Project, as well as the provision of the services within both the obligations of this Agreement and the associated compensation. Upon written request by Client, the parties may negotiate in good faith and mutually agree, by way of a written Change Order or Amendment, to increase the amount of this liability limitation. As used in this section "Engineer" includes all of IMEG's agents, affiliates, subconsultants and subcontractors, and their respective partners, officers, directors, shareholders and employees. The limitation of liability established in this section shall survive the expiration or termination of this Agreement.

Risk Allocation: IMEG's liability to the Client for injury or damage to persons or property arising out of work performed for the Client and for which liability may be found to rest upon IMEG, other than for professional errors, omissions or negligence, will be limited to IMEG's general liability insurance coverage of \$1,000,000.

Hazardous Environmental Conditions: Unless expressly stated in writing, IMEG does not provide assessments of the existence or presence of any hazardous or other environmental conditions or environmental contaminants or materials ("Hazardous Environmental Conditions"). Client shall inform IMEG of any and all known Hazardous Environmental Conditions before services are provided involving or affecting them. If unknown Hazardous Environmental Conditions are encountered, IMEG will notify the Client and, as appropriate, government officials of such conditions. IMEG may, without liability or reduction or delay of compensation due, proceed to suspend services on the affected portion of the project until Client takes appropriate action to abate, remediate, or remove the Hazardous Environmental Condition. IMEG shall not be considered an "arranger", "operator", "generator", "transporter", "owner", or "responsible party" of or with respect to contaminants, materials or substances. IMEG shall assume no liability whatsoever for correction of any Hazardous Environmental Conditions; and shall be entitled to payment or reimbursement of expenses, costs or damages occasioned by undisclosed Hazardous Environmental Conditions.

Buried Utilities: Client shall be responsible for designating the location of all utility lines and subterranean structures within the property lines of the Project. Client agrees to waive any claim against IMEG and to defend, indemnify and hold IMEG harmless for any claim or liability for injury or loss arising from IMEG or other persons encountering utilities or other manmade objects that were not brought to IMEG's attention or which were not properly located on the plans furnished to IMEG. Client further agrees to compensate IMEG for any and all time, costs and expenses incurred by IMEG in defense of any such claim, in accordance with IMEG's then effective standard hourly fee schedule and expense reimbursement policy.

Boundary Conflict: Boundary determinations occasionally disclose unseen or unknown conflicts between the record documents and the location of physical improvements. Upon discovery of any latent or patent ambiguity, uncertainty, or dispute disclosed by the records or by placement of the boundaries on the ground, work on the boundary survey will be suspended and you will be immediately notified. IMEG will present alternatives for possible resolution and any additional work required to achieve resolution will be negotiated. If you should choose to forego resolution, all work completed to date will be invoiced for payment and the project file will be archived by IMEG for future resolution. If you choose resolution, IMEG will act as your mediator, consultant and expert until satisfactory resolution is achieved. Upon resolution, this initial agreement will be reinstated and completed in accordance with its initial terms subject to potential interim rate increases.

Force Majeure: Except as hereinafter provided, no delay or failure in performance by Client or IMEG shall constitute a default under this Agreement if and to the extent the delay or failure is caused by Force Majeure. Unless the Force Majeure frustrates performance of the Services, Force Majeure shall not operate to excuse, but only to delay, performance of the Services. If Services are delayed by reason of Force Majeure, IMEG promptly shall notify Client. Once the Force Majeure event ceases, IMEG shall resume performance of the Services as soon as possible. "Force Majeure" means any event beyond the control of the Party claiming inability to perform its obligations and which such Party is unable to prevent by the exercise of reasonable diligence, including, without limitation, the combined action of workers, strikes, embargoes, fire, acts of terrorism, explosions and other catastrophes, casualties, a moratorium on construction, delays in transportation, governmental delays in granting permits or approvals, changes in laws, expropriation or condemnation of property, governmental actions, unavailability or shortages of materials, national emergency, war, acts of terrorism, cyber-attacks, civil disturbance, floods, unusually severe weather conditions or other acts of God or public enemy. Inability to pay or financial hardship, however, shall not constitute Force Majeure regardless of the cause thereof and whether the reason is outside a Party's control.

Other Terms and Conditions: The Terms and Conditions set forth in this Agreement shall not be superseded by any additional or alternate terms and conditions presented by the Client or any other Party whether contained in invoices or in any other form unless mutually executed, in writing, by Engineer and Client.

IMEG Equal Employment Opportunity / Rights Under Federal Labor Laws

1. The equal opportunity clause of 41 CFR § 60-1.4(a) is hereby incorporated by reference as if fully set forth herein.
2. The equal opportunity clause of 41 CFR § 60-741.5(a) is hereby incorporated by reference as if fully set forth herein. This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime consultants and subconsultants to employ and advance in employment qualified individuals with disabilities.
3. The equal opportunity clause of 41 CFR § 60-300.5(a) is hereby incorporated by reference as if fully set forth herein. This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime consultants and subconsultants to employ and advance in employment qualified protected veterans.
4. The employee notice clause of 29 CFR § 471, Appendix A to Subpart A is hereby incorporated by reference as if fully set forth herein.
5. Employer Reports on Employment of Protected Veterans (41 CFR § 61-300.10)
 - a. IMEG agrees to report at least annually, as required by the Secretary of Labor, on:
 - 1) The total number of employees in the workforce of IMEG, by job category and hiring location, and the total number of such employees, by job category and hiring location, who are protected veterans;



- 2) The total number of new employees hired by IMEG during the period covered by the report, and of such employees, the number who are protected veterans; and
 - 3) The maximum number and minimum number of employees of IMEG at each hiring location during the period covered by the report.
 - 4) The term "protected veteran" refers to a veteran who may be classified as a "disabled veteran," recently separated veteran, "active duty wartime or campaign badge veteran," or an "Armed Forces service medal veteran," as defined in 41 CFR 61-300.2.
- b. The above items must be reported by completing the report entitled "Federal Contractor Veterans' Employment Report VETS-4212."
 - c. VETS-4212 Reports must be filed no later than September 30 of each year following a calendar year in which IMEG held a covered contract or subcontract.
 - d. The employment activity report required by paragraphs (a)(2) and (a)(3) of this clause must reflect total new hires and maximum and minimum number of employees during the 12-month period preceding the ending date that IMEG selects for the current employment report required by paragraph (a)(1) of this clause. IMEG may select an ending date:
 - 1) As of the end of any pay period during the period July 1 through August 31 of the year the report is due; or
 - 2) As of December 31, if IMEG has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1, Standard Form 100 (EEO-1 Report).
 - e. The number of veterans reported according to paragraph (a) above must be based on data known to IMEG when completing their VETS-4212 Reports. IMEG's knowledge of veterans status may be obtained in a variety of ways, including, in response to an invitation to applicants to self-identify in accordance with 41 CFR 60-300.42, voluntary self-disclosures by employees who are protected veterans, or actual knowledge of an employee's veteran status by IMEG. Nothing in this paragraph (e) relieves IMEG from liability for discrimination under 38 U.S.C. 4212.

Rev. 04/10/20



EXHIBIT A – BUILDING INFORMATION MODELING

For projects where IMEG will prepare and share a three-dimensional (3D) model of systems designed by IMEG, the following will apply:

1. The purpose of IMEG’s model (hereafter referred to as ‘the model’) is to produce specifications and two-dimensional (2D) contract documents, bulletins, ASIs, RFIs, etc. suitable for bidding and construction.
2. It is the general intent for the model to be developed to the following levels:
 - a. Schematic Design (SD): No modeling
 - b. Design Development (DD): Generalized assemblies and systems with approximate size, shape, location, and orientation
 - c. Construction Documents (CD): Assemblies and systems based on detailed engineering calculations with generally accurate size, shape, location and orientation
 - d. As-Builts: By contractor
3. The model is only inclusive of those systems and trades designed by IMEG. The model will not include Owner/vendor-provided and installed systems requiring coordination by the installing contractors. The model is intended for internal coordination among the design team. It is understood the model is not intended to be an exact and complete three-dimensional representation of how the contractor will route and locate utilities and equipment.
4. The model will facilitate coordinating spatial constraints in critical areas. However, the model is not intended to resolve all spatial collisions; collisions may exist in the model but are not an indication that the element cannot be installed.
5. The model is *not* intended for use in energy modeling, daylight analysis, rendering, computational fluid dynamics, design loads, pressures, quantity takeoff, estimating, construction scheduling, fabrication, erection, or to resolve *all* collisions. These services can be included as Additional Services. Modeling of existing conditions will be limited to the extent required to produce specifications and 2D contract documents.
6. Revit MEP 2020 will be used. Architectural models will be provided to IMEG in Revit Architecture 2020.
7. IMEG will update its model prior to major project milestones provided a model of the architectural systems is received in a timely manner prior to such milestones.
8. Model exchanges occurring between project milestones are for convenience only and may not reflect recent design changes and decisions.
9. Firms exchanging models will endeavor to note or similarly highlight changes in their model from the prior version provided to the team.
10. Other firms preparing models to be shared with and from IMEG will work with IMEG to create custom views/visibility settings suited to each firm’s needs for use throughout the project.
11. Reflected ceiling plans (RCPs) will be provided to IMEG by 50% DD for use in ceiling-mounted device and fixture design and layout. Final RCPs will be provided to IMEG by 50% CD.



12. For site design, AutoCAD files requiring only freezing of layers suitable for use as backgrounds will be provided to IMEG.
13. The contractor will be required to account for all items shown on the contract documents, regardless of whether and how they are included in the model.
14. The model may be provided to others, including contractors, with IMEG's prior written consent, with the understanding that the model is provided for their convenience and use at their own risk, with IMEG reserving all proprietary rights.
15. The contractor will be required to prepare coordination drawings or modeling showing their preferred routing and sequencing, and final coordination, among the trades.
16. Updates to the model during construction, including as-built modeling, will be prepared by the contractor.

ADDITIONAL SERVICES

IMEG can include the following as additional services. Additional services will be performed on a time and material basis using IMEG's standard hourly rates in effect at the time the service is performed, or for a negotiated fee, and only after approved in writing.

1. Exchanging models in formats other than .RVT.
2. Customizing visibility of linked models for use in IMEG's model/construction documents.
3. Modeling and coordinating sprinkler heads with RCPs.
4. Revising ceiling-mounted devices and fixtures due to three or more changes in the reflected ceiling plans provided to IMEG prior to 50% CD.
5. Coordinating wall-mounted elements (plumbing fixtures, electrical switches and outlets, thermostats, etc.) with wall elevations.
6. Modeling smaller elements such as, but not limited to, mechanical piping 3/4" diameter and less, conduits, branch medical gas piping, ductwork flanges and insulation, piping insulation and valves, power and lighting controls, switches and starters, manufacturer specific geometries, housekeeping pads and curbs, loose lintels, bar joist bridging, support framing for ceiling-mounted equipment, and cold formed metal stud framing.

ELEMENTS NOT INCLUDED

Elements not modeled by IMEG include equipment insulation, hangers, supports, and anchors; non-geometric information such as loads and pressures; testing/balancing; through penetration firestopping; underfloor air distribution systems; systems outside the building's footprint; cabling and wiring; baseplates and anchor rods; reinforcing bars; and pockets in walls for beams.





May 4, 2020

Adam Siros
APMI
8300 N Hayden Rd Ste A209,
Scottsdale, AZ 85258

Re: Pulliam Airport Snow Removal Equipment Building

Adam:

Whitman, Requardt and Associates, LLP (WRA) is pleased to submit our proposal to provide maintenance and operations master planning in support of the above project.

1.0 Background

1.1 It is our understanding that the purpose of this effort is to prepare a final design for a new building to house snow removal equipment.

1.2 We further understand that the Airport has completed a previous master plan that includes some elements related to the location of the facility on the airport property.

We have prepared a shopping list of services that can be provided by WRA for your consideration. We understand there is limited budget and offer you the opportunity to determine which of our services you deem to be the most important.

2.0 Scope of Services

2.1 Task 1: Project Start-Up: WRA will attend a kick-off meeting. During the meeting WRA will review data, existing conditions and hold interviews with key staff.

2.2 Task 2: Program Development:

- WRA will conduct on-site visits and interviews to develop a program for the facility. WRA efforts will focus on all operational areas within the facility and on the surrounding site. WRA will assist APMI in development of the programmatic requirements for offices and personnel spaces.
- WRA will prepare a rolling stock analysis to develop storage requirements to include storage environment (interior, exterior, covered, etc.), quantity of spaces required, and size of spaces required.
- WRA will prepare a space needs program in Microsoft Excel format to be incorporated in the final space program document prepared by APMI. The spreadsheet will define all interior and exterior operational areas and their square footage requirement.

2.3 Task 4: Site and Facility Concepts: WRA will assist APMI in developing conceptual plans for the facility and site.

2.4 Task 5: Specialty Equipment: WRA will prepare an equipment manual defining all specialty maintenance and storage equipment required to support this facility and its operation. The manual will include five sections.

- Equipment list including new and existing equipment with the following information:
 - Item number and description
 - Quantity

- Cost per unit
- Size
- Structural impact
- Electrical Utility Requirements matrix
- Mechanical Utility Requirements matrix
- Equipment cutsheets
- Manufacturing/Engineering data

2.5 Task 6: Design Development:

- WRA will prepare draft specifications for specialty equipment as defined to be specified by WRA in the equipment manual.
- WRA will prepare an equipment layout drawing denoting the locations of all specialty equipment to be located within the facility. The equipment layout will be prepared on AutoCAD backgrounds provided by APMI.

2.6 Task 7: Construction Development:

- WRA will prepare final specifications for specialty equipment as defined to be specified by WRA in the equipment manual.
- WRA will prepare a final equipment layout drawing denoting the locations of all specialty equipment to be located within the facility. The equipment layout will be prepared on AutoCAD backgrounds provided by APMI.

2.7 Task 8: Bidding and Construction:

- Bidding
 - Review and respond to bidder's questions and requests for substitutions related to maintenance equipment specified by WRA
- Construction Administration
 - WRA will review shop drawings/submittals for equipment items specified by WRA.
 - WRA will respond to RFI's as necessary
 - WRA will conduct a final punch of specialty equipment.

3.0 Clarifications

4.1 WRA is providing no Architectural or Engineering services as part of this scope of work.

4.2 This scope includes three trips to Flagstaff: one for the project kick-off/ (2 days) one for programming (3 days) and one for the final punch (1 days)

4.3 WRA liability will be limited to the value of our compensation.

4.0 Compensation

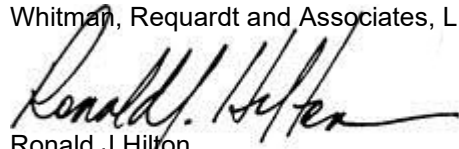
5.1 Proposed Compensation provided in table below. Projected direct expenses will be billed as incurred not to exceed the proposed amount.

LABOR					EXPENSES *			
Category		Hours	Rate	Cost	Qty.	Rate	Cost	
Task 1: Kick-Off								
<i>Hilton</i>	Maint/Ops Planner	16	200.00	3,200.00	Airfare	1 rt	1,200.00	1,200.00
<i>Seymore</i>	Equipment Specialist	0	140.00	0.00	Per Diem	2 days	200.00	400.00
	CAD	0	75.00	0.00	Car Rental	2 day	70.00	140.00
					Miscellaneous directs			200.00
subtotal				3,200.00	subtotal		1,940.00	
Task 2: Programming								
<i>Hilton</i>	Maint/Ops Planner	40	200.00	8,000.00	Airfare	1 rt	1,200.00	1,200.00
<i>Seymore</i>	Equipment Specialist	0	140.00	0.00	Per Diem	3 days	200.00	600.00
	CAD	0	40.00	0.00	Car Rental	3 day	70.00	210.00
					Miscellaneous directs			50.00
subtotal				8,000.00	subtotal		2,060.00	
Task 3: Conceptual Plans								
<i>Hilton</i>	Maint/Ops Planner	20	200.00	4,000.00	Airfare	0 rt	1,200.00	0.00
<i>Seymore</i>	Equipment Specialist	0	140.00	0.00	Per Diem	0 days	150.00	0.00
	CAD	0	75.00	0.00	Car Rental	0 day	70.00	0.00
					Miscellaneous directs			200.00
subtotal				4,000.00	subtotal		200.00	
Task 4: Specialty Equipment								
<i>Hilton</i>	Maint/Ops Planner	8	200.00	1,600.00	Airfare	0 rt	1,400.00	0.00
<i>Seymore</i>	Equipment Specialist	0	140.00	0.00	Per Diem	0 days	150.00	0.00
	CAD	40	75.00	3,000.00	Car Rental	0 day	70.00	0.00
					Miscellaneous directs			200.00
subtotal				4,600.00	subtotal		200.00	
Task 5: Design Development								
<i>Hilton</i>	Maint/Ops Planner	8	200.00	1,600.00	Airfare	0 rt	1,400.00	0.00
<i>Seymore</i>	Equipment Specialist	4	140.00	560.00	Per Diem	0 days	150.00	0.00
	CAD	40	75.00	3,000.00	Car Rental	0 day	70.00	0.00
					Miscellaneous directs			200.00
subtotal				5,160.00	subtotal		200.00	
Task 6: Construction Documents								
<i>Hilton</i>	Maint/Ops Planner	8	200.00	1,600.00	Airfare	0 rt	1,400.00	0.00
<i>Seymore</i>	Equipment Specialist	4	140.00	560.00	Per Diem	0 days	150.00	0.00
	CAD	40	75.00	3,000.00	Car Rental	0 day	70.00	0.00
					Miscellaneous directs			200.00
subtotal				5,160.00	subtotal		200.00	
Task 7: Bidding and Construction								
<i>Hilton</i>	Maint/Ops Planner	16	200.00	3,200.00	Airfare	1 rt	1,400.00	1,400.00
<i>Seymore</i>	Equipment Specialist	0	140.00	0.00	Per Diem	2 days	150.00	300.00
	CAD	40	75.00	3,000.00	Car Rental	2 day	70.00	140.00
					Miscellaneous directs			200.00
subtotal				6,200.00	subtotal		2,040.00	
grand total labor and expenses				\$43,160.00				

We look forward to providing our services to your office on this important planning project. If you have any questions or comments regarding our proposal, please contact us, at your convenience to discuss them.

Very truly yours,

Whitman, Requardt and Associates, LLP

A handwritten signature in black ink, appearing to read "Ronald J. Hilton", written over a light gray rectangular background.

Ronald J Hilton
Senior Vice President

May 5, 2020

Adam Siros
APMI, Inc.
8300 N. Hayden Road
Scottsdale, AZ 852582481

**RE: Proposal for Geotechnical Investigation
Pulliam AP Snow Equipment Removal
Building
6200 S. Pulliam Drive
Flagstaff, AZ
Proposal No. 72887SF**

Dear Mr. Siros:

We are pleased to provide our cost estimate to conduct a soil investigation at the above referenced site that will satisfy site development and foundation design requirements. All work on this project will be carried out under the overall supervision of a registered Professional Engineer in the state of Arizona.

We understand that construction will consist of an approximately 30,000 square foot snow equipment storage building. Construction is assumed to be high bay metal framing utilizing slab-on-grade. Structural loads are expected to be light to moderate and no special considerations regarding settlement tolerances are known at this time. Adjacent areas will be landscaped or paved to support moderate passenger and light truck traffic. Landscaped areas will be utilized for storm water retention and disposal.

We will drill and sample sufficient test borings to adequately determine subsoil conditions and provide samples for laboratory testing. Sufficient laboratory tests will be conducted to properly classify the soils encountered and provide data for engineering design. We presently anticipate drilling 7 structural borings and 3 pavement borings to depths of 20 and 5 feet below existing ground surface, respectively, or refusal, whichever comes first. Drilling and laboratory services will be sub-contracted to ACS Services LLC. Access to the site by conventional truck-mounted drilling equipment is assumed to be free and unencumbered. It is assumed that all field work will take place during regular business hours, and that escorts will be provided for field work taking place within airport security areas.

We will analyze the data obtained from field and laboratory testing and prepare a report presenting all data obtained, together with our conclusions and recommendations regarding:


1. Design data, allowable bearing pressure and depth, for shallow spread footings.
2. Alternate foundation systems and design data, if indicated by soil conditions.
3. Settlement estimate for each foundation system considered.

4. Lateral pressures on temporary and permanent retaining and foundation walls.
5. Groundwater conditions, if any, to the depths which will influence design and/or construction of the proposed development.
6. Swell potential of in-situ and compacted soils and recommendations for control if highly expansive.
7. Pavement design to provide economy and adequate service.
8. Suitability of site soils for use as compacted fill and preferred earthwork methods, including clearing, stripping, excavation and construction of engineered fill.
9. Local excavation and trenching conditions and stability considerations.

Charges for our services have been determined on the basis of our standard Fee and Rate Schedule, a copy of which is attached and made a part hereof. We propose to provide the services set forth herein for a lump sum amount of **\$9,275.00**, which includes all testing, engineering and reimbursable expenses and 2 copies of the report. Should we be informed that additional copies of the report are needed after it has been finalized, there will be an additional charge of \$15.00 per report. Time from authorization to proceed to final report submittal at this time is on the order of 7 to 8 weeks following our receipt of this signed proposal (authorization to proceed). This time frame does not include delays due to inclement weather or delays in the field not caused by Speedie & Associates and subcontractors.

We appreciate the opportunity to submit this proposal for your consideration. If the terms set forth are satisfactory, please sign the attached copy, and return it for our records.

Respectfully submitted,
SPEEDIE & ASSOCIATES


Garrett J. Chott, E.I.T.

APPROVED AND ACCEPTED
For: APMI, Inc.

By: _____

Print Name: _____

Date: _____

ENGINEERING SERVICES
Northern Arizona 2018 Fee and Rate Schedule

Fees for services will be based upon the time worked on the project at the following rates:

Title	Rate Per Hour
Principal	\$ 150.00
Project Manager	110.00
Sr. Geologist/Engineer	110.00
Project Engineer/Geologist	100.00
Environmental Specialist	90.00
Special Inspector (Architectural)	85.00
Special Inspector (Structural/Geotechnical)	85.00
Staff Engineer/Geologist	85.00
Sr. Engineering Technician	75.00
Draftsman	65.00
Materials Testing Technician	55.00
Clerical/Administrative	50.00

REIMBURSABLE EXPENSES

Light Truck Mileage Rate: \$0.50 per mile

The following items are reimbursable to the extent of actual expenses plus 25%:

1. Transportation, lodging and subsistence for out of town travel
2. Special mailings and shipping charges
3. Special materials and equipment unique to the project
4. Duplication or reprinting/copying reports

TEST BORINGS AND FIELD INVESTIGATIONS

On projects requiring test borings, test pits, or other explorations, the services of reputable contractors to perform such work shall be obtained.

SUBCONTRACTORS/SUBCONSULTANTS CHARGES

Any charges for subcontractors/subconsultants are subject to a 25% handling fee if invoiced by Speedie & Associates or such charges can be directly paid by the CLIENT.

SPECIAL RATES

The following rates may be subject to a 35% increase:

- Overtime – time over 8 hours per weekday and on Saturday
- Sunday and Holidays
- Rush orders
- Night Shift

EXPERT WITNESS

Deposition and testimony; 4-hour minimum, \$250.00 per hour.

The following Terms and Conditions are included and hereto made a part of this agreement.

TERMS AND CONDITIONS

1. STANDARD OF CARE

In performing our professional engineering services, Speedie & Associates, Inc. (S&A) will use the degree of care and skill ordinarily exercised by members of our profession currently practicing in the same locality under similar conditions. No warranty, expressed or implied, is made or intended by our proposal for consulting services, our contract, oral or written reports, or services.

2. SCOPE OF SERVICES

2.1 "ON-CALL" SERVICES

Unless otherwise agreed by both parties in writing, all construction materials testing will be performed on an "on-call" basis. Both parties agree that test results for "on-call" testing, where the CLIENT does not request S&A's continuous construction and field observation, will be based only on the representative sample or limited location tested.

2.2 CONSTRUCTION/FIELD OBSERVATION OR REMEDIATION OBSERVATION

If the CLIENT desires more extensive or full-time project observation to help reduce the risk of problems arising during construction, the CLIENT shall request such services as "Additional Services" in accordance with the terms of this agreement. Should the CLIENT for any reason choose not to have S&A provide construction or field observation during the implementation of S&A's specifications or recommendations, or should the CLIENT unduly restrict S&A's assignment of observation personnel, CLIENT shall, to the fullest extent permitted by law, waive any claim against S&A, and indemnify, defend, and hold S&A harmless from any claim or liability for injury or loss arising from field problems allegedly caused by findings, conclusions, recommendations, plans or specifications developed by S&A. CLIENT also shall compensate S&A for any time spent or expenses incurred by S&A in defense of any such claim. Such compensation shall be based upon S&A's prevailing fee and rate schedule.

3. OWNERSHIP OF DOCUMENTS

All reports, plans, specifications, field data, notes and other documents prepared by S&A shall remain the property of S&A. Any reuse of such documents for other purposes must be with the written consent of S&A.

4. SAFETY

While on a CLIENT'S jobsite, S&A's personnel have no authority to exercise any control over any construction contractor, any other entity, or their employees in connection with their work, health or safety precautions. The CLIENT agrees that the General Contractor is solely responsible for jobsite safety and warrants that this intent shall be made evident in the CLIENT'S agreement with the General Contractor. The CLIENT may be charged for additional work for interruption, downtime required, or safety measures required by hazardous job conditions.

5. INSURANCE

Upon request, S&A will furnish certificates of insurance for Workers Compensation, General and Auto insurance, and Professional Errors or Omissions insurance. S&A is not responsible for damage of any cause beyond the coverage of its insurance.

6. INDEMNIFICATION

6.1 ENVIRONMENTAL SERVICES

It is understood and agreed that should the CLIENT hire S&A in matters involving the actual or potential presence of hazardous substances, the CLIENT will indemnify S&A, and its employees and representatives, from and against claims that are the result of negligent acts or omissions on the part of the CLIENT, its employees or representatives. S&A will indemnify the CLIENT from and against claims that are solely the result of negligent acts or omissions on the part of S&A, its employees or representatives.

6.2 NON-ENVIRONMENTAL SERVICES

Both parties agree that S&A's scope of services will not include asbestos, hazardous or toxic materials. Should it become known in any way that such materials may be present at the jobsite or adjacent area that may affect the performance of S&A's services, S&A may suspend its services without any liability until the CLIENT retains appropriate consultation to identify, abate, and/or remove the asbestos, hazardous or toxic materials and warrants that the jobsite is in compliance with applicable laws and regulations. The CLIENT will indemnify S&A and his employees and representatives from and against claims that are the result of negligent acts or omissions on the part of the CLIENT, his employees and representatives. S&A shall indemnify the CLIENT from and against claims, which are solely the result of negligent acts or omissions on the part of S&A, its employees and representatives.

7. LIMITS OF LIABILITY

The CLIENT agrees that S&A shall not be liable for losses caused by or arising from any acts of the CLIENT, his employees or subcontractors. Should any of S&A's employees be found to have been negligent in the performance of professional services rendered, the CLIENT agrees that the maximum aggregate amount of S&A's liability shall be limited to \$50,000.00 or the amount of the fee paid to S&A for professional services, whichever amount is greater.

8. WAIVER OF LIMITATION OF PROFESSIONAL LIABILITY

In the event the CLIENT is unwilling or unable to limit liability in accordance with the paragraph above, then CLIENT shall agree to pay S&A a sum equivalent to an additional 20% of the total fee to be charged for the professional services. Said sum is to be called "Waiver of Limitation of Liability Charge." This charge will in no way be construed as being a charge for insurance of any type, but will be increased consideration for the greater risk involved in performing the work up to the limit of proceeds available from S&A's professional insurance coverage.

9. SAMPLE DISPOSAL

9.1 NON-HAZARDOUS SAMPLES

Test samples are substantially altered during testing and are disposed of immediately upon completion of tests. Drilling samples are disposed of thirty (30) days after submission of our report. If requested in writing, samples can be held after thirty (30) days for an additional storage fee, or returned to the CLIENT.

9.2 HAZARDOUS SAMPLES

If toxic or hazardous substances are involved, S&A will return such samples to the CLIENT. Or using a manifest signed by the CLIENT, S&A will have such samples transported to a location selected by the CLIENT for final disposal. The CLIENT agrees to pay all costs for storage, transport and disposal of samples. The CLIENT recognizes and agrees that S&A is acting as a bailee and at no time assumes title to samples involving hazardous or toxic materials.

10. PAYMENT

Progress invoices will be submitted to the CLIENT monthly with a final billing at completion of services. Invoices are due and payable upon receipt. The CLIENT agrees to pay a finance charge of 1.5 % per month on all past due accounts over thirty (30) days. The CLIENT'S obligation to pay for all work contracted is in no way dependent upon the CLIENT'S ability to obtain financing, zoning approval, or the CLIENT'S successful completion of the project. S&A reserves the right to suspend work under its agreement if the CLIENT fails to pay invoices as due. The CLIENT agrees to pay all costs for collection of payment, including attorney's fees.

11. LITIGATION

In the event of litigation between parties to this agreement, if S&A is the prevailing party, S&A shall be entitled to recover all related costs, expenses, and reasonable attorney fees.



Flagstaff Airport Snow Removal Equipment Building Architectural Design Kimley-Horn Scope of Services

This scope of services is for Kimley-Horn's (or Consultant's) support of the architectural design of a new snow removal equipment (SRE) building at Flagstaff Pulliam Airport (FLG or Airport). Kimley-Horn is a sub consultant to APMI, Inc. (Prime Consultant) who is contracted by the City of Flagstaff (Client). Kimley-Horn's role on this project is to help inform APMI of the overall preliminary space requirements of the SRE building to support FLG's operations.

The SRE building will be a new building with both airside and landside access. The SRE building houses snow removal equipment in a climate-controlled environment. At FLG, airport staff are responsible for clearing the airfield, landside access roads, vehicle parking areas, and rental car "ready line." Therefore, the facility requires direct access to both the airside and landside. The building should be of sufficient size to accommodate forecasted growth in the 2018 Master Plan and the associated expanded facilities in the same plan. It is also understood that the SRE building may contain other airport support functions such as airport maintenance. Recommendations were made in the 2018 master plan to combine other uses with the SRE building. These uses are to be defined by the Client.

1. Project Management

This task is for Consultant's internal project management activities. Specific activities are, coordination with project team members, developing project invoices and project progress reports (as reasonably appropriate), updating project schedule for Consultant's tasks, monitoring and tracking Consultant's project and task budgets, and associated office expenses.

2. Meetings

The following meetings are provided in this scope of services. Any additional meetings will be billed for as Additional Services.

2.1. PROJECT TEAM COORDINATION MEETINGS

Consultant assumes that regular coordination meetings will be held for the duration of the project. These meetings are to be either teleconferences, Microsoft Teams, or some other form of virtual meeting and no travel is required. These meetings will be established, coordinated, and lead by the Prime Consultant. Consultant's participation will occur, as requested by the Prime Consultant, for the duration of Consultant's provided services. Consultant will participate in up to a total of 12 coordination meetings, one hour in duration. One member of the Consultant team will attend these meetings.

2.2. SITE VISIT/INTERVIEWS WITH AIRPORT OPERATIONS

This task is a one-day long site visit plus travel time to meet with airport management, airport operations, and airport maintenance staff. The purpose of this meeting is to understand the Client's intended uses of the new SRE building, equipment to be stored, and clarify areas the Client is responsible for clearing snow. Office space requirements to be contained within the new SRE building will also be discussed in the interviews. One member of the Consultant team will attend these meetings. The Prime Consultant will be responsible for arranging these meetings with the Client. Consultant will take notes for internal purposes only. Formal meeting minutes, if required, will be the responsibility of the Prime Consultant.

2.3. CONFIRM SPACE REQUIREMENTS

Once the space requirements are identified, a meeting will be held with the Client to review and refine the requirements. This meeting is to be held at the airport and be attended in person by the Consultant. The Client or Prime Consultant will be responsible for meeting room logistics, note taking and meeting minutes. This task incorporates travel time by the Consultant. One member of the Consultant team will attend these meetings.

3. Review Documentation

The Consultant will review the following documentation. These documents are to be provided to the Consultant by the Prime Consultant. The Consultant is entitled to rely on the completeness and accuracy of these documents.

- 2018 Airport Master Plan
- Current Airfield Certification Manual
- Snow and Ice Removal Plan
- Airport Capital Improvement Plan
- Snow Removal Equipment Replacement Plan(s)
- Snow Removal Equipment List
- Airport Maintenance Equipment List

4. Develop Space Requirement

Based upon the interviews conducted in Task 2.2 and information collected from the documents provided by the Prime Consultant listed in Task 3, a table, with supporting narrative, will be developed of the space requirements for the SRE building. These will be requirements for the equipment stowage and Client defined maintenance area and office space allocations. Space requirements will not be developed for building support functions such as mechanical rooms or electrical rooms. These are the responsibility of the Prime Consultant

Deliverable: Technical memorandum with a table defining the space requirements of the SRE building.

5. Additional Services

Additional services the Consultant can provide include but are not limited to the following:

- Title 14 Code of Federal Regulations Part 77 review of the SRE building
- Filing of FAA Form 7460-1 for the new SRE building
- Filing of FAA Form 7460-1 for temporary construction equipment associated with erecting the new SRE building

Schedule:

Consultant assumes that these tasks will be completed within three months of receipt from the Prime Consultant of a contract execution, notice to proceed, and receipt of documents specified in Section 3. The Consultant shall not have liability for or be deemed in breach because of delays caused by any factor outside of its reasonable control, including but not limited to natural disasters, adverse weather, or acts of the Client, Prime Consultant, third parties, or governmental agencies. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control.

Due to the everchanging circumstances surrounding the COVID-19 Virus, situations may arise during the performance of this Agreement that affect availability of resources and staff of Kimley-Horn, the Prime Consultant, the Client, other consultants, and public agencies. There could be changes in anticipated delivery times, jurisdictional approvals, and project costs. Kimley-Horn will exercise reasonable efforts to overcome the challenges presented by current circumstances, but Kimley-Horn will not be liable to the Prime Consultant or the Client for any delays, expenses, losses, or damages of any kind arising out of the impact of the COVID-19 Virus.

Compensation:

Kimley-Horn will perform the services in Tasks 1 - 4 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Prime Consultant; should the Prime Consultant request Kimley-Horn to advance any such project fees on the Prime Consultant's behalf, a separate invoice for such fees, with a ten percent (10%) markup, will be immediately issued to and paid by the Prime Consultant.

Task 1	Project Management	\$6,500
Task 2	Meetings	\$25,200
Task 3	Review Documentation	\$15,300
Task 4	Develop Space Requirements	\$20,000
Total Lump Sum Fee		\$67,000

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. The Prime Consultant will promptly invoice the Client for the Consultant's services and shall use reasonable and diligent efforts to collect payment from the Client. The Prime Consultant shall pay the Consultant within 25 days after receiving payment from Client. Regardless of whether the Client pays the Prime Consultant in full, the Prime Consultant shall pay the Consultant for all undisputed invoices within a reasonable time after the completion of the Consultant's services under this Agreement.

EXHIBIT B

CITY OF FLAGSTAFF STANDARD TERMS AND CONDITIONS

IN GENERAL

1. **NOTICE TO PROCEED:** Contractor shall not commence performance until after City has issued a Notice to Proceed.
2. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract, and provide copies to City upon request.
3. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of this Contract.
4. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, this Contract is non-exclusive and the City reserves the right to contract with others for materials or services.
5. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

MATERIALS

6. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.
7. **QUALITY:** Contractor warrants that all materials supplied under this Contract will be new and free from defects in material or workmanship. The materials will conform to any statements made on the containers or labels or advertisements for the materials, and will be safe and appropriate for use as normally used. City's inspection, testing, acceptance or use of materials shall not serve to waive these quality requirements. This warranty shall survive termination or expiration of the Contract.
8. **ACCEPTANCE:** All materials and services provided by Contract are subject to final inspection and acceptance by the City. Materials and services failing to conform to the Contract specifications may be rejected in whole or part. If rejected, Contractor is responsible for all costs associated arising from rejection.
9. **MANUFACTURER'S WARRANTIES:** Contractor shall deliver all Manufacturer's Warranties to City upon City's acceptance of the materials.
10. **PACKING AND SHIPPING:** Contractor shall be responsible for industry standard packing which conforms to requirements of carrier's tariff and ICC regulations. Containers shall be clearly marked as to lot number, destination, address and purchase order number. All shipments shall be F.O.B. Destination, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001, unless otherwise specified by the City. C.O.D. shipments will not be accepted.

11. **TITLE AND RISK OF LOSS:** The title and risk of loss of material shall not pass to the City until the City actually receives the material at the point of delivery, and the City has completed inspection and has accepted the material, unless the City has expressly provided otherwise in the Contract.
12. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender without prior written approval from the City.
13. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor and may not substitute nonconforming materials, or services. Delivery of nonconforming materials, and/or services, or a default of any nature, at the option of the City, shall constitute shall deliver conforming materials, or services, in each installment or lot of the contract a breach of the contract as a whole.
14. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials.
15. **LIENS:** All materials and other deliverables supplied to the City shall be free of all liens other than the security interest held by Contractor until payment in full is made by the City. Upon request of the City, Contractor shall provide a formal release of all liens.
16. **CHANGES IN ORDERS:** The City reserves the right at any time to make changes in any one or more of the following: (a) methods of shipment or packing; (b) place of delivery; and (c) quantities. If any change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be evidenced in writing and approved by the City Purchasing Director prior to the institution of the change.

PAYMENT

17. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number, and dates when goods were shipped or work performed. Invoices shall be sent within 30 days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.
18. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.
19. **TAXES:** Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of this Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

Exception: The City will pay any taxes which are specifically identified as a line item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.

20. **FEDERAL EXCISE TAXES:** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.
21. **FUEL CHARGES:** Contractor at its own expense is liable for all fuel costs related to performance. No fuel surcharges will be accepted or paid by City.
22. **DISCOUNTS:** If the Contract provides for payment discounts, payment discounts will be computed from the later date of the following: (a) when correct invoice is received by the City; or (b) when acceptable materials and/or materials were received by City.
23. **AMOUNTS DUE TO THE CITY:** Contractor must be current and remain current in all obligations due to the City during performance. Payments to Contractor may be offset by any delinquent amounts due to City or fees and charges owed to City under this Contract.
24. **OFAC:** No City payments may be made to any person in violation of Office of Foreign Assets Control regulations, 31 C.F.R. Part 501.

SERVICES

25. **INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.
26. **CONTROL:** Contractor shall be responsible for the control of the work.
27. **WORK SITE:** Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.
28. **SAFEGUARDING PROPERTY:** Contractor shall be responsible for any damage to real property of the City or adjacent property in performance of the work and safeguard the worksite.
29. **QUALITY:** All work shall be of good quality and free of defects, performed in a diligent and professional manner.
30. **ACCEPTANCE:** If work is rejected by the City due to noncompliance with the Contract, The City, after notifying Contractor in writing, may require Contractor to correct the deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.
31. **WARRANTY:** Contractor warrants all work for a period of one (1) year following final acceptance by the City. Upon receipt of written notice from the City, Contractor at its own expense shall promptly correct work rejected as defective or as failing to conform to the Contract, whether observed before or after acceptance, and whether or not fabricated, installed or completed by Contractor, and shall bear all costs of correction. If Contractor does not correct deficiencies within a reasonable time specified in the written notice from the City, the City may perform the work and Contractor shall be liable for the costs. This

one-year warranty is in addition to, and does not limit Contractor's other obligations herein. This warranty shall survive termination or expiration of the Contract.

INSPECTION, RECORDS, ADMINISTRATION

32. **RECORDS:** The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five (5) years after completion of the Contract.
33. **RIGHT TO INSPECT BUSINESS:** The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.
34. **PUBLIC RECORDS:** This Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law, A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.
35. **CONTRACT ADMINISTRATION:** Contractor will be required to participate in the City's Contract Administration Process. Contractor will be closely monitored for contract compliance and will be required to promptly correct any deficiencies.

INDEMNIFICATION, INSURANCE

36. **GENERAL INDEMNIFICATION:** Contractor shall indemnify, defend and hold harmless the City, its council, boards and commissions, officers, employees from all losses, claims, suits, payments and judgments, demands, expenses, attorney's fees or actions of any kind resulting from personal injury to any person, including employees, subcontractors or agents of Contractor or damages to any property arising or alleged to have arisen out of the negligent performance of the Contract, except any such injury or damages arising out of the sole negligence of the City, its officers, agents or employees. This indemnification provision shall survive termination or expiration of the Contract. This indemnification clause shall not apply, if a different indemnification clause is included in the City's Specific Terms and Conditions.
37. **INSURANCE:** Contractor shall maintain all insurance coverage required by the City, including public liability and worker's compensation.
38. **INTELLECTUAL PROPERTY INDEMNIFICATION:** Contractor shall indemnify and hold harmless the City against any liability, including costs and expenses, for infringement of any patent, trademark or copyright or other proprietary rights of any third parties arising out of contract performance or use by the City of materials furnished or work performed under this Contract. Contractor shall promptly assume full responsibility for the defense of any suit or proceeding which is, has been, or may be brought against the City and its agents for alleged infringement, or alleged unfair competition resulting from similarity in design, trademark or appearance of goods, and indemnify the City against any and all expenses, losses, royalties, profits and damages, attorneys fees and costs resulting from such proceedings or settlement thereof. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

39. **PRICE INCREASES:** Except as expressly provided for in the Contract, no price increases will be approved.
40. **COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the parties.
41. **AMENDMENTS:** This Contract may be amended by written agreement of the parties.
42. **SEVERABILITY:** If any term or provision of this Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted, and the remainder of this Contract shall remain in full force and effect.
43. **NO WAIVER:** Each party has the right insist upon strict performance of the Contract, and the prior failure of a party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.
44. **ASSIGNMENT:** This Contract may be assigned by Contractor with prior written consent of the City, which will not be unreasonably withheld. Any assignment without such consent shall be null and void. Unless expressly provided for in a separately executed Consent to Assignment, no assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to City. The Purchasing Director shall have authority to consent to an assignment on behalf of City.
45. **BINDING EFFECT:** This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

46. **SUBCONTRACTING:** Contractor may subcontract work in whole or in part with the City's advance written consent. City reserves the right to withhold consent if subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.
47. **NONDISCRIMINATION:** Contractor 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 identity, genetic information, age, national origin, disability, veteran status, caregiving responsibilities, or familial status shall have equal access to employment opportunities. Contractor 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. In addition, any Contractor shall also comply with City Code, Chapter 14-02, Civil Rights which prohibits discrimination based upon sexual orientation, or gender identity or expression.

- 48. DRUG FREE WORKPLACE:** The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor personnel shall abstain from use or possession of illegal drugs while engaged in performance of this Contract.
- 49. IMMIGRATION LAWS:** Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all State and Federal Immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty"). A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City. The City retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on this Contract to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections. The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any subcontractors to ensure compliance with Contractor's Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or subcontractor if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

DEFAULT AND TERMINATION

- 50. TERMINATION FOR DEFAULT:** Prior to terminating this Contract for a material breach, the non-defaulting party shall give the defaulting party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting party in writing. In the event the breach is not timely cured, or in the event of a series of repeated breaches the non-defaulting party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the parties may execute all remedies available at law in addition Contract remedies provided for herein.
- 51. CITY REMEDIES:** In the event of Contractor's default, City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.
- 52. CONTRACTOR REMEDIES:** In the event of City's default, Contractor may pursue all remedies available at law, except as provided for herein.
- 53. SPECIAL DAMAGES:** In the event of default, neither party shall be liable for incidental, special, or consequential damages.
- 54. TERMINATION FOR NONAPPROPRIATION OF FUNDS:** The City may terminate all or a portion of this Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.

- 55. TERMINATION FOR CONVENIENCE:** Unless expressly provided for otherwise in the Contract, this Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If this Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by City before the effective date of termination.
- 56. TERMINATION DUE TO INSOLVENCY:** If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate this Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.
- 57. PAYMENT UPON TERMINATION:** Upon termination of this Contract, City will pay Contractor for satisfactory performance up until the effective date of termination. City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.
- 58. CANCELLATION FOR GRATUITIES:** The City may cancel this Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant ("Gratuities") in connection with award or performance of the Contract.
- 59. CANCELLATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511):** The City may cancel this Contract within three (3) years after its execution, without penalty or further liability to Contractor.

MISCELLANEOUS

- 60. ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with City, without the prior written consent of the City.
- 61. NOTICES:** All notices given pursuant to this Contract shall be delivered at the addresses as specified in the Contract, or updated by Notice to the other party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four (4) days after being sent; (c) or sent by overnight courier, with receipt deemed effective two (2) days after being sent. Notice may be sent by email as a secondary form of notice.
- 62. THIRD PARTY BENEFICIARIES:** This Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.
- 63. GOVERNING LAW:** This Contract shall be construed in accordance with the laws of Arizona.
- 64. FORUM:** In the event of litigation relating to this Contract, any action at law or in equity shall be filed in Coconino County, Arizona.

65. ATTORNEYS' FEES: If any action at law or in equity is necessary to enforce the terms of this Contract, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs, professional fees and expenses.

EXHIBIT C
INSURANCE

1. In General. Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with this Contract by the Contractor, its agents, representatives, employees or contractors.
2. Requirement to Procure and Maintain. Each insurance policy required by this Contract shall be in effect at, or before, commencement of work under this Contract and shall remain in effect until all Contractor's obligations under this Contract have been met, including any warranty periods. The Contractor's failure to maintain the insurance policies as required by this Contract or to provide timely evidence of renewal will be considered a material breach of this Contract.
3. Minimum Scope and Limits of Insurance. The following insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City does not represent or warrant that the minimum limits set forth in this Contract are sufficient to protect the Contractor from liabilities that might arise out of this Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

Contractor shall provide coverage at least as broad and with limits not less than those stated below.

a. Commercial General Liability - Occurrence Form

General Aggregate	\$2,000,000
Products/Completed Operations	\$1,000,000
Each Occurrence	\$1,000,000

b. Umbrella Coverage \$2,000,000

c. Automobile Liability –
Any Automobile or Owned, Hired
and Non-owned Vehicles
Combined Single Limit Per Accident
for Bodily Injury & Property Damage \$1,000,000

d. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	\$500,000
Disease - Each Employee	\$500,000
Disease - Policy Limit	\$500,000

e. Professional Liability \$2,000,000

4. Self-Insured Retention. Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that the insurer reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and volunteers.

Contractor shall be solely responsible for any self-insured retention amounts. City at its option may require Contractor to secure payment of such self-insured retention by a surety bond or irrevocable and unconditional letter of credit.

5. Other Insurance Requirements. The policies shall contain, or be endorsed to contain, the following provisions:
 - a. Additional Insured. In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents and employees shall be named and endorsed as additional insureds with respect to liability arising out of this Contract and activities performed by or on behalf of the Contractor, including products and completed operations of the Contractor, and automobiles owned, leased, hired or borrowed by the Contractor.
 - b. Broad Form. The Contractor's insurance shall contain broad form contractual liability coverage.
 - c. Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, agents and employees, shall be in excess of the coverage of the Contractor's insurance and shall not contribute to it.
 - d. Each Insured. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Not Limited. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
 - f. Waiver of Subrogation. The policies shall contain a waiver of subrogation against the City, its officers, officials, agents and employees for losses arising from work performed by Contractor for the City.
6. Notice of Cancellation. Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, cancelled, reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Buyer listed in the original Solicitation and shall reference the Contract Number:

Attention: Matthew Luhman
Contract No. 2020-54
Purchasing Section
City of Flagstaff,
211 W. Aspen Avenue
Flagstaff, Arizona 86001.

7. Acceptability of Insurers. Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A-: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

8. Certificates of Insurance. The Contractor shall furnish the City with certificates of insurance (ACORD form) as required by this Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City project/contract number and project description shall be noted on the certificates of insurance. The City must receive and approve all certificates of insurance and endorsements before the Contractor commences work.
9. Policies. The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by this Contract at any time. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under this Contract.
10. Modifications. Any modification or variation from the insurance requirements in this Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.

EXHIBIT D
GRANT PROVISIONS

(Found on following pages)



GRANT PROVISIONS

Sponsor: City of Flagstaff

Funding Agency: U.S. Department of
Transportation, Federal Aviation
Administration

Grant Project Title: Flagstaff Airport – Design Snow
Removal Equipment Building
(SREB)

AIP Grant Number: 3-04-0015-044

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

FEDERAL CERTIFICATIONS

- A4 - Buy American Preference - Title 49 U.S.C., § 501101
- A11 - Suspension and Debarment Requirement For All Contracts Over \$25,000 – 2 CFR part 180 (Subpart C), 2 CFR part 1200, DOT Order 4200.5
- A12 - Disadvantaged Business Enterprise Participation – 49 CFR part 26
- A18 – Lobbying and Influencing Federal Employees – 31 USC § 1352 Byrd Anti-Lobbying Amendment, 2 CFR part 200, Appendix II(J), 49 CFR part 20, Appendix A
- A26 - Trade Restriction Certification – 49 USC § 50104, 49 CFR part 30

A4 - CERTIFICATE OF BUY AMERICAN COMPLIANCE- MANUFACTURED PRODUCTS

PULLIAM AIRPORT
FLAGSTAFF, ARIZONA

DESIGN SNOW REMOVAL EQUIPMENT BUILDING

FAA AIP Project Number: 3-04-0015-44

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
- a) Only installing steel and manufactured products produced in the United States;
 - b) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing U.S. domestic product.
3. To furnish U.S. domestic product for any waiver request that the FAA rejects
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that supports the type of waiver being requested.
2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
3. To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver – The cost of the item components and subcomponents produced in the United States is more that 60 percent of the cost of all components and subcomponents of the "item". The required documentation for a Type 3 waiver is:

- a) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers

Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).

- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver – Total cost of project using U.S. domestic source product exceeds the total project cost using non-domestic product by 25 percent. The required documentation for a Type 4 of waiver is:

- a) Detailed cost information for total project using U.S. domestic product
- b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

NOTE: Failure to complete the blanks may be grounds for rejection of the bid.

**A11 - CERTIFICATION OF LOWER TIER CONTRACTORS
REGRAIDING DEBAREMENT**

**PULLIAM AIRPORT
FLAGSTAFF, ARIZONA**

DESIGN SNOW REMOVAL EQUIPMENT BUILDING

FAA AIP Project Number: 3-04-0015-44

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offerer /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

Date

Signature

Company Name

Title

NOTE: Failure to complete the blanks may be grounds for rejection of the bid.

A12 - ASSURANCE OF DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

**PULLIAM AIRPORT
FLAGSTAFF, ARIZONA**

DESIGN SNOW REMOVAL EQUIPMENT BUILDING

FAA AIP Project Number: 3-04-0015-44

To meet the mandated requirements of the United States Department of Transportation, 49 CFR Part 26, the assurance below shall be signed by the bidder and submitted with the bid.

BIDDER'S ASSURANCE OF COMPLIANCE WITH TITLE 49 CFR PART 26 RELATING TO DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

The successful Bidder or Offeror must provide written confirmation of participation from each of the DBE firms the Bidder or Offeror lists in its commitment **within five days after bid opening**.

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1)
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal; and
- 5) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26.

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the City of Flagstaff to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (§26.29) – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven (7) days from the receipt of each payment the prime contractor receives from City of Flagstaff. The prime contractor agrees further to return

retainage payments to each subcontractor within seven (7) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Flagstaff. This clause applies to both DBE and non-DBE subcontractors.

The bidder hereby gives assurance pursuant to the requirements of Title 49 CFR Part 26 that bidder has made a reasonable effort to meet the goals for Disadvantaged Business Enterprise participation specified for the contract for which this proposal is submitted and that bidder, if the contract is awarded to bidder, will have a **DBE participation of [redacted] percent** of the amount of this bid. Bidder further gives assurance that bidder has submitted the documentation required by said Regulations and the contract specifications, including the Listing of Disadvantaged Business Enterprises with which the bidder will subcontract if the contract is awarded and if bidder is unable to meet the contract goals for DBE participation, and the steps bidder has taken to obtain DBE participation.

The Overall Current DBE Goal is 8.05%

Race Conscious 0% / Race Neutral 8.05%

Date

Signature

Company Name

Title

NOTE: Bidder shall insert the percentage for DBE participation even if the percentage is less than the contract goal. A bid that fails to meet these requirements may be considered grounds for rejecting the bid.

A18 – LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

PULLIAM AIRPORT
FLAGSTAFF, ARIZONA

DESIGN SNOW REMOVAL EQUIPMENT BUILDING

FAA AIP Project Number: 3-04-0015-44

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Date

Signature

Company Name

Title

NOTE: Failure to complete the blanks may be grounds for rejection of the bid.

**A26 - TRADE RESTRICTION CERTIFICATE TO BE INCLUDED IN
ALL SOLICITATIONS, CONTRACTS, AND SUBCONTRACTS**

**PULLIAM AIRPORT
FLAGSTAFF, ARIZONA**

DESIGN SNOW REMOVAL EQUIPMENT BUILDING

FAA AIP Project Number: 3-04-0015-44

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification

of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

Date

Signature

Company Name

Title

NOTE: Failure to complete the blanks may be grounds for rejection of the bid.

APPENDIX A – CONTRACT PROVISIONS

A1 ACCESS TO RECORDS AND REPORTS

A1.1 SOURCE

2 CFR § 200.333

2 CFR § 200.336

FAA Order 5100.38

A1.2 APPLICABILITY

2 CFR § 200.333 requires a sponsor to retain records pertinent to a Federal award for a period of three years from submission of final closure documents. 2 CFR § 200.336 establishes that sponsors must provide Federal entities the right to access records pertinent to the Federal award. FAA policy extends these requirements to the sponsor's contracts and subcontracts of AIP funded projects.

Contract Types – The sponsor must include this provision in all contracts and subcontracts of AIP funded projects.

Use of Provision – No mandatory language provided. The following language is acceptable to the FAA with meeting the intent of this requirement. If the sponsor prefers to use different language, the sponsor's language must fully satisfy the requirements of §§ 200.333 and 200.336.

A1.3 CONTRACT CLAUSE

ACCESS TO RECORDS AND REPORTS

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

A2 AFFIRMATIVE ACTION REQUIREMENT

A2.1 SOURCE

41 CFR part 60-4

Executive Order 11246

A2.2 APPLICABILITY

Minority Participation. Sponsors are required to set goals for minority participation in AIP funded projects exceeding \$10,000. The goals for minority participation derive from Economic Area (EA) and Standard Metropolitan Statistical Area (SMSA) as established in Volume 45 of the Federal Register dated 10/3/80. Page 65984 contains a table of all EAs and SMSAs and the associated minority participation goals.

To find the goals for minority participation, a sponsor must either refer to the Federal Register Notice or to the Department of Labor online document, "[Participation Goals for Minorities and Females](#)". EAs and SMSAs span state boundaries. A sponsor may have to refer to entries for adjacent states in order to locate the goal for the project location.

Female Participation. Executive Order 11246 has set a goal of 6.9% nationally for female participation for all construction projects. This value remains constant for all counties and states.

Contract Types –

Construction – The sponsor must incorporate this notice in all solicitations for bids or requests for proposals for AIP funded construction work contracts and subcontracts that exceed \$10,000. Construction work means construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection and other onsite functions incidental to the actual construction.

Equipment – The sponsor must incorporate this notice in any equipment project exceeding \$10,000 that involves installation of equipment onsite (e.g. electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at a manufacturer's plant (e.g. firefighting and snow removal vehicles).

Professional Services – The sponsor must incorporate this notice in any professional service agreement if the professional services agreement includes tasks that meet the definition of construction work [as defined by the U.S. Department of Labor (DOL)] and exceeds \$10,000. Examples include installation of monitoring systems (e.g. noise, environmental, etc.).

Property/Land – The sponsor must incorporate this notice in any agreement associated with land acquisition if the agreement includes construction work (defined above) that exceeds \$10,000. Examples include demolition of structures or installation of boundary fencing.

Use of Provision – MANDATORY TEXT. The sponsor must:

- (a) Incorporate the text of this provision in its solicitations without modification.
- (b) Incorporate the applicable minority participation goal and the covered area by geographic name.
- (c) Not simply insert a reference to the 1980 Federal Register Notice.

A2.3 SOLICITATION CLAUSE

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION to ENSURE EQUAL EMPLOYMENT OPPORTUNITY

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables

- Goals for minority participation for each trade: **[sponsor must insert established goal]** Overall Goal 8.05%
- Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the “covered area” is **[sponsor must insert state, county, and city]**. Arizona, Coconino County, and City of Flagstaff.

A3 BREACH OF CONTRACT TERMS

A3.1 SOURCE

2 CFR § 200 Appendix II(A)

A3.2 APPLICABILITY

This provision requires sponsors to incorporate administrative, contractual or legal remedies if contractor violate or breach contract terms. The sponsor must also include appropriate sanctions and penalties.

Contract Types – This provision is required for all contracts that exceed the simplified acquisition threshold as stated in 2 CFR Part 200, Appendix II (A). This threshold is occasionally adjusted for inflation and is now equal to \$150,000.

Use of Provision – No mandatory language provided. The following language is acceptable to the FAA as meeting the intent of this requirement. If the sponsor uses different language, the sponsor’s language must fully satisfy the requirements of part 200. Select either “contractor” or “consultant” as applicable.

A3.3 CONTRACT CLAUSE

BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the [Contractor | Consultant] or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide [Contractor | Consultant] written notice that describes the nature of the breach and corrective actions the [Contractor | Consultant] must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner’s notice will identify a specific date by which the [Contractor | Consultant] must correct the breach. Owner may proceed with termination of the contract if the [Contractor | Consultant] fails to correct the breach by the deadline indicated in the Owner’s notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

A4 BUY AMERICAN PREFERENCE

A4.1 SOURCE

Title 49 USC § 50101

A4.2 APPLICABILITY

The Buy American Preference requirement in 49 USC § 50101 requires that all steel and manufactured goods used on AIP projects be produced in the United States. The statute gives the FAA the ability to issue a waiver to a sponsor to use non-domestic material on an AIP funded project subject to meeting certain conditions. A sponsor may request that the FAA issue a waiver from the Buy American Preference requirements if the FAA finds that:

- 1) Applying the provision is not in the public interest;
- 2) The steel or manufactured goods are not available in sufficient quantity or quality in the United States;
- 3) The cost of components and subcomponents produced in the United States is more than 60 percent of the total components of a facility or equipment, and final assembly has taken place in the United States. Items that have an FAA standard specification item number (such as specific airport lighting equipment) are considered the equipment.
- 4) Applying this provision would increase the cost of the overall project by more than 25 percent.

Timing of Waiver Requests. Sponsors desiring a Type 1 or Type 2 waiver must submit their waiver requests *before* issuing a solicitation for bids or a request for proposal for a project.

The sponsor must submit Type 3 or Type 4 waiver requests *prior* to executing the contract. The FAA will generally not consider waiver requests after execution of the contract except where extraordinary and extenuating circumstances exist. The FAA cannot review waiver requests with incomplete information. Sponsors must assess the adequacy of the waiver request and associated information prior to forwarding a waiver request to the FAA for action.

Buy American Conformance List. The FAA Office of Airports maintains a listing of equipment that has received a nationwide waiver from the Buy American Preference requirements or that fully meet the Buy American requirements. The Nationwide Buy American Waiver List is available online at www.faa.gov/airports/aip/buy_american/. Products listed on the Buy American Conformance list do not require additional submittal of domestic content information under a project specific Buy American Preference waiver.

Facility Waiver Requests. For construction of a facility, the sponsor may submit the waiver request after bid opening, but prior to contract execution. Examples of facility construction include terminal buildings, terminal renovation, and snow removal equipment buildings.

Contract Types –

Construction and Equipment – The sponsor must meet the Buy American Preference requirements of 49 USC § 50101 for all AIP funded projects that require steel or manufactured

goods. The Buy America requirements flow down from the sponsor to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are also in compliance.

Note: The Buy American Preference does not apply to equipment a contractor uses as a tool of its trade and which does not remain as part of the project.

Professional Services – Professional service agreements (PSAs) do not normally result in a deliverable that meets the definition of a manufactured product. However, the emergence of various project delivery methods has created situations where task deliverables under a PSA may include a manufactured product. If a PSA includes providing a manufactured good as a deliverable under the contract, the sponsor must include the Buy American Preference provision in the agreement.

Property – Most land transactions do not involve acquiring a manufactured product. However, under certain circumstances, a property acquisition project could result in the installation of a manufactured product. For example, the installation of property fencing, gates, doors and locks, etc. represent manufactured products acquired under an AIP funded land project that must comply with Buy American Preferences.

Use of Provision – No mandatory language provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor’s revised language must fully comply with 49 USC § 50101.

There are two types of Buy American certifications. The sponsor must incorporate the appropriate “Certificate of Buy America Compliance” in the solicitation:

- Projects for a facility (buildings such as terminals, snow removal equipment (SRE) buildings, aircraft rescue and firefighting (ARFF) buildings, etc.) – Insert the Certificate of Compliance Based on Total Facility.
- Projects for non-facility development (non-building construction projects such as runway or roadway construction or equipment acquisition projects) – Insert the Certificate of Compliance Based on Equipment and Materials Used on the Project.

A4.3 SOLICITATION CLAUSE

A4.3.1 Buy American Preference Statement

BUY AMERICAN PREFERENCE

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

A4.3.2 Certificate of Buy American Compliance – Total Facility

CERTIFICATE OF BUY AMERICAN COMPLIANCE FOR TOTAL FACILITY

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark (✓) or the letter “X”.

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
- a) Only installing steel and manufactured products produced in the United States; or
 - b) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
 - To faithfully comply with providing U.S. domestic products.
 - To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- a) To submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that supports the type of waiver being requested.
 - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
 - c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
 - d) To furnish U.S. domestic product for any waiver request that the FAA rejects.
 - e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “facility”. The required documentation for a Type 3 waiver is:

- a) Listing of all manufactured products that are not comprised of 100 percent U.S. domestic content (excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c) Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

Type 4 Waiver – Total cost of project using U.S. domestic source product exceeds the total project cost using non-domestic product by 25 percent. The required documentation for a Type 4 of waiver is:

- a) Detailed cost information for total project using U.S. domestic product
- b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

A4.3.3 Certificate of Buy American Compliance – Manufactured Product

Certificate of Buy American Compliance for Manufactured Products

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
- a) Only installing steel and manufactured products produced in the United States;
 - b) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
 2. To faithfully comply with providing U.S. domestic product.
 3. To furnish U.S. domestic product for any waiver request that the FAA rejects
 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that supports the type of waiver being requested.
 2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
 3. To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
 4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver – The cost of the item components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “item”. The required documentation for a Type 3 waiver is:

- a) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver – Total cost of project using U.S. domestic source product exceeds the total project cost using non-domestic product by 25 percent. The required documentation for a Type 4 of waiver is:

- a) Detailed cost information for total project using U.S. domestic product
- b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

A5 CIVIL RIGHTS - GENERAL

A5.1 SOURCE

49 USC § 47123

A5.2 APPLICABILITY

There are two separate civil rights provisions that apply to projects:

1. FAA General Civil Rights Provision and,
2. Title VI provisions, which are addressed in Appendix A6.

Contract Types – The General Civil Rights Provisions found in 49 USC § 47123, derived from the Airport and Airway Improvement Act of 1982, Section 520, apply to all sponsor contracts *regardless* of funding source.

Use of Provision – MANDATORY TEXT. There are two separate general civil rights provisions —one that is used for contracts, and one that is used for lease agreements or transfer agreements. The sponsor must incorporate the text of the appropriate provision without modification into the contract, or the lease or transfer agreement.

A5.3 CONTRACT CLAUSE (Use the Correct Clause for the Situation)

A5.3.1 Clause that is used for Contracts

GENERAL CIVIL RIGHTS PROVISIONS

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

A5.3.2 Clause that is used for Lease Agreements or Transfer Agreements

GENERAL CIVIL RIGHTS PROVISIONS

The (tenant/concessionaire/lessee) agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the (tenant/concessionaire/lessee) transfers its obligation to another, the transferee is obligated in the same manner as the (tenant/concessionaire/lessor).

This provision obligates the (tenant/concessionaire/lessee) for the period during which the property is owned, used or possessed by the (tenant/concessionaire/lessee) and the airport remains obligated to the

Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

A6 CIVIL RIGHTS – TITLE VI ASSURANCE

A6.1 SOURCE

49 USC § 47123

FAA Order 1400.11

A6.2 APPLICABILITY

Title VI of the Civil Rights Act of 1964, as amended, (Title VI) prohibits discrimination on the grounds of race, color, or national origin under any program or activity receiving Federal financial assistance. Sponsors must include appropriate clauses from the Standard DOT Title VI Assurances in all contracts and solicitations.

The text of each individual clause comes from the U.S. Department of Transportation [Order DOT 1050.2](#), Standard Title VI Assurances and Nondiscrimination Provisions, effective April 24, 2013. These assurances require that the Recipient (the sponsor) insert the appropriate clauses in the form provided by the DOT. Where the clause refers to the applicable activity, project, or program, it means the AIP project.

The clauses are as follows:

A6.2.1 Applicability of Title VI Solicitation Notice

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
Title VI Solicitation Notice – <ul style="list-style-type: none">Assurance 2 of the DOT Standard Title VI Assurances and Nondiscrimination ClausesAssurance 30d of the Airport Sponsor Assurances	<ol style="list-style-type: none">All AIP funded solicitations for bids, requests for proposals, or any work subject to Title VI regulations; andAll sponsor proposals for negotiated agreements regardless of funding source.	A6.3.1
Title VI Clauses for Compliance with Nondiscrimination Requirements <ul style="list-style-type: none">Assurance 3 of the DOT Standard Title VI Assurances and Nondiscrimination ClausesAssurance 30e.1 of the Airport Sponsor Assurances	Every contract or agreement (unless the sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities) It has been determined that service contracts with utility companies that are not already subject to nondiscrimination requirements must include this clause.	A6.4.1

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
<p>Title VI Required Clause for Property Interests Transferred from the United States</p> <ul style="list-style-type: none"> Assurance 4 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses Assurance 30e.3 of the Airport Sponsor Assurances 	<p>As a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.</p> <p>This is a rare occurrence and it will be the responsibility of the United States government to include the clause in the contract.</p>	A6.4.2
<p>Title VI Required Clause for Transfer of Real Property Acquired or Improved Under the Activity, Facility or Program –</p> <ul style="list-style-type: none"> Assurance 5 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses Assurance 30e.4a of the Airport Sponsor Assurances 	<p>As a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the sponsor with other parties for all transfers of real property acquired or improved under Airport Improvement Program</p> <p>This applies to agreements such as leases where a physical portion of the airport is transferred for use, for example a fuel farm, apron space, or a parking facility.</p>	A6.4.3
<p>Clause for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program</p> <ul style="list-style-type: none"> Assurance 6 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses Assurance 30e.4b of the Airport Sponsor Assurances 	<p>In any future (deeds, leases, licenses, permits, or similar instruments) entered into by the sponsor with other parties for the construction or use of, or access to, space on, over, or under real property acquired or improved under Airport Improvement Program</p> <p>This applies to agreements such as leases of concession space in a terminal.</p>	A6.4.4
<p>Title VI List of Pertinent Nondiscrimination Acts and Authorities</p> <ul style="list-style-type: none"> Assurance 3 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses Assurance 30e.2 of the Airport Sponsor Assurances 	<p>Insert this list in every contract or agreement, unless the sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities.</p> <p>This list can be omitted if the FAA has determined that the contractor or company is already subject to nondiscrimination requirements.</p>	A6.4.5

A6.3 SOLICITATION CLAUSE

The sponsor must include this clause in:

- 1) All AIP funded solicitations for bids, requests for proposals, or any work subject to Title VI regulations; and
- 2) All sponsor proposals for negotiated agreements **regardless of funding source.**

A6.3.1 Title VI Solicitation Notice

Title VI Solicitation Notice:

The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, [select disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

A6.4 CONTRACT CLAUSES

A6.4.1 Title VI Clauses for Compliance with Nondiscrimination Requirements

The sponsor must include this contract clause in:

- 1) Every contract or agreement (unless the sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities); and
- 2) Service contracts with utility companies that are not already subject to nondiscrimination requirements.

Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor’s noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

A6.4.2 Title VI Clauses for Deeds Transferring United States Property

This is a rare occurrence, and it will be the responsibility of the United States government to include the clause in the contract. It will be included as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of the Airport Improvement Program grant assurances.

NOW, THEREFORE, the Federal Aviation Administration as authorized by law and upon the condition that the (*Title of Sponsor*) will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), for the (**Airport Improvement Program or other program for which land is transferred**), and the policies and procedures prescribed by the Federal Aviation Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 USC § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (*Title of Sponsor*) all the right, title and interest of the U.S. Department of Transportation/Federal Aviation Administration in and to said lands described in (*Exhibit A attached hereto or other exhibit describing the transferred property*) and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (*Title of Sponsor*) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the (*Title of Sponsor*), its successors and assigns.

The (*Title of Sponsor*), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the (*Title of Sponsor*) will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Federal Aviation Administration and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

A6.4.3 Title VI Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program

This applies to agreements such as leases where a physical portion of the airport is transferred for use—for example a fuel farm, apron space, or a parking facility—and will be included as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the sponsor with other parties for all transfers of real property acquired or improved under the Airport Improvement Program.

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE AIRPORT IMPROVEMENT PROGRAM

The following clauses will be included in (deeds, licenses, leases, permits, or similar instruments) entered into by the (*Title of Sponsor*) pursuant to the provisions of the Airport Improvement Program grant assurances.

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, (*Title of Sponsor*) will have the right to terminate the (lease,

license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the (*Title of Sponsor*) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (*Title of Sponsor*) and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

A6.4.4 Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program

This applies to agreements such as leases of concession space in a terminal and any future deeds, leases, licenses, permits, or similar instruments entered into by the sponsor with other parties for the construction or use of, or access to, space on, over, or under real property acquired or improved under the Airport Improvement Program.

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by (*Title of Sponsor*) pursuant to the provisions of the Airport Improvement Program grant assurances.

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above nondiscrimination covenants, (*Title of Sponsor*) will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above nondiscrimination covenants, (*Title of Sponsor*) will there upon revert to and vest in and become the absolute property of (*Title of Sponsor*) and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

A6.4.5 Title VI List of Pertinent Nondiscrimination Acts and Authorities

Insert this list in every contract or agreement, unless the sponsor has determined and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities. This list can be omitted if the FAA has determined that the contractor or company is already subject to nondiscrimination requirements.

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

A7 CLEAN AIR AND WATER POLLUTION CONTROL

A7.1 SOURCE

2 CFR § 200, Appendix II(G)

A7.2 APPLICABILITY

Contract Types – This provision is required for all contracts and lower tier contracts that exceed \$150,000.

Use of Provision – No mandatory language provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of Appendix II to 2 CFR §200.

A7.3 CONTRACT CLAUSE

CLEAN AIR AND WATER POLLUTION CONTROL

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

A8.1 SOURCE

2 CFR § 200, Appendix II(E)

A8.2 APPLICABILITY

Contract Workhours and Safety Standards Act Requirements (CWHSSA) requires contractors and subcontractors on covered contracts to pay laborers and mechanics employed in the performance of the contracts one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. CWHSSA prohibits unsanitary, hazardous, or dangerous working conditions on federally assisted projects. The Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL) enforces the compensation requirements of this Act, while DOL's Occupational Safety and Health Administration (OSHA) enforces the safety and health requirements

Contract Types –

Construction – This provision applies to all contracts and lower tier contracts that exceed \$100,000, and employ laborers, mechanics, watchmen, and guards.

Equipment – This provision applies to any equipment project exceeding \$100,000 that involves installation of equipment onsite (e.g. electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g. ARFF and SRE vehicles).

Professional Services – This provision applies to professional service agreements that exceed \$100,000 and employs laborers, mechanics, watchmen, and guards. This includes members of survey crews and exploratory drilling operations.

Property – While most land transactions do not involve employment of laborers, mechanics, watchmen, and guards, under certain circumstances, a property acquisition project could require such employment. Examples include the installation of property fencing or testing for environmental contamination

Use of Provision – MANDATORY TEXT. Sponsors must incorporate this text without modification.

A8.3 CONTRACT CLAUSE

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a

rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

A9 COPELAND “ANTI-KICKBACK” ACT

A9.1 SOURCE

2 CFR § 200, Appendix II(D)

29 CFR Parts 3 and 5

A9.2 APPLICABILITY and PURPOSE

The Copeland (Anti-Kickback) Act (18 USC 874 and 40 USC 3145) makes it unlawful to induce by force, intimidation, threat of dismissal from employment, or by any other manner, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment. The Copeland Act also requires each contractor and subcontractor to furnish weekly a statement of compliance with respect to the wages paid each employee during the preceding week.

Contract Types –

Construction – This provision applies to all construction contracts and subcontracts financed under the AIP that exceed \$2,000.

Equipment – This provision applies to all equipment installation projects (e.g. electrical vault improvements) financed under the AIP that exceed \$2,000. This provision does not apply to equipment acquisitions where the equipment is manufactured at the vendor’s plant (e.g. SRE and ARFF vehicles).

Professional Services –The emergence of different project delivery methods has created situations where Professional Service Agreements (PSAs) include tasks that meet the definition of construction, alteration, or repair as defined in 29 CFR Part 5. If such tasks result in work that qualifies as construction, alteration, or repair and it exceeds \$2,000, the PSA must incorporate the Copeland Anti-kickback provision.

Property –Ordinarily, land acquisition projects would not involve employment of laborers or mechanics and thus the Copeland Anti-Kickback provision would not apply. However, land projects that involve installation of boundary fencing and demolition of structures would involve laborers and mechanics. The sponsor must include this provision if the land acquisition project involves employment of laborers or mechanics for a contract exceeding \$2,000.

Use of Provision – MANDATORY TEXT. 29 CFR Part 5 establishes specific language a sponsor must use in construction contracts. The sponsor may not make any modification to the standard language. Architectural/Engineering (A/E) firms that employ laborers and mechanics on a task that meets the definition of construction, alteration, or repair are acting as a contractor. The sponsor may not substitute the term “contractor” for “consultant” in such instances.

A9.3 CONTRACT CLAUSE

COPELAND “ANTI-KICKBACK” ACT

Contractor must comply with the requirements of the Copeland “Anti-Kickback” Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

A10 DAVIS-BACON REQUIREMENTS

A10.1 SOURCE

2 CFR § 200, Appendix II(D)

29 CFR Part 5

A10.2 APPLICABILITY

The Davis-Bacon Act ensures that laborers and mechanics employed under the contract receive pay no less than the locally prevailing wages and fringe benefits as determined by the Department of Labor.

Contract Types –

Construction – Incorporate into all construction contracts and subcontracts that exceed \$2,000 and include funding from the AIP.

Equipment – This provision applies to all equipment installation projects (e.g. electrical vault improvements) financed under the AIP that exceed \$ 2, 000. This provision does not apply to equipment acquisitions where the equipment is manufactured at the vendor’s plant (e.g. SRE and ARFF vehicles)

Professional Services – The emergence of different project delivery methods has created situations where Professional Service Agreements (PSAs) includes tasks that meet the definition of construction, alteration, or repair as defined in 29 CFR Part 5. If such tasks result in work that qualifies as construction, alteration, or repair and it exceeds \$2,000, the PSA must incorporate this clause.

Property – Ordinarily, land acquisition projects would not involve employment of laborers or mechanics and thus the provision would not apply. However, land projects that involve installation of boundary fencing and demolition of structures would involve laborers and mechanics. The sponsor must include this provision if the land acquisition project involves employment of laborers or mechanics for a contract exceeding \$2,000.

Fencing Projects – Fencing projects that exceed \$2,000 must include this provision.

Use of Provision – MANDATORY TEXT. 29 CFR part 5 establishes specific language a sponsor must use. The sponsor may not make any modification to the standard language. A/E firms that employ laborers and mechanics on a task that meets the definition of construction, alteration, or repair are acting as a contractor. The sponsor may not substitute the term “Contractor” for “Consultant” in such instances.

A10.3 CONTRACT CLAUSE

DAVIS-BACON REQUIREMENTS

1. Minimum Wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any

account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall

refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: *Provided* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding.

The Federal Aviation Administration or the sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is

enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.* the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;
- (2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;
- (3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman’s hourly rate) specified in the Contractor’s or subcontractor’s registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice’s level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau,

withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

A11 DEBARMENT AND SUSPENSION

A11.1 SOURCE

2 CFR part 180 (Subpart C)

2 CFR part 1200

DOT Order 4200.5

A11.2 APPLICABILITY

The sponsor must verify that the firm or individual that it is entering into a contract with is not presently suspended, excluded, or debarred by any Federal department or agency from participating in federally assisted projects. The sponsor accomplishes this by:

- 1) Checking the System for Award Management (SAM.gov) to verify that the firm or individual is not listed in SAM.gov as being suspended, debarred, or excluded;
- 2) Collecting a certification from the firm or individual that it is not suspended, debarred, or excluded; and
- 3) Incorporating a clause in the contract that requires lower tier contracts to verify that no suspended, debarred, or excluded firm or individual is included in the project.

Contract Types – This requirement applies to *covered transactions*, which are defined in 2 CFR part 180. AIP funded contracts are non-procurement transactions, as defined by §180.970. Covered transactions include any AIP-funded contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the amount of the contract is expected to equal or exceed \$25,000. This includes contracts associated with land acquisition projects.

Use of Provision – No mandatory language provided. The following language is acceptable to the FAA in meeting the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 2 CFR part 180. For professional service agreements, sponsor may substitute bidder/offeror with consultant.

A11.3 SOLICITATION CLAUSE

A11.3.1 Bidder or Offeror Certification

CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

A11.3.2 Lower Tier Contract Certification

CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offerer /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

A12 DISADVANTAGED BUSINESS ENTERPRISE

A12.1 SOURCE

49 CFR part 26

A12.2 APPLICABILITY

A sponsor that anticipates awarding \$250,000 or more in AIP funded prime contracts in a federal fiscal year must have an approved Disadvantaged Business Enterprise (DBE) program on file with the FAA Office of Civil Rights (§ 26.21). The approved DBE program will identify a 3-year overall program goal that the sponsor bases on the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on the project (§ 26.45).

Contract Types – Sponsors with a DBE program on file with the FAA must include the three following provisions, if applicable:

- 1) Clause in all solicitations for proposals for which a contract goal has been established,
- 2) Clause in each prime contract, and
- 3) Clause in solicitations that are obtaining DBE participation through race/gender neutral means.

Use of Provision –

1. *Solicitations with a DBE Project Goal* – No mandatory language provided. 49 CFR §26.53 requires a sponsor's solicitation to address what a contractor must submit on proposed DBE participation. The language of A12.3.1 is acceptable to the FAA in meeting the intent of this requirement. If the sponsor uses different language, the sponsor's revised language must fully satisfy these requirements. The sponsor may require the contractor's submittal on proposed DBE participation either at bid opening as a matter of responsiveness or within five days of bid opening as a matter of responsibility.
2. *Solicitations Relying on Race-gender Neutral Means* – No mandatory language provided. The language of A12.3.2 is acceptable to the FAA in meeting the intent of this requirement. If the sponsor uses different language, the sponsor's revised language must fully satisfy requirements for a sponsor that is not applying a project specific contract goal but is covered by a DBE program on file with the FAA.
3. *Contracts Covered by DBE Program* – **MANDATORY TEXT PROVIDED**. Sponsors must incorporate this language if they have a DBE program on file with the FAA. This includes projects where DBE participation is obtained through race-gender neutral means (i.e. no project goal). Sections §26.13 and §26.29 establish mandatory language for contractor assurance and prompt payment. The sponsor must not modify the language.
4. Sponsors that are not required to have a DBE program on file with the FAA are not required to include DBE provisions and clauses.

A12.3 REQUIRED PROVISIONS

A12.3.1 Solicitation Language (Solicitations that include a Project Goal)

Information Submitted as a matter of bidder responsiveness:

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR §26.53.

As a condition of bid responsiveness, the Bidder or Offeror must submit the following information with its proposal on the forms provided herein:

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1)
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal; and
- 5) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26.

Information submitted as a matter of bidder responsibility:

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR §26.53.

The successful Bidder or Offeror must provide written confirmation of participation from each of the DBE firms the Bidder or Offeror lists in its commitment within five days after bid opening.

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1)
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal; and
- 5) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26.

A12.3.2 Solicitation Language (Race/Gender Neutral Means)

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the [Insert Name of Owner] to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

A12.3.3 Prime Contracts (Projects Covered by a DBE Program)

DISADVANTAGED BUSINESS ENTERPRISES

Contract Assurance (§ 26.13) –

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (§26.29) – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than [specify number] days from the receipt of each payment the prime contractor receives from [Name of recipient]. The prime contractor agrees further to return retainage payments to each subcontractor within [specify the same number as above] days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the [Name of Recipient]. This clause applies to both DBE and non-DBE subcontractors.

A13 DISTRACTED DRIVING

A13.1 SOURCE

Executive Order 13513

DOT Order 3902.10

A13.2 APPLICABILITY

The FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

Contract Types – Sponsors must insert this provision in all AIP funded contracts that exceed the micro-purchase threshold of 2 CFR §200.67 (currently set at \$3,500).

Use of Provision – No mandatory text provided. The following language is acceptable to the FAA in meeting the intent of this requirement. If the sponsor uses different language, the sponsor’s revised language must fully satisfy these requirements.

A13.3 CONTRACT CLAUSE

TEXTING WHEN DRIVING

In accordance with Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving”, (10/1/2009) and DOT Order 3902.10, “Text Messaging While Driving”, (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

A14 ENERGY CONSERVATION REQUIREMENTS

A14.1 SOURCE

2 CFR § 200, Appendix II(H)

A14.2 APPLICABILITY

The Energy Conservation Requirements of 2 CFR § 200 Appendix II(H) requires this provision on energy efficiency.

Contract Types – The sponsor must include this provision in all AIP funded contracts and lower-tier contracts.

Use of Provision – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor’s revised language must fully satisfy these requirements. Sponsor may substitute “Contractor and subcontractor” with “Consultant and sub-consultant” for professional service agreements.

A14.3 CONTRACT CLAUSE

ENERGY CONSERVATION REQUIREMENTS

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201 *et seq*).

A15 DRUG FREE WORKPLACE REQUIREMENTS

A15.1 SOURCE

49 CFR part 32

Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*, as amended)

A15.2 APPLICABILITY

The Drug-Free Workplace Act of 1988 requires some Federal contractors and *all* Federal grantees to agree that they will provide drug-free workplaces as a condition of receiving a contract or grant from a Federal agency. The Act does **not** apply to contractors, subcontractors, or subgrantees, although the Federal grantees workplace may be where the contractors, subcontractors, or subgrantees are working.

Contract Types – This provision applies to all AIP funded projects, but not to the contracts between the grantee (the sponsor) and a contractor, subcontractors, suppliers, or subgrantees.

Use of Provision – No mandatory or recommended text provided because the requirements do not extend beyond the sponsor level.

A15.3 CONTRACT CLAUSE

None.

A16 EQUAL EMPLOYMENT OPPORTUNITY (EEO)

A16.1 SOURCE

2 CFR 200, Appendix II(C)

41 CFR § 60-1.4

41 CFR § 60-4.3

Executive Order 11246

A16.2 APPLICABILITY

The purpose of this provision is to provide equal opportunity for all persons, without regard to race, color, religion, sex, or national origin who are employed or seeking employment with contractors performing under a federally assisted construction contract. There are two provisions — a construction clause and a specification clause.

The equal opportunity contract clause must be included in any contract or subcontract when the amount exceeds \$10,000. Once the equal opportunity clause is determined to be applicable, the contract or subcontract must include the clause for the remainder of the year, regardless of the amount or the contract.

Contract Types –

Construction – The sponsor must incorporate contract and specification language in all construction contracts and subcontracts as required above.

Equipment – The sponsor must incorporate contract and specification language into all equipment contracts as required above that involves installation of equipment onsite (e.g. electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g. ARFF and SRE vehicles).

Professional Services – The sponsor must include contract and specification language into all professional service agreements as required above.

Property – The sponsor must include contract and specification language into all land acquisition projects that include work that qualifies as construction work as defined by 41 CFR part 60 as required above. An example is installation of boundary fencing.

Use of Provision – MANDATORY TEXT. 41 CFR § 60-1.4 provides the mandatory **contract** language. 41 CFR § 60-4.3 provides the mandatory **specification** language. The sponsor must incorporate these clauses without modification.

A16.3 MANDATORY CONTRACT CLAUSE

A16.3.1 EEO Contract Clause

EQUAL OPPORTUNITY CLAUSE

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the

administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

A16.3.2 EEO Specification

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:

- a. “Covered area” means the geographical area described in the solicitation from which this contract resulted;
- b. “Director” means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. “Employer identification number” means the Federal social security number used on the Employer’s Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. “Minority” includes:
 - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other

contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Contractor during the training period and the Contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor

by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or female sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items, with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally), the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing

subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

A17 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

A17.1 SOURCE

29 USC § 201, et seq

A17.2 APPLICABILITY

The U.S. Department of Labor (DOL) Wage and Hour Division administers the Fair Labor Standards Act (FLSA). This act prescribes federal standards for basic minimum wage, overtime pay, record keeping, and child labor standards.

Contract Types – Per the Department of Labor, all employees of certain enterprises having workers engaged in interstate commerce; producing goods for interstate commerce; or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person are covered by the FLSA.

All consultants, sub-consultants, contractors, and subcontractors employed under this federally assisted project must comply with the FLSA.

Professional Services – 29 CFR § 213 exempts employees in a bona fide executive, administrative or professional capacity. Because professional firms employ individuals that are not covered by this exemption, the sponsor’s agreement with a professional services firm must include the FLSA provision.

Use of Provision – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor’s language must fully satisfy the requirements of 29 USC § 201. The sponsor must select *contractor* or *consultant*, as appropriate for the contract.

A17.3 SOLICITATION CLAUSE

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The [*Contractor* | *Consultant*] has full responsibility to monitor compliance to the referenced statute or regulation. The [*Contractor* | *Consultant*] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

A18 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

A18.1 SOURCE

31 USC § 1352 – Byrd Anti-Lobbying Amendment

2 CFR part 200, Appendix II(J)

49 CFR part 20, Appendix A

A18.2 APPLICABILITY

Consultants and contractors that apply or bid for an award of \$100,000 or more must certify that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or another award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

Contract Types – The sponsor must incorporate this provision into all contracts exceeding \$100,000.

Use of Provision – MANDATORY TEXT. Appendix A to 49 CFR Part 20 prescribes language the sponsor must use. The sponsor must incorporate this provision without modification.

A18.3 CONTRACT CLAUSE

CERTIFICATION REGARDING LOBBYING

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under

grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

A19 PROHIBITION of SEGREGATED FACILITIES

A19.1 SOURCE

41 CFR § 60

A19.2 APPLICABILITY

The contractor must comply with the requirements of the EEO clause by ensuring that facilities they provide for employees are free of segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. This clause must be included in all contracts that include the equal opportunity clause, regardless of the amount of the contract.

Contract Types – AIP sponsors must incorporate the Prohibition of Segregated Facilities clause in any contract containing the Equal Employment Opportunity clause of 41 CFR §60.1. This obligation flows down to subcontract and sub-tier purchase orders containing the Equal Employment Opportunity clause.

Construction – Construction work means construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

Equipment – On site installation of equipment such as airfield lighting control equipment meets the definition of construction and thus this provision would apply. This provision does not apply to equipment projects involving manufacture of the item at a vendor’s manufacturing plant. An example would be the manufacture of a SRE or ARFF vehicle.

Professional Services – Professional services that include tasks that qualify as construction work as defined by 41 CFR part 60. Examples include the installation of noise monitoring equipment.

Property/Land – Land acquisition contracts that include tasks that qualify as construction work as defined by 41 CFR part 60. Examples include demolition of structures or installation of boundary fencing.

Use of Provision – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor’s language must fully satisfy the requirements of 41 CFR § 60.

A19.3 CONTRACT CLAUSE

PROHIBITION OF SEGREGATED FACILITIES

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

A20 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

A20.1 SOURCE

29 CFR part 1910

A20.2 APPLICABILITY

Contract Types – All contracts and subcontracts must comply with the Occupational Safety and Health Act of 1970 (OSH). The U.S. Department of Labor Occupational Safety and Health Administration (OSHA) oversees the workplace health and safety standards wage provisions from OSH.

Use of Provision – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor’s language must fully satisfy the requirements of 20 CFR part 1910.

A20.3 CONTRACT CLAUSE

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

A21 PROCUREMENT OF RECOVERED MATERIALS

A21.1 SOURCE

2 CFR § 200.322

40 CFR part 247

Solid Waste Disposal Act

A21.2 APPLICABILITY

Sponsors of AIP funded development and equipment projects must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Section 6002 emphasizes maximizing energy and resource recovery through use of affirmative procurement actions for recovered materials identified in the Environmental Protection Agency (EPA) guidelines codified at 40 CFR part 247. When acquiring items designated in the guidelines, the sponsor must procure items that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Contract Types – This provision applies to any contracts that include procurement of products designated in subpart B of 40 CFR part 247 where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.

Construction and Equipment – Include this provision in all construction and equipment projects.

Professional Services and Property – Include this provision if the agreement includes procurement of a product that exceeds \$10,000.

Use of Provision – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 2 CFR § 200.

A21.3 CONTRACT CLAUSE

PROCUREMENT OF RECOVERED MATERIALS

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- 1) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
- 2) The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.

A22 RIGHT TO INVENTIONS

A22.1 SOURCE

2 CFR § 200, Appendix II(F)

37 CFR §401

A22.2 APPLICABILITY

Contract Types – This provision applies to all contracts and subcontracts with small business firms or nonprofit organizations that include performance of *experimental, developmental, or research work*. This clause is not applicable to construction, equipment, or professional service contracts unless the contract includes *experimental, developmental, or research work*.

Use of Provision – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor’s language must fully satisfy the requirements of Appendix II to 2 CFR part 200.

A22.3 CONTRACT CLAUSE

RIGHTS TO INVENTIONS

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

A23 SEISMIC SAFETY

A23.1 SOURCE

49 CFR part 41

A23.2 APPLICABILITY

Contract Types – This provision applies to construction of new buildings and additions to existing buildings financed in whole or in part through the Airport Improvement Program.

Professional Services– Sponsor must incorporate this clause in any contract involved in the construction of new buildings or structural addition to existing buildings.

Construction – Sponsor must incorporate this clause in any contract involved in the construction of new buildings or structural addition to existing buildings.

Equipment – Sponsor must include the construction provision if the project involves construction or structural addition to a building such as an electrical vault project to accommodate or install equipment.

Land – This provision will not typically apply to a property/land project.

Use of Provision – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor’s language must fully satisfy the requirements of 49 CFR part 41.

A23.3 CONTRACT CLAUSE

A23.3.1 Professional Service Agreements for Design

SEISMIC SAFETY

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a “certification of compliance” that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

A23.3.2 Construction Contracts

SEISMIC SAFETY

The Contractor agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction

Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

A24 TAX DELINQUENCY AND FELONY CONVICTIONS

A24.1 SOURCE

Sections 415 and 416 of Title IV, Division L of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76), and similar provisions in subsequent appropriations acts.

DOT Order 4200.6 - Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

A24.2 APPLICABILITY

The sponsor must ensure that no funding goes to any contractor who:

- Has been convicted of a Federal felony within the last 24 months; or
- Has any outstanding tax liability for which all judicial and administrative remedies have lapsed or been exhausted.

Contract Types – This provision applies to all contracts funded in whole or part with AIP.

Use of Provision – The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor’s language must fully satisfy the requirements of DOT Order 4200.6.

A24.3 CONTRACT CLAUSE

CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

- 1) The applicant represents that it is () is not () a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is () is not () is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government’s interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify

the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twentyfour (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

A25 TERMINATION OF CONTRACT

A25.1 SOURCE

2 CFR § 200 Appendix II(B)

FAA Advisory Circular 150/5370-10, Section 80-09

A25.2 APPLICABILITY

Contract Types – All contracts and subcontracts in excess of \$10,000 must address *termination for cause* and *termination for convenience* by the sponsor. The provision must address the manner (i.e. notice, opportunity to cure, and effective date) by which the sponsor’s contract will be affected and the basis for settlement (i.e. incurred expenses, completed work, profit, etc.).

Use of Provision –

Termination for Default – **MANDATORY TEXT.** Section 80-09 of FAA Advisory Circular 150/5370-10 establishes standard language for Termination for Default under a construction contract. The sponsor must not make any changes to this standard language.

Termination for Convenience – No mandatory text provided. The sponsor must include a clause for termination for convenience. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor’s language must fully satisfy the requirements of Appendix II to 2 CFR part 200.

Equipment, Professional Services, and Property – No mandatory text provided. The sponsor may use their established clause language provided that it adequately addresses the intent of Appendix II(B) to Part 200, which addresses termination for fault and for convenience.

A25.3 CONTRACT CLAUSE

A25.3.1 Termination for Convenience

TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.

5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

- 1) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- 2) documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
- 3) reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- 4) reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action.

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

A25.3.2 Termination for Default

TERMINATION FOR DEFAULT (CONSTRUCTION)

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes conditions, rights, and remedies associated with Owner termination of this contract due to default of the Contractor.

TERMINATION FOR DEFAULT (EQUIPMENT)

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract if the Contractor:

1. Fails to commence the Work under the Contract within the time specified in the Notice- to- Proceed;
2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;
3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
6. Becomes insolvent or declares bankruptcy.

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the Work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience the Owner.

The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR DEFAULT (PROFESSIONAL SERVICES)

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions

necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) **Termination by Owner:** The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
1. Perform the services within the time specified in this contract or by Owner approved extension;
 2. Make adequate progress so as to endanger satisfactory performance of the Project; or
 3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

- b) **Termination by Consultant:** The Consultant may terminate this Agreement in whole or in part, if the Owner:
1. Defaults on its obligations under this Agreement;
 2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
 3. Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

A26 TRADE RESTRICTION CERTIFICATION

A26.1 SOURCE

49 USC § 50104

49 CFR part 30

A26.2 APPLICABILITY

Unless waived by the Secretary of Transportation, sponsors may not use AIP funds on a product or service from a foreign country included in the current list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR).

Contract Types – The trade restriction certification and clause applies to all AIP funded projects.

Use of Provision – MANDATORY TEXT. 49 CFR part 30 prescribes the language for this model clause. The sponsor must include this certification language in all contracts and subcontracts without modification.

A26.3 SOLICITATION CLAUSE

TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

A27 VETERAN'S PREFERENCE

A27.1 SOURCE

49 USC § 47112(c)

A27.2 APPLICABILITY

Contract Types – This provision applies to all AIP funded projects that involve labor to carry out the project. This preference, which excludes executive, administrative, and supervisory positions, applies to covered veterans (as defined under § 47112(c)) only when they are readily available and qualified to accomplish the work required by the project.

Use of Provision – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 49 USC § 47112.

A27.3 CONTRACT CLAUSE

VETERAN'S PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

A4 - CERTIFICATE OF BUY AMERICAN COMPLIANCE- MANUFACTURED PRODUCTS

PULLIAM AIRPORT
FLAGSTAFF, ARIZONA

DESIGN SNOW REMOVAL EQUIPMENT BUILDING

FAA AIP Project Number: 3-04-0015-44 specifying

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
- Only installing steel and manufactured products produced in the United States;
 - Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- To faithfully comply with providing U.S. domestic product.
- To furnish U.S. domestic product for any waiver request that the FAA rejects
- To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

- To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that supports the type of waiver being requested.
- That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
- To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver – The cost of the item components and subcomponents produced in the United States is more that 60 percent of the cost of all components and subcomponents of the "item". The required documentation for a Type 3 waiver is:

- Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers

Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).

- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver – Total cost of project using U.S. domestic source product exceeds the total project cost using non-domestic product by 25 percent. The required documentation for a Type 4 of waiver is:

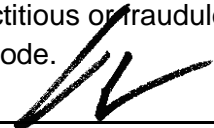
- a) Detailed cost information for total project using U.S. domestic product
- b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

May 22nd, 2020

APMI, Inc.

Company Name



Principal

Title

NOTE: Failure to complete the blanks may be grounds for rejection of the bid.

**A11 - CERTIFICATION OF LOWER TIER CONTRACTORS
REGRAIDING DEBAREMENT**

**PULLIAM AIRPORT
FLAGSTAFF, ARIZONA**

DESIGN SNOW REMOVAL EQUIPMENT BUILDING


FAA AIP Project Number: 3-04-0015-44

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

- 1. Checking the System for Award Management at website: <http://www.sam.gov>.
- 2. Collecting a certification statement similar to the Certification of Offerer /Bidder Regarding Debarment, above.
- 3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

May 22nd, 2020
Date
APMI, Inc.
Company Name


Signature
Principal
Title

NOTE: Failure to complete the blanks may be grounds for rejection of the bid.

A12 - ASSURANCE OF DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

**PULLIAM AIRPORT
FLAGSTAFF, ARIZONA**

DESIGN SNOW REMOVAL EQUIPMENT BUILDING

FAA AIP Project Number: 3-04-0015-44

To meet the mandated requirements of the United States Department of Transportation, 49 CFR Part 26, the assurance below shall be signed by the bidder and submitted with the bid.

BIDDER'S ASSURANCE OF COMPLIANCE WITH TITLE 49 CFR PART 26 RELATING TO DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

The successful Bidder or Offeror must provide written confirmation of participation from each of the DBE firms the Bidder or Offeror lists in its commitment **within five days after bid opening**.

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1)
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal; and
- 5) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26.

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the City of Flagstaff to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (§26.29) – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven (7) days from the receipt of each payment the prime contractor receives from City of Flagstaff. The prime contractor agrees further to return

retainage payments to each subcontractor within seven (7) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Flagstaff. This clause applies to both DBE and non-DBE subcontractors.

The bidder hereby gives assurance pursuant to the requirements of Title 49 CFR Part 26 that bidder has made a reasonable effort to meet the goals for Disadvantaged Business Enterprise participation specified for the contract for which this proposal is submitted and that bidder, if the contract is awarded to bidder, will have a **DBE participation of 3.2 percent** of the amount of this bid. Bidder further gives assurance that bidder has submitted the documentation required by said Regulations and the contract specifications, including the Listing of Disadvantaged Business Enterprises with which the bidder will subcontract if the contract is awarded and if bidder is unable to meet the contract goals for DBE participation, and the steps bidder has taken to obtain DBE participation.

The Overall Current DBE Goal is **8.05%**

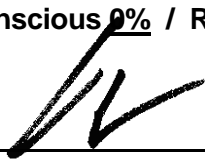
Race Conscious **0%** / Race Neutral **8.05%**

May 22nd, 2020

Date

APMI, Inc.

Company Name



Signature

Principal

Title

NOTE: Bidder shall insert the percentage for DBE participation even if the percentage is less than the contract goal. A bid that fails to meet these requirements may be considered grounds for rejecting the bid.

A18 – LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

PULLIAM AIRPORT
FLAGSTAFF, ARIZONA

DESIGN SNOW REMOVAL EQUIPMENT BUILDING

FAA AIP Project Number: 3-04-0015-44

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

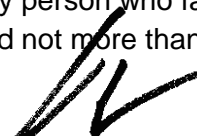
- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

May 22nd, 2020

APMI, Inc.

Company Name



Signature

Principal

Title

NOTE: Failure to complete the blanks may be grounds for rejection of the bid.

**A26 - TRADE RESTRICTION CERTIFICATE TO BE INCLUDED IN
ALL SOLICITATIONS, CONTRACTS, AND SUBCONTRACTS**

**PULLIAM AIRPORT
FLAGSTAFF, ARIZONA**

DESIGN SNOW REMOVAL EQUIPMENT BUILDING

FAA AIP Project Number: 3-04-0015-44

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification

of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

May 22nd, 2020

Date

APMI, Inc.

Company Name



Signature

Principal

Title

NOTE: Failure to complete the blanks may be grounds for rejection of the bid.



U.S. Department of Transportation
Office of Secretary of Transportation

1200 New Jersey Ave., S.E.
Washington, DC 20590

NOTICE OF GRANT AWARD

Title: **Flagstaff Pulliam: Construct/Rehabilitate/Modify/Expand Sand and Chemical Storage Building**

DOT Agency Disbursing Funds: **Federal Aviation Administration**

Project Name/Number: **Flagstaff Pulliam**

Award Recipient: **City of Flagstaff**

City/Country/State: **Flagstaff, Coconino, AZ**

Place of Performance: **Flagstaff Pulliam**

State Congressional District: **1**

Entitle Amount: **\$ 1,000,000.00**

Discretionary Amount: **\$ 0.00**

CARES Amount: **\$ 98,177.00**

Total Grant Amount: **\$ 1,098,177.00**

DOT Regional Office/Telephone Number: **Mike N. Williams (602)792-1064**

Description:

Construct/Rehabilitate/Modify/Expand Sand and Chemical Storage Building

- This grant will provide federal funding for the Flagstaff Pulliam Airport associated with Flagstaff, Arizona.
- This project constructs a 15,000 square foot snow removal equipment building to extend the life of the equipment by protecting it from adverse weather conditions.
- This grant funds the design phase.
- Flagstaff Pulliam Airport is a nonhub primary airport associated with Flagstaff, Arizona. The local point of contact is Mr. Barney Helmick, Airport Manager. Mr. Barney Helmick may be reached at (928) 556-1234.
- Following this grant announcement, FAA will notify the sponsor of the allocation. A grant offer will be issued subsequently for this grant as finally formulated.
- This grant is funded by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) of 2020 to increase the Federal share to 100 percent.

Should you have any questions, please contact the Office of Governmental Affairs (202)366-4573.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Brandi Suda, Finance Director
Co-Submitter: Heidi Derryberry, Finance Manager
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Adoption of Ordinance No. 2020-16: An ordinance levying upon the assessed valuation of the property within the City of Flagstaff, Arizona, subject to taxation a certain sum upon each one hundred dollars (\$100.00) of valuation sufficient to raise the amount estimated to be required in the Annual Budget, less the amount estimated to be received from other sources of revenue; providing funds for various bond redemptions, for the purpose of paying interest upon bonded indebtedness and providing funds for general municipal expenses, all for the Fiscal Year ending the 30th day of June, 2021. **(Primary and secondary property tax levies for FY 2020-2021)**

STAFF RECOMMENDED ACTION:

- 1) Read Ordinance No. 2020-16 by title only for the final time
- 2) City Clerk reads Ordinance No. 2020-16 by title only (if approved above)
- 3) Adopt Ordinance No. 2020-16

Executive Summary:

The City Council is required to fix and levy the amount to be raised from property taxation after the adoption of the final budget, per A.R.S. Section 42-17151. The final budget is anticipated to be adopted on June 16, 2020.

Financial Impact:

The City is proposing a flat primary property tax levy of \$6,892,022 on existing properties, plus levy of \$60,474 on new construction, for a total primary property tax levy in FY 2020-2021 of \$6,952,496. The primary property tax rate to support this levy is \$0.7510 per \$100 of assessed valuation (less than the prior fiscal year). The proposed levy is less than the maximum allowable primary property tax levy allowed for FY 2020-2021, which is \$7,091,361.

The City is proposing a secondary property tax levy of \$7,341,701 on existing properties, plus levy of \$64,420 on new construction, for a total secondary property tax levy in FY2020-2021 of \$7,406,121. The proposed secondary property tax rate is \$0.8000 per \$100 of assessed valuation (less than the prior fiscal year).

Policy Impact:

Adoption of the proposed property tax levies will generate revenues to help fund the community needs as identified in the FY 2020-2021 Final Budget and policies reflected therein.

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

The Fiscal Year (FY) 2020-2021 budget is the guiding document for the financial plan of the City. The property tax adoption is part of the overall city budget adoption.

Has There Been Previous Council Decision on This:

Property tax information has been discussed or presented at the following public meetings:

- Council Retreat on December 5, 2019
- Budget Retreat on February 3, 2020, and February 4, 2020
- Council Budget Work Session on April 23, 2020, and April 24, 2020
- Tentative Budget Adoption on June 2, 2020

Options and Alternatives:

- 1) Adopt the primary and secondary property tax rates as proposed.
- 2) Adopt lower primary and secondary property tax rates than proposed.
- 3) Adopt higher tax rates than proposed, however, this action may be barred by Truth in Taxation Notice publication deadlines or other legal considerations.

Background/History:

Primary property tax revenues may be used for all purposes. Primary property tax levies are limited, per A.R.S. Section 42-17051. The City has the ability to increase the amount received from the primary property tax levy by a maximum of 2% each year excluding new construction. The maximum allowable increase for FY 2020-2021 is 2.0%. FY 2020-2021 proposed primary property tax levy is set at \$6,952,496, which is less than the maximum allowable levy of \$7,091,361.

Primary property tax levies are also subject to "Truth in Taxation" notice and hearing requirements, per A.R.S. Section 42-17107. On or before February 10 of each year, the county assessor must transmit to each city and town an estimate of the total net assessed valuation of the city, including new property added to the tax roll. If the proposed primary tax levy amount, excluding amounts attributable to new construction, is greater than the levy amount in the previous year, the city must follow the "Truth in Taxation" procedures. It is important to note that it is the levy amount and not the rate which triggers the "Truth in Taxation" procedures. The proposed FY2020-2021 primary tax levy amount does not trigger the "Truth in Taxation" procedures.

Secondary property tax revenues may only be used by cities and towns to retire the principal and interest or redemption charges on general obligation bonds issued to pay for capital projects. Secondary property tax levies are not limited.

The adoption of the property tax levy is the final step in the entire budget approval process.

Key Considerations:

The key dates for budget and property tax levy adoption have been determined and have been followed throughout this process. The County will adopt the property tax levy as approved by the City in August 2020.

Expanded Financial Considerations:

The City is budgeting primary property tax revenues of \$6,846,000 in its FY 2020-2021 Budget. This budgeted amount is less than the levy amount because the City is allowing for approximately 1.5% in bad debt (taxes not able to be collected). The City anticipates an overall .9% increase in primary property tax revenues in FY 2020-2021, due to the increase due to new construction (properties added to tax roll). Primary property tax revenues may be used for any general purpose use of the City government. Statutorily, the maximum allowable primary property levy for FY 2019-2020 is \$7,091,361.

The City has budgeted a total of \$7,406,121 in FY 2020-2021 secondary property tax, an approximate 2% increase over the FY 2019-2020 budget (\$7,268,436). The increase is directly related to the increased assessed valuation (increase in property values) and new construction offset by the reduction in the rate. Secondary property tax revenues are used to pay general obligation debt issued for City capital projects.

Five years of historical data is shown below:

Property Tax Rates	FY 2016-2017	FY 2017-2018	FY 2018-2019	FY 2019-2020	FY 2020-2021 Proposed
Primary	\$ 0.8121	0.8233	0.8334	0.7933	0.7510
Secondary	0.8366	0.8366	0.8366	0.8366	0.8000
Total	\$ 1.6487	1.6599	1.6700	1.6299	1.5510

Primary property taxes account for 10% of the General Fund revenues budgeted for FY 2020-2021.

Community Benefits and Considerations:

Primary property taxes help support a number of City services including public safety, parks and recreation, other public works services, and general administrative and management functions within the City.

Secondary property taxes support the debt service payment on numerous city capital projects including: Aquaplex, Fire Stations, Open Space, numerous street/utility projects, Forest Restoration, Core Services Facility and the Courthouse.

Community Involvement:

Inform & Involve: Budget legal schedules were published in the June 4, 2020, and June 11, 2020, Arizona Daily Sun to allow for additional community review. In addition, the legal and other budget schedules were made available at City Hall, and on the official city website or by request. A public hearing on June 16, 2020, the final budget adoption and the property tax levy is open for public comment and allows citizens to provide input. The final opportunity for public input on the tax levy will be at the July 7, 2020, Council Meeting.

Attachments: [Ord. 2020-16](#)

ORDINANCE NO. 2020-16

AN ORDINANCE LEVYING UPON THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE CITY OF FLAGSTAFF, ARIZONA, SUBJECT TO TAXATION A CERTAIN SUM UPON EACH ONE HUNDRED DOLLARS (\$100.00) OF VALUATION SUFFICIENT TO RAISE THE AMOUNT ESTIMATED TO BE REQUIRED IN THE ANNUAL BUDGET, LESS THE AMOUNT ESTIMATED TO BE RECEIVED FROM OTHER SOURCES OF REVENUE; PROVIDING FUNDS FOR VARIOUS BOND REDEMPTIONS, FOR THE PURPOSE OF PAYING INTEREST UPON BONDED INDEBTEDNESS AND PROVIDING FUNDS FOR GENERAL MUNICIPAL EXPENSES, ALL FOR THE FISCAL YEAR ENDING THE 30TH DAY OF JUNE, 2020

RECITALS:

WHEREAS, by the provisions of State law, the ordinance levying taxes for fiscal year 2020-2021 is required to be finally adopted not later than the third Monday in August; and

WHEREAS, the County of Coconino is the assessing and collecting authority for the City of Flagstaff.

ENACTMENTS:

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

SECTION 1. There is hereby levied on each one hundred dollars (\$100.00) of the assessed value of all property, both real and personal within the corporate limits of the City of Flagstaff, except such property as may be by law exempt from taxation, a primary property tax rate of 0.7510 for the fiscal year ending on the 30th day of June 2020. If this tax rate exceeds the maximum levy allowed by law, the Board of Supervisors of the County of Coconino is hereby authorized to reduce the levy to the maximum allowable by law after providing notice to the City.

SECTION 2. In addition to the rate set in Section 1 hereof, there is hereby levied on each one hundred dollars (\$100.00) of the assessed value of all property, both real and personal within the corporate limits of the City of Flagstaff, except such property as may be by law exempt from taxation, a secondary property tax rate of 0.8000 for the fiscal year ending June 30, 2020.

SECTION 3. Failure by the county officials of Coconino County, Arizona, to properly return the delinquent list, any irregularity in assessments or omissions in the same, or any irregularity in any proceedings shall not invalidate such proceedings or invalidate any title conveyed by any tax deed; failure or neglect of any officer or officers to timely perform any of the duties assigned to him or to them shall not invalidate any proceedings or any deed or sale pursuant thereto, the validity of the assessment or levy of taxes or of the judgment of sale by which the collection of the same may be enforced shall not affect the lien of the City of Flagstaff upon such property for the delinquent taxes unpaid thereon; overcharge as to part of the taxes or of costs shall not invalidate any proceedings for the collection of taxes or the foreclosure of the lien thereon or a sale of the

property under such foreclosure; and all acts of officers de facto shall be valid as if performed by officers de jure.

SECTION 6. Effective Date

The tax levies imposed by this Ordinance shall take effect August 6, 2020.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of July, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Sterling Solomon, City Attorney
Date: 06/29/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Adoption of Ordinance No. 2020-18: An ordinance amending Flagstaff City Code Title 9, Traffic, Chapter 9-05, Bicycles.

STAFF RECOMMENDED ACTION:

- 1) Read Ordinance No. 2020-18 by title only for the final time
- 2) City Clerk reads Ordinance No. 2020-18 by title only (if approved above)
- 3) Adopt Ordinance No. 2020-18

Executive Summary:

On June 4, 2019 and June 18, 2019, the City Council (Council) discussed extensively many facets of electric bikes and use of the same in the City of Flagstaff. On June 18, 2019, Council adopted Ordinance 2019-19 revising portions of the Flagstaff City Code (Code) including use of electric bikes. Specific to this agenda item, when Ordinance 2019-19 was adopted, Council identified certain sidewalks and multiuse paths within the City of Flagstaff where electric bikes are now prohibited. The language in Ordinance 2019-19 is general as related to the prohibition on the use of electric bikes on certain sidewalks and multiuse paths where signage exists reflecting the prohibitions. The reason for the general language was as follows: when the Council adopted Ordinance 2019-19, Council also gave direction to present the prohibitions to specific Commissions to allow for additional feedback on additional prohibitions that they might recommend. Those Commissions were the Pedestrian Advisory Commission, the Bicycle Advisory Commission and the Transportation Commission. Each of those Commissions voted to recommend allowing electric bikes on the Arizona Trail. The Pedestrian Advisory Commission and the Bicycle Advisory Commission also voted to recommend allowing electric bikes on the Nate Avery Trail. Council was informed of the feedback/recommendations from these Commissions in a presentation from staff on October 1, 2019. After the staff presentation, Council discussed and gave no additional direction to staff, effectively maintaining the prohibition of electric bikes on certain sidewalks and multiuse paths which Council had previously approved in the motions that led to the adoption of Ordinance 2019-19. As a formality for code publication purposes, a minor amendment for accuracy is now appropriate to properly reflect the specific names of the sidewalks and multiuse paths where electric bicycles are prohibited as named by the City Council in the motions that led to the of Ordinance 2019-19. The names are: the Arizona Trail, the Nate Avery and Buffalo Park Trails.

Financial Impact:

None.

Policy Impact:

This amendment will properly reflect the policy of Council as no Commissions desired to revise the prohibitions any further as solicited by Council.

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

TRANSPORTATION AND OTHER PUBLIC INFRASTRUCTURE

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

Has There Been Previous Council Decision on This:

Council discussed and provided direction on the content of the ordinance at work sessions on April 30, 2019, and May 28, 2019; also at the first reading of Ordinance 2019-19 on June 4, 2019, and at the final reading and adoption of Ordinance 2019-19 on June 18, 2019.

On October 1, 2019 Council received a presentation from staff on the feedback from certain Commissions as mentioned in the executive summary above. Council gave no direction to deviate from the trails named as prohibited in the motions leading to the adoption of Ordinance 2019-19.

Now, as a formality for code publication purposes, proposed Ordinance 2020-18 is to ensure that the previously named, prohibited trails are codified in accordance with the language in the motions which led to the adoption of Ordinance 2019-19. P

Proposed Ordinance 2020-18 does not include revisiting settled issues.

Attachments: Ord. 2020-18
 Highlighted June 18, 2019 Council Meeting Minutes on Resolution 2019-28
 Highlighted June 18, 2019 Minutes on Ordinance 2019-19

ORDINANCE NO. 2020-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA AMENDING FLAGSTAFF CITY CODE TITLE 9, *TRAFFIC*, CHAPTER 9-05, *BICYCLES*, OF THE FLAGSTAFF CITY CODE; ESTABLISHING SEVERABILITY; AND ESTABLISHING AND EFFECTIVE DATE

RECITALS:

WHEREAS, on June 18, 2019, the City Council adopted Ordinance 2019-19 amending Flagstaff City Code, Title 9 Traffic, specifically Chapter 9-05, Bicycles, including a prohibition of electric bicycles on certain sidewalks and multiuse paths within the City of Flagstaff; and

WHEREAS, Ordinance 2019-19 contains language generally stating the prohibition on the use of electric bicycles on certain sidewalks and multiuse paths where signage exists reflecting the prohibition; and

WHEREAS, when the City Council adopted Ordinance 2019-19 the City Council gave direction to present the prohibitions to specific Commissions to allow additional suggested revisions on the prohibition of electric bicycles on certain sidewalks and multiuse paths and bring any suggested revisions back to City Council to consider amending Ordinance 2019-19.

WHEREAS, those specific Commissions made suggestions for changes but Council directed no further changes to the prohibition of electric bicycles on certain sidewalks and multiuse path restrictions; and

WHEREAS, a minor amendment only for accuracy in Ordinance 2019-19 is now appropriate to properly reflect the specific sidewalks and multiuse paths named by the City Council

ENACTMENTS:

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

SECTION 1. In General.

The Flagstaff City Code, Title 9, *Traffic*, Section 9-05, *Bicycles*; Section 9-05-001-0008 is hereby amended as follows with additional language to be inserted in said Section shown in capitalized, red letters:

9-05-001-0008 OPERATION ON SIDEWALKS AND MULTIUSE PATHS

- A. Where signs are erected giving notice thereof **ON THE ARIZONA TRAIL, NATE AVERY TRAIL AND BUFFALO PARK TRAILS**, no person shall ride ~~a bicycle~~, **AN** electric or motorized bicycle, electric personal assistive mobility device, electric standup scooter, skateboard or lightweight wheeled vehicle upon a sidewalk **OR MULTIPLE USE PATH**. Signs prohibiting such activity shall be installed at **THE ARIZONA TRAIL, NATE AVERY TRAIL AND BUFFALO PARK TRAILS** locations as directed by the Office of the Traffic Engineer.

- B. Where signs are erected giving notice thereof **ON THE ARIZONA TRAIL, NATE AVERY TRAIL AND BUFFALO PARK TRAILS**, no person shall ride an electric bike, in its motorized capacity, or an electric scooter on a multiuse path.

SECTION 2. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 3. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Clerical Corrections.

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 5. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of July, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

E. [Consideration and Adoption of Resolution No. 2019-28 and Ordinance No. 2019-19: A resolution and ordinance amending the Flagstaff City Code, Title 8, Streets and Public Ways and Title 9, Traffic, Chapter 9-05, Bicycles.](#)

Moved by Vice Mayor Adam Shimoni, **seconded by** Councilmember Austin Aslan to adopt Resolution No. 2019-28.

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Jamie Whelan to amend the motion to prohibit Class 1 and Class 2 e-bikes on the Arizona Trail within Flagstaff city limits.

Vote: 4 - 3

NAY: Councilmember Austin Aslan
Councilmember Charlie Odegaard
Vice Mayor Adam Shimoni

Moved by Councilmember Jim McCarthy, **seconded by** Mayor Coral Evans to amend the motion to prohibit Class 1 and Class 2 e-bike on the Nate Avery and Buffalo Park trails.

Vote: 5 - 2

NAY: Councilmember Charlie Odegaard
Vice Mayor Adam Shimoni

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Jamie Whelan to amend the motion to allow the Pedestrian Advisory Committee, Bicycle Advisory Committee, and Transportation Commission to review the Flagstaff FUTS trails to make a recommendations on any other trails where e-bikes should be prohibited.

Vote: 7 - 0 - Unanimously

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Regina Salas to amend the motion to include that signage should be added to the trail giving proper etiquette established by staff or committees and a speed limit of 15 mph for all bikes be posted on trails.

Vote: 2 - 5

AYE: Councilmember Jim McCarthy
Councilmember Regina Salas

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Regina Salas to amend the motion to protect the Observatory Mesa by prohibiting all e-bikes on Mars Hill and Tunnel Springs Trails.

Vote: 2 - 5

AYE: Councilmember Jim McCarthy
Councilmember Regina Salas

Moved by Vice Mayor Adam Shimoni, **seconded by** Councilmember Jim McCarthy to amend the motion to include the review of signage regarding biking etiquette by the Bicycle Advisory Committee, Pedestrian Advisory Committee, and Transportation Commission.

Vote: 7 - 0 - Unanimously

Vote: 7 - 0 - Unanimously

Moved by Vice Mayor Adam Shimoni, **seconded by** Councilmember Austin Aslan to read Ordinance No. 2019-19 by title only for the final time as amended.

Vote: 7 - 0 - Unanimously

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA AMENDING TITLE 8, STREETS AND PUBLIC WAYS AND TITLE 9, TRAFFIC, CHAPTER

Vice Mayor Adam Shimoni

Moved by Councilmember Jim McCarthy, **seconded by** Mayor Coral Evans to amend the motion to prohibit Class 1 and Class 2 e-bike on the Nate Avery and Buffalo Park trails.

Vote: 5 - 2

NAY: Councilmember Charlie Odegaard
Vice Mayor Adam Shimoni

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Jamie Whelan to amend the motion to allow the Pedestrian Advisory Committee, Bicycle Advisory Committee, and Transportation Commission to review the Flagstaff FUTS trails to make a recommendations on any other trails where e-bikes should be prohibited.

Vote: 7 - 0 - Unanimously

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Regina Salas to amend the motion to include that signage should be added to the trail giving proper etiquette established by staff or committees and a speed limit of 15 mph for all bikes be posted on trails.

Vote: 2 - 5

AYE: Councilmember Jim McCarthy
Councilmember Regina Salas

Moved by Councilmember Jim McCarthy, **seconded by** Councilmember Regina Salas to amend the motion to protect the Observatory Mesa by prohibiting all e-bikes on Mars Hill and Tunnel Springs Trails.

Vote: 2 - 5

AYE: Councilmember Jim McCarthy
Councilmember Regina Salas

Moved by Vice Mayor Adam Shimoni, **seconded by** Councilmember Jim McCarthy to amend the motion to include the review of signage regarding biking etiquette by the Bicycle Advisory Committee, Pedestrian Advisory Committee, and Transportation Commission.

Vote: 7 - 0 - Unanimously

Vote: 7 - 0 - Unanimously

Moved by Vice Mayor Adam Shimoni, **seconded by** Councilmember Austin Aslan to read Ordinance No. 2019-19 by title only for the final time as amended.

Vote: 7 - 0 - Unanimously

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA AMENDING TITLE 8, STREETS AND PUBLIC WAYS AND TITLE 9, TRAFFIC, CHAPTER 9-05, BICYCLES, OF THE FLAGSTAFF CITY CODE

Moved by Councilmember Austin Aslan, **seconded by** Councilmember Charlie Odegaard to adopt Ordinance No. 2019-19 as amended.

Vote: 7 - 0 - Unanimously

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.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council

:

Co-Submitter: Walt Miller

Date: 07/01/2020

Meeting Date: 07/07/2020



TITLE:

Consideration and Adoption of Resolution No. 2020-42: A resolution approving an Amendment to an Intergovernmental/Third-Party Agreement between the City of Flagstaff, Coconino County and Paw Placement of Northern Arizona (PPNAZ) for Animal Sheltering Services.

STAFF RECOMMENDED ACTION:

- 1) Read Resolution No. 2020-42 by title only
- 2) City Clerk reads Resolution No. 2020-42 by title only (if approved above)
- 3) Adopt Resolution No. 2020-42

Executive Summary:

Approval of Amendment One to the IGA with Coconino County for animal shelter service that includes language for PPNAZ requested increases over the next two fiscal years (FY 2020-2021 and FY 2021-2022) and is contingent upon annual budget approval of the allocation by Council; and, includes language to provide an initial increase of \$26,583.00 for the Fiscal Year 2019-2020. The amendment also includes needed clarifying language and definitions of terms.

Financial Impact:

The FY 2019-20 increase of \$26,583.00 was approved by the Budget Team at the direction of City Council. The FY 2020-21 increase of \$79,200.00 is allocated in the budget as recently approved by City Council. The FY 2021-22 increase of \$79,200.00 is contingent on City Council approval during the budgeting process for FY 2021-22.

Policy Impact:

None.

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

- 3) Provide sustainable and equitable public facilities, services, and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.
- 8) Improve the effectiveness of notifications, communication, and engagement with residents, neighborhoods and businesses and about City services, programs, policies, projects and developments.

Has There Been Previous Council Decision on This:

Council approved the initial IGA on October 16, 2020, Resolution #2018-47.

On March 10, 2020, High Country Humane presented an overview of their operations and financial information related to the cost of running the shelter. High County Humane requested \$26,583 in funding from the City to support FY 2019-20 operations and \$79,200 in funding from the City to support the FY 2020-21 and FY 2021-22 operations. Council gave management direction to fund the FY 2019-20 request and consider the additional request as part of the budget process.

Options and Alternatives:

1. Approve Amendment One to the Intergovernmental Agreement/Third-Party Agreement (IGA) with Coconino County and Paw Placement of Northern Arizona (PPNAZ).
2. Do not approve Amendment One and continue with the current IGA with Coconino County and PPNAZ as written.

Background/History:

In 2017, the City of Flagstaff was approached by Coconino County and asked if the City would be interested in a joint County/City Request for Proposals (RFP) for Animal Shelter Services. The owner of the Second Chance Center for Animals (SCC) indicated a possible interest in donating the property and building to Coconino County if the primary use and purpose were for an animal shelter. On April 27, 2018, a joint County/City request for Proposals (RFP) was advertised, and two (2) Proposers responded: Coconino Humane Society (CHA) and Paw Placement of Northern Arizona (PPNAZ).

After the evaluation/scoring process and negotiations with both Proposers, the City and Coconino County determined PPNAZ to be the highest scoring meeting the needs of both agencies. On October 16, 2018, City Council approved Resolution #2018-47 approving the proposed IGA between the City of Flagstaff, Coconino County, and PPNAZ (attached to this staff summary). Additionally, this same IGA was presented and approved by the Coconino County Board of Supervisors on October 16, 2018.

During the first full year of service, PPNAZ experienced greater expenses during the initial startup year than originally anticipated. The data used to determine the initial startup was not accurate as it was difficult to determine precise costs associated with higher numbers of medical cases than originally projected, greatly increased veterinarian fees (double) than the prevailing fees at the time of response to the RFP, and a higher number of equipment and facility issues that needed to be brought into compliance than originally estimated.

In February 2020, PPNAZ approached both the City of Flagstaff and Coconino County requesting assistance to cover the higher expenses they were experiencing. The request was for an initial amount of \$48,332.00 for Fiscal Year 2019/2020, with the City of Flagstaff portion being \$26,583.00 (55%) and Coconino County's portion being \$21,749 (45%) which is in line with the allocation percentages under Article III of the original IGA. PPNAZ also requested an increase of \$145,000 for Fiscal Years 2020-2021 and 2021-2022 with the City's portion being \$79,200 (55%) and Coconino County's portion being \$65,800 (45%).

Staff from the City of Flagstaff, Coconino County, and PPNAZ drafted Amendment One to incorporate with the original IGA to allow for the requested increases. The language in the Amendment for the increase requires that the increases each year will only be contingent upon budget approvals of both the City Council and the Coconino County Board of Supervisors (see Section III of the Amendment). Staff decided to also take the opportunity to make clarifications to a few articles in the IGA that were somewhat ambiguous, this language was also drafted by staff in all three entities.

Key Considerations:

Animal shelter services are a critical need for the City of Flagstaff.

To ensure that County and City requirements are met or exceeded, PPNAZ utilizes a Governance Board approach for oversight, transparency, and accountability of shelter operations. In support of this PPNAZ contracts for an annual CPA-overseen, independent audit. PPNAZ is also committed to providing professional services and programs to the community that include: public education (rabies, pet care, bite safety), adoption services, low-cost spay/neuter for dogs/cats, lost and found, and pet food banks for low-income assistance.

PPNAZ is committed to adherence to the requirements of the American Society for the Prevention of Cruelty to Animal (ASPCA) by putting Association of Shelter Veterinaries (ASV) Guidelines into action and these guidelines are incorporated into the IGA.

Expanded Financial Considerations:

The City's portion shall be \$26,583.00 for Fiscal Year 2019-2020, and \$79,200 for Fiscal Years 2020-2021 and 2021-2022 as approved in the budget process for each year.

Currently, the City is paying \$280,500 (\$23,375 per month) for the service and \$12,390 annually for repair and replacement of systems and structural components. Note: The City pays their portion directly to the County and the County remits payment to PPNAZ.

The County Board of Supervisors approved this Amendment on June 23, 2020.

Community Benefits and Considerations:

The City of Flagstaff benefits by having an updated facility that will accept and provide care and shelter for the adoption of stray dogs and cats.

Expanded Options and Alternatives:

1. Approve Amendment One to the Intergovernmental Agreement/Third-Party Agreement (IGA) with Coconino County and Paw Placement of Northern Arizona (PPNAZ). Amendment One amendment will provide increased funding for services performed by PPNAZ and provide minor clarity of various terms in the IGA.
2. Not approve Amendment One and continue with the IGA with Coconino County and PPNAZ as written. Continuing with the IGA as currently written will have financial impact on the Animal Sheltering Services provided by PPNAZ and leave certain terms in the contract unclear.

Attachments: Res. 2020-42
 Amendment One
 IGA

RESOLUTION NO. 2020-42

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AMENDMENT ONE TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN COCONINO COUNTY, PAW PLACEMENT OF NORTHERN ARIZONA, DBA HIGH COUNTY HUMANE AND THE CITY OF FLAGSTAFF FOR ANIMAL SHELTERING SERVICES

RECITALS:

WHEREAS, The City must provide animal shelter services pursuant to Flagstaff City Code Section 6-02-001-0002; and

WHEREAS, pursuant to A.R.S. §§ 11-952; 11-1013, the City of Flagstaff (City) may enter into an intergovernmental agreement with the Coconino County (County) to provide for animal shelter services through a county animal shelter facility operated by a third party; and

WHEREAS, The City and County entered into a concurrent agreement to work together to obtain animal sheltering services through a single joint request for proposals and negotiations of a subsequent agreement; and

WHEREAS, The City and County jointly issued Request for Proposals 2018-107 to obtain animal shelter services consistent with Arizona Revised Statutes Title 11, Chapter 7, Article 6, and Title 9, Chapter 4, Article 8 to be provided at the Property; and

WHEREAS, after a competitive process the City and County have successfully negotiated an intergovernmental and third-party agreement for animal shelter services with Paw Placement of Northern Arizona; and

WHEREAS, Coconino County and City of Flagstaff have entered into an intergovernmental agreement for Animal Sheltering Services with Paw Placement of Northern Arizona; and

WHEREAS, Coconino County and City of Flagstaff desire to enter into Amendment One agreement of an intergovernmental agreement for Animal Sheltering Services with Paw Placement of Northern Arizona.

ENACTMENTS:

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

SECTION 1. In General.

That Amendment One of the Intergovernmental and Third-Party Agreement between the City of Flagstaff, Coconino County and Paw Placement of Northern Arizona be hereby accepted and approved, and the Mayor be authorized and directed to execute said amendment of the intergovernmental and third-party agreement on behalf of the City of Flagstaff.

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 7th day of July, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:
IGA
Amendment One

This First AMENDMENT (hereinafter this "Amendment") is made this ____ day of _____, 2020,

BETWEEN

COCONINO COUNTY, a political subdivision of the State of Arizona, of 219 East Cherry Avenue, Flagstaff, Arizona 86001, (hereinafter the "County"),

AND

CITY OF FLAGSTAFF, a political subdivision of the State of Arizona, of 211 West Aspen Avenue, Flagstaff, Arizona 86001, (hereinafter the "City"),

AND

PAW PLACEMENT OF NORTHERN ARIZONA doing business as HIGH COUNTRY HUMANE an Arizona Non-Profit 501(C)(3) Organization located at P.O. Box 942, Flagstaff, AZ 86002(hereinafter the "Independent Contractor or IC"),

WHEREAS:

- A. The County, City and the Independent Contractor entered into an agreement commencing on the 16th day of October 2018, for the Independent Contractor to provide Animal Sheltering Services per Arizona Revised Statutes § 11-1013(hereinafter the "Agreement"); and
- B. The parties have operated pursuant to the Agreement since that date and have identified necessary changes to operations;

THEREFORE, in consideration of their mutual promises in the Agreement, the County, the City and the Independent Contractor agree as follows:

Section I, Services Agreement, is amended to add the following language:

Definitions:

- i. Stray Animal – A dog or cat running at large with no identification tag and no known owner brought in by the public, police officer, sheriff deputy, animal control officer or animal management officer.
- ii. Unwanted Animal – An abandoned dog or cat brought into a shelter by an individual that is not the principle owner of the animal and cannot keep the animal (i.e. the owner passed away and a relative is unable to care for the pet; a tenant moves out of a rented property and leaves a pet behind.)
- iii. Owner Surrender – The owner of a dog or cat wants to relinquish ownership of their animal. NOTE: owner surrenders will be subjected to managed admissions and the owner may be charged a fee by Independent Contractor.

- iv. Managed Admissions – Thoughtful process whereby admission of animals into a shelter is scheduled based on the shelter’s capacity to provide humane care and assure the best and most appropriate outcome for each animal admitted. Managed admissions apply only to owner surrenders. Fees may be charged by Independent Contractor.
- v. Do Not Return to Owner Animal – As referenced in Coconino County Health and Human Services (CCHHS) Animal Management procedures, a Do Not Return to Owner Animal is an animal that an Animal Management Officer has allowed the owner to sign over to (CCHHS) Animal Management in order to permanently remove the animal from the property. The animal will not be returned to the owner/property.
- vi. Unincorporated Coconino County Resident – Individuals living outside the City of Flagstaff, City of Page and City of Williams and including tribal lands.

29. City of Flagstaff Police occasionally needs assistance with stray livestock. The Independent Contractor will assist the City of Flagstaff Police with finding transport and or housing the strays. All costs associated with the assistance and service will be paid by the City of Flagstaff Police Department separately. The contractor will handle paying the subcontractor providing the service as needed.

Paragraph 3 of Section I is amended as follows:

- 3. Receiving unwanted and stray dogs and cats from unincorporated Coconino County residents and City of Flagstaff residents at the discretion of the Independent Contractor.
 - i. Owner surrenders of dogs and cats will be referred directly to Independent Contractor by County and/or City of Flagstaff personnel. Independent Contractor will call owners requesting to surrender their dog or cat and managed admissions will apply. City of Flagstaff Animal Control and County Animal Management will only bring an owner surrender dog or cat to Independent Contractor if owner is unable to transport and Independent Contractor has requested a transport. There may be certain circumstances that warrant a City of Flagstaff Animal Control Officer or County Animal Management Officer to accept an owner surrender that is outside the definition of a “Do not return to owner animal”. Independent Contractor will be notified of situation prior to bringing dog or cat to shelter.
 - ii. The Independent Contractor shall receive:
 - a. Dogs and cats brought in as strays-by the public (during normal hours of operation, the County Animal Management Officers and the City Animal Control Officers, including police officers, in the performance of their duties 24 hours a day, and place a hold on said animals for at least 72 hours as per A.R.S. § 11-1013;
 - b. Owner arrest, hospital cases and abandoned animals from County Animal Management Officers and City Animal Control Officers. In such cases, the

definition of animals will be extended to include dogs, cats, pocket pets, birds and reptiles. Information regarding the incarcerated owner or the owner being hospitalized must be entered into the Independent Contractor's database by County and/or City of Flagstaff personnel. Information will include but not limited to address, phone number, date of incarcerated or hospitalization, release date if known, next of kin or a contact person when possible and any special circumstances regarding the care of the animal being housed. Animals brought in due to owner arrest or hospitalization cases will not be charged a redemption fee; however, the independent contractor may charge boarding fees. Hospital cases, arrest cases and abandoned animals will be held for 7 days.

- c. Independent Contractor will send a letter to the incarcerated individual at the City of Flagstaff - Coconino County Jail informing them that they have seven days from the time their animal was brought into the shelter to make arrangements to have the animal picked up. If the animal is not picked up by day seven, the animal will become property of the Independent Contractor. Hospitalization cases where animals need to be cared for at the shelter will be handled on a case by case basis. Independent Contractor will have direct contact with hospitalized individuals (or their representative) and determine the length of stay of the animals at the shelter or make arrangements with the owner's family members or friends to pick up and care for the animals, if possible.

Paragraph 26 of Section I is amended as follows: 26. Apply, obtain, and maintain a Shelter Operating License from the Coconino County Animal Management Program and follow the regulations in the Coconino County Keeping of Animals Ordinance 2012-12. License fees will apply and routine inspections for compliance with will be conducted.

Section III, Compensation, is amended to add the following language:

Compensation for FY21 and FY22 shall include a \$145,000 per year increase, contingent upon County Board of Supervisors and City Council budget approval for each fiscal year. If approved for those fiscal years, the County portion increase shall be \$65,800 (\$5,483 per month) and City portion increase paid to the County shall be \$79,200 (\$6,600 per month); and a one-time payment of \$48,322 to be paid in FY 2020. County's portion shall be \$21,749 and City portion paid to the County shall be \$26,573.

First payment for service to be effective 1/1/2019

County will pay capital costs for improvements in amount of **\$40,080** upon date of agreement.

Any price adjustment must be approved in writing by mutual written consent of the parties, and price adjustments shall be negotiated based on the Consumer Price Index for all Urban Consumers (CPI-U), using the detailed expenditure category "Pet Services including veterinary" and calculating the average under the seasonally adjusted percent change.

Performance accountability will be jointly considered by the County and City at the time of any annual price adjustment.

Price adjustments must be requested by January 30th of the calendar year, in order to meet the Agencies budget process timelines.

Section XI, Certification Pursuant to A.R.S. § 35-393.01, is amended as follows:

If Independent Contractor engages in for-profit activity and has 10 or more employees, and if this Agreement has a value of \$100,000 or more, Independent Contractor certifies it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

Terms and conditions in the Agreement as amended that are unchanged by this Amendment will remain in full force and effect.

Independent Contractor warrants that the person signing below is authorized to sign on behalf of Independent Contractor and obligate Independent Contractor to the above amended terms and conditions.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date hereinbefore indicated.

PAW PLACEMENT OF NORTHERN AZ
dba: High Country Humane

COCONINO COUNTY

By _____

By _____

Kenneth Lamm
Chair, Board of Directors

Elizabeth C. Archuleta
Chair, Board of Supervisors

ACKNOWLEDGED before me
by (Name) as (title) of and for
(Independent Contractor) on
this ____ day of _____, 2020.

ATTEST:

Clerk of the Board

Approved as to form:

Notary Public

Deputy County Attorney

CITY OF FLAGSTAFF

By _____
Coral Evans
Mayor

ATTEST:

City Clerk

Approved as to form:

City Attorney

This INTERGOVERNMENTAL AND THIRD PARTY AGREEMENT (hereinafter this "Agreement") is made this 16th day of OCTOBER, 2018,

BETWEEN

COCONINO COUNTY, a political subdivision of the State of Arizona, of 219 East Cherry Avenue, Flagstaff, Arizona 86001, (hereinafter the "County"),

AND

CITY OF FLAGSTAFF, a political subdivision of the State of Arizona, of 219 East Cherry Avenue, Flagstaff, Arizona 86001, (hereinafter the "City"),

AND

PAW PLACEMENT OF NORTHERN ARIZONA doing business as HIGH COUNTRY HUMANE an Arizona Non-Profit 501(C)(3) Organization located at P.O. Box 942, Flagstaff, AZ 86002(hereinafter the "Independent Contractor or IC"),

WHEREAS:

- A. The County, pursuant to A.R.S. § 11-1013, may provide for animal shelter services through a county animal sheltering facility;
- B. The City provides animal shelter services pursuant to Flagstaff City Code Section 6-02-001-0002;
- C. The City and the County, pursuant to A.R.S. §§ 11-952; 11-1013, may enter an intergovernmental agreement to provide for animal shelter services through a county animal shelter facility;
- D. The County received by donation the property located at 11665 N. US Highway 89, Flagstaff, Arizona 86004, and all associated facilities (hereinafter "property") from the Second Chance Center for Animals Foundation;
- E. Pursuant to the deed transferring title in the Property to the County, for a period of thirty years from the date of the transfer, the primary use of the Property must be for animal care and management;
- F. In fulfilling the intent of the donation, the County wishes to utilize the Property in a manner to encourage the self-sufficiency of an independent contractor who can provide animal sheltering services as well as extended services beyond those required by law for the benefit of the community;
- G. The County has entered into a concurrent agreement with the City of Flagstaff to work together to obtain animal sheltering services through a single joint request for proposals and subsequent agreement;

- H. The County and City of Flagstaff jointly issued Request for Proposals 2018-107 to obtain animal shelter services consistent with Arizona Revised Statutes Title 11, Chapter 7, Article 6, and Title 9, Chapter 4, Article 8 to be provided at the Property;
- I. The Independent Contractor submitted the successful proposal; and
- J. The Independent Contractor is ready, willing and able to provide the Services to both the County and the City at the County-owned facility; and

THEREFORE, in consideration of their mutual promises outlined in this Agreement, the County, the City, and the Independent Contractor agree as follows:

I. Services Agreement.

A. Scope of Work: The Independent Contractor shall provide animal shelter services (hereinafter "Services"), which shall consist of:

- 1. Maintaining and operating an animal shelter in accordance with the ASPCA Shelter Care Checklists: Putting ASV Guidelines into Action, located at <https://www.aspcapro.org/sites/default/files/aspca-asv-checklist-2014.pdf>; and,
- 2. Implementing the "Must" standards as defined on the ASPCA website referenced above in each of the following areas to assure the delivery of acceptable and humane animal care:
 - a. Management and Record Keeping
 - b. Facility Design and Environment
 - c. Population Management
 - d. Sanitation
 - e. Medical Health and Physical Well-Being
 - f. Enclosures
 - g. Socialization and Interaction with Animals
 - h. Group Housing
 - i. Animal Handling
 - j. Euthanasia
 - k. Spaying and Neutering
 - l. Animal Transport
 - m. Public Health
- 3. Receiving unwanted and stray animals from unincorporated Coconino County residents and City of Flagstaff residents. Nominal fees may be charged for owner surrenders based on circumstances, at the discretion of the Independent Contractor
- 4. Receiving animals impounded by the County Animal Management Officers and the City Animal Control Officers, including police officers, in the performance of their duties 24 hours a day, and place a hold on said animals for at

least 72 hours as per A.R.S. § 11-1013;

5. Considering requests of Coconino County Public Health District (CCPHD) Animal Management Officers and City Animal Control Officers for extended holds on impounded or injured animals not to exceed 7 days. Independent Contractor's approval will be dependent on the animal's health and disposition and animal capacity;
6. Holding for a minimum of 72 hours, injured stray animals that have received emergency veterinarian care and have been signed into the Independent Contractor's shelter.
7. Administering medications to the animal(s) as prescribed by the veterinarian.
8. Working with the County and the City to find agreeable alternatives to sheltering for any animal who has been diagnosed with a contagious disease that may place other animals at risk for contracting the contagion or for any animal that has been severely injured and requires constant supervision and care;
9. Establishing cash control procedures for collecting all license and redemption fees as mandated by County and City ordinances. Fees shall be collected for both County and City and shall be remitted to the County and City monthly, along with supporting documentation on the 15th day of the month. The County reserves the right to audit the IC facility and financial records at any time with reasonable notice.
10. Providing distemper, Bordetella and parvovirus or appropriate shots to all animals brought into the shelter by County Animal Management Officers, City Animal Control Officers, police officers, and by unincorporated Coconino County and City of Flagstaff residents except those to be immediately destroyed;
11. Providing quarantine facilities for bite cases and, as needed, for other health and safety reasons;
12. Developing and implementing operational policies that address the transfer of impounded animals over to other shelters or adoption agencies as allowed by state statute and at no additional charge to either party;
13. Altering all dogs and cats as part of the adoption process per A.R.S. § 11-1022.
14. Humanely destroying and disposing of animals not claimed, adopted or transferred. The contractor will follow the Euthanasia policies as set forth by the ASV to ensure that animals not claimed, adopted or transferred are humanely destroyed. Maintain compliance with A.R.S. § 11-1021.
15. Establishing policies and procedures to include:

- a. transfer of sheltered animals over to “no-kill shelters” as allowed by state statute and at no additional charge to either party
 - b. ensuring rabies vaccination of all dogs which are claimed, adopted or transferred.
16. Providing a processing center area for County Animal Management Officers and City Animal Control Officers to prepare rabies specimens. A freezer, refrigerator, stainless steel processing table, adequate ventilation, and a sink for clean-up and hand washing are required. The County shall provide a freezer and refrigerator for this purpose.
 17. Submitting monthly reports to the County and the City describing each month’s activities, including fees collected, animals impounded, and disposition of all animals from unincorporated Coconino County and the City of Flagstaff by the 15th day of each following month.
 18. Submitting to Performance Evaluations: The IC will meet with the City and CCPHD a minimum of four times annually to review performance and discuss any problems or concerns.
 19. Complying with all federal, state, county, and municipal laws, ordinances, rules, or regulations applicable to performance of these services. This specifically includes all laws, ordinances, rules, or regulations pertaining to humane treatment, euthanasia, spay/neuter and the reclaiming or adoption of animals.
 20. Providing an enclosed area that is accessible 24/7 for the intake of animals from the public or from County Animal Management Officers, City of Flagstaff Animal Control Officers and Police Officers. An employee shall be on-site for coverage when the shelter is closed to provide assistance to unload animals, to provide medication for shelter animals and to provide overall security for the shelter.
 21. Providing an Animal Ambulance to provide emergency veterinarian care for sick and injured animals for the City. The employee must receive and dispatch a call for triage within 15 minutes, following a call for service. All reports pertaining to Animal Ambulance calls shall be included in the monthly reports submitted to the City of Flagstaff.
 22. Conducting animal cruelty investigations, upon request, for the City. All reports and findings shall be submitted to the City on agreed upon forms and utilizing submission protocols of the City.
 23. Collaborating with the County and City to provide public education and to participate in County and City events and requests for educational materials to include:
 - a. Public education (rabies, pet care, bite safety etc.)
 - b. Adoption Services

- c. Low cost spay/neuter services for dogs/cats
 - d. Lost and found
 - e. Pet food bank for low income assistance
 - f. Low cost euthanasia services for pets of Coconino County residents
 - g. TNR- Trap Neuter/Spay Release Program for feral cats outlining safe capture, sterilizing and releasing back into the colony.
24. Providing read only access to CCPHSD Animal Management and City of Flagstaff Animal Control for the shelter database from offsite locations.
 25. Providing documentation of staff training. Log to be provided upon request.
 26. Applying for, obtaining, and maintaining a Shelter Operating License from the CCPHSD Animal Management Program and following the regulations in Chapter 11 of the Environmental Services Code. License fees and routine inspections for compliance with Chapter 11 will be conducted.
 27. Maintaining compliance with all Arizona Revised Statutes, Arizona Administrative Codes, and County regulations pertaining to the operation of a shelter and the care and maintenance of animals under their care.
 28. Providing for membership for both a County and a City designee on the IC's Advisory Board.

II. License

- A. Grant of License. The County hereby grants the Independent Contractor a license to use the Property for the purposes of providing the services described in this Agreement. This License includes the use of any and all facilities, equipment and personal property at or on the Property, including the mobile home located on the Property.
- B. Term. The license shall be effective so long as this Agreement is in effect and, correspondingly, shall terminate in the event this Agreement terminates.
- C. Terms of Independent Contractor's Use
 1. Independent Contractor shall have access to and may conduct operations as described in the Services Agreement utilizing the entire Property and all existing structures contained therein.
 2. The County shall have access to the entire Property for any scheduled maintenance, inspections and County use that does not conflict with the Independent Contractor's operations. Notice of scheduled maintenance and building inspections will be given by the County to the IC promptly.
 3. Independent Contractor shall manage, operate, and maintain any specialty items or equipment owned or leased by Independent Contractor in the provision of services pursuant to this Agreement.

D. General Maintenance, Repair, and Improvements

1. Independent Contractor will maintain the facility in good condition during the term of this Agreement and perform needed maintenance and repairs on those items as listed in (RFP-2018-107, Section 7.6 pg. 15 and 16 and Contractor RFP Response pgs. 38–40, attached as Exhibit A and B and incorporated herein, including:
 - a. Appliances
 - b. Furnishings
 - c. Fixtures
 - d. Plumbing, such as leaks and clogs
 - e. Water heaters
 - f. Electrical issues including such items as bulbs
 - g. Security system
 - h. Communication system-analog phone line to building
 - i. Interior and exterior general maintenance on all structures
2. Independent Contractor shall be responsible for all utility costs including: Doney Park Water, APS Electric, Unisource Gas, Fire Alarm Monitoring service contract, and quarterly elevator servicing contract. County shall invoice IC monthly and IC shall remit payment in full within 15 days of invoice date to the County.
3. Independent Contractor occupancy shall maintain compliance with all laws, ordinances, and health and zoning codes throughout the term of this Agreement.
4. The Independent Contractor shall be responsible for and shall repair and replace the following systems and structural components on behalf of the County for an annual payment of \$24,780. **(County contribution shall be \$12,390 annually; City of Flagstaff Contribution shall be \$12,390 annually). The City contribution of \$12,390 shall be paid to the County annually and County shall remit to the total of \$24,780 to the IC annually.**
 - a. HVAC Systems
 - b. Plumbing system/bathroom fixtures
 - c. Fire extinguishers
 - d. Exterior lighting
 - e. Electrical lines
 - f. Exterior walls, roof and parking surfaces
 - g. Septic systems and all water alternate systems, i.e. cistern
 - h. Mobile home structure, electrical, septic system, plumbing systems, excluding plumbing issues such as leaks and clogs, which shall be considered normal wear and tear and be the responsibility of the IC.
5. If there is insufficient funding to repair or replace any of the systems or structural components listed above, the IC will consult with the County to determine

an advisable scope of work for critical replacements and to determine fair additional compensation from the County in order to maintain the structural and systems integrity of the County-owned property.

6. Independent Contractor understands that its use of the facility is not exclusive. Should the County wish to utilize the facility, it will coordinate with Independent Contractor to avoid any interference with Independent Contractor's operations.
7. The County shall maintain the right to issue licenses for use of portions of the premises to third parties for the benefit of shelter operations and will consult with the IC prior to the third-party license being issued.
8. At approval of this agreement by all parties, the County shall provide the capital cost of certain improvements, for a total of **\$40,080** to allow the IC to optimize their replacement for enhanced service delivery. Said improvements are identified as item #'s: 3, 5, 7, 8, 11, 12, 13,14, 17 of ABACUS Facility Assessment Report, Facility Renewal Schedule pg. 22, attached as Exhibit C and incorporated herein.
9. The County shall complete the following items prior to move in or as promptly after move-in as possible:
 - a. Re-keying of exterior doors
 - b. Landscape cleaning
 - c. Tree CUP required replacement
 - d. Fire alarm system viability assessment
 - e. Fire alarm system to fully protect all egress pathways with smoke detectors
 - f. Electrical equipment marked or labeled with an ARC Flash Hazard Rating
 - g. Analog phone line installation for fire panel
 - h. Fire panel monitoring service contract
 - i. Assessment of cistern and septic system pumps
 - j. Mobile home will be inspected and determined to be structurally sound and will be in livable condition with plumbing, electrical, septic system and appliances in place and in working order.

III. Compensation :

The compensation shall be in amount of **\$510,000 (\$42,500 per month)** for the initial term, ending on June 30, 2024. County portion shall be **\$229,500 (\$19,125 per month)** and City portion paid to the County shall be **\$280,500 (\$23,375 per month)** and total monthly payment in combined amount of **\$42,500** to be remitted by County to the IC.

First payment for service to be effective 1/1/2019

County will pay capital costs for improvements in amount of **\$40,080** upon date of agreement.

Any price adjustment must be approved in writing by mutual written consent of the parties, and price adjustments shall be negotiated based on the Consumer Price Index for all Urban Consumers (CPI-U), using the detailed expenditure category "Pet Services including veterinary" and calculating the average under the seasonally adjusted percent change.

Performance accountability will be jointly considered by the County and City at the time of any annual price adjustment.

Price adjustments must be requested by January 30th of the calendar year, in order to meet the Agencies budget process time lines.

IV. Term of Agreement:

The Term of this Agreement is for the period from 16th day of October 2018, through the 30th day of June 2024.

This Contract may be renewed for up to one (1) additional, five (5) year extension by mutual written consent of the parties.

V. Termination:

Any party may terminate this Agreement, with or without cause, by giving ninety (90) days written notice to the other parties. In that event, the termination date shall be the ninetieth (90th) day after furnishing proper notice to the other party. The Independent Contractor shall be paid for any work completed up to the date written notice of termination is sent to the other parties by first class mail.

VI. Disposal of Personal Property:

Upon termination or expiration of this Agreement, Independent Contractor will, within ninety (90) days, remove Independent-Contractor-owned equipment. Any permanent improvements remaining on the Property will become the property of the County unless otherwise agreed to in writing by both parties.

VII. Insurance:

The Independent Contractor will provide and maintain and cause its sub-contractors to provide and maintain appropriate insurance acceptable to the County and City. Prior to providing services, the Independent Contractor will provide the County and City with a Certificate of Liability Insurance evidencing insurance coverage in the amounts specified above for the effective term of this renewal.

- A. Commercial General Liability occurrence version in an amount not less than One Million Dollars (\$1,000,000) per occurrence/Two Million Dollars (\$2,000,000) aggregate. The policy shall include coverage for bodily injury, property damage, personal injury, and products and completed operations and shall include the following;

General Aggregate	\$2,000,000
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Products/Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Fire Legal Liability	\$50,000
Each Occurrence	\$1,000,000

- B. Automobile Liability in an amount not less than One Million Dollars (\$1,000,000) combined single limit (CSL) per occurrence to include either “any auto” or “scheduled, owned, hired, and or non-owned vehicles. Such insurance shall include coverage for loading and unloading hazards.
- C. Veterinarian’s Professional Liability (if applicable) in an amount not less than One Million Dollars (\$1,000,000) per occurrence/Two Million Dollars (\$2,000,000) aggregate with a retroactive liability date (if applicable to claims made coverage) the same as the effective date of the contract or earlier. The policy shall contain an Extended Claim Reporting Provision of not less than two years following termination of the policy
- D. Worker’s compensation and statutory Arizona limits for employer’s liability limits of 1,000,000 for each accident/1,000,000 for disease on each employee/1,000,000 policy limit for disease. The insurer must agree to waive all rights of subrogation against the County, its officers, agents, employees and volunteers for losses arising from work performed by the Independent Contractor for the County.
- E. Volunteer accident insurance in amount not less than \$100,000 payable to volunteers for bodily injury due to their work in the scope and service of your organization while on the premises of the 11665 N Highway 89 building, and not covered by any other available medical insurance. Or element G shown below.
- F. Provide a waiver signature form for volunteers to acknowledge they waive any right to recovery from IC or Coconino County for bodily injury including disease, dismemberment or death which may occur as a result of their participation in volunteer activities for IC. Minors must also have parent or adult guardian sign waiver form. Maintain a copy of signed volunteer waivers for at least 10 years from the date of signature for adults and for 10 years from the age of majority for minors. (Recommend no volunteers below age 12).
- G. The Independent Contractor will name the County, its agents, officials and employees as additional insureds for general liability including premises/operations, personal and advertising injury, products/completed operations, and as additional insured for automobile liability and pollution liability, and will specify that the insurance afforded by the Independent Contractor is primary insurance and that any insurance coverage carried or self-insurance by the County, any department or any employee will be excess coverage and not contributory insurance to that provided by the Independent Contractor. Said policies must contain a severability of interest provision. County reserves the right to continue payment of premium for which reimbursement will be deducted from amounts due or subsequently due Independent Contractor.

VIII. Indemnification

The Independent Contractor will at all times, to the fullest extent permitted by law, indemnify, keep indemnified, defend and save harmless the County and City and/or any of

their agents, officials and employees from any and all claims, demands, suits, actions, proceedings, losses, costs and/or damages of every kind and description, including any attorney's fees and/or litigation expenses, which may be brought or made against or incurred by the County or City on account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reason of any alleged act, omission, professional error, fault, mistake, or negligence of the Licensee, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incidental to the performance of this Agreement or arising out of Workers' Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of the Independent Contractor and/or its subcontractors or claims under similar such laws or obligations. The Independent Contractor's obligations under this paragraph do not extend to any liability caused by the sole negligence of the County or City or their employees.

IX. Independent Contractor's Status

The Independent Contractor will operate as an independent contractor and not as an officer, agent, servant, or employee of the County or City.

- A. The Independent Contractor will be solely responsible for the acts and omissions of its officers, agents, servants, and employees. As an independent contractor, the Independent Contractor is responsible for the payment of all applicable income and employment taxes and for providing all workers' compensation insurance required by law.
- B. The independent contractor will operate as an independent entity and none of the employees of the independent contractor are to be considered employees of Coconino County or City of Flagstaff. Independent contractor employees are not eligible for Coconino County or City of Flagstaff group health insurance or other benefits.
- C. The independent contractor will be solely responsible for offering health insurance to its employees as required by the Affordable Care Act, and for any penalties charged to it by the Internal Revenue Service for noncompliance with the Affordable Care Act.
- D. In performance of services within this contract, the independent contractor shall determine his/her necessary hours of work. Contractor shall provide whatever tools; equipment, vehicles, and supplies Contractor may determine to be necessary in performance of services hereunder. Contractor may establish offices in such locations within or outside Arizona, as Contractor may determine to be necessary for the performance of services hereunder and shall be responsible for all expenses of operation of said office, including expenses incurred in hiring employees and assistants to Contractor.
- E. The Independent Contractor has no authority to enter into contracts or agreements on behalf of the County. This Agreement does not create a partnership between the parties.

X. Immigration and Scrutinized Business

- a. Licensee and each of its subcontractors warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S § 23-314(A).
- b. A breach of warranty under paragraph (A) above shall be deemed a material breach of the contract and is subject to penalties up to and including termination of the contract.
- c. The County and City retain legal rights to inspect the papers of Licensee or any of its subcontractors who work on the contract to ensure that the Licensee or its subcontractor(s) is complying with the warranty provided under paragraph (A) above.
- d. Licensee further certifies that it is in compliance with the Export Administration Act and not on the Excluded Parties List.
- e. False certifications may result in the termination of this contract.

XI. Certification Pursuant to A.R.S. § 35-393.01

To the extent required by law, pursuant to the requirements of A.R.S. § 35-393.01(A), the Independent Contractor hereby certifies that the Independent Contractor is not currently engaged in a boycott of Israel. The Independent Contractor further certifies that no wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of the Independent Contractor (if any) are currently engaged in a boycott of Israel. Independent Contractor further and additionally agrees that for the duration of this Contract, neither Independent Contractor, nor any wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of Independent Contractor (if any) shall engage in a boycott of Israel.

For purposes of this Section, "boycott of Israel" shall mean engaging in a refusal to deal, terminating business activities, or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either: (a) in compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 U.S.C. § 4607(c) applies; or (b) in a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.

XII. Non-Appropriation of Funds

Notwithstanding any other provisions in this Agreement, the Agreement may be terminated if the County's or City's governing bodies do not appropriate sufficient monies to fund its obligations herein or if grant funds are terminated or reduced for the purpose of maintaining this Agreement. Upon such termination, the County and City shall be released from any obligation to make further payments and shall not be liable for cancellation or termination charges.

XIII. Amendment and Entirety of Contract

This document constitutes the entire agreement between the parties with respect to the subject matter hereto and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writings, agreements and other communications between the parties. It may not be changed or modified except by an instrument in writing, signed by a duly authorized representative of the parties.

XIV. Records

The Independent Contractor will:

- a. Submit all reports and invoices specified in this Agreement.
- b. Retain and contractually require each subcontractor to retain all data and other records relating to the acquisition and performance of this Agreement (hereinafter the "Records") for a period of five (5) years after the termination or completion of this Agreement. If any litigation, claim, dispute or audit is initiated before the expiration of the five (5) year period, the Records will be retained until all litigation, claims, disputes or audits have been finally resolved. All Records will be subject to inspection and audit by the County and City at reasonable times. Upon request the Independent Contractor will produce a legible copy of any or all Records.

XIII. Approval by the County and City

Before this Agreement can become effective and binding upon the County, it must be approved by both the County Board of Supervisors or their authorized delegate; and the Flagstaff City Council or their authorized delegate. In the event the County or the City fails or refuses to approve this Agreement, it will be null and void and of no effect whatsoever.

XV. Waiver

The failure of any party at any time to require performance by the other parties of any provisions hereof will in no way affect the party's subsequent rights and obligations under that provision. Waiver by any party of the breach of any provision hereof will not be taken or held to be a waiver of any succeeding breach of such provision or as waiver of such provision itself.

XVI. Non-Assignment

This Agreement and License is non-assignable. Any attempt to assign any of the rights, duties or obligations of this Agreement or License is void.

XVII. Cancellation of Agreement

This Agreement may be cancelled by the County pursuant to A.R.S § 38-511.

XVIII. Non-Discrimination

The Independent Contractor will comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations prohibiting discrimination.

XIX. Notice

Any notice given in connection with this Agreement must be given in writing and delivered by hand to the party or by certified mail-return receipt to the party's place of business as set forth above.

XX. Choice of Law

Any dispute under this Agreement or related to this Agreement will be decided in accordance with the laws of the State of Arizona.

XXI. Severability

If any part of this Agreement is held to be unenforceable, the rest of the Agreement will nevertheless remain in full force and effect.

XXII. Controlling Documents

To the extent there exists any conflict between this Agreement, RFP 2018-104 and the Independent Contractor's response, this Agreement shall control over the RFP, and the RFP shall control over the Independent Contractor's responses thereto.

XXIII. Force Majeure

Independent Contractor will not be liable for any unforeseen acts or events that prevent it from performing its obligations under this Agreement, if beyond the control of the party despite exercise of due diligence, including, but not limited to, delays caused by fire, flood, earthquake, landslide, washouts, storm damage, acts of war or terrorism, unavailability of materials or supplies, epidemics, labor strikes, civil disturbances, insurrections, riots, explosions, and acts of God.

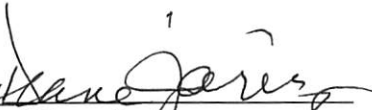
XXIV. Authority

Independent Contractor warrants that the person signing below is authorized to sign on behalf of Independent Contractor and obligate Independent Contractor to the above terms and conditions.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date herein-
before indicated.

PAW PLACEMENT OF NORTHERN
ARIZONA doing business as HIGH
COUNTRY HUMANE

COCONINO COUNTY

By 
Diane Jarvis
President

By 
Art Babbott
Chairman, Board of Supervisors


ACKNOWLEDGED before me
by (Name) as (title) of and for
(Independent Contractor) on
this 16th day of October, 2018.


ATTEST:


Clerk of the Board

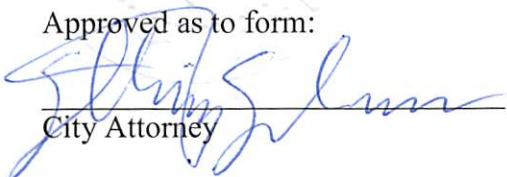

Notary Public

CITY OF FLAGSTAFF

Approved as to form:

Deputy County Attorney

By 
Coral Evans
Mayor

ATTEST:

City Clerk

Approved as to form:

City Attorney

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Jack Fitchett, Management Analyst
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Adoption of Resolution No. 2020-43: A resolution of the Flagstaff City Council adopting a Flagstaff Automotive Sales Tax Rebate Program to further the City's climate action goals and to support local automotive dealers (***Flagstaff Automotive Sales Tax Rebate Program***)

Consideration and Adoption of Resolution No. 2020-44: A resolution of the Flagstaff City Council adopting a Flagstaff Business Attraction Job Creation Incentive Program to assist in attracting new businesses that will provide high wage jobs in specific industry sectors (***Flagstaff Business Attraction Job Creation Incentive Program***)

Consideration and Adoption of Resolution No. 2020-45: A resolution of the Flagstaff City Council adopting a Development Reinvestment Incentive Program to assist in attracting new businesses that will provide high wage jobs in targeted industry sectors (***Flagstaff Business Attraction Development Reinvestment Incentive Program***)

STAFF RECOMMENDED ACTION:

Flagstaff Automotive Sales Tax Rebate Program:

- 1) Read Resolution No. 2020-43 by title only
- 2) City Clerk reads Resolution No. 2020-43 by title only (if approved above)
- 3) Adopt Resolution No. 2020-43

Flagstaff Business Attraction Job Creation Incentive Program:

- 1) Read Resolution No. 2020-44 by title only
- 2) City Clerk reads Resolution No. 2020-44 by title only (if approved above)
- 3) Adopt Resolution No. 2020-44

Flagstaff Business Attraction Development Reinvestment Incentive Program:

- 1) Read Resolution No. 2020-45 by title only
- 2) City Clerk reads Resolution No. 2020-45 by title only (if approved above)
- 3) Adopt Resolution No. 2020-45

Executive Summary:

Sustainable Automotive Sales Tax Rebate: This incentive offers purchasers of a new or used fuel efficient vehicle a rebate on a portion of the City local transaction privilege (sales) tax or use tax rate, which is currently 2.281%. The rebates would be for local and non-local purchasers as follows:

- **All Electric Vehicle (Local):** 2% local tax rebate for any new or used vehicle purchased within the City of Flagstaff. (Effective local tax rate of .281%)

- **All Electric Vehicle:** 1.8% local tax rebate for any new or used vehicle purchased within the City of Flagstaff. (Effective local tax rate of .481%)
- **Hybrid / Plug-in Electric Hybrid Vehicle (Local):** 1.6% local tax rebate for any new or used vehicle purchased within the City of Flagstaff with a city fuel economy of 40 MPG or higher. (Effective local tax rate of .681%)
- **Hybrid / Plug-in Electric Hybrid Vehicle:** 1.4% local tax rebate for any new or used vehicle purchased within the City of Flagstaff with a city fuel economy of 40 MPG or higher. (Effective local tax rate of .881%)
- **Fuel Efficient Vehicle (Local):** 0.7% local tax rebate for any new or used vehicle purchased within the City of Flagstaff with a city fuel economy of 35 MPG or higher. (Effective local tax rate of 1.581%)
- **Fuel Efficient Vehicle:** 0.5% local tax rebate for any new or used vehicle purchased within the City of Flagstaff with a city fuel economy of 35 MPG or higher. (Effective local tax rate of 1.781%)
- **Income Based:** For individuals earning less than \$50,000 per year, the rebate will be up to \$250, but not to exceed the local tax rate of 2.281% applicable to the purchase. (Effective tax rate will vary based on purchase price of vehicle)

Job Creation Incentive: Businesses that are locating to Flagstaff may be eligible for up to \$15,000 in reimbursement funds. These businesses must meet the specified criteria; business locating within Flagstaff City limits, will create ten (10) new full-time permanent jobs, and have a higher median salary/hourly rate for those new positions within the target sector. If these criteria are met, the business may apply for the available funds to use for relocation expenses, work related training, and other work force development uses.

Development Reinvestment Incentive: Businesses that are locating to Flagstaff that meet the necessary criteria; i.e. business locating within Flagstaff City limits, will create ten (10) new full-time permanent jobs, and have a higher median salary/hourly rate for those new positions within the target sector. This incentive would allow new businesses to request reimbursement. If these criteria are met, the business may apply for the available funds to use for relocation expenses, work related training, and other work force development uses.

Financial Impact:

Auto Sales Tax Rebate: Budgeted in the FY-21 budget with \$20,000 available. Funds are in the BBB-Economic Development budget for economic development purposes.

Job Creation Incentive: Budgeted in the FY-21 budget with \$75,000 available. Funds are in the BBB-Economic Development budget for economic development purposes.

Development Reinvestment Incentive: Would allocate a portion of the City's construction sales tax revenue (0.5% sales tax rate), if approved, to be used for qualifying improvements that create public benefit.

Policy Impact:

Three new policies are being proposed.

The Automotive Sales Tax Rebate is a revamp of a former policy that was adopted in 2009.

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

Council Goals:

ECONOMIC DEVELOPMENT - Grow and strengthen a more equitable and resilient economy.

CLIMATE CHANGE - Take meaningful climate change action.

City of Flagstaff Strategic Priorities:

Foster a resilient and economically prosperous city

Has There Been Previous Council Decision on This:

A Council discussion occurred on 6/30/20 regarding these topics. Staff received several recommendations from Council and those adjustments have been incorporated into the corresponding policies.

Options and Alternatives:

1. Approve resolutions.
2. Amend resolutions then approve.
3. Do not approve.

Background/History:

A Council discussion occurred on 6/30/20 regarding these topics. Staff received several recommendations from Council and those adjustments have been incorporated into the corresponding policies.

Key Considerations:

Sustainable Automotive Sales Tax Rebate: This program has been funded in the FY-2020-21 budget and has \$20,000 available to use towards this incentive. The City of Flagstaff will rebate part of the local tax paid for purchases of fuel-efficient automotive vehicles. The current local transaction privilege (sales) tax rate on purchase of vehicles is 2.281%. This policy is a revamp of a former policy that was implemented in 2010. The increased availability of electric and sustainable vehicles, coupled with an increased awareness and want to mitigate climate change from our community, is partially why staff is giving reinventing this policy. Additionally, there have been several discussions over the last year where this idea was discussed by stakeholders, such as, Economic Collaborative of Northern Arizona (ECoNA), the Flagstaff Auto Park Owner's Association, the Flagstaff Chamber of Commerce, and several Council members. This policy helps to further advance the Climate Action Adaptation Plan (CAAP) and will also help our local automotive dealers, by incentivizing vehicle purchases that occur in Flagstaff city limits.

Job Creation Incentive: This program has been funded in the FY-2020-21 budget and has \$75,000 available to use towards this incentive. This incentive was reviewed, and staff received feedback from multiple community partners and stakeholders. The purpose of this incentive is to give Flagstaff an edge when recruiting new businesses to our community. This incentive coupled with incentives from the Arizona Commerce Authority (ACA), Coconino County, and other economic development tools will help give flagstaff an edge when recruiting business from key industry sectors. This incentive is designed to help attract business in the bio medical, manufacturing, healthcare, software development and other similar key sectors. This incentive is not designed for the retail or lodging sectors as these businesses normally tend to follow when there is an increase in the economic base of a city. The maximum reimbursement one business may receive is \$15,000.

City of Flagstaff Sustainable Automotive Rebate Program



Goal: The City of Flagstaff seeks to promote purchases of fuel-efficient automotive vehicles to reduce air pollution, further the Climate Action and Adaptation Plan (CAAP), and to support local automotive dealers.

Rebates Available:

The City of Flagstaff will rebate part of the local tax paid for purchases of fuel-efficient automotive vehicles. The current local transaction privilege (sales) tax rate on purchase of vehicles is 2.281%. (If the vehicle is purchased for out-of-state use, the local use tax rate of 2.281% is paid in lieu of sales tax). Residents of Flagstaff may qualify for the local version of these incentives by providing their driver's license that illustrates a City of Flagstaff address or provide a utility bill with a City of Flagstaff address.

All Electric Vehicles (Local Resident): 2.0% of the local sales or use tax rate for any new or used vehicle purchased within the City of Flagstaff. Effective tax rate will be 0.281% after rebate.

All Electric Vehicles: 1.8% of the local sales or use tax rate for any new or used vehicle purchased within the City of Flagstaff. Effective tax rate will be 0.481% after rebate.

Hybrid / Plug-in Electric Hybrid Vehicles (Local Resident): 1.6% of the local sales or use tax rate for any new or used vehicle purchased within the City of Flagstaff boundaries that has a city fuel economy of **40 MPG** or higher according to standards established by the U.S. Environmental Protection Agency (EPA). Effective tax rate will be 0.681% after rebate.

Hybrid / Plug-in Electric Hybrid Vehicles: 1.4% of the sales or use tax rate for any new or used vehicle purchased within the City of Flagstaff boundaries that has a city fuel economy of **40 MPG** or higher according to standards established by the U.S. Environmental Protection Agency (EPA). Effective tax rate will be 0.881% after rebate.

Fuel-Efficient Vehicles (Local Resident): 0.7% of the local sales or use tax rate for any new or used vehicle purchased within the City of Flagstaff boundaries that has a city fuel economy of **35 MPG** or higher according to standards established by the U.S. Environmental Protection Agency (EPA). Effective tax rate will be 1.581% after rebate.

Fuel-Efficient Vehicles: 0.5% of the local sales or use tax rate for any new or used vehicle purchased within the City of Flagstaff boundaries that has a city fuel economy of **35 MPG** or higher according to standards established by the U.S. Environmental Protection Agency (EPA). Effective tax rate will be 1.781% after rebate.

Income-Based: For those individuals that earn less than \$50,000 per year, there is an additional \$250 incentive available, upon purchase of a vehicle that fits within the above-mentioned categories. The \$250 may be added to the total rebate but may not exceed the allocated City of Flagstaff Transaction Privilege Tax. Individuals who would like to apply for this incentive will need to submit prior-year tax filing in order to be considered.

Example: Pay \$10,000 for fuel-efficient vehicle, pay local tax of 2.281% (\$228). Upon approval of rebate claim, rebate will be calculated using the corresponding percentage, plus up to an additional \$250, that can be used towards the remaining local transaction privilege tax.

Criteria:

- Must be sold by a **qualified dealer**, “A seller of motor vehicles within the City of Flagstaff that has a state and local transaction privilege tax license for the sale of motor vehicles.”
- Must be purchased by a **qualified purchaser**, “Registered owner of the fuel-efficient vehicle.”
- Eligible for rebate while funding lasts and if the purchase was made after the program’s effective start date.
- Limit of one rebate per household per year. Limit of five rebates per commercial account.
- If you are applying for the local version of these incentives, you must provide proof of residence.
 - A driver’s license with a local Flagstaff address (or),
 - A utility bill with a local Flagstaff address

Submittals: Please fill the out the attached rebate application and submit the completed form to the City of Flagstaff’s _____ (Revenue/EV) section. If you have any questions, please contact the Interim Business Attraction Manager, Jack Fitchett at jack.fitchett@flagstaffaz.gov

RESOLUTION NO. 2020-43

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL ADOPTING A FLAGSTAFF AUTOMOTIVE SALES TAX REBATE PROGRAM TO FURTHER THE CITY'S CLIMATE ACTION GOALS AND TO SUPPORT LOCAL AUTOMOTIVE DEALERS

RECITALS:

WHEREAS, the City of Flagstaff has authority pursuant to Arizona Revised Statutes ("A.R.S.") § 9-500.11 to spend money on economic development activities;

WHEREAS, the City desires to provide funding for an auto sales tax rebate program to further climate action goals and to support local automotive dealers by providing an incentive to locally purchase energy efficient vehicles;

WHEREAS, the funding is derived from local transaction privilege tax revenues generated by the hospitality industry (also known as the "BBB tax") and dedicated for economic development activities;

ENACTMENTS:

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

SECTION 1. In General

The City Council hereby adopts the Flagstaff Automotive Sales Tax Rebate Program, a copy of which is attached hereto as Exhibit A.

The Economic Vitality Division Director or the Director's designee is delegated authority to undertake all such actions necessary to implement the program, provide information about the program to the public, and to provide a report on and any recommendations related to the program prior to April 1, 2021.

SECTION 2. Effective Date.

This resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of July, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Attachment: Exhibit A

City of Flagstaff Business Attraction Job Creation Incentive Program



**CHOOSE
FLAGSTAFF**

City of Flagstaff's Economic Development Program Mission: Enhancing prosperity, long-term viability, and resilience of our community.

The City of Flagstaff is interested in attracting sustainable companies that will provide high quality, career oriented, opportunities for its residents that further commerce in the region. As part of these efforts, the City is providing economic incentives to meet its goal of attracting businesses to the following key industries:

- ❖ Astronomy
- ❖ Bioscience & Healthcare
- ❖ Education
- ❖ Environmental Technology
- ❖ Manufacturing
- ❖ Research and Development
- ❖ Software and Information Based Technology

Business Attraction Job Creation Incentive – The City may allocate up to \$15,000 to a new business creating jobs in Flagstaff, subject to available fund balance and review of the submittal packet. Businesses may apply for this incentive to receive reimbursement for the following qualifying expenses:

- a. Employee Relocation Expenses
- b. Job Related Training
- c. Workforce Development

Criteria: All submittals will be reviewed by staff to determine if the business meets the minimum criteria to be eligible for City incentives:

1. Must be locating this business within City limits. New businesses may apply for this incentive if they located to Flagstaff within the last 60 days.
2. Must be one of the key industries identified by the City.
3. Must create a minimum of ten (10) new permanent full-time jobs, where the position's salary exceeds the Coconino County median wage of \$20.04 per hour.

Submittals: Any potential employer that is interested in applying for the available incentives must submit the following information. Any business interested in applying for the available funds must submit the following information to the Business Attraction Office at the City of Flagstaff between August 1st and August 31st. If all funds are not awarded in this initial time frame, the City may open another submittal timeframe for potential employers to apply.

1. Written narrative of the venture which includes:
 - a. Explanation of how all necessary criteria will be met.

- b. What City incentives you are applying for and how these incentives will be used to strengthen your ability to locate to Flagstaff.
 - c. General proposal of how incentive funds will be used.
 - d. If incentive is not received how will this impact your ability to locate to Flagstaff.
2. Budget, schedule and business plan for the potential venture.
3. A narrative of the impact of the applicant's businesses relative to water and energy usage, and to the community waste stream (this does not need to be elaborate).
4. A description of any proposed direct benefits to the community (not just applicant's business) such as infrastructure, workforce development opportunities for residents or students, volunteer work, or some other benefit that the business is able to offer to the community (this does not need to be elaborate).
5. An accounting of the applicant's private investment relative to the requested grant (Can be submitted confidentially).

Please submit all proposals for incentive requests to the City's Interim Business Attraction Manager Jack Fitchett at jack.fitchett@flagstaffaz.gov

Economic Vitality staff and various city offices will review and rank applications. Each complete application will be ranked based upon an overall tally of available points for three separate criteria:

Wages (20pts): A comparison of the wages of the jobs being created relative to the Coconino County median wage and relative to the average sector wage.

Environmental Impact (30pts): A narrative of the impact of the applicant's businesses relative impacts to water and energy usage, and to the community waste stream;

Direct Community Benefit (50pts): A description of any proposed direct benefits to the community (not just the applicant's business) such as infrastructure, workforce development opportunities for residents or students, volunteer work, or some other direct benefit that the business is providing to the community;

The review team will determine awards based upon the final rank and consideration of each application.

The annual funding for this policy is \$75,000. The maximum awarded grant amount is \$15,000. The review team will determine the number of awards based upon the final rank and consideration of each application. Any unused program funds may be carried forward into the next budget year to fund more ventures.

Successful applicant may then request reimbursement for approved uses. A successful applicant may be reimbursed for a variety of approved uses but will not exceed the \$15,000 limit.

RESOLUTION NO. 2020-44

**A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL ADOPTING A
FLAGSTAFF BUSINESS ATTRACTION JOB CREATION INCENTIVE
PROGRAM TO ASSIST IN ATTRACTING NEW BUSINESSES THAT WILL
PROVIDE HIGH WAGE JOBS IN SPECIFIC INDUSTRY SECTORS**

RECITALS:

WHEREAS, the City of Flagstaff has authority pursuant to Arizona Revised Statutes (“A.R.S.”) § 9-500.11 to spend money on economic development activities;

WHEREAS, the City has historically operated and desires to continue providing funding for a Flagstaff Business Attraction Job Creation Incentive Program to assist new businesses that will provide high wage jobs in specific industry sectors;

WHEREAS, the funding is derived from local transaction privilege tax revenues generated by the hospitality industry (also known as the “BBB tax”) and dedicated for economic development activities;

ENACTMENTS:

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

SECTION 1. In General

The City Council hereby adopts the Flagstaff Business Attraction Job Creation Incentive Program, a copy of which is attached hereto as Exhibit A.

The Economic Vitality Division Director or the Director’s designee is delegated authority to undertake all such actions necessary to implement the program, provide information about the program to the public, and to provide a report on and any recommendations related to the program prior to April 1, 2021.

SECTION 2. Effective Date.

This resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of July, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Attachment: Exhibit A

City of Flagstaff Development Reinvestment Incentive



**CHOOSE
FLAGSTAFF**

City of Flagstaff's Economic Development Program Mission: Enhancing prosperity, long-term viability, and resilience of our community.

The City of Flagstaff is interested in attracting sustainable companies that will provide high quality, career oriented, opportunities for its residents that further commerce in the region. As part of these efforts, the City is providing economic incentives to meet its goal of attracting businesses to the following key industries:

- ❖ Astronomy
- ❖ Bioscience & Healthcare
- ❖ Education
- ❖ Environmental Technology
- ❖ Manufacturing
- ❖ Research and Development
- ❖ Software and Information Based Technology

Development Reinvestment Incentive –A new business in Flagstaff may receive a refund for local construction contracting taxes paid for the below qualifying uses.

- Relocation expenses
- Related job trainings
- Workforce development items

The amount of the refund will be equal to the amount of a 0.5% local sales rate on construction contracting for improvements for the new business locating in Flagstaff. The local sales tax rate is currently 2.281%. The construction contracting tax is found in Sections 3-05-004-0415, and 0417 of the City Code, as amended by state laws.

For example; A \$1,000,000 million-dollar taxable value project, net of deductions, will create a refund of up to \$5,000 of construction contracting taxes that may be used for the qualifying items.

Criteria: All submittals will be reviewed by staff to determine if potential employers meet the minimum criteria to be eligible for City incentives:

1. Must be performing referenced construction within City limits.
2. Must be one of the key industries identified by the City.
3. Must create a minimum of ten (10) new permanent full-time jobs, where the position's salary exceeds the Coconino County median wage of \$20.04 per hour.

Submittals: Any business that is interested in applying for the available incentives must submit the following information.

1. Written narrative of the venture which includes:

- a. Explanation of how all necessary criteria will be met.
 - b. What City incentives you are applying for and how these incentives will be used to strengthen your ability to locate to Flagstaff.
 - c. General proposal of how incentive funds will be used.
 - d. If incentive is not received how will this impact your ability to locate to Flagstaff.
2. Budget, schedule and business plan for the potential venture.
 3. A narrative of the impact of the applicant's businesses relative to water and energy usage, and to the community waste stream (this does not need to be elaborate).
 4. A description of any proposed direct benefits to the community (not just applicant's business) such as infrastructure, workforce development opportunities for residents or students, volunteer work, or some other benefit that the business is able to offer to the community (this does not need to be elaborate).
 5. An accounting of the applicant's private investment relative to the requested grant (Can be submitted confidentially).

Please submit all proposals for incentive requests to the City's Interim Business Attraction Manager Jack Fitchett at jack.fitchett@flagstaffaz.gov

Economic Vitality staff and various city offices will review and rank applications. Each complete application will be ranked based upon an overall tally of available points for three separate criteria:

Wages (20pts): A comparison of the wages of the jobs being created relative to the Coconino County median wage and relative to the average sector wage.

Environmental Impact (30pts): A narrative of the impact of the applicant's businesses relative impacts to water and energy usage, and to the community waste stream.

Direct Community Benefit (50pts): A description of any proposed direct benefits to the community (not just the applicant's business) such as infrastructure, workforce development opportunities for residents or students, volunteer work, or some other direct benefit that the business is providing to the community.

The review team will determine awards based on each application.

RESOLUTION NO. 2020-45

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL ADOPTING A DEVELOPMENT REINVESTMENT INCENTIVE PROGRAM TO ASSIST IN ATTRACTING NEW BUSINESSES THAT WILL PROVIDE HIGH WAGE JOBS IN TARGETED INDUSTRY SECTORS

RECITALS:

WHEREAS, the City of Flagstaff has authority pursuant to Arizona Revised Statutes ("A.R.S.") § 9-500.11 to spend money on economic development activities;

WHEREAS, the City has historically operated and desires to continue providing funding for business attraction programs to attract new businesses that will provide high wage jobs in targeted industry sectors;

ENACTMENTS:

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

SECTION 1. In General

The City Council hereby adopts the Business Attraction Development Reinvestment Incentive Program, a copy of which is attached hereto as Exhibit A.

The Economic Vitality Division Director or the Director's designee is delegated authority to undertake all such actions necessary to implement the program, provide information about the program to the public, and to provide a report on and any recommendations related to the program prior to April 1, 2021.

SECTION 2. Effective Date.

This resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of July, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Attachment: Exhibit A

New Business Attraction Policies

Jack Fitchett: Interim Business Attraction Manager





Alterations

Sustainable Automotive Sales Tax Rebate

Revised rebates for local purchasers

- All Electric = 2%
- Hybrid or Plug in Hybrid = 1.6%
- Fuel Efficient = 0.7%

Revised rebates for non-local purchasers

- All Electric = 1.8%
- Hybrid or Plug in Hybrid = 1.4%
- Fuel Efficient = 0.5%



Alterations

Development Reinvestment & Job Creation Incentives

- Reimbursable Expenses (Current): Relocation expenses, job trainings, workforce development.
- Alternative Expenses: Include the below reimbursable expenses to provide additional flexibility to businesses?
 - Beautification improvements
 - Code required landscaping
 - Dark sky code compliance
 - Energy efficiency items
 - Public drainage, stormwater and floodplain
 - Public roads and lighting
 - Public water and wastewater



Development Reinvestment Incentive

- Staff will continue to work with the Finance and Budget Teams to identify the best time to initiate this policy to mitigate any affects to the General Fund.

Questions?



CHOOSE
FLAGSTAFF
THE CITY OF INNOVATION

Jack Fitchett

Interim Business Attraction Manager

Jack.Fitchett@flagstaffaz.gov



**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Robert Wallace, Open Space Specialist
Co-Submitter: Nicole Antonopoulos
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Adoption of Resolution No. 2020-46: A resolution adopting the Management Plan for Legally-Designated Open Space Properties.

STAFF RECOMMENDED ACTION:

- 1) Read Resolution No. 2020-46 by title only
- 2) City Clerk reads Resolution No. 2020-46 by title only (if approved above)
- 3) Adopt Resolution No. 2020-46

Executive Summary:

The City manages approximately 3,000 acres of legally-designated open space. As part of the acquisition process for Picture Canyon and Observatory Mesa, conservation easements were granted to Arizona State Parks which specifically outline construction, access, and development limitations on each of the properties. Additionally, the Open Space Program manages the McMillan Mesa Natural Area and the Schultz Creek Trailhead and Natural Area. Each property has unique resources that necessitate oversight and administration.

In 2017, City Council passed and adopted resolution number 2017-01: "A resolution of the City Council of the City of Flagstaff adopting management policies for legally designated open space properties". The adopted management plan established management policies for these complex parcels to ensure natural, ecological, and cultural resources protection within the legal framework of local, state, and federal regulations and the conservation easements. Staff have revised and updated the Legally-Designated Open Space management plan originally adopted in 2017. This updated version outlines overarching management policies for all legally-designated open space properties with additional chapters outlining management considerations and improvement projects specific for the City's newest open space additions, McMillan Mesa and Schultz Creek. The revisions also include guidance on complimentary and connector open spaces. The management plan lays out the management direction and identifies best practices to uphold Flagstaff's open spaces.

Financial Impact:

This decision has no financial impact on the City. Projects outlined in the Management Plan are either funded by the Open Space base budget, outside grants, or in-kind/volunteer contributions. Open Space staff will work to identify funding and partnerships to complete large scale projects that do not currently have identified funding sources.

Policy Impact:

This is an update to Resolution 2017-01: A resolution of the City Council of the City of Flagstaff adopting management policies for legally designated open space properties.

Connection to Council Goal, Regional Plan, CAAP, and/or Strategic Plan:Council Goals:

- Enhance public transparency and accessibility.
- Actively manage and protect all environmental and natural resources.

Regional Plan:

- 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 CC.2. Preserve, restore, and rehabilitate heritage resources to better appreciate our culture.
- Goal ED.7. Continue to promote and enhance Flagstaff's unique sense of place as an economic driver.
- Goal REC.1. Maintain and grow the region's healthy system of convenient and accessible parks, recreation facilities, and trails.

Has There Been Previous Council Decision on This:

Previous Council Input:

Legally Designated Open Space Management Plan council input

- June 6, 2017, City Council passed and adopted resolution number 2017-01: A resolution of the City Council of the City of Flagstaff adopting management policies for legally designated open space properties.

Observatory Mesa Natural Area council input

- June 4, 2013, the Flagstaff City Council adopted Resolution 2013-12 approving the submission of a grant application to Arizona State Parks for the Growing Smarter State Trust Land Acquisition Program to acquire Observatory Mesa.
- November 5, 2013, the City Council passed Ordinance 2013-25 authorizing the acquisition and purchase of 2,251 acres on Observatory Mesa
- April 5, 2016, City Council passed and adopted Resolution 2016-12 amending the Regional Plan to change the area type designation of Observatory Mesa Natural Area to Parks/Open Space.
- April 19, 2016, City Council passed and adopted Ordinance O2016-21 on rezoning the Observatory Mesa Natural Area to Public Open Space.

Picture Canyon Natural and Cultural Preserve council input

- June 7, 2011, Council adopted Resolution 2011-22 in support of the preservation of Picture Canyon.
- April 3, 2012, Council adopted Resolution 2012-12 to reclassify Picture Canyon for conservation purposes.
- June 5, 2012, City Council approved the submission of a grant application to Arizona State Parks for the Growing Smarter State Trust Land Acquisition Program to acquire Picture Canyon.
- April 19, 2016, City Council passed and adopted Ordinance 2016-19 rezoning the Preserve to Public Open Space and applying the Landmarks Overlay, Resource Protection Overlay, and Rural Floodplain designation.

Schultz Creek Trailhead and Natural Area council input

- October 29, 2013, the Flagstaff City Council recommended incorporating the Schultz Creek parcel into the City's open space program after receiving substantial public input regarding the issue.
- April 4, 2017, City Council rezoned the property to Public Open Space with Landmark Overlay Zoning, Resource Protection Zoning, and Rural Floodplain designations to add protections to the property.

McMillan Mesa Natural Area council input

- June 2007, Council considered the McMillan Mesa Public Properties Concept Plan prepared jointly for the Parks & Recreation Commission and the Open Spaces Commission. City Council provided feedback.
- November 2016, Proposition 413 designating approximately 300 acres on and around McMillan Mesa as open space to be used for passive park purposes was approved by Flagstaff voters and proclaimed law by the Mayor.
- October 2018, City Council approved the McMillan Mesa Natural Area major plan amendment (Resolution Number 2018-50).
- November 2018, McMillan Mesa Natural Area major plan amendment resolution went into effect.

Options and Alternatives:

Option A – Adopt Resolution No. 2020-XX as submitted and authorize adoption of the Management Plan for Legally-Designated Open Space Properties. This option allows staff to implement collaborative processes for managing legally-designated open space properties using best available science and management practices.

Option B – Do not adopt Resolution No. 2020-XX and do not authorize adoption of the Management Plan for Legally-Designated Open Space Properties. This option does not allow staff to implement collaborative processes for managing legally-designated open space properties using best available science and management practices.

Background/History:

The City originally adopted a resolution in 2017 which was the first management plan for legally designated open space. Since that time, the City has acquired additional open space properties and has improved management practices, requiring this update to the plan.

Key Considerations:

This update allows for improved management of the City's legally designated open space. Without this update, existing plans are outdated both in current practices and in total properties covered.

Expanded Financial Considerations:

None

Community Benefits and Considerations:

Having a thorough management plan for legally-designated open space properties allows staff to quickly address community concerns and establish appropriate processes. Additionally, chapters of this Plan outline processes to improve public access, treat invasive species, and enhance forest health and public safety by treating forest resources. These actions and processes directly benefit the Flagstaff community by reducing the risk of catastrophic wildfire and the spread of invasive species to adjacent properties.

The action items included in this Plan, including improving existing trails and developing a comprehensive

Management Plan for Legally-Designated Open Space Properties

Open Space Specialist, Robert Wallace



Discussion Topics



- Background
 - Plan's Purpose
 - Program's Goals
 - Plan's Organization and Chapters
 - Review changes
-
- Ask City Council to adopt the updated plan.





Background



- 1998: Open Spaces and Greenways Plan
- 2003: Open Spaces Commission
- 2004: Open Space bond initiatives
- 2010: City Staff began managing open space
- 2012: Picture Canyon Natural and Cultural Preserve
- 2013: Observatory Mesa Natural Area





Background



- 2013: City Council incorporated Schultz Creek to open space program
- 2015: City Council approves Open Space Specialist position
- 2016: Prop. 413 protected McMillan Mesa as open space
- 2018: City Council approves Open Space Specialist perm. position



Plan's Purpose



- Management Plan's Purpose
 - Identifies management goals, policies, and improvement projects
- Benefits of a Management Plan
 - Ensures proper and effective management
 - Provides continuity of management
 - Provides a framework for decision making





Management Goals

1. Ecosystem health
2. Cultural resources
3. Wildlife populations
4. Sustainable public use
5. Partnerships





Plan Organization

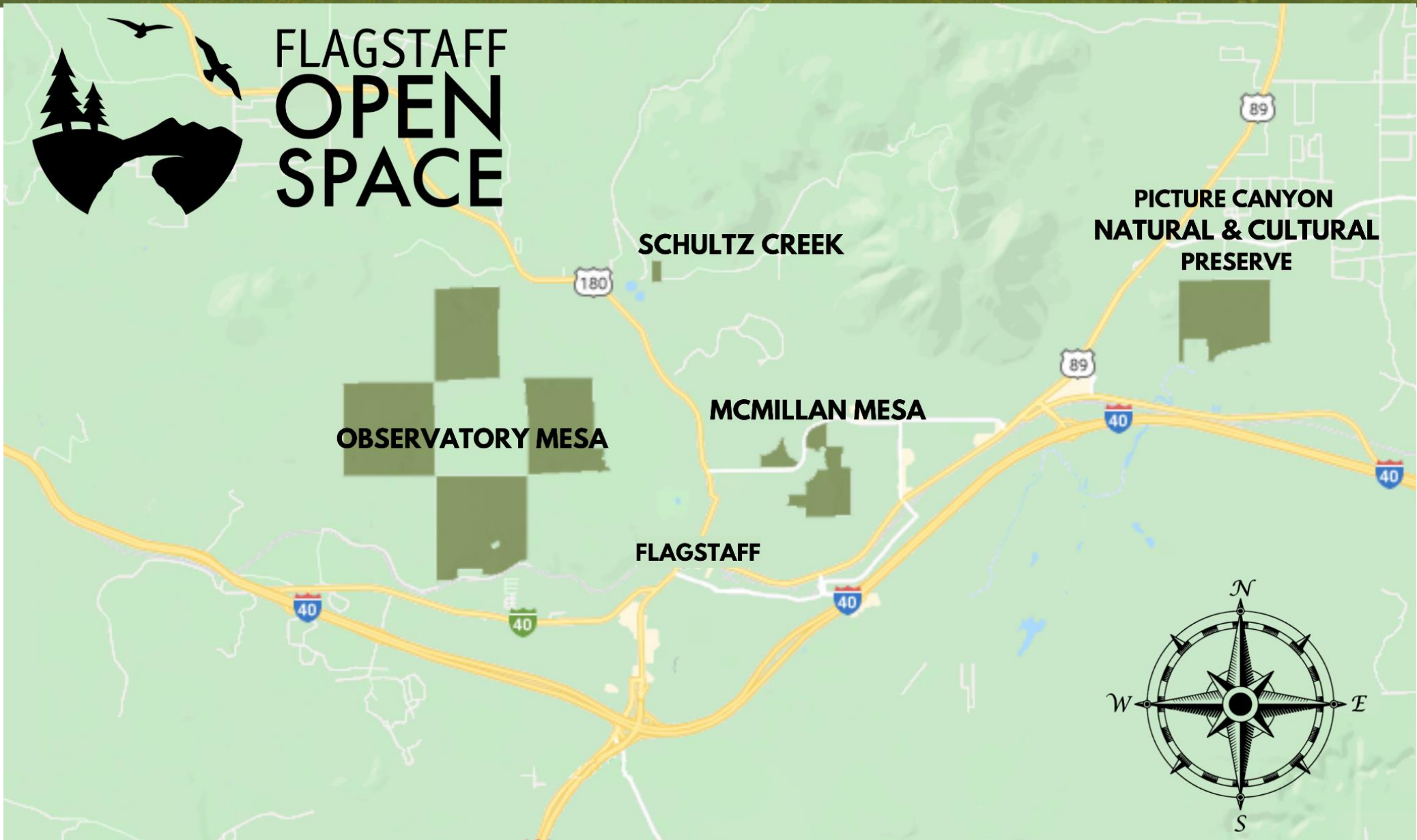
Seven Chapters:

- Management Coordination
- General Management Policies
- Picture Canyon Natural and Cultural Preserve
- Observatory Mesa Natural Area
- McMillan Mesa Natural Area
- Complementary Open Space
- Open Space Connectors





FLAGSTAFF OPEN SPACE





Chapter 1: Management Coordination

Open Space Program Partners:

- Arizona Game and Fish Department
- Arizona State Parks
- City of Flagstaff Commissions
- City of Flagstaff work groups
- Coconino County
- Coconino National Forest
- Flagstaff Fire Department
- Local organizations
- Volunteers





Chapter 2: General Management Policies

- Natural Resources
 - Water, Forest & Grassland Health, Wildlife
- Cultural and Historic Resources
- Public Use
 - Access Management, Recreational Use, Roads, Easements and Leases, Education and Research, Facility Development





Chapter 3: Picture Canyon Preserve

- Significant cultural resources
- Rare riparian and wetland habitats
- Endangered species
- Substantial public use
 - Recreation
 - Education





Priority Action Plan – Picture Canyon

Action	Estimated Cost	Funding Source
Provide Adequate Access to Picture Canyon through Land Purchase.	\$75,000	Funding has not been identified for this project.
Provide Adequate Access to Picture Canyon trail system completion.	\$900,000	Funding has not been identified for this project.
Install Composting Toilets	\$250,000	Funding has not been identified for this project.
Manage Invasive Plants	\$12,500	Currently underfunded by base budget (with help from volunteers this is being completed).
Maintain Access via, El Paso Flagstaff Road Maintenance	Unknown (estimate \$50k, \$25k)	Funding has not been identified for this project.



Chapter 4: Observatory Mesa Natural Area

- Active grazing on adjacent land
- Wildlife
 - Endangered species
 - Wildlife corridor
- Substantial public use
 - FUTS trails
 - Hunting
 - Access





Priority Action Plan – Observatory Mesa

Action	Estimated Cost	Funding Source
Develop a trail system plan for hiking, biking, and equine trails of varying intensity.	\$1,500,000	Included in Open Space Specialist work plan.
Construct additional fencing and infrastructure along boundaries to limit the potential for cattle trespass onto City property, while allowing for wildlife movement.	\$15,000	Included in Open Space Specialist work plan.
Manage Invasive Plants	\$12,500	Currently not funded.
Conduct a NEPA analysis and a cultural point survey along proposed trail corridor to prevent impacts to cultural sites	\$18,000	Funding has not been identified for this project.
Design educational programs and interpretive	\$10,000	Currently not funded.



Chapter 5: McMillan Mesa Natural Area

- Public Use
 - Access Management, Recreational Use, Easements and Leases, Education and Research, Facility Development
- Natural Resources
 - Water, Vegetation, Forest Health, Wildlife
- Cultural and Historic Resources





Priority Action Plan – McMillan Mesa

Action	Estimated Cost	Funding Source
McMillan Mesa Natural Area Enhancements	\$250,000	Funding has not been identified for this project.
Expansion of Experiential Educational Curriculum for FUSD Teachers.	\$25,000	Included in Open Space Specialist work plan.
Manage Invasive Plants	\$12,500	Currently not funded.
Survey the property for endangered species.	Unknown	Possibly use base budget for Open Space.



Chapter 6: Complimentary Open Space

- Properties generally smaller than the regional preserves
- Add to the user experience and provide additional value to the existing system
- Provide buffers, protect viewsheds, offer “neighborwoods” access, improve trail transit





Chapter 7: Open Space Connectors

- Link regional preserves and complementary open space
- Utilize Flagstaff Urban Trail System, washes, hillsides, floodplains, or other areas that are not fit for development



Summary



Legally Designated Open Space Management Plan

- Provides a philosophical framework for managing legally designated Open Space
- Prioritizes improvement project
- Identifies needed maintenance



Questions?

Robert Wallace

Robert.Wallace@flagstaffaz.gov

928-213-2154



RESOLUTION NO. 2020-46

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF
ADOPTING THE REVISED MANAGEMENT PLAN FOR LEGALLY-
DESIGNATED OPEN SPACE PROPERTIES.**

RECITALS:

WHEREAS, the City of Flagstaff is responsible for managing the Picture Canyon Natural and Cultural Preserve, the Schultz Creek Trailhead and Natural Area, the McMillan Mesa Natural Area, and the Observatory Mesa Natural Area as designated open spaces and upholding applicable conservation easement requirements of the Arizona State Parks; and

WHEREAS, the City of Flagstaff is dedicated to promoting passive recreational uses within legally-designated open space properties; and

WHEREAS, the City of Flagstaff is dedicated to protecting natural and cultural resources for the enjoyment and education of future generations.

ENACTMENTS:

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

SECTION 1. That the Flagstaff City Council hereby adopts the Management Plan for Legally-Designated Open Space Properties (Updated June 2020).

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of July, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Management Plan for Legally-Designated Open Space Properties

Updated June 2020



View of the San Francisco Peaks from Observatory Mesa © Tom Bean

Prepared By:
City of Flagstaff Open Space Program
211 W. Aspen Avenue
Flagstaff, Arizona 86001



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Executive Summary

The City of Flagstaff's Open Space Program was founded in 1998 as an outgrowth of the Flagstaff Area Open Space and Greenways Plan. The Program exists to protect and restore Flagstaff's natural, cultural, and scenic resources to enhance recreational and educational opportunities for residents and visitors.¹ Open Space properties managed by the Program serve as a land resource, recreational destination, wildlife habitat, and transportation corridor while protecting other natural resources.² The following are properties currently managed by the Program: Picture Canyon Natural and Cultural Preserve, Observatory Mesa Natural Area, McMillan Mesa Natural Area, and Schultz Creek Trailhead.

In 2004, Flagstaff voters approved two separate open space bond initiatives, one dedicated to acquiring neighborhood open space and properties for the Flagstaff Urban Trail System and another bond dedicated to purchasing State Trust land on Observatory Mesa. These bond funds were leveraged against two separate Growing Smarter grants from Arizona State Parks to acquire 2,751 acres of legally-designated open space in 2012 and 2013 (Picture Canyon Natural and Cultural Preserve and Observatory Mesa Natural Area, respectively). As part of these acquisition processes, conservation easements were granted to Arizona State Parks to permanently preserve the conservation values of both properties (Appendices D and L).

Subsequently, Proposition 413 was passed by voters in 2016 to create the McMillan Mesa Natural Area, including approximately 300 acres of city property. The most recent property legally-designated as open space is the Schultz Creek Trailhead. This 20-acre property was annexed into City limits in 2017 and rezoned to protect the natural resources and cultural history.

Picture Canyon, Observatory Mesa, McMillan Mesa, and Schultz Creek Trailhead were protected for the express purpose of preserving the unique conservation values associated with these properties, specifically their open space value, unique scenic beauty, native vegetative communities, diverse wildlife habitats, and historical/cultural resources. The acquisition of these properties allows the City to protect these unique conservation values from potential threats, including encroachment from adjacent landowners, over-use of the property by the community, elevated fuel loads, illegal vehicle trespass, spread of invasive species, and development interests.

Open Space Program staff developed this management plan in partnership with stakeholders to provide a framework for managing the natural, ecological, historical, and recreational resources on legally-designated open space properties to minimize conflict and degradation. The plan identifies general management policies in Chapter 2, and specific resource- and property-related management goals, policies, and actions in each subsequent chapter.

¹ Mission for the Open Space Program in the City of Flagstaff Sustainability Section Strategic Plan for FY 2018-2020.

² City of Flagstaff Open Spaces Commission Strategic Plan, 2019

The management prescriptions included herein apply to all lands managed by the Open Space Program. The plan is a dynamic document that will be updated and revised, as needed. The Priority Action Plans for each property will be updated biennially.

Overall Management Goals: There are 5 overarching management goals for legally-designated open space properties:

1. To maintain, restore, and enhance the natural ecosystem processes, including watershed health (including intermittent streams), forest structure, native plant communities, and rare habitat types.
2. To protect past and present cultural resources.
3. To maintain and protect diverse and healthy wildlife populations.
4. To provide opportunities for public use of these properties through passive recreational use, resource interpretation, education, scientific research, and other compatible activities in a manner that is consistent with the preservation of the conservation values of the site and the management goals.
5. To maintain and develop partnerships that facilitate resource management, stewardship, and conservation.

Plan Organization: This Management Plan is organized into 7 core sections to address the resources, uses, and values of these properties.

Chapter 1: Management Coordination

This section outlines the working relationship between the various stakeholders involved in the management of legally-designated open space properties and the roles associated with each of those groups.

Chapter 2: General Management Policies

This section outlines management goals, policies, and planned actions related to all properties managed by the Open Space Program, including its natural resources, archaeological and/or historic resources, and public use.

Chapters 3-7 outline property-specific management goals, policies, and actions related to managing natural resources, archaeological and/or historic resources, and public use:

Chapter 3: Picture Canyon Natural and Cultural Preserve

Chapter 4: Observatory Mesa Natural Area

Chapter 5: McMillan Mesa Natural Area

Chapter 6: Complementary Open Space

Chapter 7: Open Space Connectors

Chapter 1: Management Coordination

1.0 Internal Management Coordination and Administration

Introduction: The day-to-day operations of legally-designated Open Space properties are coordinated by the City of Flagstaff Open Space Program and supported by: (1) an internal City workforce; (2) the City of Flagstaff Open Spaces Commission; (3) the Flagstaff Police Department; (4) the Flagstaff Fire Department; (5) Coconino National Forest; (6) Arizona State Parks; (7) the Coconino County Sheriff's Office; (8) local organizations; and (9) volunteers.

Staffing: City staff will oversee all operations pertaining to but not limited to: (1) forest health; (2) policy enforcement; (3) volunteer efforts; (4) permitting; (5) resource management; (6) facility development; and (7) fiscal responsibilities. City Staff includes:

Open Space Specialist: The Open Space Specialist will provide resource management in accordance with the conservation values and regulatory requirements of the Open Space properties. The Open Space Specialist oversees, and directly implements or facilitates all management activities within the properties, including budgeting, planning, implementing, reporting, and monitoring. The Open Space Specialist coordinates with Parks, Real Estate, and community partners to establish property boundaries, install fencing, decommission existing roads, restore native vegetation, and provide signs throughout the properties. The Open Space Specialist also manages volunteer activities, such as invasive weed removal projects, community cleanups, and trail days, as well as coordinates community marketing, outreach, and education efforts. The Open Space Specialist position is housed in the Sustainability Section within the City of Flagstaff City Manager's office.

The responsibilities of the individuals, organizations, and/or agencies involved in the management of these properties are as follows:

City of Flagstaff Internal Task Force: The Internal City Task Force will consist of members from City departments including: (1) Sustainability; (2) Fire; (3) Police; (4) Utilities; (5) Parks; (6) Planning; (7) Real Estate; and (8) Stormwater. This Task Force will meet quarterly to discuss issues related to the management of legally-designated open space properties.

City of Flagstaff Open Spaces Commission: The Open Space Commission consists of seven voting members – 6 Council-appointed members and a representative from the Planning and Zoning Commission. The Commission serves as an advisory body for the acquisition, management, use, restoration, enhancement, protection, and conservation of legally-designated open space properties. The Open Space Commission will provide guidance to the Open Space Program regarding management.

Flagstaff Police Department: The Flagstaff Police Department will provide police assistance in partnership with the Coconino County Sheriff's Office, including monitoring the area for illegal camping and vehicles during the summer season as part of the Woods Watch program.

Flagstaff Fire Department: The Flagstaff Fire Department will provide fire and emergency assistance within legally-designated open space properties. Flagstaff Fire Department will also develop site-specific prescriptions to improve forest health and implement/oversee forest treatment projects.

Coconino National Forest: Observatory Mesa Natural Area shares multiple property lines with Coconino National Forest. The City and National Forest will coordinate to ensure effective management of motor vehicle access, boundary issues, forest treatments, and grazing.

Arizona State Parks: As the recipient of an Arizona State Parks Growing Smarter Grant, the City of Flagstaff conveyed a conservation easement to Arizona State Parks that allows for passive recreation and requires reasonable public access. Arizona State Parks must approve all infrastructure and improvement projects prior to each project. Additionally, the City is required to provide annual reports to Arizona State Parks explaining infrastructure and improvement projects and estimated visitation.

Coconino County Sheriff's Office: The Coconino County Sheriff's Office will provide police assistance in partnership with the Flagstaff Police Department, including monitoring the area for illegal camping and vehicles during the summer season as part of the Woods Watch program.

Local Organizations: City of Flagstaff Staff will coordinate with a myriad of local organizations to complete improvement projects on open space properties.

Volunteers: Volunteers will be utilized when appropriate. Tasks assigned to volunteers will be consistent with the skills and expertise of the individual and may include activities ranging from coordination of interpretive programs to trail maintenance.

Chapter 2: General Management Policies

This section of the plan outlines the general management policies that apply to all legally-designated open space properties managed by the Open Space Program. Specific policies related to each property are outlined in their respective chapters (Chapter 3: Picture Canyon Natural and Cultural Preserve; Chapter 4: Observatory Mesa Natural Area; Chapter 5: McMillan Mesa Natural Area; Chapter 6: Complementary Open Space; Chapter 7: Open Space Connectors).

2.1 Natural Resources

Effectively managing natural resources is one of the overall management goals for the Open Space Program. In most cases, the water, wildlife, vegetation, and geologic resources are important factors that supported acquisition and preservation of these properties. To ensure biological, physical, and visual resources are protected, the following management goals, policies, and planned management actions apply to all properties within the Open Space Program.

2.1.1 Water Resources

Management Goal: Legally-designated open space properties will be managed to maintain or improve surface and ground water quality, surface water flow, ground water levels, and overall watershed health, including any wetland and riparian zones.

Management Policies: The following policies apply to the management of water resources within legally-designated open space properties.

- Implement best management practices to protect, restore, and maintain surface and ground waters and their contributing watersheds.
- Prohibit activities and/or uses that diminish the quality, quantity, or duration of water flows.
- Manage forest resources within their natural range of variability, given their benefit to water resources (e.g. intercepting precipitation, stabilizing soils, and maintaining soil infiltration), and minimize erosion caused by run-off from forest restoration and stabilization projects.
- Maintain the City's right to surface and ground water resources present within the property and any additional lands that may be added to the area in the future.
- Partner with Stormwater to create and run a simple hydrologic model for wildfire-burned areas that include a floodplain or floodway as identified by the Federal Emergency Management Act (FEMA) to identify an estimate of post-fire impacts on flood potential.
- If an Open Space property is located within a large wildfire burn area, risk assessment and flood mitigation should be coordinated with the Coconino County Flood Control District and City of Flagstaff Stormwater Section.

- Follow post-fire flood mitigation practices outlined by the US Forest Service Burned Area Emergency Response (BAER), City of Flagstaff Stormwater Design Manual, and the Natural Resources Conservation Service (NRCS) best management practices.
- Partner with Stormwater to determine if slope stabilization needs to be inspected and how often.

Planned Management Actions: The following actions related to the management of water resources are planned.

- Work with partners to determine if sediment in earthen tanks and wildlife waters should be cleaned out when capacity is significantly diminished.
- Construct channel stabilization or retention/erosion prevention structures in drainages and along trails.
- Work with the Flagstaff Fire Department Wildland Fire Management Division to consider type (hand or mechanical) and extent (density, size, etc.) of any forest thinning operations in major drainages and utilize established Best Management Practices to ensure timing and impacts are managed and mitigated appropriately.
- Limit mechanical operations (including forest thinning operations) within the riparian zone to prevent impacts on riparian habitat.
- Post-fire management:
 - Consult with the Stormwater Section on post-fire flood and slope mitigation when appropriate.
 - Mitigate the potential post-fire flooding by actively re-vegetating, protecting steep slope soils³, and maintaining drainages using bank and channel bed stabilization techniques.
 - Improve the composition of soils after wildfires and implement soil retention practices to reduce erosion.

2.1.2 Forest and Grassland Health

General Considerations: Climate change creates a veritable administrative demand as it can result in ecosystem transitions. Average temperatures in Coconino County have been rising since about the mid-1980s⁴. Almost all years since 1985 have had average annual temperatures above the long-term average⁵. Minimum temperatures, which manifest as days not being as cold and as fewer cold days per year, are largely driving the upward trend in temperatures. These trends are projected to continue. Scenarios for Coconino County indicate that average temperatures could be 5° F above the current average (52.3° F) by 2050 and more than 10° F above the current average by the year 2100⁶. Although there are no clear trends in precipitation, the warmer temperatures will contribute to an overall drying trend. The implications of these changes for Flagstaff have created vulnerabilities in maintaining ecosystems and are discussed in climate

³ Using mulch, tackifier, or straw wattles.

⁴ Climate Profile, City of Flagstaff, 2018

⁵ *Ibid*

⁶ *Ibid*

vulnerability assessment processes. These climate trends are causing changes in vegetative cover, including an increase in invasive plants.

Invasive plants are aggressive spreaders and/or prolific reproducers that can adapt to a variety of conditions and have few natural controls in their new habitat. The animals, birds, insects, and fungi that controlled them in their native habitat are absent. They are difficult to control or eliminate once established. Invasive plant infestations reduce biodiversity by crowding out native vegetation, compete for resources, create monocultures, degrade wildlife habitat, and affect recreational use. Trails and other use impacts can result in the spread of invasive plants. The San Francisco Peaks Weed Management Area, Coconino National Forest⁷, and Coconino County have identified invasive species with potential to pose the greatest threat to forest resources in order to help prioritize treatments (Table 1).

Table 1: Invasive weeds of concern in Coconino County, as identified by the San Francisco Peaks Weed Management Area, Coconino National Forest, and Coconino County, with hyperlinks to information about effective treatment and eradication.

*Note: Species are listed in alphabetical order, not order of importance.

Common Name	Scientific Name	Treatment Notes
Barbwire Russian thistle	<i>Salsola pausenii</i>	UC IPM
Bull Thistle	<i>Cirsium vulgare</i>	USFS FEIS
Camelthorn	<i>Alhagi maurorum</i>	WA NWCB
Canada thistle	<i>Cirsium arvense</i>	Purdue Bot
Cheatgrass/Downy brome	<i>Bromus tectorum</i>	Plants.USDA
Common purslane	<i>Portulaca oleracea</i>	UNCE
Dalmation toadflax	<i>Linaria dalmatica dalmatica</i>	UNCE
Diffuse knapweed	<i>Centaurea diffusa</i>	USFS FEIS
Dyer's Woad	<i>Isatis tinctoria</i>	CDFA
Eurasian water milfoil	<i>Myriophyllum spicatum</i>	CAL IPC
Field bindweed	<i>Convolvulus arvensis</i>	UNCE
Flannel mullein	<i>Verbascum thapsus</i>	UNCE
Goathead/Puncturvine	<i>Tribulus terrestris</i>	UC IPM
Halogeton	<i>Halogeton glomeratus</i>	Plants.USDA
Japanese brome/Field brome	<i>Bromus arvensis</i>	UNCE
Jointed goatgrass	<i>Aegilops cylindrica</i>	CDFA
Kochia	<i>Bassia scoparia</i>	USFS FHP
Leafy spurge	<i>Euphorbia esula</i>	NPS IPM
Malta starthistle	<i>Centaurea melitensis</i>	CAL IPC

⁷ As identified in the [“Final Environmental Impact Statement for the Integrated Treatment of Noxious or Invasive Weeds”](#), 2005.

Common Name (cont.)	Scientific Name (cont.)	Treatment Notes (cont.)
Mediterranean sage	<i>Salvia aethiopsis</i>	UNCE
Musk thistle	<i>Carduus nutans</i>	UNCE
Oats	<i>Avena fatua</i>	UC IPM
Oxeye daisy	<i>Leucanthemum vulgare</i>	UNCE
Poison hemlock	<i>Conium maculatum</i>	CAL IPC
Prickly russian thistle	<i>Salsola tragus</i>	UC IPM
Red brome	<i>Bromus rubens</i>	Bugwood TNC
Ripgut brome	<i>Bromus diandrus rigidus</i>	UNCE
Russian knapweed	<i>Acroptilon repens</i>	USFS FEIS
Russian olive	<i>Elaeagnus angustifolia</i>	USFS FEIS
Salsify/Goatsbeard	<i>Tragopogon dubius</i>	USFS FEIS
Scotch thistle	<i>Onopordum acanthium</i>	UNCE
Siberian elm	<i>Ulmus pumila</i>	NPS IPM
Spotted knapweed	<i>Centaurea stoebe micranthos</i>	USFS FEIS
Spotted spurge	<i>Chamaesyce maculata</i>	UC IPM
Sulfer cinquefoil	<i>Potentilla recta</i>	KingCo NWCP
Tamarisk/saltcedar	<i>Tamarix ramosissima</i>	USFS FEIS
Teasel	<i>Dipsacus fullonum</i>	USFS FEIS
Tree of Heaven	<i>Ailanthus altissima</i>	NPS IPM
White horehound	<i>Marrubium vulgare</i>	CAL IPC
Whitetop/Hoary cress	<i>Cardaria draba</i>	CAL IPC
Yellow starthistle	<i>Centaurea solstitialis</i>	UNCE
Yellow/White sweetclover	<i>Melilotus officinalis</i>	UC IPM

Management Goal: Legally-designated open space properties will be actively managed to achieve forest and grassland structures that are resilient to wildfire and resistant to other disturbances while preserving the natural ecosystem, reducing invasive plant populations, and continuing to provide services to the surrounding community.

Management Policies: The following policies apply to the management and improvement of forest and grassland health within these properties.

- Partner with the Fire Department to ensure forest sustainability and resiliency through management that leads open space to more closely resemble conditions which existed prior to the interruption of historic fire regimes. This may include an uneven-age forest structure with clumps and groups of trees with some interlocking crowns and a multi-story structure, and interspersed openings and interspaces to improve native plant productivity and diversity.

- Manage public use to levels that do not materially degrade or alter the sites forest resources.
 - Public use will be consistent with reasonable public access.⁸
 - If public access restrictions are undertaken to ensure forest and vegetative health, Arizona State Parks and adjacent landowners will be notified.
- Reduce the risk of damage from insects and disease, unnaturally destructive wildfire, and subsequent post fire impacts such as flooding.
- Prevent any new noxious or invasive weed species from becoming established.
- Plan and implement forest health management activities including broadcast burning operations⁹ in partnership with the Flagstaff Fire Department Wildland Fire Management division.
- Use only the approved City of Flagstaff seed specifications or approved modification by the Stormwater Section for revegetation in wildfire-burned areas.
- Prioritize treatment and eradication of noxious weed and invasive species and populations that pose the greatest threat to the biological diversity and watershed condition. When eradication is not possible, contain or control the spread of these species.
- Conduct forest treatment operations during conditions that protect soils and other ecological components and within major drainages to protect watershed resources.
- Consider sensitive plant species and area types when planning management activities to ensure populations and habitats are not negatively affected by projects.
- Consider and protect known and identified cultural, historical, and other sensitive resources during forest health management activities.
- Prohibit livestock grazing within the boundaries of open space properties.
- Prohibit personal firewood collection.
- Conduct forest management activities in accordance with:
 - Arizona State Parks Conservation Easement(s)
 - Arizona Antiquities Act (if thinning within established cultural sites)
 - Applicable sections of the Flagstaff Zoning Code, adopted by City Council November 1, 2011¹⁰
 - Goals identified in the National Cohesive Wildland Fire Management Strategy:
 - Resilient Landscapes
 - Fire Adapted Communities
 - Wildfire Response
 - The Greater Flagstaff Community Wildfire Protection Plan (CWPP), adopted by City Council December 2004
 - The Governor’s Statewide Strategy for Restoring Arizona’s Forests, June 2007

⁸ Outlined by the Arizona State Parks Conservation Easements number 231202 (Picture Canyon) and 231303 (Observatory Mesa).

⁹ Broadcast burning operations must be planned, coordinated, and implemented by the Flagstaff Fire Department with advance approval from the Open Space Specialist, as required by the Arizona State Parks Conservation Easement.

¹⁰ Includes the Flagstaff Fire Department Firewise Process (Appendix 5.020)

- Flagstaff Wildland Urban Interface Fire Code, adopted by City Council, April 2008
- The General City-wide Forest Stewardship Plan, Sept 2009
- The Community Conversation on Sustainability, Healthy Forests – Healthy Communities, Nov 2010
- Site specific vegetation management plan(s), if required

Planned Management Actions: The following actions related to managing forest health are planned.

- Fire mitigation:
 - Consult with the Flagstaff Fire Department, archaeologists, and other technical experts, to develop site specific prescriptions that reduce the risk of catastrophic wildfire and move stand conditions toward the natural range of variability along a path of forest restoration.
 - Utilize broadcast burning as a tool to reduce surface fuel levels, accelerate recycling of nutrients, foster native grass and shrub development, and maintain forest structure, repeated approximately every 3 - 10 years to mimic natural conditions and the historic fire regime.
 - Continue fire management analysis and planning for activities such as presuppression, detection, suppression, prevention, and fuel treatment.
- Heterogeneity:
 - Improve forest health by increasing individual tree growth and vigor, increasing age and size class diversity, decreasing susceptibility to disease and insect mortality, and maintaining and improving wildlife habitat.
 - Reduce overall stand densities and move stand conditions toward a forest structure more representative of pre-settlement fire regimes.
 - Sustain a mosaic of vegetation densities (overstory and understory), size, age classes, and species composition across the landscape, including open forest and savanna conditions.
- Vegetation monitoring:
 - Survey the property for sensitive plant populations and area types, including riparian communities, so they can be more effectively managed.
 - Develop a monitoring plan for each property with specific monitoring protocols and indicators, including photography and surveys as analytical tools to determine the extent of vegetative changes resulting from management prescriptions and programs (Appendices E and M).
- Invasive plants:
 - Routinely monitor noxious and invasive plant populations within these properties and utilize Early Detection and Rapid Response techniques to implement eradication programs before they develop substantial populations.

- Newly germinated weeds will be eradicated by applying environmentally responsible herbicides and using other physical control methods.¹¹
 - Annual species will be treated in the spring soon after their emergence, whereas perennial species will be treated later in the growing season.
 - Mowing and early herbicide treatment will be timed to minimize seed production.
- Monitor and manage for invasive weeds in wildfire-burned areas until a native grass cover has re-established.
- Use biocontrol methods in coordination with experts that target non-native, invasive weed species only when the likelihood of success is high, and the anticipated ecological impacts are low.
- Coordinate with community partners to organize invasive weed removal volunteer events.
- Insects, parasites, and disease:
 - Reduce mistletoe infection levels to endemic levels, where possible.
 - Monitor insect and disease activities to evaluate the extent to which insect and disease control measures are needed.
- Other treatments:
 - Develop cutting guidelines for each harvesting project to ensure appropriate trees are targeted for removal to meet management goals.
 - Permit the establishment of natural regeneration in openings, so long as doing so does not disrupt natural site diversity, increase fire threat, or threaten/eliminate unique aspects of the property.
 - Implement native plant restoration programs or pilot projects to restore native plant communities and revegetate disturbed and/or treated areas.
- Consult with the City of Flagstaff Wildland Fire Unit to determine hazard tree mitigation and the need for prescriptive thinning or burning to help restore wildfire-burned areas.
- Communicate with and/or notify adjacent landowners prior to implementing forest health treatment projects.

2.1.3 Wildlife Resources

Management Goal: Legally-designated open space properties will be managed to maintain and enhance a diversity of habitats that support native wildlife species. Emphasis will be placed on the protection of rare habitat types and special-status species.

Management Policies: The following policies apply to the management of wildlife resources within these properties.

¹¹ Herbicides planned for use within the riparian area include: (1) Rodeo; (2) Habitat; (3) Garlon 3A; and (4) LI700 surfactant. Additional herbicides that could be used in the upland area of the project area are: (1) Round Up; (2) Milestone; and (3) Plateau.

Policies for Species of Concern:

- Prioritize actions to protect endangered, threatened, Species of Greatest Conservation Need (as identified by Arizona Game and Fish Department), or other special-status species in the development and implementation of resource management programs.
- Identify, protect, and improve habitat in areas that contain threatened, endangered, and sensitive species of animals.

Northern Goshawk:

- Protected under the Migratory Bird Treaty Act and is currently listed as a “Species of Concern”.
- If northern goshawk is identified on the property, efforts should be made to avoid impacts to breeding birds and maintain or enhance large tree density and canopy cover at nest sites. Recommendations for maintaining adequate stand conditions include¹²:
 - Keep the canopy cover greater than 50 percent in nest stands and PFAs.
 - Manage for uneven-age stand conditions for live trees and retain live reserve trees, snags, downed logs, and woody debris levels throughout ponderosa pine forest cover types.
 - Manage for old age trees such that as much old forest structure as possible is sustained over time across the landscape.
 - Sustain a mosaic of vegetation densities (overstory and understory), age classes, and species composition across the landscape.
 - Limit human activity in nesting areas during the breeding season (March 1 – September 30).
 - Manage the ground surface layer to maintain satisfactory soil conditions to minimize soil compaction and to maintain hydrologic/nutrient cycles.
 - Maintain a well-developed understory that includes snags.
 - High intensity crown fires are not acceptable in the PFA or nest areas.
- When possible, harvesting, hauling, and other loud activities within occupied Post-Fledgling Areas (PFAs)¹³ should not occur during the breeding season; March 1 to September 30.

Bald Eagle: The bald eagle is no longer listed under the Endangered Species Act (ESA) as Endangered (removed in 2007) but is protected under the Bald and Golden Eagle Protection Act.

Mexican Spotted Owl: The U.S. Fish and Wildlife Service (FWS) listed the Mexican Spotted Owl (MSO) as threatened under the Endangered Species Act (ESA) in 1993. The Recovery Plan for the Mexican spotted owl¹⁴ contains many recommendations to minimize effects to owls. If any questions arise regarding the owl, the City will contact the FWS for assistance. Protected Activity Centers (PACs) are 600-acre areas where the FWS and partners have determined MSO occur.

¹² Reynolds, Richard T.; Graham, Russell T.; Reiser, M. Hildegard; and others. 1992. Management recommendations for the northern goshawk in the southwestern United States. Gen. Tech. Rep. RM-217, Ft. Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Forest and Range Experiment Station. 90 p.

¹³ The post-fledging area (PFA) is used by young goshawks until they are no longer dependent upon adult goshawks for food. A PFA is typically 600 acres in size, close to a goshawk nest, and functions to provide cover for young goshawks from predators.

¹⁴ US Fish and Wildlife Service. 2012. [Mexican Spotted Owl Recovery Plan](#). First Revision.

There are currently no known PACs on City lands, but there are PACs that abut lands within City limits and Observatory Mesa and Picture Canyon contain habitat, foraging, and dispersing MSO likely use.

- If surveys detect MSO on or adjacent to City lands, staff should work with the FWS to assess the potential for noise disturbance to nesting MSO on a case-specific basis.
 - If possible, conduct projects within or adjacent to PACs, or unsurveyed suitable habitat, outside the MSO breeding season (March 1 through August 31).
 - Limit human activity within and adjacent to PACs during the breeding season (March 1 through August 31).
- Forest management should maintain or enhance large tree density and canopy cover in suitable owl habitat. Recommendations for maintaining adequate stand conditions include:
 - Manage for uneven-age stand conditions for live trees and retain large/old trees, large snags (≥ 18 inches dbh), hardwood trees, downed logs, and coarse woody debris throughout ponderosa pine forest cover types.
 - Incorporate natural variation, such as irregular tree spacing and various stand/patch/group/clump sizes, into management prescriptions. Strive for heterogeneity both within and between stands.
 - Within ponderosa pine-Gambel oak and other forest types where hardwoods are a component of owl habitat, conduct management that retains, and promotes the growth of additional, large hardwoods.

Bat species:

- Retain snags and downed woody debris to provide roosting areas.
- Maintain a heterogeneous forest structure to ensure foraging supply for bats as they generally forage along forest edges, forest roads, trails, or natural openings.
- Ensure that there are clean, pooled, open bodies of fresh water as a water source for bats.

General Policies

- Manage public use to protect habitat and avoid adverse impacts to wildlife, which may involve temporary closures of portions of properties. Notify Arizona State Parks if public use is restricted for the purpose of ensuring wildlife protection.
- Enhance and develop opportunities for wildlife-oriented recreation activities that avoid or limit disturbance to wildlife.
- Uphold hunting protocols that prohibit hunting according to city code, while permitting hunting as directed by the Arizona Game and Fish Commission under ARS Title 17.
 - As of the 2018 Arizona Hunting Regulations, all hunting (including archery) is not permitted within Picture Canyon Natural and Cultural Preserve, McMillan Mesa Natural Area, and the Schultz Creek Trailhead due to their status as municipal parks.¹⁵

¹⁵ Hunting is prohibited within municipal parks and throughout the Flagstaff Urban Trail System according to City Code 8-11-001-0008.

- Firearm use is not permitted within City Limits at any time.
- Bow hunting is permitted between August and October in Observatory Mesa Natural Area as the Arizona Game and Fish Commission has exempted the property from the City's hunting prohibition due to potential user conflicts¹⁶.

Planned Management Actions: The following actions related to managing wildlife resources are planned.

- Develop and implement cooperative agreements with:
 - Arizona Game and Fish Department and U.S. Fish and Wildlife Service for the management of wildlife resources.
 - Northern Arizona University or other institutions to establish and maintain wildlife surveys and monitoring programs.
 - Non-governmental organizations to implement certain wildlife monitoring programs such as annual breeding bird surveys and elk counts.
- Wildlife inventories:
 - Survey the property for special-status and protected wildlife species to establish a baseline understanding of where these animals are located.
 - Inventory sensitive wildlife species before restoration activities begin and regularly complete wildlife surveys thereafter.
 - Inventory and evaluate wildlife habitat to establish a baseline by 2018, and resurvey as necessary.
- Habitat:
 - Use the best available resource data and technical expertise to identify habitat objectives and prepare implementation schedules for key habitats.
 - Improve vegetation conditions through seeding a mixture of species of grass, forbs, forage, and browse species desirable to wildlife.
 - Maintain near natural densities of live reserve trees, snags, spike tops, lightning scarred trees, downed logs, woody debris, and oaks.
 - Support the Mayor's Monarch Pledge by planting or seeding with native milkweed compatible with monarch butterflies where appropriate.
 - Improve forage conditions by using prescribed fire where environmental analysis shows beneficial effects and in line with approved burning plans.
 - Maintain, enhance, and/or restore wetlands for waterfowl, shorebirds, wading birds, songbirds, and amphibians.
- Design any new fencing or upgrades to wildlife-friendly specifications¹⁷ to minimize risk of animals becoming entangled and/or killed by fences, while promoting wildlife's ability to move freely across the landscape to access resources and make seasonal migrations.

¹⁶ Explanation in Arizona Game and Fish, pamphlet SB 1334

¹⁷ These design features were developed by Arizona Game and Fish. Where possible, acute angles should be avoided to minimize the potential for fleeing prey species to become cornered and entangled in fences. The top two fence wires must be spaced a minimum of 12 inches apart and the bottom wire must be smooth and raised to at least 18-20 inches off the ground.

2.2 Cultural and Historic Resources

Preserving cultural and historic resources is a primary criterion when considering whether to purchase an open space parcel. Northern Arizona and the Flagstaff area is rich in these fragile resources, and purchasing these parcels allows the City to permanently protect them. The City is required to work within various local, state, and federal policies regarding managing cultural and historic resources.

Management Goal: Legally-designated open space properties will be managed to preserve, protect, and interpret the cultural and historic resources present on the property.

Management Policies: The following policies apply to the management and protection of archaeological cultural resources within these properties.

- If an activity will impact cultural resources within designated archaeological site boundaries, an Arizona Antiquities Act permit, issued by the Arizona State Museum, is required.¹⁸
- If an activity involves State-level funding or a state agency (e.g. the Arizona Game and Fish Department), the lead agency must formally consult with the State Historic Preservation Office.¹⁹
- If an activity involves federal funding or a federal agency (e.g. National Park Service), the lead agency must formally consult with the State Historic Preservation Office.²⁰
- Facilities and improvements will be designed to avoid conflicts with known or potential historic and cultural resource sites. In instances where it is not feasible to completely avoid conflicts, historic and cultural resource sites will be mitigated in accordance with the recommendations of the Arizona State Museum²¹, State Historic Preservation Office (SHPO)²², and the Flagstaff Zoning Code.²³
- In instances where historical and cultural sites conflict with natural resources, historical and cultural sites take precedence in terms of maintenance and management activities.

¹⁸ Per ARS 41-841 et seq.

¹⁹ Per the State Historic Preservation Act

²⁰ Per the National Historic Preservation Act

²¹ Per ARS 41-841 et seq.

²² In the event that avoidance, preservation and protection of the Register Eligible Site or Sites cannot be accomplished, purchaser shall ensure a Data Recovery Plan is developed in consultation with and acceptable to, the Arizona State Museum and the State Historic Preservation Office, or their successor agencies, and the Data Recovery is implemented and completed prior to the Register Eligible Sites or Sites being affected. The artifacts and records recovered from the property shall be curated according to the Arizona State Museum (ASM) Conservation and Curation Standards as established in rules implementing the Arizona Antiquities Act. These conditions shall run with the land, and be binding on the purchaser's heirs, successors and assigns (Cultural Resources Review for Application to Purchase State Land 53-115750-00-000, p.3).

²³ The appropriate type and scope of measures varies depending on the cultural resource and impacts, and shall be recommended based on the professional expertise of the preparer and City of Flagstaff Code Title 10 – Heritage Preservation.

- Make boughs and herbaceous plant parts used for Native American religious and ceremonial purposes available under conditions that minimize restrictions, consistent with laws, regulations, and agreements with Tribes. This authorization does not include firewood.

Planned Management Actions: The following actions related to managing cultural and historic resources are planned.

- Monitor the condition of known historical and cultural sites within these properties.
- Consider interpreting cultural resources, including historic and pre-historic sites, as opportunities, management resources, and partnerships allow.

2.3 Public Use

Legally-designated open space properties are open to varying levels of public use. In general, these properties are managed to provide passive outdoor recreational and educational opportunities, including hiking, snow shoeing, wildlife watching, night sky viewing, and nature study. These properties are closed to overnight use and motorized travel is restricted in order to protect the unique conservation values.

This chapter outlines the management goal, policies, and actions identified for managing public access and roads, recreational use, easements and leases, education and research, and facilities within legally-designated open space properties.

2.3.1 Access Management

Management Goal: Legally-designated open space properties will be managed to ensure reasonable public access for non-motorized recreational activities aligning with the framework of the Arizona State Parks conservation easement and eliminate unauthorized motorized travel within these properties.

Management Policies: The following policies apply to managing public access to these properties and the roads within them.

- Provide reasonable public access to these properties.
- Encourage non-motorized access to these properties from the city and surrounding neighborhoods.
- Prohibit cross-country motorized travel within these properties, except as may be required for emergency activities/operations, forest treatments, essential administrative activities, infrastructure improvement projects, and maintenance.
- Eliminate illegal, unauthorized vehicle trespass.
- Prohibit the construction of new roads, except as necessary for timber harvesting operations or in accordance with the rights as defined by existing easements.

- Rehabilitate and close-out any temporary roads constructed to support any planned or emergency activities.
- Provide access to City departments for maintenance and improvements to existing infrastructure in an approach that minimizes impacts.

Planned Management Actions: The following actions related to managing public access and roads are planned.

- Install structures, such as gates, signs, or natural barriers (e.g. logs, boulders) to manage roads, limit/restrict illegal vehicle access, or decommission unauthorized, user-created roads.
- Designate appropriate vehicular access points and parking areas that will have minimal resource impacts.
- Investigate potential for additional access points and parking areas from surrounding neighborhoods to encourage visitors to utilize non-motorized forms of recreation.

2.3.2 Recreational Use

Management Goal: Legally-designated open space properties will be managed to provide a wide variety of developed and dispersed day-use recreational opportunities.

Management Policies: The following policies apply to the management of recreation opportunities within these properties.

- Eliminate illegal dumping, vandalism, and encampment.
- Prohibit camping and campfires.
- Prohibit fuelwood collection, except during City-sponsored collection events that require a permit.
- Prohibit recreational activities that result in damage to the properties or their historic/cultural resources.
- Manage public and recreational use to protect ecological and historical resources and avoid adverse impacts to ecological and historical resources, which may involve temporary closures of portions of these properties. Notify Arizona State Parks if recreational use or public access is restricted for the purpose of protecting ecological or historical resources.
- Maintain and enhance visual resource values by including visual quality objectives in resource planning and management activities.
- Coordinate trail management, use, and development with other resource management considerations.
- Maintain open communication with the local community, stakeholders, and adjacent landowners regarding management considerations, improvement projects, etc.

- Ensure reasonable accommodations for recreational services including trails according to Americans with Disabilities Act (ADA) regulations.²⁴

Planned Management Actions: The following actions related to managing recreational use are planned.

- Unauthorized trails:
 - Survey properties in partnership with trail user groups to locate user-created trails.
 - Assess existing trails and roads for inclusion into the designated trail system.
 - Revegetate and/or naturalize unauthorized, user-created trails not included in the designated trail system.
 - Install trail counters along established trails to obtain data associated with trail use and trends in order to prioritize management and maintenance efforts.
- New infrastructure:
 - Construct and maintain a variety of trails that include foot, horse, and bicycle trails of varying levels.
 - Coordinate with Coconino County Parks and Recreation Department, Coconino National Forest, Arizona Trail Association, and adjacent landowners to connect trails within the Preserve to regional trail networks when it is mutually beneficial, provides better public service, and development is compatible with other resource management constraints.
- Maintenance:
 - Develop trail maintenance standards and schedules for each trail type.
 - Establish partnerships to maintain and manage trails.
 - Promote and expand the Adopt-a-FUTS Program to encourage volunteer assistance with trail maintenance, in partnership with the City of Flagstaff Community Stewards Program.
 - Coordinate at least one volunteer event at an open space property each summer.
- Safety:
 - Work with Flagstaff Police Department and Coconino County Sheriff's Office to provide law enforcement at a level that protects human health and safety, property, and resource values in coordination with appropriate law enforcement agencies.
 - Help prevent occupancy trespass and other law violations by regularly patrolling the property.
 - Advertise and maintain a 24-hour contact point for the public to report suspected violations and provide feedback to the person making the report.
 - Enforce applicable leash laws and regulations within the Preserve.²⁵

²⁴ ADA Title III Regulation 28 CFR Part 36, Sec.36.302(a) states that "a public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations."

²⁵ Flagstaff City Code, Section 6-02-001-0001

- Communication:
 - Provide timely public information about closures, fire danger, and other important information to the public.
 - Share annual stewardship reports with stakeholders and the general public electronically by posting copies online.
 - Provide information to the public about how to access legally-designated open space properties, their importance, and recreational opportunities.

2.3.3 Easements and Leases

Management Goal: Manage legally-designated open space properties for non-consumptive, sustainable uses.

Management Policies: The following policies apply to the managing easements and leases within these properties.

- Grantees and leasees must operate with the context of the Arizona State Park’s Conservation Easements (Appendix B, Appendix E) and the Legally Designated Open Space management plan.
- Upon request for renewal, the City of Flagstaff City Council will review non-perpetual easements and leases.
- To renew easements and leases, grantees and leasees are required to pay an updated fee (50% of the current property value) with a \$10,000 restoration deposit.
- City Water Services Department are to retain access for maintenance and improvements to their water infrastructure.

Planned Management Actions: The following actions related to managing easements and leases are planned.

- Review and assess easements periodically.
- Ensure that ground-disturbing activities associated with easements and leases are coordinated with the Open Space Program and implement Best Management Practices to preserve cultural resources, restore vegetation, and prevent the establishment of noxious, invasive weeds.

2.3.4 Education and Research

Management Goal: Legally-designated open space properties will be managed to provide diverse educational and research opportunities.

Management Policies: The following policies apply to the management of educational and research opportunities within these properties.

- Promote the use of legally-designated open space properties for educational and research activities to local organizations and school groups.

- Require entities to submit an Open Space Research Permit²⁶ to the Open Space Specialist for approval in order to conduct educational and research activities within legally-designated open space properties.
 - Research projects are acceptable uses of the Preserve if they are non-destructive in nature, do not impact cultural sites, and do not conflict with the conservation values or management goals or objectives for the property.
- Educate visitors about ecological values of the property.
- Manage educational or research activities to protect conservation values and avoid adverse impacts to ecological, cultural, or historical resources, which may involve temporary closures of portions of these properties. Notify Arizona State Parks if public use is restricted for the purpose of protecting ecological values.

Planned Management Actions: The following actions related to managing education and research opportunities are planned.

- Partner with local organizations to develop and provide educational and interpretive activities and materials (e.g. interpretive signs, brochures) about wildlife, natural resources, and ecology.
- Present age-appropriate workshops and educational programs for youth.
- Partner with local schools and organizations to sponsor educational programs.
- Establish an MOU with Northern Arizona University and other educational institutions for monitoring and research efforts within these properties.
- Monitor and document educational and research activities occurring within legally-designated open space properties.
- Coordinate with schools to provide restoration and monitoring activities that are educational in nature.

2.3.5 Facility Development

Management Goal: Legally-designated open space properties will be managed to provide facilities that enhance visitors’ experiences according to the requirements of the Arizona State Parks conservation easement and available funding.

Management Policies: The following policies apply to the construction of new facilities and site improvements within legally-designated open space properties.

- Minimize impacts to ecological, cultural, and visual resources and dark sky quality during construction of new facilities and site improvement projects.
 - Consider utilizing previously disturbed areas for new facilities.
- Limit development to not exceed 10% (or up to 20 acres) of the property.
- Prohibit any projects that would seriously or negatively affect the property’s conservation and open space values.

²⁶ <https://flagstaff.az.gov/DocumentCenter/View/57675>

- Design and install customary signs for interpretive and recreational purposes, such as “no trespassing” signs, “no motorized vehicles” signs, access point markers, and trail markers.
 - Require advanced written approval from the Open Space Specialist for any outside entity to install signage on the property.
 - Require signs to include the following characteristics:
 - FUTS color scheme
 - City of Flagstaff and Arizona State Parks logos
 - Anti-graffiti coating
 - UV-protective coating
- Obtain advanced written approval from Arizona State Parks for all facility construction and site improvement projects, as required by the Arizona State Parks conservation easement.

Planned Management Actions: The following actions related to developing facilities within legally-designated open space properties are planned.

- Design and install additional kiosks and signage to provide information regarding land ownership, rules and regulations, etc.
- Develop educational signage and electronically accessible information that interprets the resources, uses, and management of these properties.
- Design and install boundary signs along the perimeter of the property.
- Remove any trash and/or debris piles resulting from illegal dumping.
- Remove outdated and unnecessary signage throughout the area.

Chapter 3: Picture Canyon Natural and Cultural Preserve

3.1 Property Overview

Picture Canyon Natural and Cultural Preserve is a 478-acre legally-designated open space property on the east side of Flagstaff behind the Wildcat Wastewater Treatment Plant and Coconino County Public Works Yard (Figure 1). The Preserve is bound by development– industrial uses on the south and west and primarily single-family homes to the east and north. The Kinder Morgan Gas Plant owns a 40-acre inholding along the southern boundary.

The American Land Title Association (ALTA) land survey²⁷ (Appendix A) identified the legal description for the Preserve as follows: government lots 1 thru 4, the south half of the north half, and portions of the southwest quarter and the southeast quarter of Section 4, Township 21 North, Range 8 East, of the Gila and Salt River Meridian, Coconino County, Arizona.

Efforts to preserve the property began soon after it was identified as a priority area in the 1998 Flagstaff Area Open Spaces and Greenways Plan²⁸. Community groups began hosting volunteer events focused on removing trash, debris, and invasive weeds from the area in 2001. In 2005, representatives from organizations and agencies formed the Picture Canyon Working Group (PCWG), dedicated to preserving the property. Also in 2005, the PCWG helped organize the annual Make a Difference Day event, drawing hundreds of volunteers to remove tons of trash and debris from the Preserve. In 2008, the PCWG successfully listed the inner canyon on the National Register of Historic Places, providing an additional layer of protection.

Prior to the City’s acquisition in 2012, the property was owned by the Arizona State Land Department and operated as State Trust Land.²⁹ In 1996, the Arizona State Legislature passed HB 2555, the Arizona Preserve Initiative, designed to encourage the preservation of select parcels of State Trust Land in and around urban areas as open space for future generations.

In 2012, the City purchased 478.8 acres from the State Land Department for \$4,977,132.30 under the Arizona Preserve Initiative with \$2,389,000 from an Arizona State Parks Growing Smarter grant and a \$2,588,132.30 match from the 2004 voter-approved open space bond. As part of the acquisition process, a conservation easement was granted to Arizona State Parks, outlining improvement and development limitations associated with the Preserve (Appendix B) to ensure the property is retained in the condition reflected in the Baseline Documentation in the grant application and restricts the use of the property to passive recreational uses. The City of Flagstaff Open Space Program is required to submit annual reports to Arizona State Parks outlining all improvement projects (Appendix B). In 2016, the City of Flagstaff rezoned the

²⁷ An ALTA Land Title Survey is a comprehensive boundary survey that adheres to the national standards adopted by American Land Title Association and National Society of Professional Surveyors.

²⁸ <https://www.flagstaff.az.gov/DocumentCenter/View/7959/Open-Space--Greenways-Plan?bidId=>

²⁹ Arizona State Trust lands are held in trust and managed for the sole purpose of generating revenues for the 13 State Trust land beneficiaries, the largest of which is Arizona’s K-12 education system.

entire Preserve from Rural Residential to Public Open Space and annexed a county inholding within the Preserve into City Limits.³⁰

³⁰ Flagstaff City Ordinance No. 2016-19 (rezone) and Ordinance No. 2016-18 (annex)

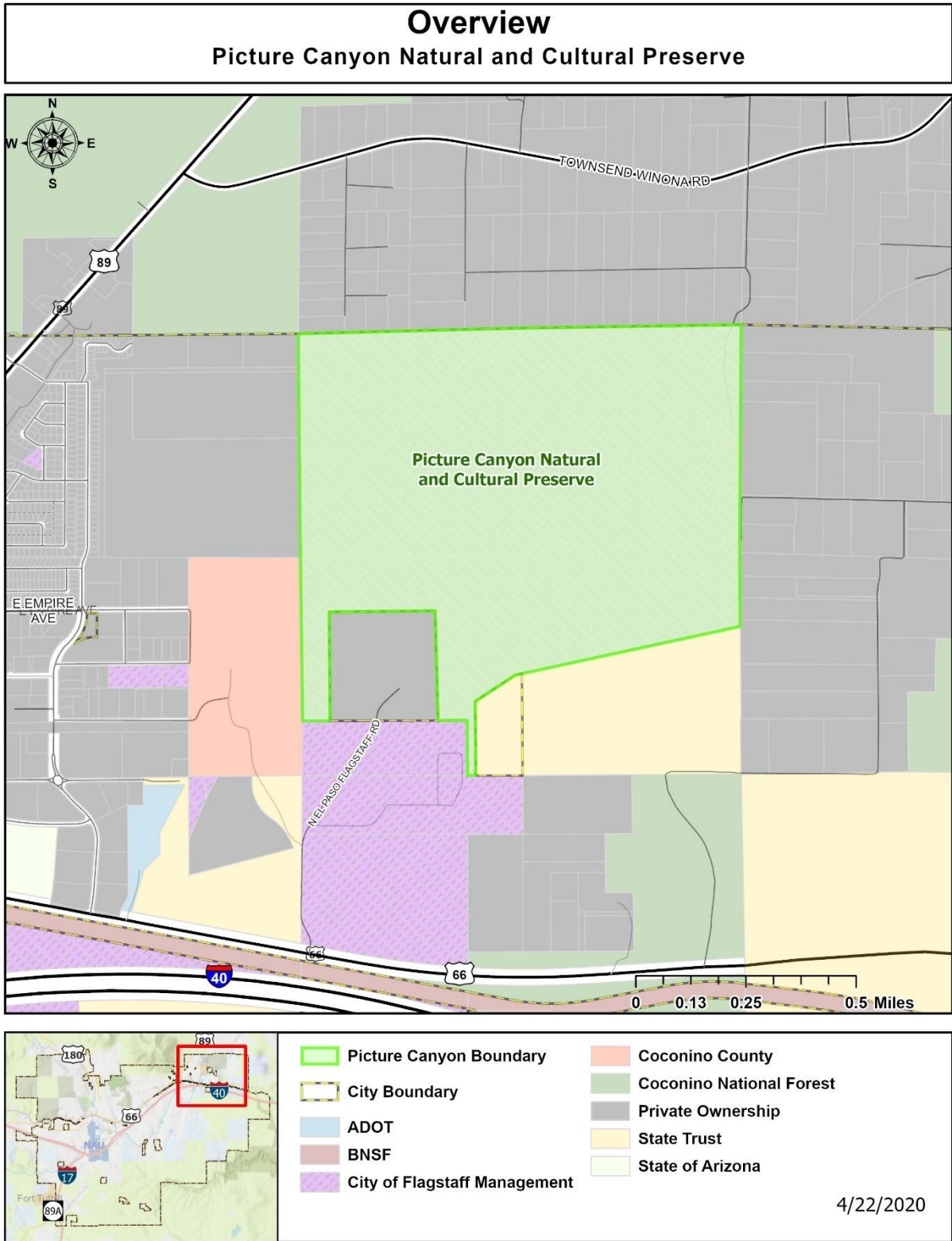


Figure 1: Land management surrounding Picture Canyon Natural and Cultural Preserve.

3.2 Natural Resources

Central to the overall management of Picture Canyon is the effective management of its natural resources. The water, wildlife, vegetation, and geologic resources are important factors that supported the acquisition of the property and the establishment of the Preserve, and subsequently need to be managed and maintained appropriately to ensure they are not damaged. To ensure the protection of the biological, physical, and visual resources, specific management objectives, policies, and actions have been identified.

3.2.1 Water Resources

Summary of Current Conditions: The Rio de Flag flows northeasterly through Picture Canyon, providing nearly five acres of healthy riparian and wetland habitat for plants and animals as well as important ecological services, including filtering contaminants, storing water, and providing riparian habitat. Only 1% of the land cover in Coconino County is designated as riparian habitat, making the Rio de Flag corridor through Picture Canyon a regionally important habitat for birds and wildlife.

Between 2005 and 2016, the City of Flagstaff received grant funding from the Arizona Water Protection Fund to complete a series of restoration projects to improve riparian habitat and function of the floodplain. These projects were completed in multiple phases and included realigning the natural meander to the stream channel by creating a wide, shallow channel that allows water to flow into the floodplain during high flow events. Additionally, volunteers removed a substantial number of invasive weeds from the floodplain area and replanted native riparian vegetation, including willows, grasses, and wildflowers. A 5-foot-deep pond was also constructed to encourage water retention and groundwater recharge while providing valuable wetland habitat for the riparian-obligate species that visit the Preserve during some portion of their life cycle.

In 2010, the City of Flagstaff and Arizona Game and Fish Commission signed the Bow and Arrow Park Agreement, a 20-year water right agreement that ensures an ongoing supply of an hourly average of 200 gallons per minute of Class A reclaimed wastewater to be released into three riparian sites along the Rio de Flag: Frances Short Pond, Rio de Flag Wetlands, and Picture Canyon³¹. This agreement ensures that Picture Canyon has a year-round supply of water until the agreement expires in 2030.

Given that the Rio de Flag flows through the Preserve, there are designated floodplain and floodway areas within the property (Figure 2). These portions of the property have Rural Floodplain overlay zoning, which limits what activities are permitted in the area³². These areas are monitored and regulated by the Army Corps of Engineers, Stormwater Section, or Federal

³¹ <https://www.flagstaff.az.gov/DocumentCenter/View/63880/August-2008-Bow-and-Arrow-Park-Agreement>

³² Activities permitted in Rural Floodplain overlay zoning category are outlined in Section 10-50.90.040 of the Flagstaff Zoning Code.

Emergency Management Agency given the Rio's designation as a "navigable water of the United States" and subsequently, permits may be required for projects requiring any type of ground disturbance, especially if those projects might impact the function and/or flow of the floodplain.

Management Goal: The Preserve will be managed to maintain or improve surface and ground water quality, surface water flow, and ground water levels within the Rio de Flag to sustain watershed health, including the wetlands and riparian zone.

Management Policies: In addition to the general management policies guiding water resource management (outlined in Chapter 2.1.1), the following policies apply to the management of water resources within Picture Canyon Natural and Cultural Preserve.

- Manage water elevations and vegetation within the pond to sustain a healthy habitat mix of open water with a vegetated margin. Prolonged periods of low water in the pond will allow emergent vegetation to invade the deeper portions of the pond and degrade open water habitat.
- Consult with Stormwater Section on projects requiring ground disturbance within the designated floodplain or floodway to determine if any permits are required.

Planned Management Actions: In addition to the general management actions guiding water resource management (outlined in Chapter 2.1.1), the following actions resources are planned.

- Remove irrigation line to completed revegetation project.
- Monitor vegetation surrounding the deep-water pond.
 - Mechanical manipulation of the vegetation may be required if cattails begin to invade the pond during periods of prolonged low water levels.
- Work with the community to investigate whether to keep or remove one culvert on the far east side of the Preserve.
- Cooperate with the Arizona Department of Environmental Quality (ADEQ) and City of Flagstaff Utilities Department to monitor surface and ground water quality within the Preserve.
- Investigate potential for a formal agreement with City of Flagstaff Water Services Director on behalf of the City of Flagstaff to ensure a perpetual supply of reclaimed water into the Rio de Flag stream channel through the Preserve.

Floodplain

Picture Canyon Natural and Cultural Preserve

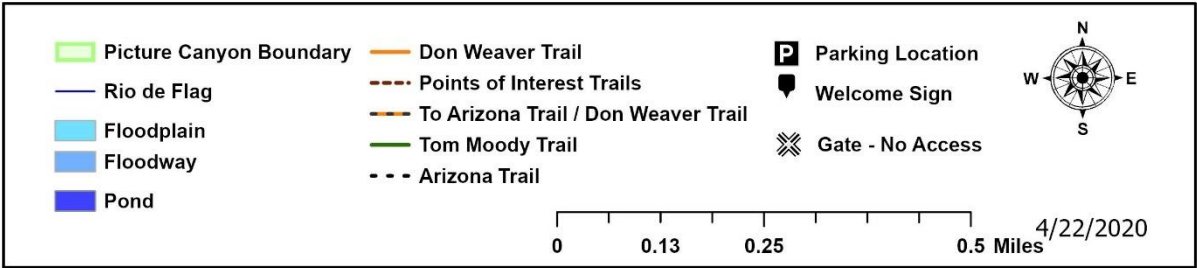
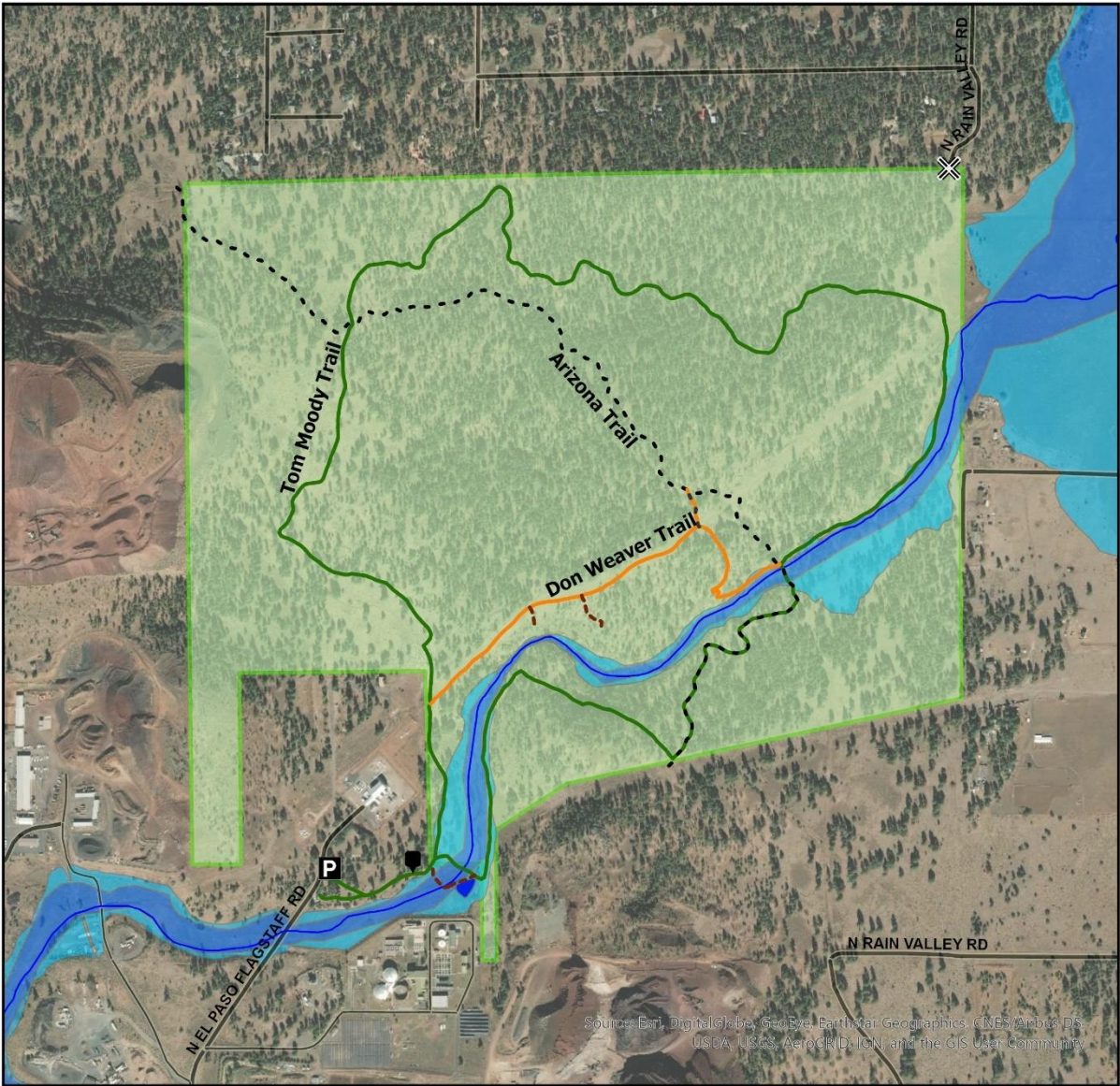


Figure 2: Floodplain and floodway designations within Picture Canyon Natural and Cultural Preserve.

3.2.2 Forest and Grassland Health

Summary of Current Conditions: The Preserve is in the transition zone between Pinyon-Juniper woodland and Ponderosa Pine Forest and contains ephemeral streams. The plant biodiversity within the Preserve has been negatively impacted as a result of past management practices including over-logging, fire suppression, overgrazing, and channelizing of the Rio de Flag. These practices have also resulted in overstocked stands and increased canopy cover, which in turn reduces the biodiversity of understory species. Efforts to restore native plant communities and structure are ongoing.

The overstory vegetation is dominated by ponderosa pine (*Pinus ponderosa*). There are indicators spanning across the Preserve in the ponderosa pine-dominated regions suggesting some forest health issues, including increased trees per acre, insect damage, chlorotic foliage, brows damage, and tree mortality. Historical data shows that trees-per-acre increased from 22 in 1876 to over 1,200 in 1992.³³ The goal is to achieve and maintain densities within the natural range of variability for tree size classes and increase species diversity while maintaining reduced risk to loss by fire. This influx of small diameter trees from several dominant cohorts has also produced a continuous canopy cover at the time of plan adoption, greatly affecting understory plant diversity and water run-off. In 1876, 19% of the surface area was under pine canopy, with the balance (81%) representing grassy openings. In 1992, pine canopy covered 93% of the area with only 7% left in grassy openings. Other overstory vegetation in the transitional zone includes Gambel oak (*Quercus gambelii*), pinyon pine (*Pinus edulis*), Arizona walnut (*Juglans major*), and many juniper species, including Alligator, one seed, and Rocky Mountain (*Juniperus deppeana*, *Juniperus monosperma*, and *Juniperus scopulorum*, respectively).

The understory shrubs and grasses are primarily comprised of Arizona rose (*Rose arizonica*), Arizona fescue (*Festuca arizonica*), mountain muhly (*Muhlenbergia montana*), western wheat grass (*Agropyron smithii*), blue grama (*Bouteloua gracilis*), squirreltail (*Elymus elymoides*), silver lupine (*Lupinus argenteus*), Rocky Mountain iris (*Iris missouriensis*), foxglove (*Penstemon digitalis*), Indian paintbrush (*Castilleja spp.*), buckwheat (*Fagopyrum esculentum*), wax currant (*Ribes cereum*), and Wheeler's thistle (*Cirsium wheeleri*). Meadows are scattered through the Preserve as the soil is primarily composed of coarse cinders, which are unfavorable to the establishment of dense grasslands. Along the shaded cliffs are colonies of Arizona walnut (*Juglans major*), Arizona grape (*Vitis arizonica*), banana yucca (*Yucca baccata*), apache plume (*Fallugia paradoxa*), wolfberry (*Lycium barbarum*), and cliff rose (*Purshia mexicana*).

Land management agencies have identified 8 special-status plant species within a 5-mile radius of the Preserve (see Table 2). These species may or may not be present within the Preserve, but special consideration should be given to ensure projects do not impact these species.

³³ Covington, et al., 1997. Ecosystem Restoration and Management: Scientific Principles and Concepts.

Table 2: Special status plant species identified within a 5-mile radius of Picture Canyon.

Common Name	Scientific Name	Identification Agency
Cinder Phacelia	<i>Phacelia serrata</i>	FWS
Clustered Leather-flower	<i>Clematis hirsutissima</i>	USFS
Flagstaff False Pennyroyal	<i>Hedeoma diffusa</i>	USFS, State
Green Death Camas	<i>Zigadenus virescens</i>	State
Mogollon Columbine	<i>Aquilegia desertorum</i>	State
Rock Fleabane	<i>Erigeron scopulinus</i>	USFS
Rusby's Milkvetch	<i>Astragalus rusbyi</i>	USFS
Sunset Crater Beardtongue	<i>Penstemon clutei</i>	FWS, USFS, State

There are multiple exotic and invasive plant species within the Preserve (Table 3). In 2009, Natural Channel Design developed a Noxious Weed Management Plan for the riparian area within the Preserve³⁴ as part of the Rio de Flag restoration project. The identified species threaten native vegetative communities at varying levels and therefore, only those species that present the greatest risk have been targeted for treatment.

Table 3: Exotic invasive plant species identified within Picture Canyon in 2013.

Common Name	Scientific Name
Bull thistle	<i>Cirsium vulgare</i>
Cheatgrass	<i>Bromus tectorum</i>
Cocklebur	<i>Xanthium strumarium</i>
Common mullein	<i>Verbascum thapsus</i>
Dalmatian toadflax	<i>Linaria dalmatica</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Field bindweed	<i>Convolvulus arvensis</i>
Horehound	<i>Marrubium vulgare</i>
Kochia	<i>Bassia scoparia</i>
Pigweed	<i>Amaranthus palmeri</i>
Poison hemlock	<i>Conium maculatum</i>
Prickly lettuce	<i>Lactuca serriola</i>
Redstem filaree	<i>Erodium cicutarium</i>
Russian olive	<i>Eleagnus angustifolia</i>
prickly Russian thistle	<i>Salsola tragus*</i>
slender Russian thistle	<i>Salsola collina*</i>
Scotch cotton thistle	<i>Onopordum acanthium</i>
Siberian elm	<i>Ulmus pumila</i>
Yellow salsify	<i>Tragopogon dubius</i>
Yellow star-thistle	<i>Centaurea solstitialis</i>
Yellow sweetclover	<i>Melilotus officinalis</i>

*Both *Salsola tragus* and *Salsola collina* were found on the property but will be managed identically.

³⁴ <https://www.flagstaff.az.gov/DocumentCenter/View/63881/Picture-Canyon-Invasive-Weed-Management-Plan>

In 2017, Campbell Global prepared a Picture Canyon Forest Stewardship Plan for the City of Flagstaff and the Flagstaff Fire Department Wildland Fire Management Division.³⁵ This Plan outlines recommendations for the management of multiple resources including the following: aesthetic quality, cultural sites, biological diversity, fire, fish and wildlife, forest health, invasive species, recreation, water, and wetlands.

Management Goal: The Preserve will be actively managed to achieve a native forest, grassland, and riparian plant structure that is resistant and resilient to wildfire, invasive plant populations, or other disturbances and continues to provide ecosystem services to the surrounding community.

Management Policies: In addition to the general management policies associated with managing forest and grassland health (outlined in Chapter 2.1.2), the following policies apply.

- Reduce impacts to established cultural sites by hand-thinning trees within designated cultural site boundaries.
- Mitigate any damage to cultural resources by consulting with archaeologists prior to beginning any forest treatment operations.
- Plan, coordinate, and implement broadcast burning operations with Flagstaff Fire Department crews upon consultation with archaeologists.

Planned Management Actions: In addition to the general management policies associated with managing forest and grassland health (outlined in Chapter 2.1.2), the following policies apply.

- Treat invasive weeds within the Preserve on a biannual basis to reduce populations and the risk of spread.
- Design and install educational signs outlining the ethnobotanical and ecological importance of specific plants.
- Maintain consultation with representatives of affiliated tribes regarding restoration efforts.
- Physically block off access to sensitive riparian areas to limit degradation of this rare habitat type.
- Coordinate with Flagstaff Fire Department to develop prescriptions to begin timber cutting operations.

3.2.3 Wildlife Resources

Summary of Current Conditions: The Preserve contains a variety of geologic and vegetative characteristics, providing a unique diversity of wildlife habitats. A 20-year water supply from the Wildcat Wastewater Treatment Plant creates important stream and wetland habitat for riparian-obligate breeding and migratory birds and waterfowl. Riparian habitats are critically important

³⁵ <https://www.flagstaff.az.gov/DocumentCenter/View/63882/Picture-Canyon-Stewardship-Plan-9302017>

for wildlife species in the Southwest and comprise less than one percent of all land cover in Coconino County. Current wetland and riparian conditions in the Rio de Flag within Picture Canyon attract over 130 bird species³⁶, including raptors, warblers, flycatchers, sparrows, hummingbirds, waterfowl, shorebirds, wading birds, and migratory songbirds. Birds are especially common during spring and fall migrations. Subsequently, Picture Canyon has been designated as a Watchable Wildlife site with the Arizona Watchable Wildlife Experience and a Bird Sanctuary with the Northern Arizona Audubon Society.

The wetland and riparian conditions in Picture Canyon provide foraging habitat and hiding cover for waterfowl, shorebirds, and songbirds. These habitats have been improved via on-going vegetation restoration efforts, including restoring riparian plants and structural complexity. Many small mammals and mesocarnivores also utilize riparian habitats. Oak woodlands and mature stands of ponderosa pine forest support substantial elk and mule deer use. The numerous decaying ponderosa pine snags in the canyon attract foraging peregrine falcons, wintering bald eagles, as well as an unusually high diversity of woodpecker species. Standing dead snags provide critical habitat for cavity nesting birds. Basalt cliffs support habitat for bats, cliff-dwelling passerines, and reptiles. The uplands in Picture Canyon are also valuable to wildlife, especially the riparian zone, oak woodlands, and old growth stands of ponderosa pine forest.

Picture Canyon and surrounding lands provide habitat for seven sensitive species (Table 4). These species may or may not occur within the Preserve and the City will need to work with partners to survey wildlife on the Property to determine if the following management suggestions apply.

Table 4: Special-status wildlife species identified within a 5-mile radius of Picture Canyon.

Common Name	Scientific Name	Identification Agency
Allen’s lappet-browed bat	<i>Idionycteris phyllotis</i>	FWS, USFS, BLM
American peregrine falcon	<i>Falco peregrinus anatum</i>	FWS, USFS, BLM, State
Arizona myotis	<i>Myotis occultus</i>	FWS, BLM
Bald eagle	<i>Haliaeetus leucocephalus</i>	FWS, USFS, BLM, State
Greater western bonneted bat	<i>Eumops perotis californicus</i>	FWS
Mexican spotted owl	<i>Strix occidentalis</i>	FWS, State
Northern goshawk	<i>Accipiter gentilis</i>	FWS, USFS, BLM, State

Management Goal: The Preserve will be managed to maintain and enhance a diversity of habitats that support native wildlife species, emphasizing the protection of rare habitat types and special-status species.

Management Policies: General policies for managing wildlife resources within the Preserve are outlined in Chapter 2.1.3.

³⁶ As identified by Northern Arizona Audubon Society.

Planned Management Actions: In addition to the general management actions planned for managing wildlife resources outlined in Chapter 2.1.3, the following actions are planned at the Preserve.

- Post “No Hunting” signs at primary entrance points and other key locations within the Preserve.
- Enhance the Preserve as an Arizona Watchable Wildlife Experience (AWWE) site including expanding wildlife viewing opportunities and facilities.
- Inventory endangered and sensitive species present in the Preserve.
- Re-establish and maintain cottonwood/willow and rush/sedge vegetation communities along the stream channel to increase habitat availability for birds.

3.3 Cultural and Historic Resources

Summary of Current Conditions: The Northern Sinagua occupied the Flagstaff region, including Picture Canyon, between A.D. 600 and A.D. 1400. Prehistoric peoples like the Northern Sinagua were likely attracted to Picture Canyon because of the resources within the area, including reliable water, habitable caves and rock shelters, usable plant species, and proximity to arable land. Subsequently, the Preserve has extensive cultural and historic resources, including petroglyphs, pottery sherds, habitation sites, and plants with religious or ceremonial significance for Tribes. There are 29 cultural sites listed with the Arizona State Museum, including pre-historic and historic sites. Some of these have been listed on the National Register of Historic Places, while others are eligible for listing and therefore must be protected to the same extent.

On January 10, 2008, the Picture Canyon Archaeological Site,³⁷ which encompasses the entire inner canyon area, was placed on the National Register of Historic Places given the significant cultural resources within the area, including pit houses, pottery sherds, and petroglyphs.³⁸

Although possible Pre-Elden Phase (pre- A.D. 1150) rock art has been identified, the Northern Sinagua left the most visible evidence within the Preserve. Over 126 petroglyph panels, depicting 736 elements of archers, turtles, deer, elk, bighorn sheep, water birds, and geometric designs are carved into the canyon walls and boulders. The density of petroglyphs gave Picture Canyon its modern name. Archaeologists have cited it as the type site (or first scientifically documented example) for Northern Sinagua rock art. Subsequently, archaeologists continue to conduct research within the Preserve to learn more about the Northern Sinagua culture.

³⁷ AZ I:14:346[ASM] and NA17897

³⁸ In 1978, Donald E. Weaver, Jr., archaeologist and rock art expert, assigned a single site number (NA17897) to the canyon’s extensive petroglyphs; however, by today’s standards, the features would be considered loci within a single site, given their proximity and continuity of cultural material. Therefore, in 1998 the Arizona State Museum applied the site number AZ I:14:346 (ASM) to the entire site, including petroglyphs, habitation features, and burial features (National Register of Historic Places, Picture Canyon Archeological Site, Flagstaff, Coconino County, AZ, National Register #07001349).

In addition to the Sinagua petroglyphs, Picture Canyon contains additional petroglyphs that may be of non-Sinagua origin, such as two unusually tall (40 to 46 cm) anthropomorphic figures located in Loci A and F. These figures do not resemble the rock art typically seen at Sinagua sites and their heavy weathering suggest greater age than the late Sinagua elements.

Aside from petroglyphs, there are Sinagua cave dwellings below the canyon rim, pithouse and rock structures on the slopes above the rim, and pottery sherds. Initial excavations were conducted in 1919 and 1921 by Harold S. Colton, founder of the Museum of Northern Arizona. These ruins and features were described by Colton in a 1932 *Bureau of American Archaeology Bulletin*. Colton excavated burials and stone houses during his initial visits to Picture Canyon. An important dwelling, Porcupine Cave, had three rooms, a plastered wall, and a door when Colton first visited in 1919. It has since been disturbed by looters and a low mound of rubble is all that remains of the internal walls.

The primary ceramic group found at Picture Canyon is Alameda Brown Ware, an undecorated pottery made from volcanic clays using a technique called paddle-and-anvil. The presence of other ceramics (Tusayan Gray Ware, San Francisco Mountain Gray Ware, Little Colorado White Ware, and Tusayan White Ware) reflects trade between the Northern Sinagua and neighboring groups such as the Cohonina to the west and Kayenta to the north.

Don Weaver, Jr. and Rupestrian Cyberservices completed a summary inventory of the petroglyphs that identified a minimum of 126 rock-art panels and 736 elements. Prior to that, Harold S. Colton assembled resources in a table form. In 2012, Northland Research surveyed the entire Preserve for cultural resources, resulting in discovery of several new archaeological features.³⁹

The City of Flagstaff participates in the Arizona State Parks Site Stewards Program, a volunteer program dedicated to protecting and preserving cultural resources and heritage sites. Volunteers monitor the cultural sites, including the inner canyon, petroglyph sites, and pithouse regularly. The Site Steward is responsible for documenting the status of each site (Appendix C) and providing that information to the Open Space Program.

The Preserve also contains the remnants of railroad beds that were part of the Greenlaw North line responsible for carrying timber into the Greenlaw lumber mill. In the first decade of the twentieth century, the Arizona Lumber & Timber Company constructed a logging railroad from its mill at Cliffs to the base of Turkey Hills. The line came within 100 meters of the southern boundary of the inner canyon. Its grade can still be seen from the southwestern edge of the site. The line was used during timber cutting operations in 1908 and 1909 and then abandoned. The remains of a train trestle made from large virgin timber can be found above the Picture Canyon waterfall. Railroad beds were utilized to build a segment of the Tom Moody Trail in the southern part of the Preserve.

³⁹ <https://www.flagstaff.az.gov/DocumentCenter/View/63883/Picture-Canyon-Cultural-Survey-Report>

If projects within the Preserve result in any new artifacts being discovered, the City has a curation agreement in place with the Museum of Northern Arizona to curate artifacts at their facility.

Management Goal: The Preserve will be managed to preserve, protect, and interpret the cultural and historic resources present on the property.

Management Policies: In addition to the general policies for managing cultural resources within legally-designated open space properties (outlined in Chapter 2.2), the following policies apply to the Preserve.

- All development within the Landmarks Overlay requires prior approval by the Heritage Preservation Commission.⁴⁰
 - Impacts requiring approval by the Heritage Preservation Commission include physical destruction or damage to all or part of a cultural resource, alteration to all or part of a cultural resource that is not consistent with applicable standards and guidelines, relocation or isolation of the cultural resource from its setting, alteration of the character of the cultural resource’s setting, introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting, neglect of a cultural resource resulting in its deterioration or destruction.⁴¹
 - Per Section 10-30.30.060 of the Flagstaff Zoning Code, an impact is not considered significant if it does not alter the resource, is reversible, or is temporary.⁴²
 - The City’s Historic Preservation Office can approve some projects, including those that do not require substantial ground disturbance.
 - A project-specific Cultural Resource Study for cultural and historic resources (different from the Cultural Resource Survey completed by Northland Environmental in 2012⁴³) must be submitted to the Heritage Preservation Commission prior to development within the Preserve as part of the project review process.
 - Cultural Resource Studies for the Heritage Preservation Commission formally analyze the presence or potential presence of resources, the significance of known or potential resources, the integrity of known resources, the potential impacts of the proposed development, and they propose measures to mitigate such impacts.
 - In accordance with resolution No. 2012-12 adopted by the City of Flagstaff City Council in April 2012, the City of Flagstaff will comply with applicable federal, state, and local laws, regulations, rules, standards, procedures, and guidelines governing the protection of cultural resources at the Picture Canyon Preserve.⁴⁴

⁴⁰ Per Section 10-30.30.060 of the Flagstaff Zoning Code, whether or not any other permit or approval is required. The Commission can approve projects via a Certificate of Appropriateness, a Certificate of No Effect, or a Certificate of Economic Hardship.

⁴¹ Flagstaff City Zoning Code, 30.30-14

⁴² *Ibid*

⁴³ <https://www.flagstaff.az.gov/DocumentCenter/View/63883/Picture-Canyon-Cultural-Survey-Report>

⁴⁴ Picture Canyon Cultural Resources Resolution 2012-12, p.3

Planned Management Actions: In addition to the archaeological and historic resource management actions outlined in Chapter 2.2, the following actions are planned at the Preserve.

- Monitoring:
 - Establish baseline documentation with significant detail of surface artifacts and feature conditions.
 - Develop a comprehensive monitoring program for sites vulnerable to vandalism and/or degradation utilizing Arizona Site Stewards and volunteers from the Picture Canyon Stakeholder Group.
- Petroglyph panels:
 - Coordinate with partners, including Coconino National Forest, Museum of Northern Arizona, and Northern Arizona University to host field schools focused on completing scale drawings, describing panels, and photo-documenting panels for baseline documentation of rock art resources.
 - Remove or control brush that may threaten fire damage to petroglyph panels.
- Archeological structures:
 - Refine and update planimetric map of the prehistoric architectural features located in Locus A of the prehistoric site.
 - Map the extent of the cultural midden associated in Locus A with the prehistoric architectural features and document to current professional standards.
 - Evaluate options for documentation, stabilization, and interpretation of the excavated pit house.
- Develop educational signage to interpret cultural resources within the Preserve.
- Maintain ongoing government-to-government consultation about management, plant resources, and interpretation with official representatives of associated tribes, including Hopi Tribe, Navajo Nation, Yavapai Apache Nation, Prescott Yavapai Indian Tribe, Pueblo of Zuni, and the Havasupai Tribe.

3.4 Public Use

Picture Canyon Natural and Cultural Preserve provides a buffer between developed and developing industrial and residential areas in eastern Flagstaff. It serves as “neighborhoods”⁴⁵ for residents in the Doney park area, including Winona, Cosnino, and Doney Park neighborhoods who utilize the Preserve for recreation.

The Preserve is heavily used by the greater Flagstaff community for its recreational and educational values. In 2020, an estimated 1,500 individuals visited the Preserve each month to participate in outdoor recreation activities and this number is expected to grow as the trail

⁴⁵ “Neighborhoods” is a term used in the Flagstaff Area Open Spaces and Greenways Plan that refers to undeveloped areas near neighborhoods which act as a buffer and provide opportunities for recreation and relaxation.

system and infrastructure is finalized and the Open Space Program begins marketing the Preserve as an outdoor destination in northern Arizona.

There is evidence of damage and degradation from unmanaged public use including visible signs of deterioration and degradation, such as a proliferation in user-created trails, off-road vehicle damage, and trail width expansion.

The conservation easement granted to Arizona State Parks as part of the acquisition process limits public use to those that do not materially degrade the conservation values of the property. Therefore, there is a focus on providing passive recreational uses within the Natural Area (Table 5). If you are interested in using the property for a use that is not included in Table 5, contact the Open Space Program at NaturalAreas@flagstaffaz.gov.

Table 5: Permitted and prohibited recreational uses of Picture Canyon Natural and Cultural Preserve.

Permitted Uses	Prohibited Uses
Cross Country Skiing	Campfires
Virtual geocaching	Camping
Hiking/Running	Fuelwood Collection (except with permit)
Horseback Riding	Off Highway Vehicles/Driving
Snow Shoeing	Hunting
Mountain Biking	Large-Scale Activities/Events (except with express written approval from the Open Space Specialist)
Nature Study/Environmental Education	Flying model aircraft, such as drones, airplanes, or rockets (except with permit)
Wildlife Watching	

Additionally, several local organizations including the Museum of Northern Arizona, Willow Bend Environmental Education Center, and Northern Arizona University utilize the Preserve as an outdoor classroom for youth summer camps and environmental education activities.

In 2016, the Open Space Program partnered with Willow Bend Environmental Education Center to provide guided tours of the Preserve for the Flagstaff during the summer months. Additionally, as part of this partnership, Willow Bend coordinates and facilitates tours of the Preserve that incorporate educational activities for schools in the Flagstaff Unified School District. The terms of this partnership are reassessed annually.

This section of the Plan focuses on public access and roads, recreational use, easements and leases, education and research, and facility development within the Preserve.

3.4.1 Access Management

Summary of Current Conditions: There are multiple motorized and non-motorized access points to the Preserve (Figure 3). Authorized, legal motorized access points include:

- *El Paso Flagstaff Road from Route 66* – This is the designated access point for individuals wishing to visit Picture Canyon. The City has constructed a parking area that accommodates approximately 6 cars. Frequently, this does not provide adequate parking and visitors are required to park along El Paso Flagstaff Road.
- *North Rain Valley Road from Townsend-Winona Road* – This parking area provides authorized access to the northeast portion of the Preserve for City staff and project contractors. Given that North Rain Valley Road is privately maintained, it is not open for public use. A gate is installed at the Picture Canyon boundary to limit public access to the Preserve from this road.

Authorized, legal non-motorized access points include:

- The *Arizona Trail* travels diagonally through the Preserve, providing non-motorized access to the southeast and northwest corners of the Preserve.
- The *Tom Moody Loop*, a segment of the Flagstaff Urban Trail System connects adjacent parcels to Picture Canyon and ultimately, will provide non-motorized access from downtown Flagstaff, through the Preserve, to Doney Park.

Unmanaged public use of the property prior to the City's acquisition resulted in a network of unofficial, user-created roads traversing the Preserve (Figure 3). Many of these roads are unnecessary and lead to dead ends. Some are causing erosion, segmenting wildlife habitat, and facilitating illegal dumping and/or illegal vehicle trespass onto the property. Given that the City purchased this property using funding from the Arizona State Parks Growing Smarter grant, the City is required to manage it as a non-motorized property in order to protect the conservation values associated with the property.

Arizona Public Service (APS) and El Paso Gas both hold perpetual easements for utilities within the Preserve and therefore have rights to manage and maintain service roads associated with these utilities. Although these easements were originally granted by the Arizona State Land Department, the City of Flagstaff inherited them with the acquisition.

APS manages overhead power transmission lines along the southern boundary of the Preserve. This transmission line has an associated service road along the property boundary, allowing for vehicles to illegally trespass onto the Property.

El Paso Gas holds a perpetual easement for a gas transmission line and service road through the Preserve. Kinder Morgan bought out El Paso Gas in 2011 and acquired this easement.

Trails and Unauthorized Roads

Picture Canyon Natural and Cultural Preserve

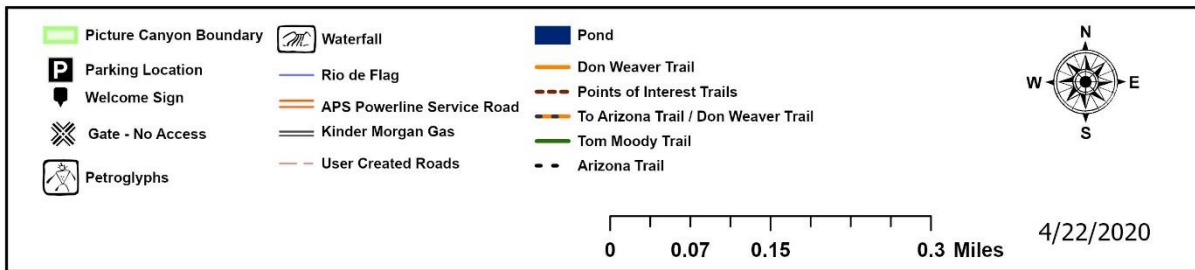
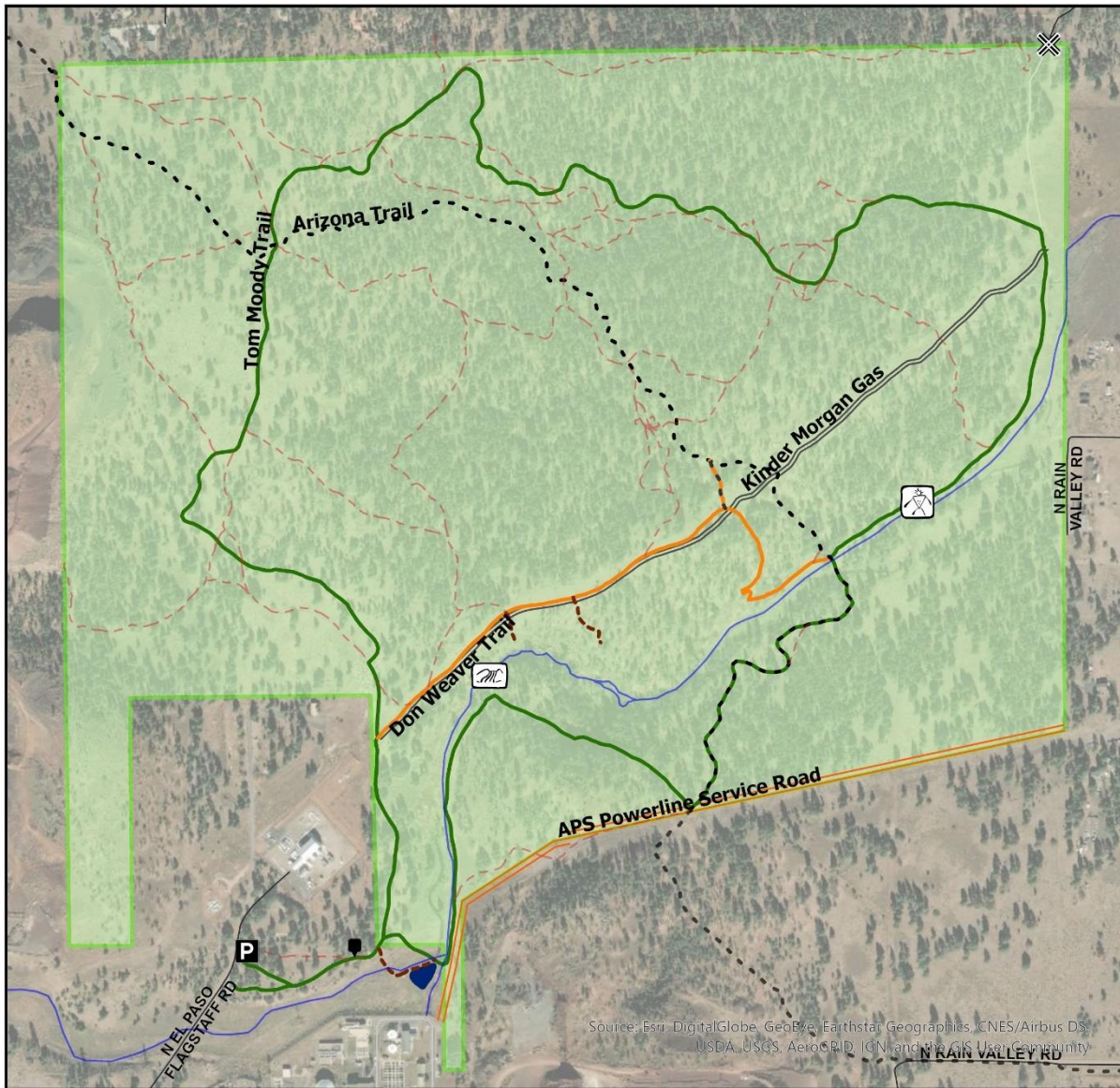


Figure 3: Motorized and non-motorized access to Picture Canyon Natural and Cultural Preserve.

Management Goal: The Preserve will be managed to ensure reasonable public access for non-motorized recreational activities aligning with the framework of the Arizona State Parks conservation easement and eliminate unauthorized motorized travel within the Preserve.

Management Policies: The policies applicable to managing access to and within the Preserve are outlined in the General Management Policies (Chapter 2.3.1).

Planned Management Actions: In addition to the management actions guiding access and road management outlined in Chapter 2.3.1, the following actions are planned at the Preserve.

- Coordinate with APS to install signs and natural barriers along their transmission line/service road at the southern boundary of the Preserve to prevent illegal trespass.
- Negotiate with landowners along Lindsey Road and North Rain Valley Road to reduce public trespass along private roads to access the northeastern portion of the Preserve but permit authorized access for projects in the Preserve.
- Construct Flagstaff Urban Trail System (FUTS) segment from Route 66 through the Wildcat Reach, providing non-motorized connectivity to the Preserve.
- Land acquisition:
 - Investigate potential of incorporating City-owned parcel to the south of the Preserve into the Preserve boundary.
 - Investigate potential of purchasing Arizona State Trust parcel upstream of Picture Canyon (north of Route 66) to connect Picture Canyon to the downtown area via the Flagstaff Urban Trail System.
 - Investigate potential of purchasing additional parcels or easements along the Rio de Flag north of the Preserve to provide FUTS connections to Townsend Winona.

3.4.2 Recreational Use

Summary of Current Conditions: The Preserve provides a buffer between developed/developing industrial and residential areas. It serves as “neighborhoods” for the Townsend-Winona/Cosnino/Doney Park neighborhoods and connects open space east of the San Francisco Peaks with that north of Walnut Canyon and Flagstaff.

A broad array of recreational activities are available within the Preserve, including hiking, bicycling, horseback riding, cross-country skiing, and snow shoeing (Table 5). As of 2020, an estimated 1,500 individuals visit the Preserve each month to participate in these activities.

Additionally, several local organizations, including the Museum of Northern Arizona, Willow Bend Environmental Education Center, and Northern Arizona University utilize the Preserve as an outdoor classroom for youth summer camps and environmental education activities.

Arizona Game & Fish Department has identified Picture Canyon as important wildlife habitat and has designated the Preserve as a site in the Arizona Watchable Wildlife Experience (AWWE) program given the wildlife watching opportunities. AWWE is a partnership of Arizona Game &

Fish Department, Arizona Wildlife Federation, City of Flagstaff, Coconino County, and Coconino National Forest to develop a designated network of watchable wildlife recreation sites in the greater Flagstaff area. Additionally, the Northern Arizona Audubon Society has designated the Preserve as a bird sanctuary and frequently hosts bird-watching events on the property.

As of 2016, there are four designated, authorized trails within the Preserve (Figure 3), although a network of user-created, unauthorized trails traverse the property given the history of unmanaged recreation prior to the City's acquisition. Open Space Program staff will need to survey the property to determine the extent of user-created trails and identify a restoration plan.

- The equestrian bypass of the **Arizona Trail**, which is a component of the Flagstaff Loop Trail, is located on the property. A 20-foot-wide trail easement was established in partnership with Coconino County. It is a natural surface, single track trail. The right-of-way is for public non-motorized access only, including hikers and bicyclists. Primarily, the trail is maintained by Arizona Trail Stewards. Any modifications to the Arizona Trail require cooperation with the Arizona Trail Association and Coconino County staff.
- The **Tom Moody Loop** follows the perimeter of the Preserve, intersecting the Arizona Trail and Don Weaver Trail at the southern boundary. Much of this trail was constructed using existing roadbeds and railroad grades. The Open Space Program maintains this trail.
 - Plans exist to convert the portion of the Tom Moody Loop between the Outdoor Classroom and Rain Valley Road into a segment of the Flagstaff Urban Trails System (FUTS). The Flagstaff Metropolitan Planning Organization, which is responsible for planning FUTS trails, has identified funding for this upgrade in 2025. This FUTS alignment will provide a connection between the Flagstaff Mall area and Doney Park for cyclists and pedestrians.
- The **Don Weaver Trail** separates from the Tom Moody Trail after the bridge across the Rio de Flag. It utilizes switchbacks from the previous alignment of the Arizona Trail up to the El Paso Gas easement and heads west along the north rim of the canyon overlooking petroglyph sites and a pithouse. This trail provides a three-mile loop around the Canyon and through the riparian area. The Open Space Program maintains this trail.
- The **Waterbird Trail** is a 75-foot trail that loops away from the Tom Moody Trail to provide visitors a safe route to experience the expansive petroglyph panels at the site. This trail was constructed in 2016 with funding from Arizona State Parks, Flagstaff Area National Monuments, and American Conservation Experience. The Open Space Program is responsible for maintaining this trail.

Management Goal: The Preserve will be managed to provide a wide variety of developed and dispersed day-use recreational opportunities.

Management Policies: In addition to the general recreation management policies outlined in Chapter 2.3.2, the following policies apply to managing recreation within the Preserve.

- Prohibit large-scale special events at the Preserve, except upon express written approval of the Open Space Specialist.

Planned Management Actions: In addition to the general recreation management actions outlined in Chapter 2.3.2, the following actions are planned for the Preserve.

- Install trash and recycling receptacles at the primary trailhead off El Paso Flagstaff Road.
- Upgrade the Tom Moody Trail to FUTS standards.
- Secure funding to install “pit” toilets at the El Paso Flagstaff Trailhead.
- Replace the existing bridge over the Rio de Flag with a bridge or boardwalk that meets Flagstaff Urban Trails System standards and allows safe access for horses and hikers.
- Coordinate with the State Historic Preservation Office to develop an alignment for the Don Weaver Trail.
- Decommission user-created, unauthorized trails within the inner canyon and riparian area.

3.4.3 Easements and Leases

Summary of Current Conditions: Many entities hold easements and/or leases within Picture Canyon Natural and Cultural Preserve (Table 6). The City of Flagstaff inherited these easements and leases from the Arizona State Land Department as part of the acquisition process and is now responsible for managing these uses. No new easements or licenses will be issued at the Preserve.

Table 6: Perpetual, non-perpetual, and expired easements and leases within Picture Canyon Natural and Cultural Preserve.

Number	Holder	Use	Issue Date	Expiration Date
PERPETUAL				
16-4421	Arizona Public Service	Electric Transmission Easement	10/3/1968	perpetual
71-3663	Arizona Public Service	Electric Transmission Easement	8/25/1964	perpetual
16-919	El Paso Gas	Gas Transmission Easement	4/8/1954	perpetual
NON-PERPETUAL				
14-3676	City of Flagstaff	Water Line Easement	9/24/1989	9/23/2039
18-98632	Fanning/Pierce	Water Line Easement	5/12/2000	11/30/21
56-105715	NAU/Centennial Forest	Right of Way	12/20/1999	12/19/2074
56-114761	City of Flagstaff	Right of Way	7/29/2010	7/28/2030
EXPIRED				
23-113715-05	City of Flagstaff	Right of Way	4/2/2009	4/1/2019

Management Goal: Manage Picture Canyon for non-consumptive, sustainable uses.

Management Policies and Actions: Policies and actions applicable to managing easements and leases within Picture Canyon Natural and Cultural Preserve are outlined in Chapter 2.3.3.

3.4.4 Education and Research

Summary of Current Conditions: Since the 1980s, Picture Canyon has been an outdoor classroom for students in northern Arizona. The abundance of archaeological sites has provided extensive educational opportunities for archaeology and cultural history. The permanent flow in the Rio de Flag serves as an educational site to study riparian habitats and watershed issues.

Many organizations utilize the Preserve for educational purposes and a long-range living classroom, including Northern Arizona University School of Forestry, Department of Anthropology, Museum of Northern Arizona, and Willow Bend Environmental Education Center.

In 2016, the Open Space Program partnered with Willow Bend Environmental Education Center to provide guided tours and educational programming for the Flagstaff community and local school groups. During the first year of the contract, Willow Bend provided 4 free tours of the Preserve to the community and fifteen tours for local school groups. The contract must be reviewed and renewed annually.

The Indigenous Youth STEM Academy with the Open Space Program was created in 2017 to provide science, technology, engineering, and math (STEM) programming at the Preserve for middle school and high school indigenous youth in and around Flagstaff. The Open Space Program was awarded a \$5,600 grant through Kahtoola for the People to continue this work.

Individuals and organizations wishing to complete research and/or monitoring projects within the Preserve are may be required to obtain a Project Specific Permit from the Arizona State Museum in addition to the Open Space Research Permit (see Chapter 2.3.4).

Management Objective: The Preserve will be managed to provide diverse educational and research opportunities.

Management Policies and Actions: Policies and actions applicable to managing education and research opportunities within Picture Canyon Natural and Cultural Preserve are outlined in Chapter 2.3.4.

3.4.5 Facility Development

Summary of Current Conditions: Since acquisition in 2012, the City has invested in a series of infrastructure improvements and developed facilities for the Preserve (Figure 4).

Kiosks exist at the primary access points to the Preserve, including at the parking area along El Paso Flagstaff Road and where the Arizona Trail enters and traverses the Preserve. Additional signage includes educational panels at the Watchable Wildlife Site (2), Outdoor Classroom (6), railroad trestle (1), Rio de Flag fencing (2), Waterbird Site (4), and along trails (1). The first phase of trail signs has also been installed, with an additional phase planned for installation.

A gate has been installed where North Rain Valley Road accesses the Preserve in order to reduce public use of the road. Two bollards were installed where the Tom Moody Trail enters the Preserve from El Paso Flagstaff Road to reduce illegal vehicle trespass onto the property.

During the Rio de Flag restoration project, the riparian area was fenced to prevent cattle and large mammals from damaging the plantings. This fencing is owned in part by the Arizona Water Protection Fund (AWPF). In 2016, the AWPF granted the City permission to remove the fencing given that the plantings are established.

Management Goal: The Preserve will be managed to provide facilities that enhance visitors' experiences within the framework of the Arizona State Parks conservation easement.

Management Policies: In addition to the general facility development management policies outlined in Chapter 2.3.5, the following policies apply to the construction of new facilities and site improvements within the Preserve.

- Submit all facility improvement projects to the Heritage Preservation Commission for approval, given Picture Canyon's location within the Landmark Overlay District.

Planned Management Actions: In addition to the general facility development actions outlined in Chapter 2.3.5, the following actions are planned for the Preserve.

- Remove fencing from Rio de Flag restoration boundary.
- Inventory property for existing infrastructure, including fences, gates, roads, trails, cattle guards, trash piles, and signs.

Infrastructure

Picture Canyon Natural and Cultural Preserve

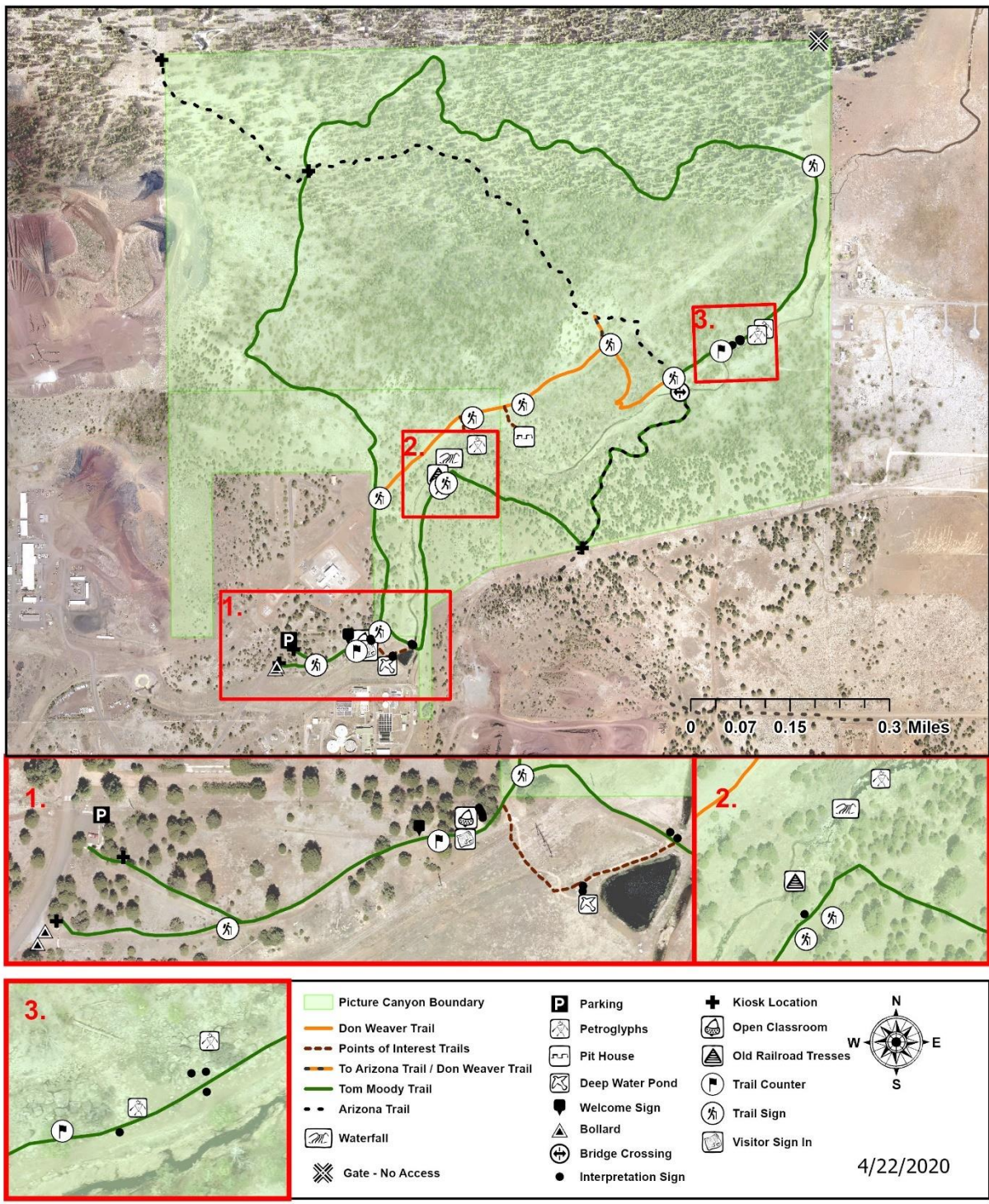


Figure 4: Infrastructure within Picture Canyon Natural and Cultural Preserve, as of February 2020.

3.5 Priority Action Plan

Provided below is a summary of priority actions that will be taken related to the expansion, development, and management of the Preserve. It is anticipated that this Priority Action Plan will be updated every two years. The biannual review will be conducted in advance of the City of Flagstaff’s budget development process. Modifications to the plan will be made to reflect existing conditions at the time of each update.

Table 7: Picture Canyon Priority Action Plan – Facility Development

Action:	Responsibility:	Implementation Date:	Estimated Cost:
Install boundary signage along the perimeter of the Preserve.	City of Flagstaff	Summer 2020	\$2,500
Work with the community to investigate whether to keep or remove one culvert on the far east side.	City of Flagstaff	Summer 2020	unknown
Install regulatory signs along trails.	City of Flagstaff	Summer 2022	\$5,000
Investigate potential of developing additional parking and access points in partnership with adjacent landowners.	City of Flagstaff	Summer 2022	\$0
Remove fencing from riparian areas.	City of Flagstaff with volunteers	Summer/ Fall 2022	\$2,000
Install trash and recycling receptacles at primary trailhead.	City of Flagstaff	Summer 2023	\$3,500
Install boulders and physical barriers to block illegal OHV access at entrance points.	City of Flagstaff	Summer 2024	\$5, 000
Replace existing trail bridge over the Rio de Flag with bridge or boardwalk that meets Flagstaff Urban Trails System standards.	City of Flagstaff	Summer 2024	unknown
Secure funding to install “pit” toilets at primary trailhead.	City of Flagstaff	Summer 2024	\$30,000/ unit
Upgrade Tom Moody Trail to Flagstaff Urban Trails System standards.	City of Flagstaff	Summer 2024	\$50,000
Decommission and revegetate extraneous trails and roads not designated as part of trail system identified in the 2020 unauthorized trail analysis conducted by partner, Austin Press	City of Flagstaff	Summer 2025	\$50,000

Table 8: Picture Canyon Priority Action Plan – Resource Management

Action:	Responsibility:	Implementation Date:	Estimated Cost:
Develop trail maintenance standards and schedules.	City of Flagstaff	Summer 2022	\$0
Establish cultural resource baseline documentation.	City of Flagstaff, with volunteers	Summer 2024	Unknown
Survey the property for user-created roads and trails.	City of Flagstaff	Summer 2024	\$3,500
Secure sustainable funding for ongoing, appropriate maintenance.	City of Flagstaff	Summer 2026	\$30,000/year
Conduct in-field water quality testing and monitoring in partnership with local elementary schools.	City of Flagstaff	On-going	\$0
Conduct noxious plant surveys and maintain map of occurrence locations.	City of Flagstaff and volunteers	On-going	\$3,000/annum
Conduct sampling and laboratory analysis of water quality.	City of Flagstaff	On-going	Unknown
Conduct stream flow monitoring.	Water Resources Specialist	On-going	\$0
Develop and maintain plant and animal species observation database.	City of Flagstaff and volunteers	On-going	\$0
Maintain cottonwood/willow and rush/sedge vegetative communities.	City of Flagstaff	On-going	\$0
Monitor insect and disease occurrences.	City of Flagstaff	On-going	\$0
Monitor vegetation surrounding deep water pond.	City of Flagstaff	On-going	\$0
Conduct reptile and amphibian surveys.	AGFD with volunteers	Annually	Unknown
Update photo-monitoring program with new photographs from established monitoring stations.	City of Flagstaff	Annually	\$0
Treat invasive weeds biannually.	City of Flagstaff	Bi-Annually	\$3,000/annum
Coordinate with Flagstaff Fire Department and Arizona State Forestry to complete forest improvement projects.	City of Flagstaff	Variable	\$0
Conduct wildlife surveys for game, non-game, endangered, and special-status species.	City of Flagstaff with AZGFD assistance	As needed	\$5,000

Table 9: Picture Canyon Priority Action Plan – Partnerships

Action:	Responsibility:	Implementation Date:	Estimated Cost:
Document rock art and other cultural resources (especially architecture and midden deposits) at Locus A.	City of Flagstaff with volunteers	On-going	Unknown
Facilitate monthly Picture Canyon Stakeholder Group meetings.	City of Flagstaff	On-going	\$300/annum
Investigate potential of securing permanent reclaimed water rights.	City of Flagstaff	On-going	Unknown
Maintain communication with adjacent landowners regarding projects and events at the Preserve.	City of Flagstaff	On-going	\$200/annum
Maintain tribal consultation regarding projects and management.	City of Flagstaff	On-going	\$500/annum
Manage Site Stewards Program in partnership with Arizona State Parks.	City of Flagstaff	On-going	\$0
Conduct meeting with Northern Arizona University representatives regarding on-site natural resource research work.	City of Flagstaff	Annually	\$500/annum
Establish informal agreements with private organizations and volunteer groups related to annual bird surveys.	City of Flagstaff	Update/renew annually	\$0
Confirm existing agreements and/or establish new agreements with AZGFD regarding annual mammal and reptile/amphibian surveys.	City of Flagstaff	As needed	\$0

Completed Priority Actions:

- Install an entry sign at the El Paso Flagstaff Trailhead (Summer 2019)
- Develop a trail system plan for hiking, biking, and equine trails of varying intensity (Fall 2019)
- Install interpretive signs along trails (Spring 2019)
- Design and install trail signs throughout the Preserve (Summer 2019)
- Utilize volunteers and partner organizations to complete area monitoring and maintenance (Spring 2019)
- Establish formal Volunteer/Docent program at the Preserve. (Summer 2018)
- Install directional sign at intersection of Highway 89 and Route 66 (Spring 2017)
- Establish permanent position dedicated to open space management and maintenance. (Summer 2017)

Chapter 4: Observatory Mesa Natural Area

4.1 Property Overview

Observatory Mesa Natural Area is a 2,251 acre legally-designated open space property just west of downtown Flagstaff behind Lowell Observatory and Mars Hill (Figure 5). The property is bound on the northern, eastern, and southern boundaries by private development (primarily single-family homes), with Forest Service property immediately adjacent on the western property boundary. The Forest Service also owns a full section (center parcel, Figure 5) within Natural Area.

The legal description for the property (from the ALTA Land Survey, Appendix D) is: Section 12, T 21 N, R 6 E, and portion of Section 6, Sections 8, 17, and Portions of Section 19, T 21 N, R 7 E, Gila and Salt River Meridian, Coconino County Arizona.

The Observatory Mesa vicinity has been widely used by the Flagstaff community for decades as a hunting ground, off-road driving area, and outdoor recreation location. Varied recreational use resulted in a strong community interest in permanently protecting the area. In 2004, Flagstaff voters approved a \$5.5-million-dollar bond dedicated to acquiring approximately 480 acres of Arizona State Trust land on Observatory Mesa to provide permanent natural open spaces for public use and to preserve the unique conservation values of the area.

Additionally, Observatory Mesa is an important component of the Flagstaff-area ecosystem. Several drainages, seeps, and springs make it an important component of the Rio de Flag watershed. It is located within an important wildlife corridor that provides habitat for large mammals traveling between the San Francisco Peaks and Mogollon Rim. It also provides a natural buffer between the Forest Service property to the west and downtown Flagstaff.

Similarly to Picture Canyon Natural and Cultural Preserve, Observatory Mesa was owned by the Arizona State Land Department and operated as State Trust Land prior to the City's acquisition in 2013. The City of Flagstaff purchased the property for \$12,415,960.00 under the Arizona Preserve Initiative. \$5.5 million dollars from the 2004 Observatory Mesa bond and \$775,000 from the 2004 Flagstaff Urban Trail System/Neighborhood Open Space bond were leveraged with \$6 million dollars from an Arizona State Parks Growing Smarter grant to purchase the property.

As part of the acquisition process, a conservation easement was granted to Arizona State Parks, outlining limitations associated with the property (Appendix E) to ensure the property is retained in the condition reflected in the Baseline Documentation in the grant application. The easement also restricts the use of the property to passive recreational uses. Subsequently, the City of Flagstaff Open Space Program is required to submit annual reports to Arizona State Parks outlining all improvement projects (Appendix E). In 2016, the City of Flagstaff rezoned the entire property to Public Open Space⁴⁶ and annexed the west parcel into City Limits.⁴⁷

⁴⁶ Flagstaff City Ordinance No. 2016-21

⁴⁷ Flagstaff City Ordinance No. 2016-20

Overview

Observatory Mesa Natural Area

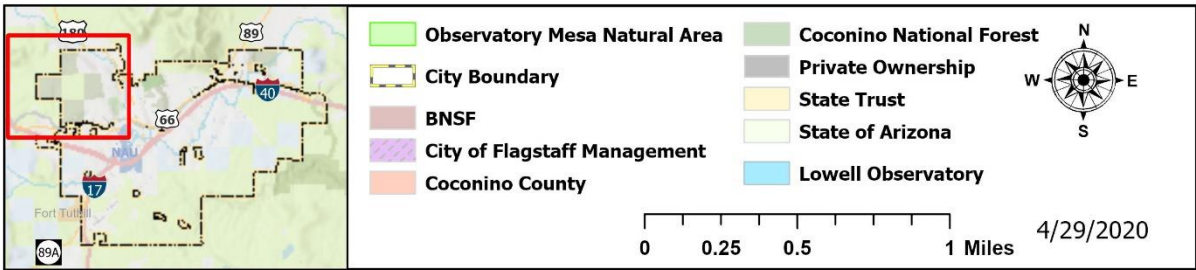
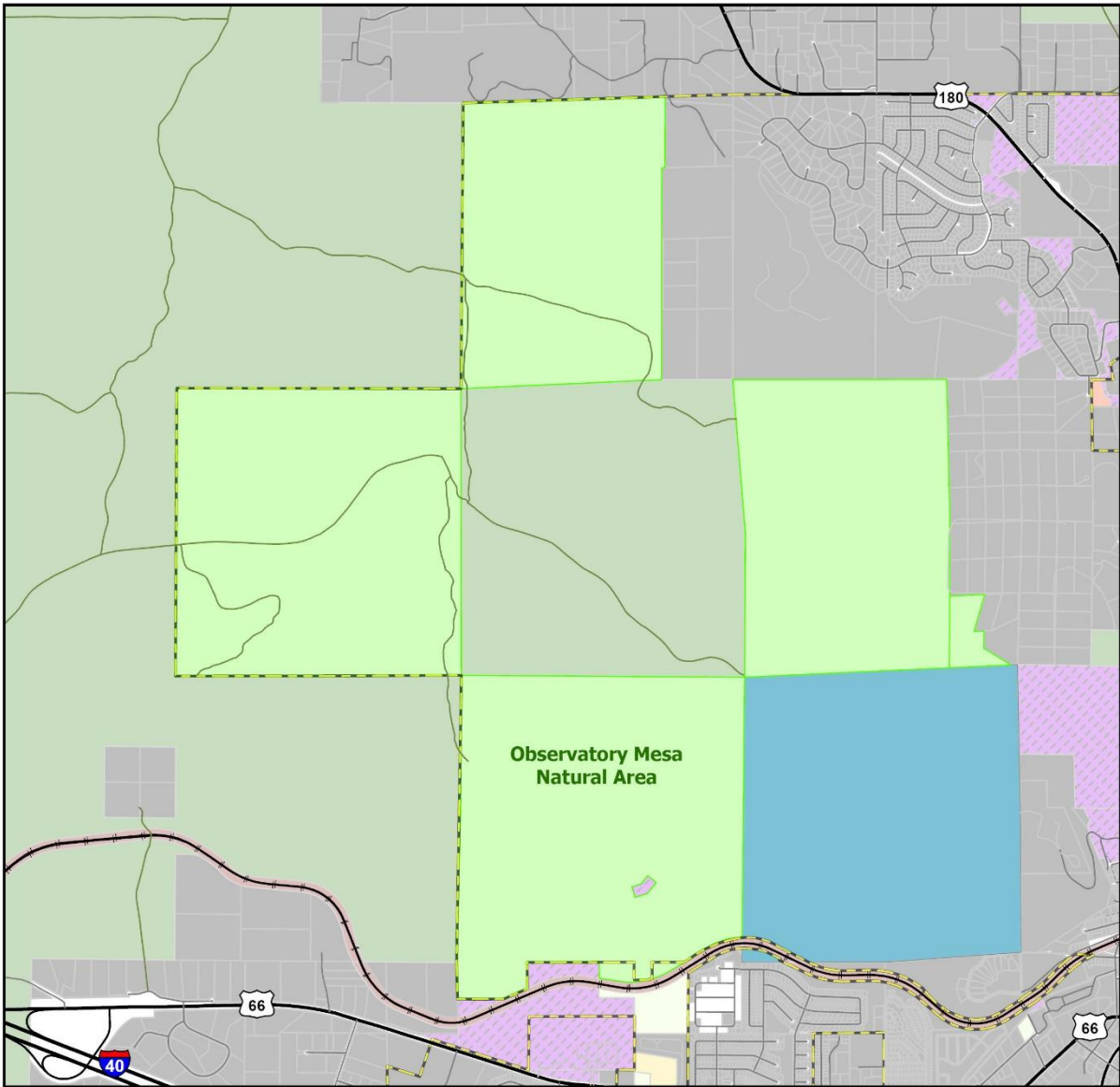


Figure 5: Observatory Mesa Natural Area land management and vicinity map.

4.2 Natural Resources

Central to the overall management of Observatory Mesa Natural Area will be the effective management of its natural resources. The water, wildlife, vegetation, and geologic resources are important factors supporting the acquisition of the property and the establishment of the Natural Area. To ensure the protection of the biological, physical, and visual resources, specific management objectives, policies, and planned management actions have been identified.

4.2.1 Water Resources

Summary of Current Conditions: There are several significant ephemeral streams/drainages which flow to the north and west into the Rio de Flag, and to the south into Clay Wash which flow directly into the Rio de Flag (Figure 6). Two intermittent streams in the north section are tributaries of the Rio de Flag. Another intermittent stream in the northeast quarter of the east section flows to the east into the Rio de Flag. The west section has three intermittent streams, one of which feeds into Belle Spring in the adjacent Forest Service section. The south section has an intermittent stream that originates from Tunnel Spring. The north and east sections also contain ephemeral water sources that feed Matson Tank on the adjacent Forest Service section. These intermittent streams make the Natural Area an important component of the Rio de Flag watershed. It is important to note that none contain true riparian habitat due to the ephemeral nature of these drainages. In addition to intermittent streams, there are also several water tanks for wildlife and livestock (Figure 6).

Tunnel Springs is located on adjacent City-owned property just outside of the Natural Area boundary. Belle Spring is located adjacent to the project boundary, just south of the west section. These sites, though not riparian areas, are important to the ecosystems and should be managed appropriately. These springs and seeps are generally located along the periphery of the Observatory Mesa escarpment, and occasionally along rock outcrops in the drainages.

Management Goal: The Natural Area will be managed to maintain or improve surface and ground water quality, surface water flow, ground water levels, and overall watershed health.

Management Policies: In addition to the overarching management policies regarding water resources (Chapter 2.1.1), the following policies apply to the management of water resources within Observatory Mesa Natural Area.

- Protect and enhance the surface and ground water resources, including springs and wildlife waters, associated with the Observatory Mesa watershed.
 - Protect Tunnel Spring from upslope erosion and recreational impacts.

Planned Management Actions: In addition to the general management actions regarding water resources in Chapter 2.1.1, the following actions are planned for Observatory Mesa Natural Area.

- Repair damage to a drainage from Forest Service road 506 (Figure 10).
- Partner with Stormwater to install an ALERT gauge for the City's early warning network.

Infrastructure Observatory Mesa Natural Area

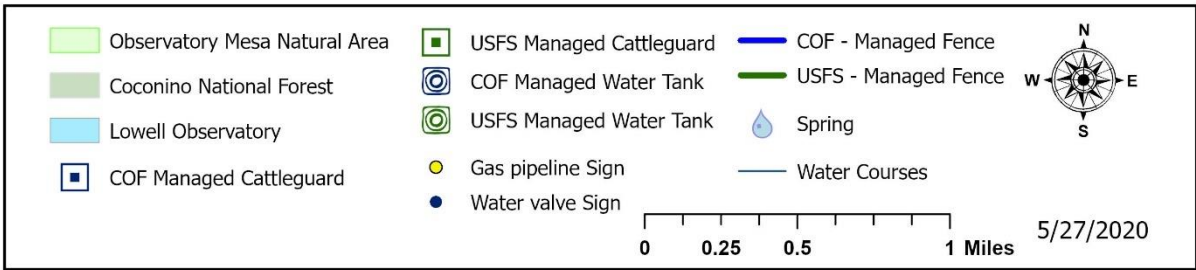
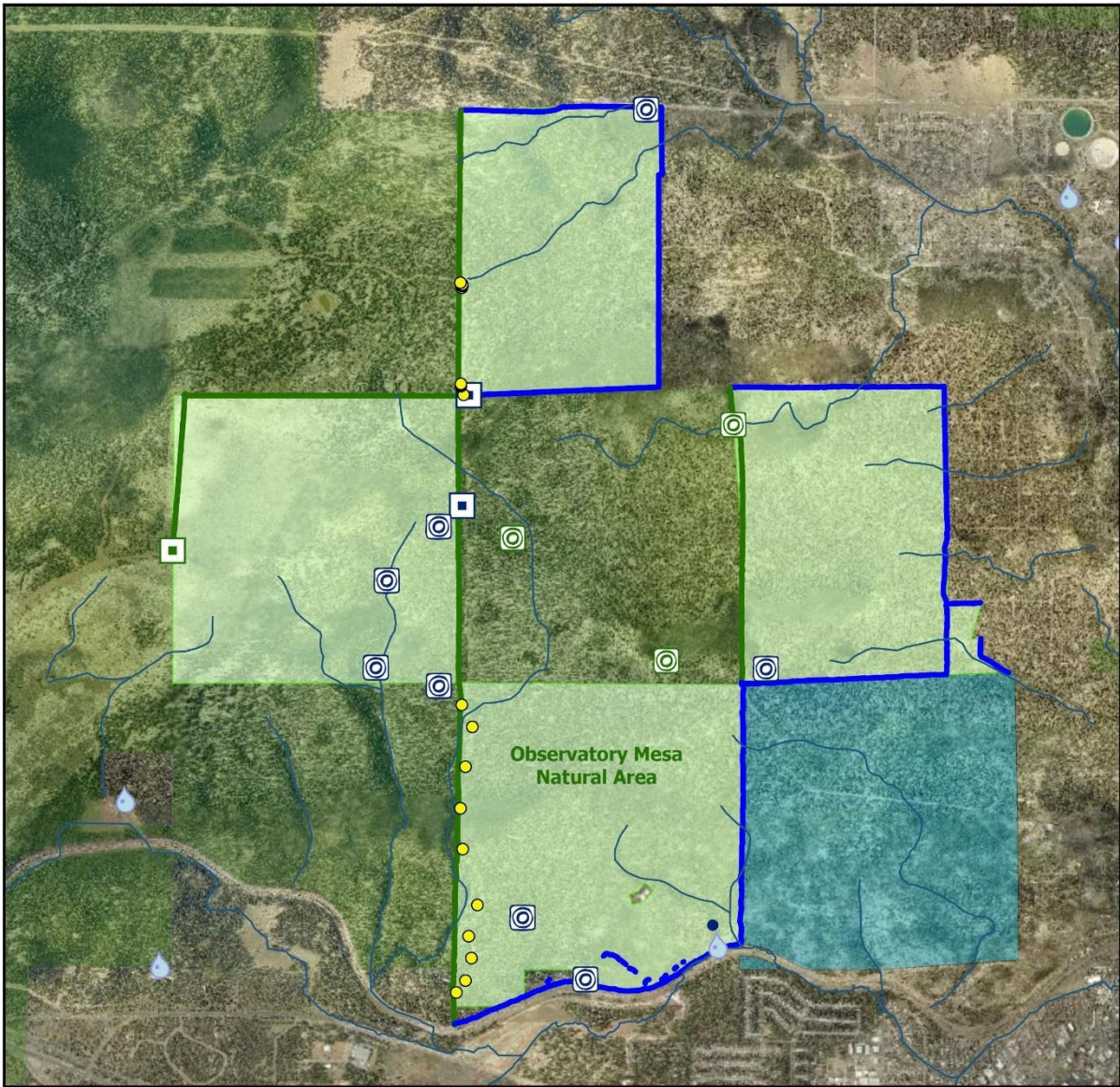


Figure 6: Infrastructure and water resource locations within Observatory Mesa Natural Area.

4.2.2 Forest and Grassland Health

Summary of Current Conditions: Observatory Mesa is a diverse area that supports suitable conditions for many woody, forb, and grass species. The biodiversity within the property is typical of a northern Arizona ponderosa pine forest. The overstory is comprised of ponderosa pine (*Pinus ponderosa*), with small pockets of Gambel oak (*Quercus gambelii*). A small number of Douglas fir (*Pseudotsuga menziesii*) trees were identified on north-facing slopes during the field inventory process. The understory shrubs and grasses are primarily comprised of: Arizona rose (*Rose arizonica*), Arizona fescue (*Festuca arizonica*), mountain muhly (*Muhlenbergia montana*), western wheat grass (*Agropyron smithii*), blue grama (*Bouteloua gracilis*), squirreltail (*Elymus elymoides*), silver lupine (*Lupinus argenteus*), and Rocky Mountain iris (*Iris missouriensis*).

A large portion of the west section was burned in the Belle Fire in 1951 and is now an open, savannah-like area. The underlying soils are not indicative of a grassland and therefore the area will need to be actively managed, using methods like tree removal and prescribed fire, to achieve the “grassland” characteristics.

The parcel and surrounding lands within a five-mile buffer provide habitat for seven sensitive plant species, as identified by State and Federal offices (Table 10). The property has not been surveyed for specific instances of these plants and a comprehensive survey is needed to determine if and where these sensitive plants are located on Observatory Mesa Natural Area.

Table 10: Sensitive plant species identified within 5-mile radius of Observatory Mesa Natural Area.

Common Name	Scientific Name	Identification Agency
Clustered Leather Flower	<i>Clematis hirsutissima</i>	USFS
Flagstaff False Pennyroyal	<i>Hedeoma diffusa</i>	USFS, State
Green Death Camas	<i>Zigadenus virescens</i>	State
Mogollon Columbine	<i>Aquilegia desertorum</i>	State
Rusby’s Milkvetch	<i>Astragalus rusbyi</i>	USFS
Seashore Cactus	<i>Opuntia martiniana</i>	State

Table 11: Exotic invasive plant species identified within Observatory Mesa.

Common Name	Scientific Name
Bull thistle	<i>Cirsium vulgare</i>
Cheatgrass	<i>Bromus tectorum</i>
Common mullein	<i>Verbascum thapsus</i>
Dalmatian toadflax	<i>Linaria dalmatica</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Leafy spurge	<i>Euphorbia esula</i>
Scotch thistle	<i>Onopordum acanthium</i>
Yellow sweetclover	<i>Melilotus officinalis</i>

Staff have identified exotic and invasive species present throughout the Natural Area (Table 11). However, the property has not been formally surveyed for these or other exotic invasive species.

Before the City's acquisition of the Natural Area, the property was leased for grazing by the Arizona State Land Department and Coconino National Forest. The U.S. Forest Service continues to manage a cattle-grazing allotment on adjacent Forest Service property, including the center section. The A-1 Mountain grazing allotment includes five separate pastures (Figure 7) for the grazing permittee to move cattle between. There is City-owned and Forest Service-owned infrastructure (e.g. fencing, tanks) on the Property (Figure 6). The City is only able to maintain and/or upgrade City-owned infrastructure and must coordinate with the Forest Service for any modifications to the Forest Service-owned infrastructure. It is important to note that Arizona is a "fence out" state and therefore grazing will likely continue to occur on the west and south sections until boundary fencing is repaired or constructed along the boundary to exclude cattle from the City-owned property. The grazing permit was most recently renewed in 2016 and is on a 10-year renewal schedule. The allotment is available for 99 cattle and is usually grazed each year between June and October. A specific pasture schedule can be obtained from the Forest Service at the beginning of each summer season. More information about the City's facility development plans for the property is included in Chapter 4.4.5.

Prior to the City's acquisition, this property was also managed for timber harvest and livestock grazing. Numerous sawtimber, pulpwood, and firewood harvests have occurred on the property since the early 1900s:

- In the north section, sawtimber harvests occurred in 1919, 1925, 1950, and 1972 with pulpwood sales in 1964 and 1975.
- In the west section, sawtimber harvests occurred in 1919, 1925, 1951, 1973 with pulpwood sales in 1964 and 1974.
- In the east section, sawtimber harvests occurred in 1919, 1925, 1972 with pulpwood sales in 1964 and 1975.
- In the south section, sawtimber harvests occurred in 1919, 1925, 1955, 1973 with pulpwood sales in 1964 and 1974.

This resulted in a relatively young, even-aged forest with little vertical or horizontal structure and little understory of shrubs, forbs, and grasses. Additionally, the forest density on the property is much higher than historic conditions. There are expansive stands of small diameter ponderosa pine. Forest restoration utilizing mechanical thinning and prescribed fire is needed to restore heterogeneity to the forest structure and eventually return it to something within the range of natural variability, improve understory cover, and reduce the risk of wildfire.

Observatory Mesa Natural Area is in overall fair/good forest health. However, there are indicators that suggest some forest health issues, including pitch tubes on single trees (indicative of bark beetle activity), orange "flagging" of needles on lower branches, branches with little or

no new growth, moderate size trees standing dead or recently fallen, “tight” growth rings indicating stress and competition among trees, and dwarf mistletoe in areas.

In 2015, Arizona State Forestry Division and Flagstaff Fire Department prepared a Forest Stewardship Plan for Observatory Mesa.⁴⁸ This Plan includes recommendations for managing about multiple resource elements including soil, water, biological diversity, aesthetic quality, recreation, timber, fish and wildlife, forest health, cultural sites, wetlands, and fire.

Since the City’s acquisition, Flagstaff Fire Department has coordinated multiple forest health improvement projects on the property utilizing funds from the Flagstaff Watershed Protection Project bond and grant funding from multiple state and federal agencies. A mosaic of mechanized and hand treatments has been implemented across the property (Figure 8), with the primary goal being fuel reduction.

Management Goal: Observatory Mesa Natural Area will be managed to achieve a native forest, grassland, and riparian plant structure that is resistant and resilient to wildfire, invasive plant populations, or other disturbances and continues to provide ecosystem services to the surrounding community.

Management Policies: In addition to the general management policies regarding managing forest and grassland health (Chapter 2.1.2), the following policies apply within Observatory Mesa Natural Area.

- Maintain grassland communities and prevent encroachment and degradation using science-based forest treatment methods.

Planned Management Actions: In addition to the general forest and grassland health management policies (Chapter 2.1.2), the following actions are planned for the Natural Area.

- Maintain City-owned fencing and/or infrastructure to limit cattle trespass.
- Construct additional fencing and infrastructure along boundaries to limit the potential for cattle trespass onto City property.
- Coordinate with Coconino National Forest and grazing permittee to maintain and improve Forest Service fencing and/or infrastructure to limit cattle trespass onto City property.
- Complete a weed survey and distribution map to identify the presence and location of exotic invasive plant species.

⁴⁸ <https://www.flagstaff.az.gov/DocumentCenter/View/48308/Observatory-Mesa-Stewardship-Plan-FINAL-9-30-2015>

A-1 Mountain Allotment Observatory Mesa Natural Area

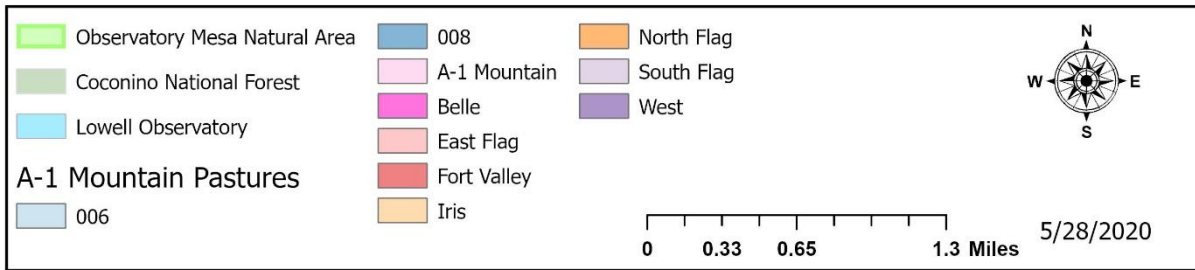
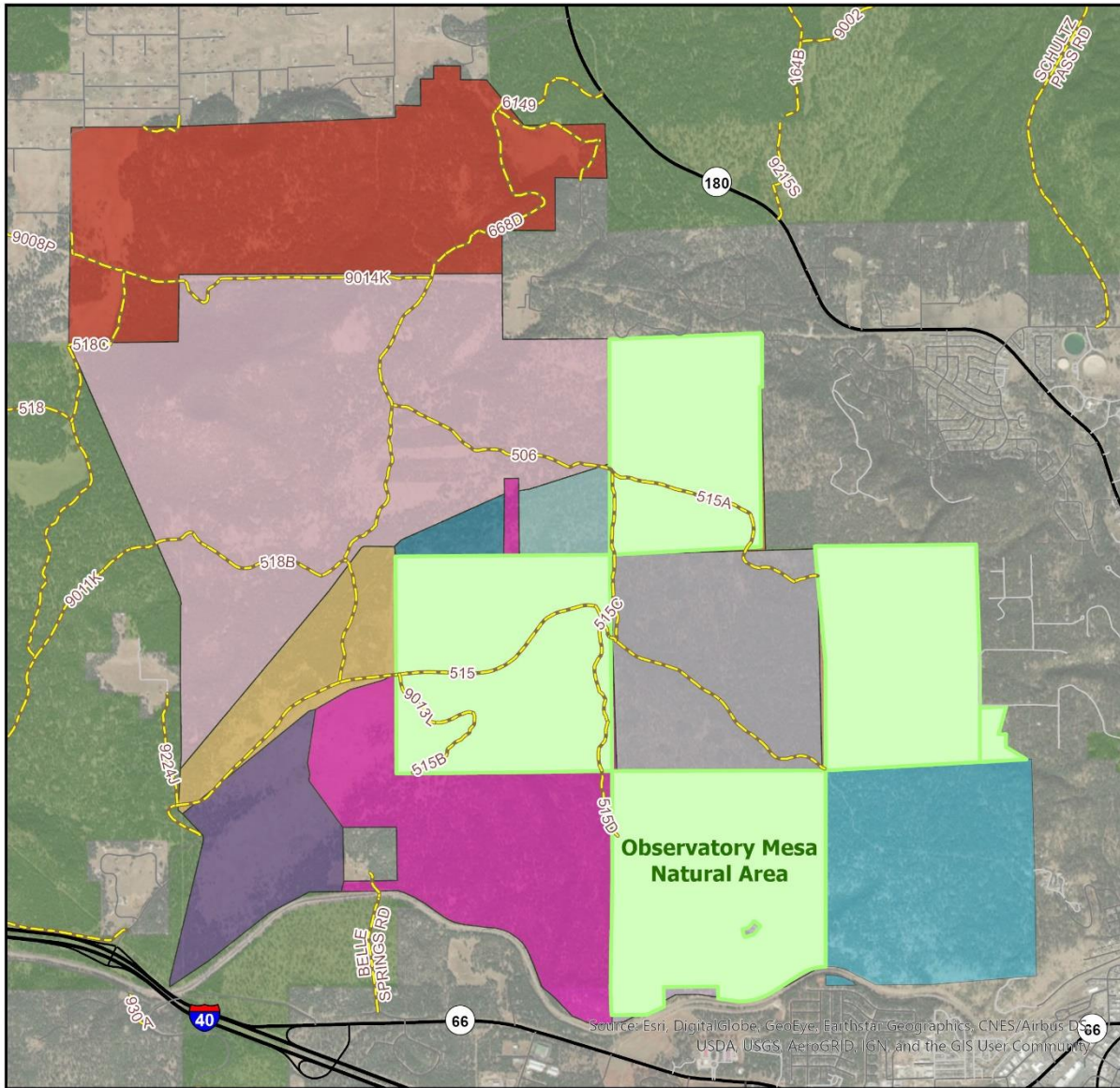


Figure 7: Grazing allotments surrounding Observatory Mesa Natural Area.

Forest Treatments Observatory Mesa Natural Area

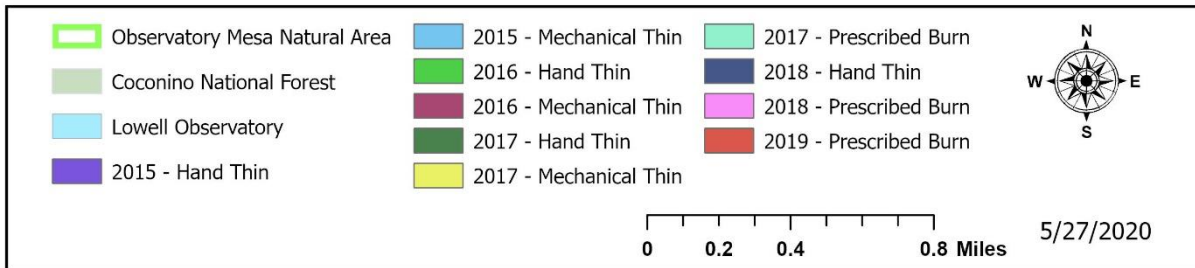
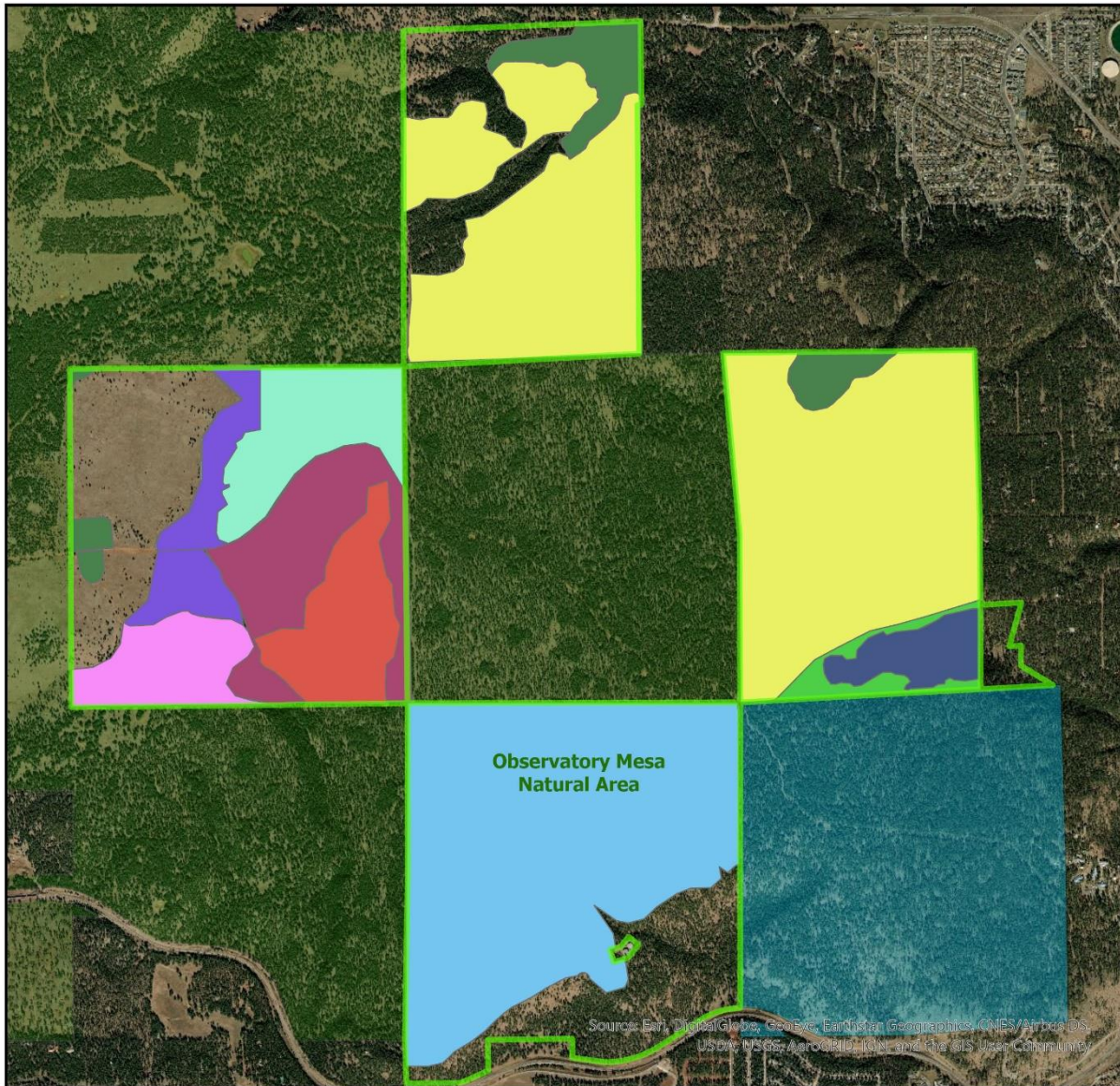


Figure 8: Forest treatments on Observatory Mesa Natural Area, as of May 2020.

4.2.3 Wildlife Resources

Summary of Current Conditions: Observatory Mesa Natural Area contains a variety of geologic, topographic, and vegetative characteristics that provide a diversity of wildlife habitats. Several vegetation types are present in the region, including ponderosa pine forest, stands of Gambel oak, high-elevation grassland and shrub-steppe, and numerous springs and seeps. These habitats provide essential resources for diverse wildlife, including: elk, pronghorn, grey fox, squirrels and other small mammals, porcupine, mountain lion, black bear, bats, turkey, raptors, migratory and resident songbirds, and reptiles and amphibians. In 2016, Observatory Mesa was designated as a Watchable Wildlife site with the Arizona Watchable Wildlife Experience.

The Arizona Game and Fish Department recognizes Observatory Mesa Natural Area and the surrounding area as an important link in a landscape-scale wildlife corridor known as the Woody Ridge Corridor, which connects habitat on the San Francisco Peaks with lower-elevation shrub and grassland habitat near the Mogollon Rim. Protecting wildlife movement corridors, including Woody Mountain Corridor, is important for numerous species because they need to access different resources seasonally and in response variations in precipitation from year to year. This corridor supports migratory movements of a wide range of species including those cited above.

Observatory Mesa Natural Area is within Arizona Game and Fish Department game management unit 11M, a metropolitan hunting unit that encompasses the greater Flagstaff area. Subsequently, hunting opportunities remain available in the Natural Area for antelope, black bear, mule deer, elk, and turkey. Hunting in Observatory Mesa Natural Area is restricted to archery (Table 12). Open seasons for each species are variable, but generally, the area is open for hunting between August and October. Hunting of any kind is not permitted within ¼ mile of an occupied residence, building, or trailhead within Flagstaff City limits. Additional information about hunting in 11M is available on the [Arizona Game and Fish Department website](#).

Table 12: Hunting regulations for Observatory Mesa Natural Area.

Method	Regulations
Hunting - rifle	Not allowed given location within metropolitan game management unit 11M.
Hunting - shotgun	Not allowed given location within City limits.
Hunting - archery	Allowed only if at least ¼ mile from an occupied building, wildlife viewing platform, picnic area or trailhead.
Retrieval of game	Motorized vehicles are restricted to open roads. Cross-country motorized game retrieval is prohibited (per City regulations).
Target practice	Not allowed given location within City limits.

Observatory Mesa Natural Area and surrounding lands within a 5-mile buffer provide habitat for fourteen sensitive species, as identified by state and federal offices (Table 13). It is important to note that these species may or may not occur within Observatory Mesa Natural Area and the City will need to work with partners to survey and inventory sensitive species on the Property.

Northern goshawk nest areas have been identified within the Natural Area (Figure 9). A post fledgling area (PFA) was identified by the Forest Service in 1993 and spans across City, Forest Service, and Lowell Observatory properties. It is unknown if this continues to be an actively used nest area. Additionally, in 2016, the Forest Service located 2 northern goshawk nest trees in the north section of the Natural Area. A PFA has not been formally identified, but the drainage area was deferred from the mechanical cutting area to protect the sensitive species. Additionally, while no American Kestrels have been recorded in the Observatory Mesa, the Flagstaff Kestrel Project has identified areas of grassland that provide good habitat.

Table 13: Sensitive wildlife species identified within 5-mile buffer of Observatory Mesa Natural Area.

Common Name	Scientific Name	Identification Agency
Allen’s Lappet-browed Bat	<i>Idionycteris phyllotis</i>	FWS, USFS, State
American Peregrine Falcon	<i>Falco peregrinus anatum</i>	FWS, USFS, BLM, State
Arizona Myotis	<i>Myotis occultus</i>	FWS
Bald Eagle	<i>Haliaeetus leucocephalu,</i>	FWS, USFS, BLM, State
California Condor	<i>Gymnogyps californianus</i>	FWS
Fringed Myotis	<i>Myotis thysanodes</i>	FWS
Golden Eagle	<i>Aquila chrysaetos</i>	FWS, BLM
Greater Western Bonneted Bat	<i>Eumops perotis californicus</i>	FWS, USFS, BLM
Long-eared Myotis	<i>Myotis evotis</i>	FWS, BLM
Long-legged Myotis	<i>Myotis volans</i>	FWS
Mexican Spotted Owl	<i>Strix occidentalis lucida</i>	FWS, State
Navajo Mexican Vole	<i>Microtus mexicanus Navaho</i>	FWS
Northern Goshawk	<i>Accipiter gentilis</i>	FWS, USFS, BLM, State
Northern Leopard Frog	<i>Rana pipiens</i>	USFS, BLM, State

Management Goal: Observatory Mesa will be managed to maintain and enhance a diversity of habitats that support native wildlife species, emphasizing the protection of rare habitat types and special-status species.

Management Policies: General management policies associated with managing wildlife resources are outlined in Chapter 2.1.3 of this plan.

Planned Management Actions: In addition to the general management actions regarding managing wildlife resources (Chapter 2.1.3), the following actions are planned.

- Enhance the Natural Area as an Arizona Watchable Wildlife Experience (AWWE) site including expanding wildlife viewing opportunities and facilities.
- Work with the Flagstaff Kestrel Project to install nesting boxes⁴⁹ and monitor for the presence of American Kestrel.

⁴⁹ Kestrel nesting boxes, made of kiln-dried pine, must be 0.5 square miles apart near open grasslands and away from heavy human activity.

Northern Goshawk Nest Areas Observatory Mesa Natural Area

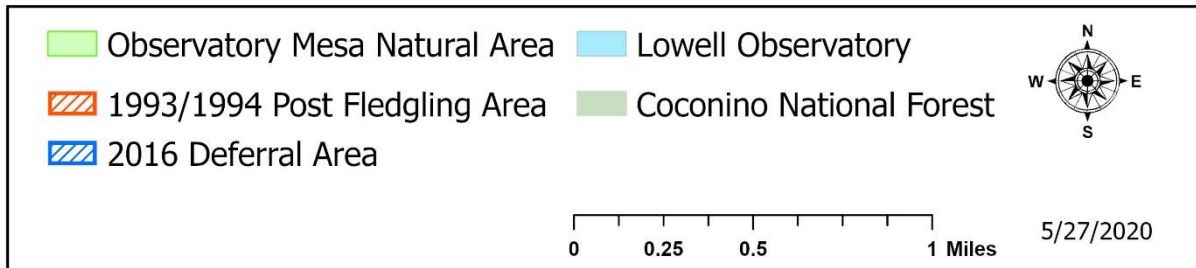
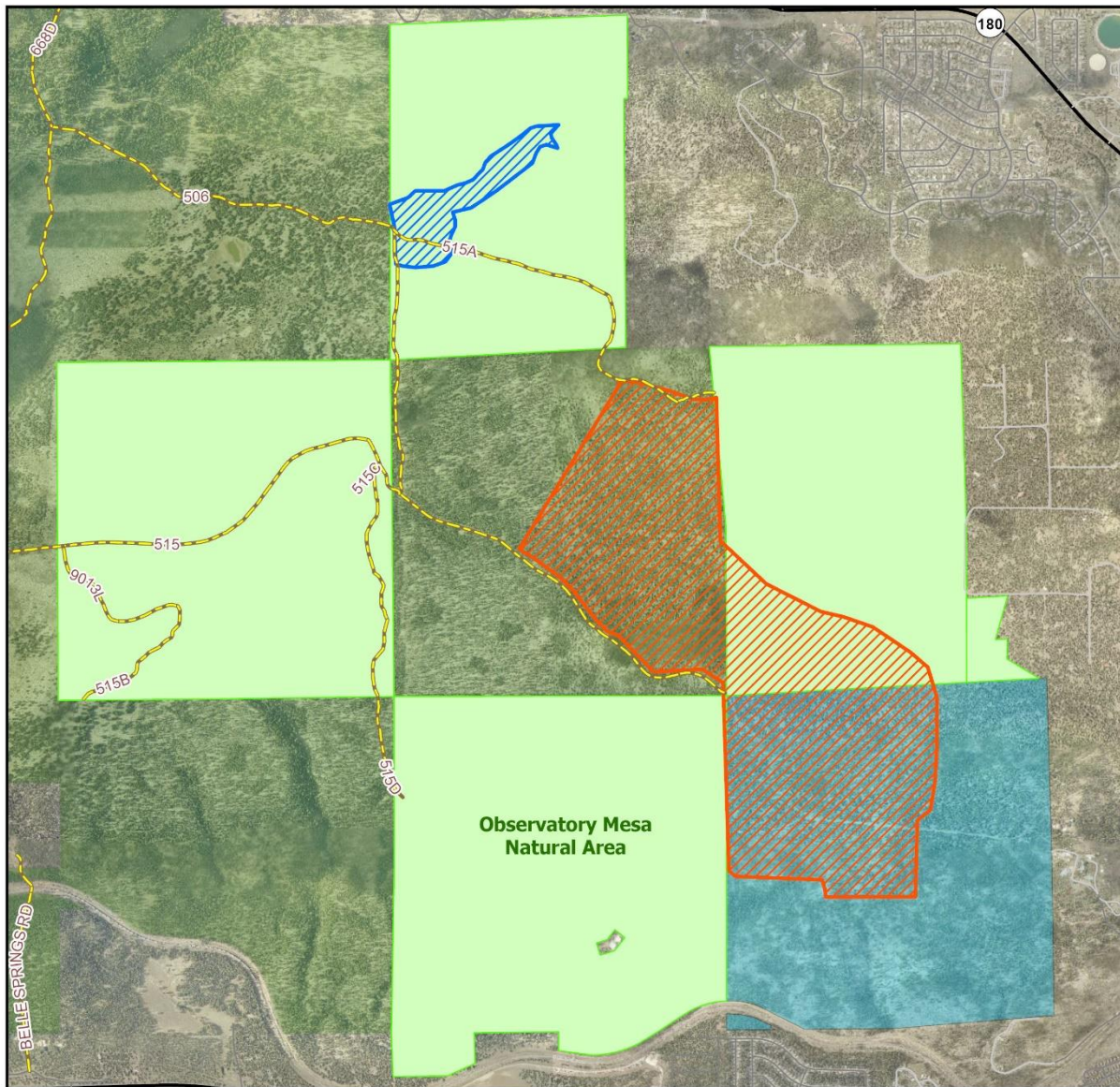


Figure 9: Northern Goshawk nest stand and post-fledgling areas identified in the Observatory Mesa Natural Area vicinity.

4.3 Cultural and Historic Resources

Summary of Current Conditions: As part of the acquisition process, Cornerstone Environmental Consulting, LLC completed a cultural resource survey⁵⁰ of the property in 2013. This survey found that the Natural Area does not have a significant number of cultural and/or historic resources and none of the existing resources are eligible for inclusion to the National Register of Historic Places. There is one site with a moderate density of prehistoric flaked stone scatter near the boundary of the north section of the Natural Area and the adjacent Forest Service parcel.

The area played a role in pioneer and Native American history, but there is little physical evidence on the property. There are several old roadbeds that are supported by hand-built rock walls. Additionally, the old sandstone railroad bridge abutments found just south of the current tracks in the south section are the oldest in Flagstaff. These are remnants of the Atlantic and Pacific Railroad line, which came to Flagstaff in 1881. There is an historic Euroamerican livestock staging area located near Tunnel Springs in the south section and multiple historic Euroamerican can dumps dated between 1915 and 1930 located throughout the property. Specific details about all these sites can be found in the cultural resource survey.⁵¹

Management Goal: Observatory Mesa Natural Area will be managed to preserve, protect, and interpret the cultural and historic resources present on the property.

Management Policies and Actions: General management policies and actions associated with managing cultural and historic resources within the Natural Area are outlined in Chapter 2.2 of this plan.

4.4 Public Use

Observatory Mesa Natural Area provides a buffer between developed and developing residential lands and undeveloped forest properties. It serves as “neighborhoods” for downtown Flagstaff, Cheshire, Lynwood, and Coconino Estates neighborhoods. Subsequently, Observatory Mesa Natural Area receives substantial recreational use due to its proximity to the above-mentioned neighborhoods and the downtown area. Additionally, the property is heavily used by the broader Flagstaff community and is showing the effects of unmanaged recreation and public use, including visible signs of deterioration and degradation, including a proliferation in user-created trails, off-road vehicle damage, and trail width expansion.

The conservation easement limits public use to those that do not materially degrade the conservation values of the property. Therefore, there is a focus on providing passive recreational uses within the Natural Area (Table 14). If you are interested in using the property for a use that is not included in Table 14, contact the Open Space Program at NaturalAreas@flagstaffaz.gov.

⁵⁰ “[A Cultural Resources Survey of 2,260 Acres on Observatory Mesa in Flagstaff, Coconino County, Arizona](#)”. Cornerstone Environmental Consulting, LLC. 2013.

⁵¹ *Ibid*

Table 14: Permitted and prohibited recreational uses of Observatory Mesa Natural Area.

Permitted Uses	Prohibited Uses
Cross Country Skiing	Campfires
Driving on Designated Roads	Camping
Virtual geocaching	Fuelwood Collection (except with permit)
Hiking/Running	Large-Scale Activities/Events (except with permit)
Horseback Riding	Off-Road Driving
Hunting (with permit)	Flying model aircraft, such as drones, airplanes, or rockets (except with permit)
Mountain Biking	
Nature Study/Environmental Education	
Snow Shoeing	
Wildlife Watching	

This section of the Plan focuses on public access and roads, recreational use, easements and leases, education and research, and facility development within the Natural Area.

4.4.1 Access Management

Summary of Current Conditions: There are motorized and non-motorized access points to Observatory Mesa Natural Area. Authorized, legal motorized access points include:

- Forest Service roads that are designated as “Open” under the Travel Management Rule (Figure 10). As of 2019, this includes:
 - Forest Service Road 506 (western boundary of the north section)
 - Forest Service Road 515 (western boundary of the west section)

Authorized, legal non-motorized access points include (Figure 11):

- Mars Hill Trail via Thorpe Park Bark Park
- Tunnel Springs Trail via Railroad Springs Avenue
- Observatory Mesa Trail via Cheshire/Anasazi Ridge Neighborhood

The Forest Service holds easements for several roads on the property, many of which have been closed to public motorized use as part of the Travel Management Rule (TMR) process. Due to resource constraints, these “closed” roads are not signed or physically blocked off and visitors are required to reference an updated Travel Management Map to know if roads are “open” or “closed” to public use. Decommissioning closed Forest Service roads by physically blocking them generally requires approval through the National Environmental Policy Act planning process of the Coconino National Forest. This process is not necessary for decommissioning roads not included in the Forest Service network.

Unmanaged public use has resulted in a maze of unofficial roads (Figure 10) that are often unnecessary and lead to dead ends. Some of these are causing erosion, destroying wildlife habitat, and facilitating illegal dumping.

Based on the 2011 Coconino National Forest Travel Management decision, motorized retrieval of big game is limited to Forest Service roads that are designated as “open” under the Travel Management Rule. Travelling cross country to retrieve game is expressly prohibited under the Arizona Game and Fish Department hunting regulations. More information about hunting on Observatory Mesa can be found in Chapter 4.2.3.

Management Goal: Observatory Mesa will be managed to ensure reasonable public access for non-motorized recreational activities within the framework of the Arizona State Parks conservation easement and eliminate motorized travel on unauthorized and “closed” roads.

Management Policies: In addition to the general access and road management policies outlined in Chapter 2.3.1, the following policies apply to the management of roads within Observatory Mesa Natural Area.

- Permit motorized travel on Forest Service roads that are designated as “open” under the most recent Travel Management Rule.

Planned Management Actions: In addition to the planned management actions regarding access and road management (Chapter 2.3.1), the following actions are planned within the Natural Area.

- Investigate potential for implementing a speed limit along A-1 Mountain Road.
- Coordinate with the Coconino National Forest to officially “close” Forest Service roads 515A and 515D on the property through the Travel Management Rule process.
- Coordinate with the Coconino National Forest to physically block off or sign Forest Service roads that have been designated as “closed” to public use through the Travel Management Rule.

Authorized and Unauthorized Roads Observatory Mesa Natural Area

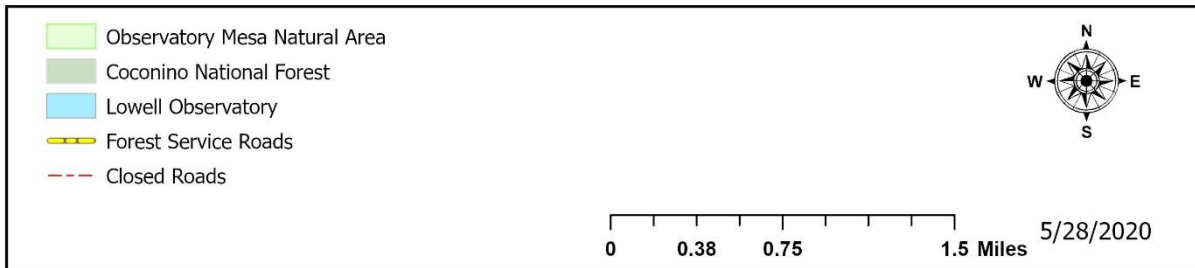
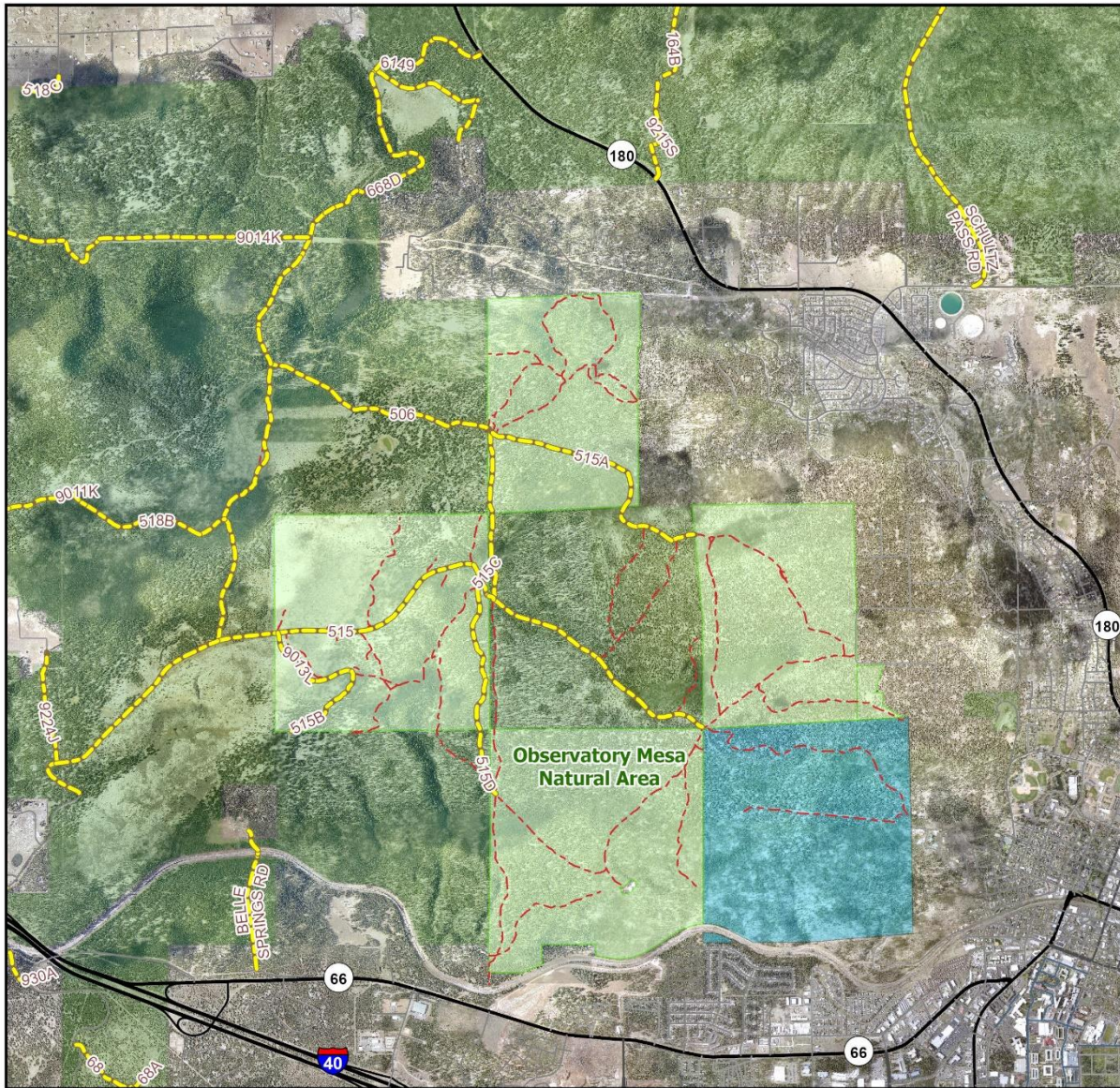


Figure 10: Forest Service road network on Observatory Mesa Natural Area, including closed roads.

Trails

Observatory Mesa Natural Area

5/28/2020

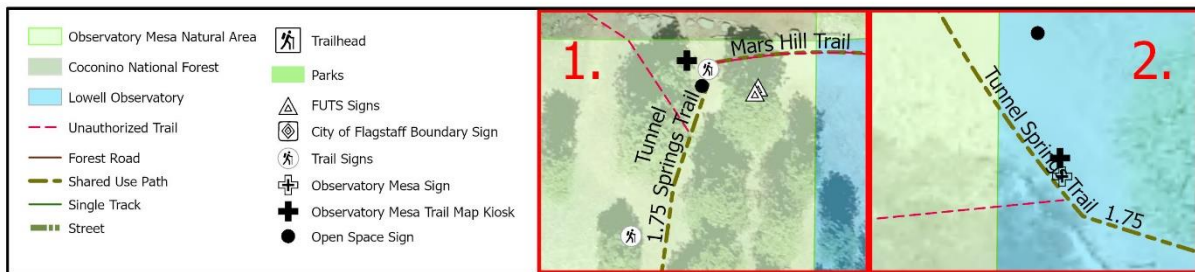
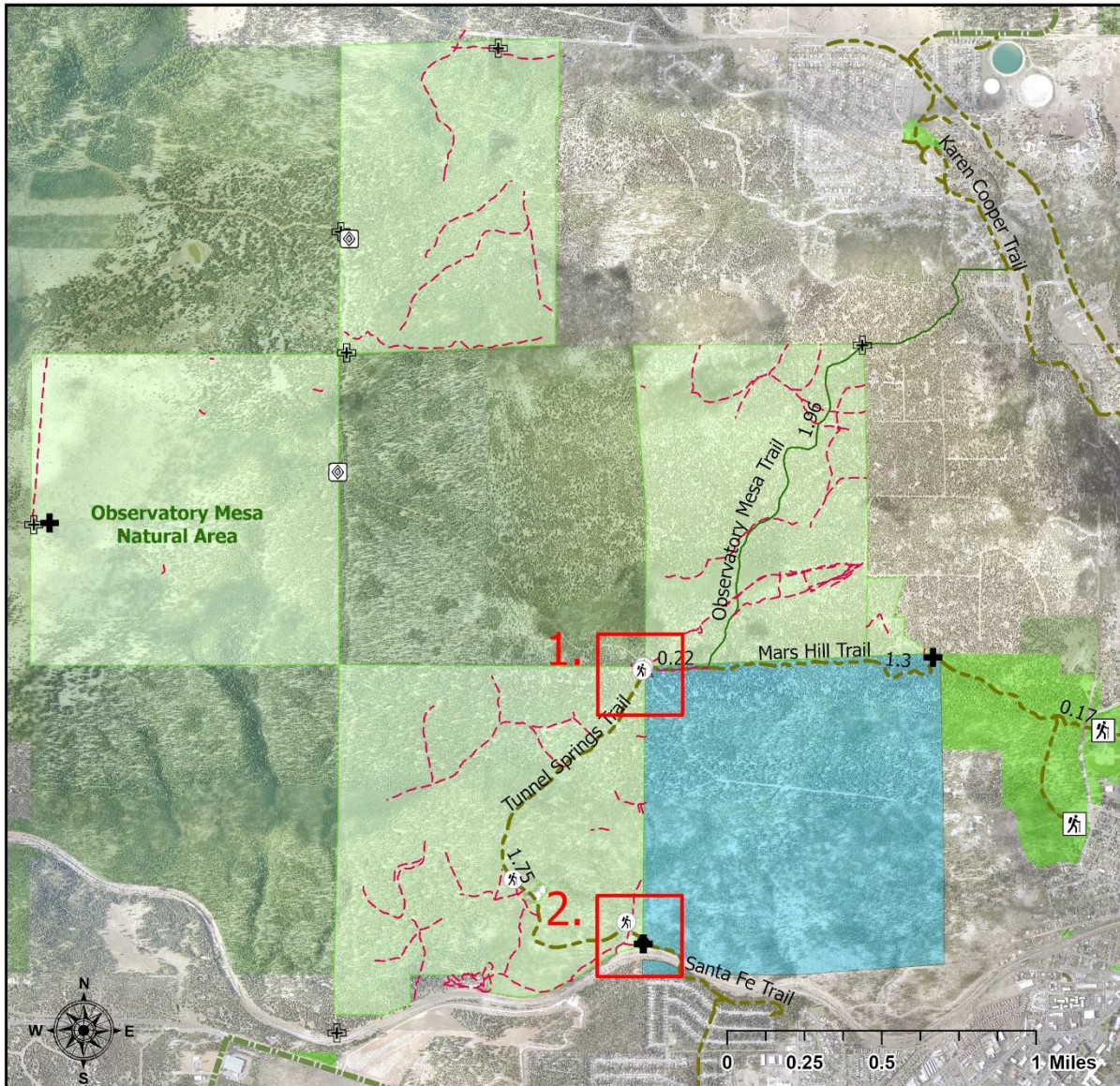


Figure 11: Official trail system on Observatory Mesa, comprising non-motorized access from the Mars Hill, Tunnel Springs, and Observatory Mesa trails.

4.4.2 Recreational Use

Summary of Current Conditions: Observatory Mesa Natural Area is a day use area and overnight uses, including camping, are strictly prohibited. A broad array of recreational day activities are currently available on the property, including hiking, bicycling, horseback riding, cross-country skiing, and snow shoeing. At the time of publication of this Plan, there were three designated, authorized trails within the Natural Area, although a comprehensive survey of the property identified a significant number of user-created, unauthorized trails traversing the property (Figure 11).

- The ***Observatory Mesa Trail*** is a component of the Flagstaff Loop Trail, which was established in partnership with Coconino County. There is a 20-foot-wide trail easement. It is a natural surface, single track trail. The right-of-way is for public non-motorized access only, including hikers and bicyclists. Coconino County is responsible for maintaining the trail.
- The ***Tunnel Springs*** and ***Mars Hill Trails*** are popular segments of the Flagstaff Urban Trail System. These trails are surfaced with “FUTS mix”, comprising of cinders, dirt, and other aggregates. These trails are used for non-motorized forms of recreation, including hiking and bicycling. Authorized vehicles can traverse the trail using vehicles. The City of Flagstaff Parks Department is responsible for maintaining the trail.

Additionally, Observatory Mesa Natural Area is within Arizona Game and Fish Department game management unit 11M, a metropolitan hunting unit. Hunting opportunities remain available in the Natural Area, restricted to archery. See Table 11 (Chapter 4.2.3) for additional information about hunting regulations on Observatory Mesa.

Management Goal: Observatory Mesa Natural Area will be managed to provide a wide array of developed and dispersed day-use recreational opportunities.

Management Policies: In addition to the general management policies regarding recreational use outlined in Chapter 2.3.2, the following management policies apply to Observatory Mesa Natural Area.

- Permit large-scale special events, upon receipt of a Special Event Permit via the City of Flagstaff Office of Community Events.
- Permit motor vehicle use on Forest Service roads designated as “open” for public use under the most recent Travel Management Rule.

Planned Management Actions: In addition to the general planned management actions regarding recreational use (Chapter 2.3.2), the following actions are planned for the Natural Area.

- Establish a Trail System Plan for the Natural Area, in partnership with adjacent landowners, state/federal agencies, local organizations, and other stakeholders.
- Host at least one stakeholder meeting each year to provide a platform to discuss management considerations, improvement projects, and the status of the property.

4.4.3 Easements and Leases

Summary of Current Conditions: Many entities hold easements and/or leases within Observatory Mesa Natural Area (Table 15). The City of Flagstaff inherited these easements and leases from the Arizona State Land Department as part of the acquisition process and is now responsible for managing these uses. No new easements or licenses will be issued at the Natural Area, though renewals of existing agreements are permitted.

Table 15: Perpetual, non-perpetual, and expired easements and leases within Observatory Mesa Natural Area.

Number	Holder	Use	Issue Date	Expiration Date
PERPETUAL				
16-88092	Bea Lee	Public Roadway	11/6/86	perpetual
16-1857	El Paso Gas	Pipelines, a Road, and Power Lines	1/12/60	perpetual
61-85609	USDA Forest Service	Road Easement	1/18/83	perpetual
16-84074	Westridge Property Owners Association	Road Easement	10/26/82	perpetual
16-112295	Coconino County	Flagstaff Loop Trail (non-motorized recreation trail)	4/28/09	perpetual
16-106903	City of Flagstaff	Non-motorized public access trail	3/14/03	perpetual
9-2736	City of Flagstaff	Water Pipeline	6/7/93	perpetual
9-2915	ADOT	Road Easement	10/27/61	perpetual
16-8715	Gore and Associates		7/19/84	perpetual
16-105739	City of Flagstaff	Non-exclusive access road and non-motorized public access trail within ROW	6/8/00	perpetual
09-97816	Burlington Northern Santa Fe Railroad	Railroad Easement	6/18/93	perpetual
107-001953	Arizona Public Service	Electric Easement	1/12/57	perpetual
18-2090	Arizona Public Service	Electric Power Line	2/19/59	perpetual
71-2430	Qwest Corporation	Communication Line	3/21/60	perpetual
16-105208	City of Flagstaff	Detention Basin and Berm	1/18/02	perpetual

Number	Holder	Use	Issue Date	Expiration Date
NON-PERPETUAL				
14-99604	Transwestern Pipeline Company, LLC.	Gas Transmission Line	7/16/92	7/15/2042
14-105737	City of Flagstaff	Water Transmission Line	6/5/00	6/7/2050
18-108445	Arizona Snowbowl Resort	Reclaimed Water Pipeline	6/22/18	6/21/2028
EXPIRED				
18-52063	Arizona Public Service	Electric Distribution Line	8/24/06	5/23/2016
53-107566	Voyager Flagstaff 54		6/27/07	6/26/2014

Management Goal: Manage Observatory Mesa for non-consumptive, sustainable uses.

Management Policies and Actions: General management policies and actions regarding easements and leases on Observatory Mesa Natural Area are outlined in Chapter 2.3.3.

4.4.4 Education and Research

Summary of Current Conditions: Since the 1990s, Observatory Mesa has been an outdoor classroom for northern Arizona students. The abundance of astronomical viewing opportunities led to the educational use of this area by Lowell Observatory and local schools. Northern Arizona University (NAU) professors have conducted biological studies of wildlife on the Mesa and several NAU classes visit the property to learn about land management and forestry practices, especially with the recent Flagstaff Watershed Protection Project treatments on the property.

Lastly, the Lowell Observatory was established on the edge of the Mesa overlooking Flagstaff in 1892. The Observatory was granted Section 17, which is immediately adjacent to the Natural Area, to manage and conduct observational activities and protect the Mesa from development that would adversely affect its research. Preserving Observatory Mesa Natural Area is very important to preserve the dark skies that enable ongoing astronomical research and education at Lowell Observatory.

Management Goal: Observatory Mesa Natural Area will be managed to provide diverse educational and research opportunities.

Management Policies and Actions: General management policies and actions associated with managing educational and research opportunities within Observatory Mesa Natural Area are outlined in Chapter 2.3.4 of this plan.

4.4.5 Facility Development

Summary of Current Conditions: In August 2016, the Open Space Program mapped facilities on the property to develop a baseline understanding of what facilities exist on the property and their condition. The inventory involved collecting GPS-points for fence lines, trails (user-created and legal), roads (user-created, “closed”, and “open”), tanks, cattle guards, gates, trash piles, transient encampments, and signs (Figure 12).

A portion of the boundary has been fenced to effectively manage cattle on the adjacent Forest Service pastures and serve the benefit of keeping cattle off of the property. Given that the fencing was fabricated by multiple entities, it is not standardized and there is a mixture of barbed and wooden fencing in varying condition throughout the property (Figure 6). This fencing is owned and maintained by multiple organizations, including the City of Flagstaff, Coconino National Forest, and the grazing permittee.

Additionally, several gates, signs, and kiosks have been installed on the property (Figure 12), some of which need to be improved, updated, or removed.

Management Goal: Observatory Mesa Natural Area will be managed to provide facilities that enhance visitors’ experiences according to the requirements of the Arizona State Parks conservation easement and available funding.

Management Policies: General management policies associated with managing facility development within Observatory Mesa Natural Area are outlined in Chapter 2.3.5 of this plan.

Planned Management Actions: In addition to the general management actions associated with facility development (Chapter 2.3.5), the following actions are planned for the Natural Area.

- Build a parking area along Forest Service road 515 at the western edge of the west section.
- Investigate locations for parking areas that access the north and/or east boundaries.
- Repair and/or construct fencing along boundaries of the west and south sections to exclude cattle from City-owned property.
- Coordinate with Forest Service to conduct boundary surveys of the property.

Issues found during 2016 Survey Observatory Mesa Natural Area

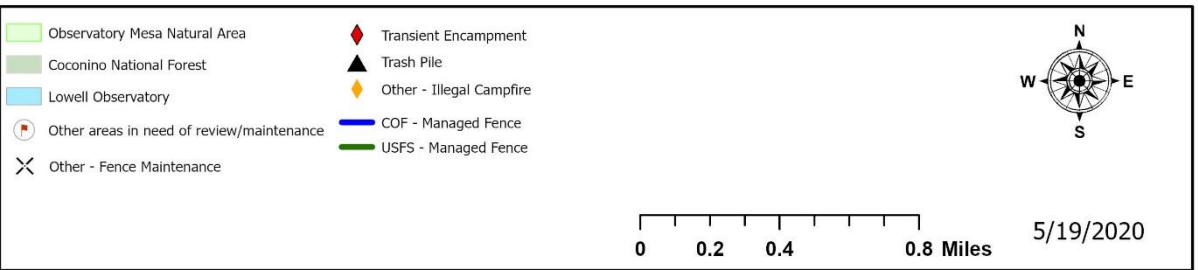
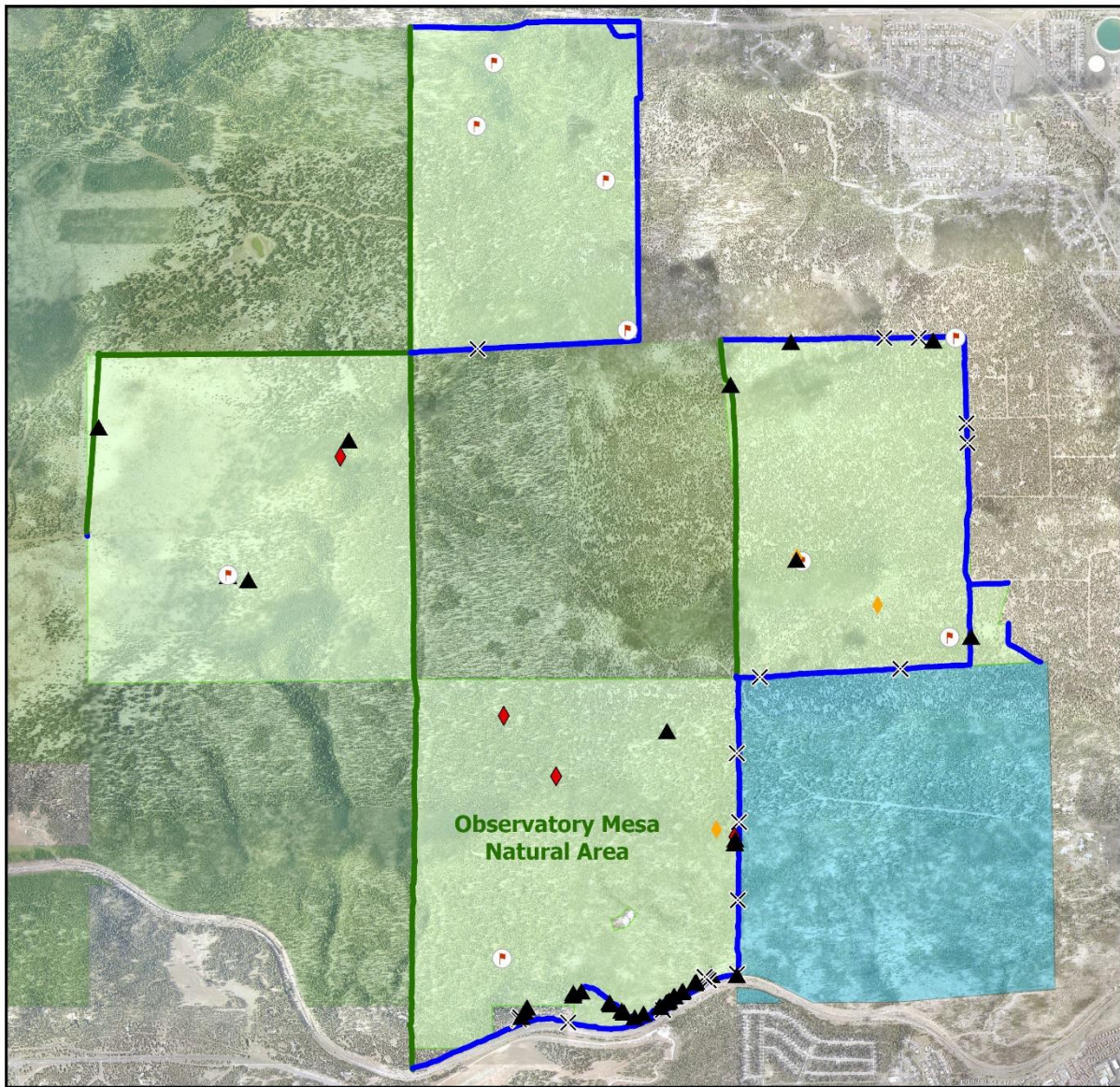


Figure 12: Recorded issues and maintenance needs on Observatory Mesa Natural Area. Some infrastructure is owned, managed, and maintained by the Coconino National Forest.

4.5 Priority Action Plan

Provided below is a summary of priority actions that will be taken related to the expansion, development, and management of the Natural Area. It is anticipated that this Priority Action Plan will be updated every two years. The biannual review will be conducted in advance of the City of Flagstaff’s budget development process. Modifications to the plan will be made to reflect existing conditions at the time of each update.

Table 16: Observatory Mesa Priority Action Plan – Facility Development

Action:	Responsibility:	Implementation Date:	Estimated Cost:
Install boundary signage along the perimeter of the Natural Area.	City of Flagstaff	Summer 2022	\$2,500
Install “No Camping” signs on Mars Hill Trail	City of Flagstaff	Summer 2022	\$750
Investigate potential of moving Westridge gate 50 feet west to create a formal parking area.	City of Flagstaff	Summer 2022	unknown
Investigate potential of developing additional parking and access points in partnership with adjacent landowners.	City of Flagstaff	Summer 2023	unknown
Develop trail maintenance schedules and standards.	City of Flagstaff	Summer 2024	\$0
Clearly mark designated trails and roads within the property.	City of Flagstaff	Summer 2025	\$5,000
Design and install educational and interpretive signage along trails.	City of Flagstaff	Summer 2025	\$15,000
Develop a diverse trail system plan for hiking, biking, and equine trails.	City of Flagstaff	Summer 2025	\$3,500
Maintain/improve wildlife-friendly fencing to reduce cattle trespass	City of Flagstaff	Summer 2025	\$15,000
Decommission extraneous trails not designated as part of trail system.	City of Flagstaff	Fall 2025	\$30,000
Design, construct, and install welcome kiosks at key entrance points.	City of Flagstaff	Fall 2025	\$3,000
Establish parking area along Forest Service road 515 on western side of the west section.	City of Flagstaff	Fall 2025	\$5,000
Install larger Game Unit 11M signs along major trails and at primary access points.	City of Flagstaff	Summer 2026	\$1,000
Decommission and revegetate illegal roads within the Area.	City of Flagstaff	Summer 2028	\$50,000
Utilize volunteers and partner organizations to complete area monitoring and trail maintenance.	City of Flagstaff	On-going/ monthly	\$0

Table 17: Observatory Mesa Priority Action Plan – Partnerships

Action:	Responsibility:	Implementation Date:	Estimated Cost:
Establish internal City of Flagstaff task force with representatives from Flagstaff Fire Department, Police Department, Parks, Planning, Real Estate, etc.	City of Flagstaff	Quarterly Meetings	\$0
Establish a partnership with Arizona Game and Fish Department to develop a Watchable Wildlife program.	City of Flagstaff	Summer 2022	\$0
Provide science programs for visitors (e.g. forest ecology, plants, astronomy, and wildlife).	City of Flagstaff and partner organizations	Summer 2022	\$3,000
Incorporate trails into Community Stewards program for adoption and stewardship.	City of Flagstaff	Summer 2024	\$0
Conduct meetings with Northern Arizona University representatives regarding on-site natural resource research work.	City of Flagstaff	Annually	\$0
Establish informal agreements with private organizations and volunteer groups related to completing annual bird surveys.	City of Flagstaff	Update/renew annually	\$0
Confirm existing agreements and/or establish new agreements with AZGFD regarding annual mammal and reptile/amphibian surveys.	City of Flagstaff	As needed.	\$0
Coordinate with community partners to remove invasive weeds.	City of Flagstaff with volunteers	As needed	\$500

Completed Priority Actions

- Install regulatory signs along trails. (Summer 18)
- Establish formal Volunteer/Docent Program at the Natural Area. (Summer 18)
- Install dog waste bag dispenser at primary access points. (Summer 17)
- Install boulders and physical barriers to block illegal vehicle access at entrance points. (Summer 17)

Chapter 5: McMillan Mesa Natural Area

5.1 Property Overview

The topography of McMillan Mesa was shaped by periods of tectonic scale geologic change in the western United States over the last 65 million years in north-central Arizona. Rapid uplift associated with the rise of the Colorado Plateau began around 5 million years ago and continues to occur. More recent and localized fracturing, faulting, and uplift is also likely related to volcanism in the surrounding San Francisco Volcanic Field. McMillan Mesa was formed when a vent near Woody Ridge erupted during a volcanic period about 6 million years ago. Thick basalt flows spread across surface outcrops of red Moenkopi sandstone, slowly eroding into the weathered malpais we see today.

Much of what is now McMillan Mesa was a component of US Forest Service holdings in the Flagstaff area. The City traded land in the Inner Basin of the San Francisco Peaks to the Forest Service for large parcels on McMillan Mesa and what is now Buffalo Park. The area is named after Thomas McMillan, one of the earliest Flagstaff area settlers, who owned land near what is now Cheshire and the Museum of Northern Arizona. He was a prominent citizen in the Flagstaff community and an early Coconino County Supervisor.

Community members and local organizations have advocated for preservation of the greater McMillan Mesa area for decades. Through the years, various agencies have proposed plans and concepts for the property, but there was not consensus about what the primary use of the property should be (e.g. active park land, passive open space, or other forms of development).

The City Council adopted the McMillan Mesa Village Specific Plan in 1992 and the McMillan Mesa Master Plan in 2002. The Flagstaff 2030 Regional Plan acknowledged the ongoing community conversation regarding the conservation values of the Mesa and designated portions of the City parcels on the Mesa north of Forest Avenue as “Employment,” southwest as “Future Suburban,” and areas outside of Buffalo Park as “Area in White” – a designation that does not bind those parcels to any specific use.

On November 8, 2016, approximately 86% of Flagstaff voters voted in favor of Proposition 413 – Campaign for a Greater Buffalo Park. This proposition restricted the use of approximately 300 acres of City-owned property on McMillan Mesa to public open space and passive recreation.⁵² The results of the election were canvassed and approved by Resolution Number 2016-38 on November 28, 2016. The preservation of these lands was enacted through the voter initiative process and therefore, can only be amended by the City Council if the proposed amendment furthers the original purpose of Proposition 413. Any substantive changes that do not further the purpose would have to go back to the voters. This provides the highest level of protection available.

⁵²Flagstaff City Initiative Number 2016-02

The land affected by Proposition 413 is currently zoned as Public Facilities and Rural Residential,⁵³ both of which permit “Outdoor Public Uses, General” and “Passive Recreation” as allowed uses.⁵⁴ Therefore, the City can plan and develop trails, trailheads, parking, and other amenities consistent with the initiative. According to the Ordinance, the City cannot sell the land or permit any of the other allowed uses under Public Facilities and Rural Residential, and therefore it is protected as de facto conservation land given the development limitations.

Even though the current zoning allows for the passive recreation uses required by the proposition, the City Council directed staff to amend the Regional Plan and Zoning Code to reflect the outcomes of Proposition 413. The City Council approved the McMillan Mesa Natural Area major plan amendment⁵⁵ on Tuesday, October 16th, 2018. The resolution amended the Flagstaff Regional Plan 2030 by amending the Future Growth Illustration (Maps 21 and 22) and the Road Network Illustration (Map 25) to make the land use and road network designations consistent with the McMillan Mesa Natural Area. It also clarified the extent of surrounding land uses on City property, corrected mapping errors, and established an effective date. The resolution went into effect on November 15, 2018.

The 317.90-acre McMillan Mesa Natural Area is primarily surrounded by private parcels, designated City-park land (McPherson Park and Buffalo Park), and other City-owned properties. Surrounding neighborhoods and parcels include to the west, Switzer Mesa, McMillan Mesa Village, Stone Ridge and Hospital Hill, to the north, the USGS and NACET Business Park, east are Shadow Mountain, Grandview Homes, and Sunnyside, and south lies the San Francisco de Asis Roman Catholic Parish property (Figure 13 and Figure 14). Subsequently, the expansive conservation land preserves “neighborhoods” for nearby neighborhoods including Sunnyside – Census Tract 3, which is identified as a Title VI, low-income area. Executive Order 12898 focuses attention on Title VI by providing that “each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” Thus, the protection of McMillan Mesa is an important success in social justice, providing access to natural settings that help support better health, environment, and equitable access.

The preservation of the McMillan Mesa Natural Area is presented with several land management challenges. Population growth and related surrounding development creates the most immediate impacts. Arizona was the fourth fastest growing state in the U.S. between July 2017 and July 2018.⁵⁶ The population estimate of Flagstaff was an approximated 73,964 in 2018, with a 6.4% increase since April 2010.⁵⁷ Population growth and development have greatly affected the Natural Area’s wildlife habitat, viewshed, night sky, sound pollution, vegetation, and the human

⁵³ As of March 2019

⁵⁴ Flagstaff City Zoning Code 10-40.30.030 and 10-40.30.060

⁵⁵ Flagstaff City Resolution 2018-50

⁵⁶ U.S. Census Bureau, 2018. “Nevada and Idaho Are the Nation’s Fastest-Growing States”. Press Release.

⁵⁷ U.S. Census Bureau, American Fact Finder [tool](#).

experience. With growth, increased use impacts the fragile characteristics of the ecosystem, ecological succession and soil development.

McMillan Mesa Natural Area consists of portions of 5 separate parcels within sections 10, 11, 14, and 15:

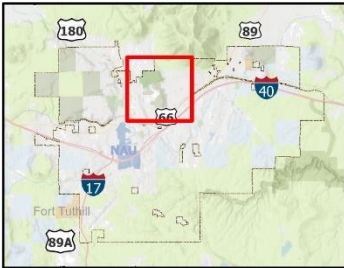
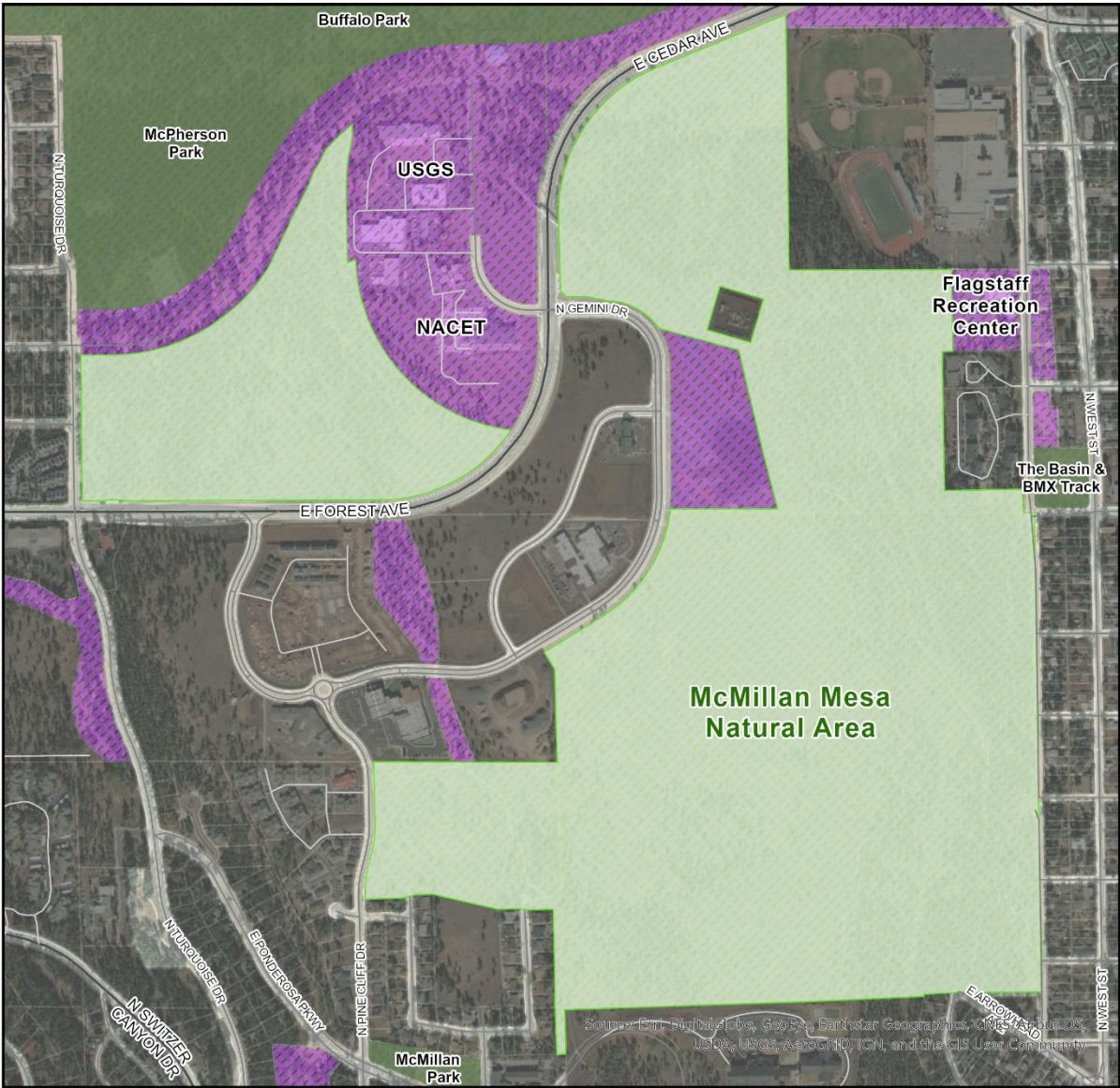
- 107-01-001B: 152-acre parcel southeast of Gemini Drive and the “cinder pit” parcel.
- 101-28-007C: 19-acre parcel immediately north of the “Horseshoe Neighborhood”.
- 110-08-001G: the southwest portion of this parcel bounded by USGS facility, Switzer Canyon Trail, Forest Avenue, and North Turquoise Drive.
- 109-02-001S: the southern portion of this 107-acre parcel bounded by Forest Avenue, Coconino High School, the “cinder pit”, and the APS powerline.
- 107-01-001F: 2 acres, located southeast of Gemini Drive.

Along with the 5 parcels indicated above, the Regional Plan amendment included the following parcels as Parks/Conservation Land to be managed for the benefit of the community.

- 101-37-002J and 107-01-001G: City-owned parcels less than 0.09 acres in size, adjacent to 107-01-001F, which were not included in Proposition 413; however, the parcel is too small to be used for other purposes, unless combined with an adjacent parcel.

Overview

McMillan Mesa Natural Area



<ul style="list-style-type: none"> McMillan Mesa Natural Area City of Flagstaff Parks City of Flagstaff Management Private Ownership 		<p>3/18/2020</p>
<p>0 0.13 0.25 0.5 Miles</p>		

Figure 13: McMillan Mesa Natural Area vicinity.

Proposed Zoning McMillan Mesa Natural Area

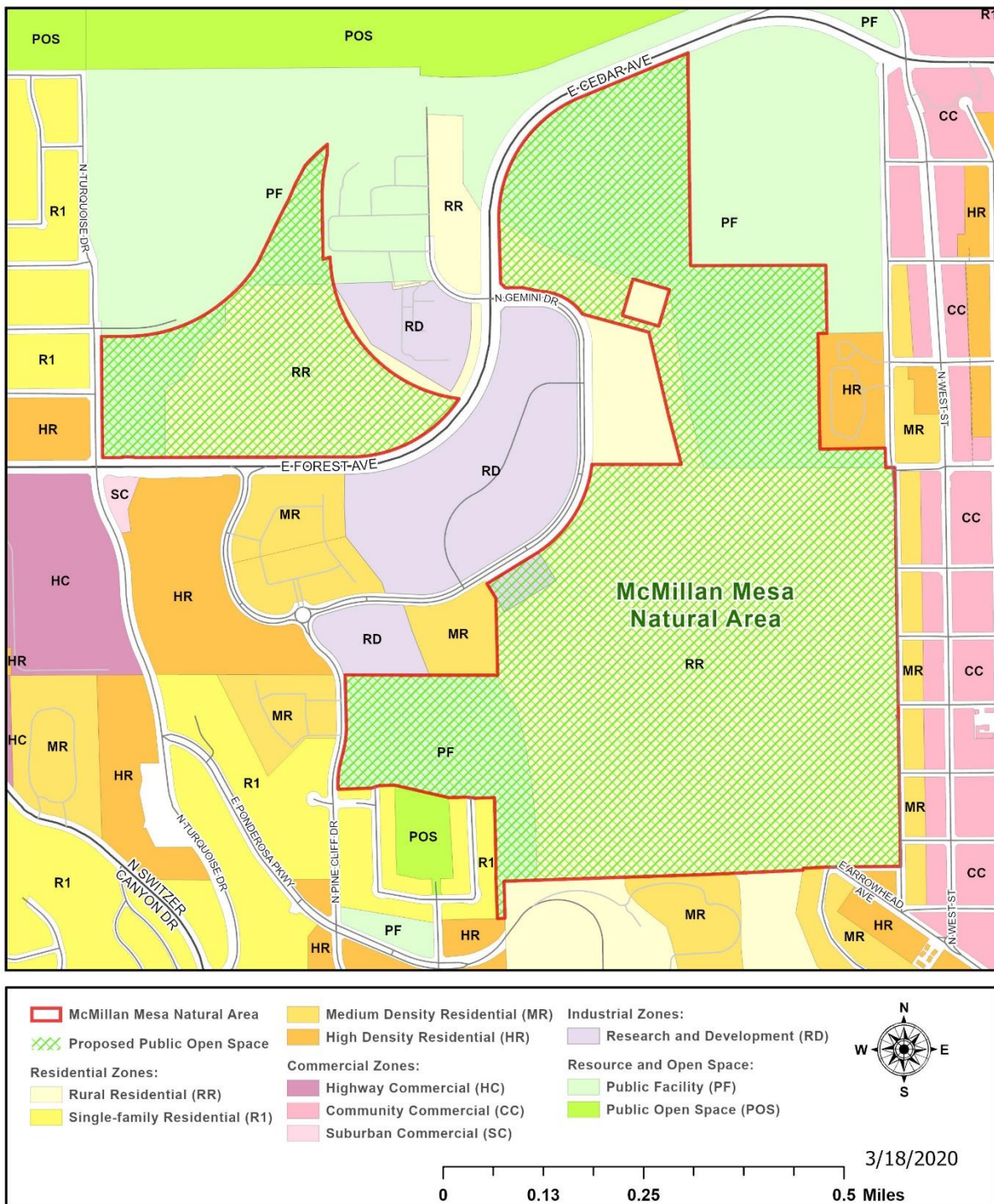


Figure 14: Proposed zoning designations for McMillan Mesa Natural Area and the surrounding vicinity as of 2019.

Natural Resources

McMillan Mesa Natural Area

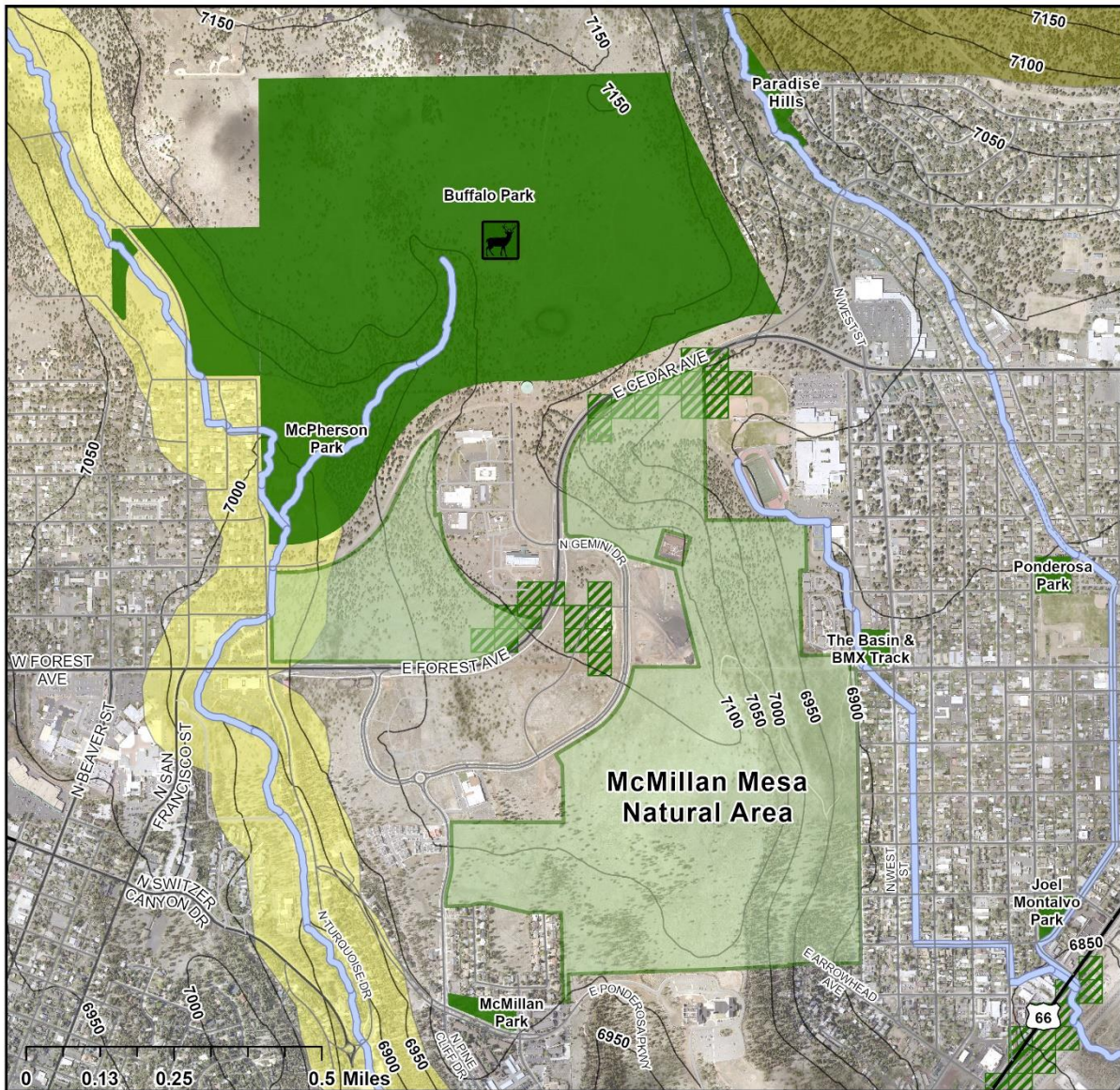


Figure 15: Significant Natural Resources: Wildlife, Vegetation, and Hydrology.

5.2 Natural Resources

Central to the overall management of McMillan Mesa Natural Area is the effective management of its natural resources. The water, wildlife, vegetation and geologic resources are important factors that supported permanent preservation of the property, and subsequently need to be managed and maintained appropriately to ensure they are not damaged. To ensure the protection of the biological, physical, and visual resources, specific management goals, policies, and actions have been identified. The natural resources present in the Natural Area have been mapped in Figure 15.

5.2.1 Water Resources

Summary of Current Conditions:

McMillan Mesa Natural Area does not encompass significant above-ground water resources. The property has very little designated floodplain and/or floodway (Figure 16), which are designated waterways that are regulated by the federal government and have strict requirements associated with any type of development, including trail development. A recent well-siting study completed for the City in 2018 provided reconnaissance-level information regarding active recharge on the mesa itself.⁵⁸ Geophysical survey results suggest that recharge is likely occurring on the flanks of the mesa, and not necessarily within the Natural Area parcels.

However, steep, forested slopes on the eastern edge of the Natural Area create the opportunity for erosion as a result of runoff. This slope is soft and rain events often result in sediment and mud running off the property. Drainage facilities at the bottom of the hill, west of Isabel Street, would capture and retain sediment, preventing it from flowing onto the street or adjacent FUTS trail.

In the summer of 2019, the Museum Fire burned the southeast side of the San Francisco Peaks. The drainage from the Mount Elden Dry Lakes area to the Rio de Flag drains just to the east of the Natural Area. Due to the intensity of the fire, the soil can hold less water during intense rain events, leading to a greater risk of flooding particularly during monsoon season (late-July to mid-August). While the flooding would not be concentrated on the Natural Area, the existing risk of run-off could add to the danger for neighborhoods farther down the floodplain such as Grandview, Sunnyside, and Greenlaw.

Recent research on the North American Monsoon points to changes that may affect Coconino County and Flagstaff. Warmer temperatures have expanded and intensified the monsoon ridge, resulting in fewer storms across Arizona during the peak of the monsoon season.⁵⁹ This generally has led to a decline in seasonal precipitation totals during the last 30 years (1980–2010).⁶⁰ Though there have been fewer storms, the most extreme storms have become more intense (as

⁵⁸ Clear Creek Associates, 2018, Well Siting Study Report Flagstaff, Arizona. Completed for the City of Flagstaff.

⁵⁹ Climate Profile, City of Flagstaff, 2018

⁶⁰ *Ibid*

measured by amount of precipitation and wind gusts). This change could lead to increased erosion and potential flooding. Though designated floodplains are rare on the property, any shallow ephemeral wetlands, even localized spring snow-melt ponds, are especially important in maintaining ecosystem health and biodiversity. These can support sedges, wildflowers, insects, and provide water for wildlife. They are a primary area for protection.

Management Goal: McMillan Mesa Natural Area will be managed to maintain or improve surface and ground water quality, surface water flow, ground water levels, and overall watershed health.

Management Policies: In addition to the general management policies guiding water resource management (outlined in Chapter 2.1.1), the following policies apply to the management of water resources within McMillan Mesa Natural Area:

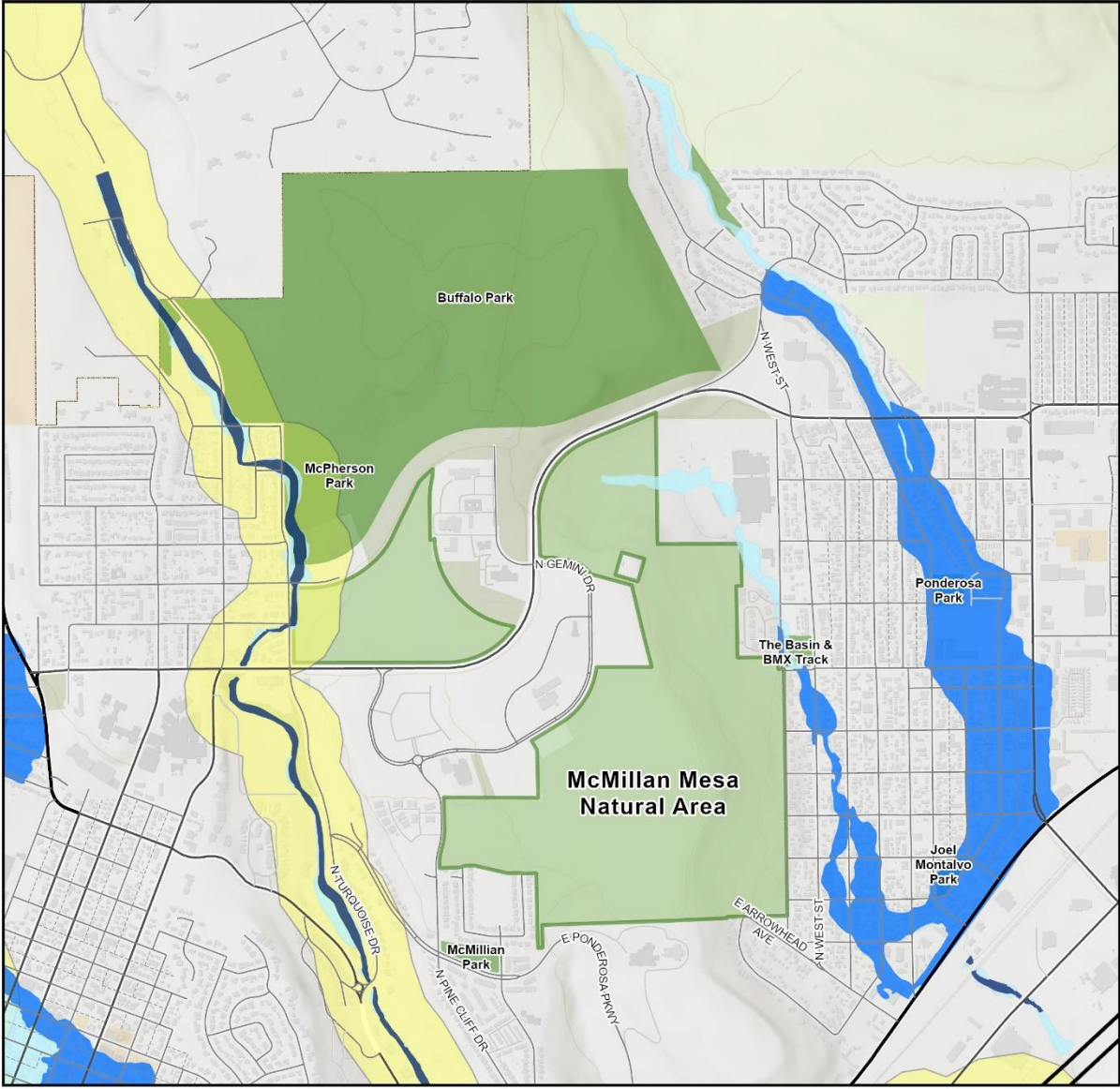
- Support the City Parks Section to investigate possible solutions and the feasibility of designing a project for preventing wildlife crossings on Forest/Cedar Avenue that are related to the maintenance or improvement of surface water features to the north of Cedar Avenue in Buffalo Park.

Planned Management Actions: In addition to the general management actions guiding water resource management (outlined in Chapter 2.1.1), the following actions are planned within McMillan Mesa Natural Area:

- Work with City Stormwater Section to determine the need for stormwater treatments at the north end of North Hemlock Way.
- Work with Flagstaff Urban Trails System staff to ensure continuous maintenance of the FUTS drainage control structures within the natural area.
- Work with partners to assess possibility of implementing a revegetation plan on the eastern edge of the Natural Area where runoff occurs.
- Provide support to City Stormwater Section to determine the necessity and feasibility of constructing and maintaining a drainage basin near Izabel Street to capture and retain runoff from the slope.
- Provide support to Stormwater to assess the necessity and benefits of drainage facilities at the bottom of the hill, west of Izabel Street to capture and retain sediment, to prevent it from flowing onto the street or adjacent FUTS trail.

Floodplains

McMillan Mesa Natural Area



	McMillan Mesa Natural Area	
	Rural Floodplain	
	Urban Floodplain	
	500 Year Floodplain	
	Parks	
	Riparian Vegetation	
		3/18/2020

Figure 16: Designated floodplain within the vicinity of McMillan Mesa Natural Area.

5.2.2 Forest and Grassland Health

Summary of Current Conditions: The 300-acre McMillan Mesa Natural Area, in conjunction with the adjacent 215-acre Buffalo Park, preserves one of the last intact native grasslands within the City. The primary vegetation type is Arizona fescue/mountain muhly and the associated habitat type is montane meadow grassland. There are small patches of overstory comprised of ponderosa pine (*Pinus ponderosa*), Gambel oak (*Quercus gambelii*), and alligator juniper (*Juniperus deppeana*), but a significant amount of the vegetative biodiversity exists as native grasses, shrubs, cacti, and wildflowers. Some of the primary species include: muttongrass (*Poa fendleriana*), blue grama (*Bouteloua gracilis*), Arizona fescue (*Festuca arizonica*), black dropseed (*Sporobolus interruptus*), low rabbitbrush (*Chrysothamnus viscidiflorus*), Wood's rose (*Rosa woodsii*), wax currant (*Ribes cereum*), Indian paintbrush (*Casteilleja spp.*), buckwheat (*Fagopyrum esculentum*), and common sunflower (*Helianthus annuus*). Grasses, forbs, and shrubs provide important forage, cover, fawning, and nesting sites for the wildlife that use the area, thus contributing to the wildlife habitat of the Natural Area. The City plans to protect this grassland from tree encroachment, which can affect water and nutrient cycling, impact soil integrity, and affect wildlife habitat.

Vegetation plays a key role in the stability of soils. Efforts to maintain native plant populations should be a priority. Some erosion may result from natural runoff, yet when plants are damaged or void from terrain erosion greatly increases. The Terrestrial Ecosystem Survey classifies the soils within the Natural Area as a combination of rocky basalt and black cinder. The rocky basalt ecosystem type is described as rocky basalt surface soils with loam surface soils and clay loam subsoils. The black cinder ecosystem type is described as a dry, nitrogen-poor, sand-gravel, volcanic cinder soil. Results from the Well Siting Study⁶¹ suggest that these soil types are widespread across the mesa with no evident areas where recharge of surface water to the C aquifer is occurring. The geophysical information suggests conductive material occurs within the upper 100 feet of land surface, which is likely clay, a mix of rock and clay, or the fine-grained Moenkopi Formation. Soil development is very slow in the arid environment, particularly the weathering of basaltic parent material on young landforms.

Soil stability is susceptible to land use patterns such as recreation. McMillan Mesa is likely more durable to recreational activity in comparison to younger volcanic features in the San Francisco Volcanic Field, although it is vulnerable to compaction, unauthorized trails, and erosion on slopes. Barren areas are expected to develop in heavily used areas from pedestrian activity. Unregulated recreation will exacerbate erosion and soil loss and increase the presence of invasive plants.

The rocky outcrops and escarpments within the Natural Area support a number of species that do not occur elsewhere, including: side-oats grama (*Bouteloua curtipendula*), claret cup cactus (*Echinocereus triglochidiatus*), Apache plume (*Fallugia paradoxa*), mock pennyroyal (*Hedeoma oblongifolium*), pincushion cactus (*Mammillaria microcarpa*), and Arizona grape (*Vitis arizonica*).

⁶¹ Clear Creek Associates, 2018, Well Siting Study Report Flagstaff, Arizona. Completed for the City of Flagstaff.

There are also significant populations of invasive plants within the Natural Area. Invasive plants currently found within McMillan Mesa include: Scotch thistle (*Onopordum acanthium*), diffuse knapweed (*Centaurea diffusa*), dalmation toadflax (*Linaria dalmatica*), Russian olive (*Elaeagnus angustifolia*) and cheatgrass (*Bromus tectorum*). Additionally, squirreltail (*Elymus elymoides*) and western wheatgrass (*Pascopyrum smithii*) have become more prevalent within the Natural Area over the past decade. These are aggressive, invasive, drought-tolerant grasses with a strong potential to dominate the grassland ecosystem. Invasive plants are spread in a variety of ways, but wind and the disturbance associated with adjacent development are the primary sources of invasive weeds on the Mesa. Surveying the property for invasive plants and developing a Weed Management Plan are priorities.

The State of Arizona, U.S. Forest Service, and other land management organizations have identified multiple special status plant species within a 5-mile radius of McMillan Mesa Natural Area (Table 18).

Table 18: Special status plant species identified within a 5-mile radius of McMillan Mesa Natural Area.

Common Name	Scientific name	Identification agency
Ebony Spleenwort	<i>Asplenium platyneuron</i>	None
Fendler’s Sandwort	<i>Eremogone fendleri</i>	None
Flagstaff Beardtongue	<i>Penstemon nudiflorus</i>	USFS
Flagstaff False Pennyroyal	<i>Hedeoma diffusa</i>	USFS, State
Green Death Camus	<i>Zigadenus virescens</i>	State
Hairy Clematis	<i>Clematis hirsutissima</i>	USFS, State
Intermountain Rubberweed	<i>Hymenoxys helenioides</i>	None
Mogollon Columbine	<i>Aquilegia desertorum</i>	State
Mountain Hollyfern	<i>Polystichum scopulinum</i>	None
Northern Maidenhair Fern	<i>Adiantum pedatum</i> = <i>A. aleuticum</i>	None
Rusby’s Milkvetch	<i>Astragalus rusbyi</i>	USFS
Schultz Rough Whitlow Grass (Rough Draba)	<i>Draba asprella</i> var. <i>stelligera</i>	None
Seashore Cactus	<i>Opuntia martiniana</i>	None
Utah Bladderfern	<i>Cystopteris utahensis</i>	None

*None = no state or federal status.

The slope along the eastern and northwest portions of the Natural Area consists of overstory vegetation. The primary tree species include Gambel oak (*Quercus gambelii*), ponderosa pine (*Pinus ponderosa*), alligator juniper (*Juniperus deppeana*). These trees provide cover for the elk, deer, and other mammals that use the area and habitat for nesting songbirds.

The Flagstaff Fire Department (FFD) is responsible for implementing any forest health improvement projects, monitoring local conditions and determining whether the City will

implement fire restrictions, and responding to fire activity within the property. The FFD has a policy to immediately suppress all wildfires and ignitions in City limits including the Natural Area.

The FFD has conducted broadcast burning operations within the Natural Area in the past. The FFD also hand thinned the area during the mid-2000s to reduce small diameter trees and understory ladder fuels.

The Natural Area is bisected by several trails (see 5.4.2 Recreational Use). Trails can act as a firebreak, causing a gap in the vegetation to act as a barrier to slow or stop the progress of wildfire and could be used to hopefully reduce the size of a wildfire. General goals include maximizing the health of the Natural Area through implementation of thinning and broadcast burning operations. Properly maintained trails could be useful to conducting fire operations and could offset the cost of completing work.

Management Goal: McMillan Mesa Natural Area will be actively managed to achieve native forest and grassland structures that are resilient and resistant to wildfire, invasive plant populations, or other disturbances while continuing to provide ecosystem services to the surrounding community.

Management Policies: In addition to the general management policies guiding forest and grassland health management (outlined in Chapter 2.1.2), the following policies apply to the management of forest and grassland resources within McMillan Mesa Natural Area:

- Survey for sensitive plant species within the footprint of ground disturbing activities. If sensitive plant species are present, design projects to ensure these plants are protected.
- Protect the grassland from tree encroachment through hand thinning and/or broadcast burning.

Planned Management Actions: In addition to the general management actions planned for managing forest and grassland health (outlined in Chapter 2.1.2), the following actions are planned for McMillan Mesa Natural Area:

- Investigate the need to produce a self-guided brochure/native plant walk to introduce visitors to the native flora of the Mesa.
- Monitoring:
 - Work with San Francisco Peak Weed Management Area to survey the property for invasive weeds and develop an Invasive Weed Management Plan specific for the property.
 - Survey the property for rare and sensitive plant species to establish a baseline condition.
 - Establish photo monitoring points to track forest and grassland structure over time, including the spread of alligator juniper through the area grassland.
- Treatments:
 - Work to secure funding to manage non-native plant populations (e.g. Invasive Plant Grant from Arizona Department of Forestry and Fire Management).

- Coordinate with adjacent private landowners to treat any invasive weeds on their properties.
- Restore the vegetative community to support a balance of grasses to provide food and cover for wildlife such as ground nesting birds and prairie dogs throughout the year.
- Investigate incorporating adjacent parcels of privately-deed restricted dedicated open space held (e.g., area between N Manzanita Way and N Hemlock Way, parcel: 10128007F) into the McMillan Mesa Natural Area to improve management and maintenance of healthy grassland conditions.

5.2.3 Wildlife Resources

Summary of Current Conditions:

A variety of wildlife habitats within McMillan Mesa Natural Area and the adjacent Buffalo Park, support resident and migratory species. These habitats include grasslands, ephemeral wetlands (within Buffalo Park), ponderosa pine woodlands, and pine/oak woodlands, although the primary wildlife habitat is montane meadow grassland. This is an at-risk habitat type in the region.

Wildlife is one of the features that draws public use of the area, which includes a resident herd of mule deer and flocks of mountain bluebirds. The Gambel oaks and wax currants also provide good habitat for skunks, foxes, porcupines inhabiting the area.

Although the Natural Area provides habitat for mule deer and other species of wildlife, Cedar and Forest Avenues (Cedar/Forest) and expanding development to the south limit its utility as a wildlife corridor and pose a risk to wildlife trying to move through the area. Wildlife can become “bottlenecked” in the southern portions of the Natural Area without a clear path back to appropriate habitat. Additionally, Cedar/Forest serves as an obstacle for wildlife seeking forage within the grassy meadows of the Natural Area. There have been multiple collisions between vehicles and deer along Cedar/Forest within the vicinity of McMillan Mesa Natural Area.

Rocky outcrops are common in the Natural Area and provide unique cover and habitat for small mammals and reptiles. Minimizing ground disturbance to these features is important, especially as they are identified for their conservation value in the 2030 Regional Plan.⁶²

McMillan Mesa Natural Area is within Game Management Unit 11M. As of the 2018 Arizona Hunting Regulations, no hunting (including archery) is permitted within the Natural Area.

There are not any known, systematic wildlife surveys within the Natural Area. A 2017 query of the Environmental Review Tool⁶³ revealed a number of federally listed or sensitive species that are documented to occur within a 5-mile radius of the Natural Area (Table 19). These species may use the Natural Area at some point during their life cycle.

⁶² https://www.flagstaff.az.gov/DocumentCenter/View/49295/0-FullPlan_webreduced?bidId=

⁶³ [Environmental Review Tool](#), Arizona Game and Fish Department

Table 19: Special status animal species identified within a 5-mile radius of McMillan Mesa Natural Area.

Common Name	Scientific Name	Identification Agency
Allen’s Lappet-browed Bat	<i>Idionycteris phyllotis</i>	FWS, USFS, BLM
Arizona Myotis	<i>Myotis occultus</i>	FWS, BLM
Arizona (Mountain) Treefrog	<i>Hyla wrightorum</i>	State
Bald Eagle	<i>Haliaeetus leucocephalus</i>	FWS, USFS, BLM, State
Big Brown Bat	<i>Eptesicus fuscus</i>	State
Greater Short-horned Lizard	<i>Phrynosoma hernandesi</i>	None
Gunnison’s Prairie Dog	<i>Cynomys gunnisoni</i>	USFS, State
Many-lined Skink	<i>Plestiodon multivirgatus</i>	None
Mexican Spotted Owl	<i>Strix occidentalis lucida</i>	FWS, State
Northern Goshawk	<i>Accipiter gentilis</i>	FWS, USFS, BLM, State
Peregrine Falcon	<i>Falco peregrinus anatum</i>	FWS, USFS, BLM, State

*None = no state or federal status.

Gunnison’s Prairie Dog. There are multiple Gunnison’s prairie dog (*Cynomys gunnisoni*) colonies and burrows within the Natural Area, suggesting a sizable population (Figure 15). Gunnison’s prairie dog is native to the shortgrass and mid-grass prairies, grass-shrub habitats in low valleys, and subalpine mountain meadows of the Colorado Plateau. Gunnison’s prairie dogs are a keystone species for grassland ecosystems in the Southwest. They create habitat, provide food, and help keep the soil and plant communities healthy. In addition, their burrowing helps to aerate the soil, add organic matter, and help to increase water penetration. The species has experienced significant habitat loss due to urban expansion, grassland conversion, and development. Additionally, prairie dog populations are susceptible to sylvatic plague, a flea-transmitted disease, which has had devastating mortality impacts on colonies throughout the region and can potentially result in the loss of the colony when it arises. The U.S. Fish and Wildlife Service was petitioned to list the Gunnison’s Prairie Dog as an endangered or threatened species⁶⁴ and to designate critical habitat. A 12-month review, published by the Service in November of 2013, chose to state that listing either *C. g. gunnisoni* or *C. g. zuniensis* or both was not warranted at that time. The Arizona Game and Fish Department lists the Gunnison’s prairie dog as a non-game mammal. Overall, due to the sensitive nature of the species, and because threats against Gunnison’s prairie dogs reverberate throughout the prairie dog ecosystem and greater environment, risks to the species need to be minimized.

American Kestrel. A resident population of American Kestrels (*Falco sparverius*) have been identified on the Mesa. Although the American Kestrel is relatively abundant in North America, count data from the USGS Breeding Bird Survey indicates that the North American breeding population is experiencing long-term, gradual, but sustained declines. Between 1966 and 2015 populations declined by about 50%. Current declines are related to continued clearing of land and the falling of the standing dead trees that birds depend on for nest sites. Nesting sites are

⁶⁴ Under the Endangered Species Act, 16 U.S.C. § 1531 et Seq.

further reduced by so-called “clean” farming practices, which remove hedgerows, trees, and brush from farmland. Pesticide use also affects kestrel survival rates. A larger problem with pesticides is that they destroy the insects, spiders, and other prey on which the birds depend. Exposure to pesticides and other pollutants can also reduce clutch sizes and hatching success. High levels of traffic disturbance and human development surrounding nesting sites are found to increase stress hormones that can lead to reproductive failure. Among successful nests, however, nestlings do not typically experience a higher stress response to environmental human disturbance, suggesting that they can tolerate some degree of human activity near the nest.

Management Goal: McMillan Mesa Natural Area will be managed to maintain and enhance a diversity of habitats that support native wildlife species. Emphasis will be placed on the protection of rare habitat types and special-status species.

Management Policies: In addition to the general management policies guiding wildlife resource management (outlined in Chapter 2.1.3), the following policies apply to managing wildlife resources within McMillan Mesa Natural Area:

- Design infrastructure so that it does not fragment, or significantly alter wildlife habitat and movement.
- Minimize disturbance
 - Minimize ground disturbance to rocky outcrops.
 - Construct and maintain trail systems and infrastructure to minimize erosion and disturbance to sensitive wildlife.
- Take comment and work with the Conservation Study Forum, Arizona Game and Fish Department, and City Parks Section to come up with possible solutions to prevent wildlife crossings on Cedar/Forest Avenue.
- Prairie dog policies for large-scale ground disturbing activities:
 - Survey and map colonies on the entire Natural Area in partnership with local organizations (e.g. Habitat Harmony).
 - Monitor the incidence of plague throughout the Natural Area and when detected, implement the following actions: 1) work with the Arizona Game and Fish Department to notify the public, 2) increase monitoring effort to identify extent of outbreak, 3) where and when appropriate and feasible, implement mitigation measures such as dusting burrows to kill fleas.

Planned Management Actions: In addition to the general management actions planned for managing wildlife resources (outlined in Chapter 2.1.3), the following actions are planned for McMillan Mesa Natural Area:

- Investigate installing infrastructure along Cedar/Forest Avenues to alert drivers to nearby elk (e.g. motion-sensor alert system triggered when a collared animal enters the area).
- Investigate installing additional signs along Cedar/Forest Avenues to minimize wildlife collisions in coordination with Arizona Game and Fish Department.
- Work with the Flagstaff Kestrel Project to install nesting boxes and monitor the American Kestrel population.

5.3 Cultural and Historic Resources

Summary of Current Conditions:

There are multiple evidences of cultural and historic resources within and surrounding McMillan Mesa Natural Area. Formal archaeological surveys have been completed within some of the Natural Area. One survey at the request of Design Master Homes, Inc. was completed on a 13-acre portion of Sec. 15, T21, R73, in August of 1976. In 1980, in preparation of the land exchange between the City and Coconino National Forest, another was performed to ensure no effect to cultural resources. During the survey, remnants of the Knob Hill Ranger Station was identified, and an archaeological site consisting of approximately 70 to 100 lithic flakes. Another survey, as part of the Gemini Parkway Study, was conducted by the Museum of Northern Arizona in October 1984, recording fifteen archaeological sites, ten prehistoric sites dating primarily to the early eleventh century and five historic sites that dated from the early 1930s to 1957.

These studies have uncovered multiple cultural resources, including petroglyph panels which may be of Cohonina or Northern Sinagua origin. There are also evidences of grinding slicks in the area around this petroglyph panel. Additionally, a lithic scatter of approximately 70-100 flakes was in the area but was deemed to be ineligible for the National Register of Historic Places by the Coconino National Forest and State Historic Preservation Office in 1981.

Additionally, the Beale Wagon Road⁶⁵ travelled through the area. The 35th Parallel Route was surveyed for placement of a wagon road in 1851 by Lorenzo Sitgreaves and company; and again, by Amiel Weeks Whipple in 1853, this time for feasibility of a railroad. Edward Fitzgerald Beale and company were commissioned (famously using camels) by the government to physically build a wagon road along this route in 1857/1858. The Beale Wagon Road provided cross-country wagon travel along the 35th parallel as a means of connecting Fort Defiance in Ohio to the Mohave Trail in California. This was a primary access road until the 1880s, when the transcontinental railroad was built through northern Arizona, providing a better form of travel.

The wagon road often exists as an eroded trough across the land, cut by the hooves of thousands of animals and the iron-rimmed wheels of many wagons and stagecoaches. Portions of Cedar Avenue seem to follow the alignment of the Beale Wagon Road, and a portion of the Wagon Road travelled through the northern portion of the McMillan Mesa Natural Area that is west of Northern Arizona Center for Entrepreneurship and Technology (NACET) and US Geological Survey (USGS) and east of McPherson Park.

The portion of the Beale Wagon Road through the Petrified Forest National Park was listed on the National Register of Historic Places in 1977 given its significance to discovery, settlement, and transportation. The Coconino National Forest manages the roadway on their property as eligible for listing on the National Register of Historic Places.

⁶⁵ Also known as the Beale Camel Road or 35th Parallel Route.

A malpais/red sandstone quarry was located at the southern tip of McMillan Mesa. Although not located within the boundary of the Natural Area, the quarry provides historical context for the area and Flagstaff's history. This rock was used to build many of the historic structures in that area of town. Other quarries were located closer to downtown.

Management Goal: McMillan Mesa Natural Area will be managed to preserve, protect, and interpret the cultural and historic resources present on the property.

Management Policies: In addition to the general management policies guiding cultural and historic resource management (outlined in Chapter 2.2), the following policies apply specifically to managing cultural and historic resources within McMillan Mesa Natural Area:

- Identify cultural resources to ensure no facility and/or improvements come in conflict with the preservation of resources.

Planned Management Actions: In addition to the general management actions planned for managing cultural and historic resources (outlined in Chapter 2.2), the following actions are planned for McMillan Mesa Natural Area.

- Complete a cultural survey of the Natural Area to identify cultural resource locations.
- Consider developing interpretive materials for the Beale Wagon Road, Knob Hill Ranger Station, Forest Service land exchange, etc.

5.4 Public Use

McMillan Mesa Natural Area is open year-round to varying levels of public use. The Natural Area is managed to provide passive outdoor recreational and educational opportunities, including hiking, snow shoeing, wildlife watching, and nature study/environmental education, in addition to others (Table 20). Though the Natural Area is closed to overnight camping, star gazing and night walking are permitted. Motorized travel is prohibited within the property in order to protect the unique conservation values, except on official designated streets.

The Open Space Program believes that research and education are important uses of legally-designated open space. If interested in using McMillan Mesa as a test site for a research project or other educational program or project, please contact the Open Space Program at NaturalAreas@flagstaffaz.gov.

Table 20: Permitted and prohibited recreational uses of McMillan Mesa Natural Area.

Permitted Uses	Prohibited Uses
Cross Country Skiing	Campfires
Virtual geocaching	Camping
Hiking/Running	Fuelwood collection (except with permit)
Snow Shoeing	Off highway vehicles/driving
Mountain Biking	Hunting
Nature Study/Environmental Education	Firearm use
Wildlife Watching	Flying model aircraft, such as drones, airplanes, or rockets (except with permit)
Stargazing	Large-scale activities/events (except with express written approval from the Open Space Specialist)
	Horseback riding

This chapter outlines the management goal, policies, and actions identified for managing public access and roads, recreational use, easements and leases, education and research, and facilities within McMillan Mesa Natural Area.

5.4.1 Access Management

Summary of Current Conditions:

There are significant opportunities for non-motorized access to McMillan Mesa Natural Area via FUTS trails from surrounding neighborhoods, including Switzer Ridge/Mesa, McMillan Mesa Village, and Sunnyside. Many of these trails traverse the Natural Area, cross Cedar/Forest Avenue, and continue into Buffalo Park.

There are several roads that provide motorized access adjacent to the Natural Area, including Gemini Road, Forest Avenue, Cedar Avenue, and Pine Cliff Drive. However, the only existing designated public parking area is located at the entrance to Buffalo Park on Gemini Road. Currently, the Buffalo Park parking area has approximately 45 parking spaces, year-round bathroom facilities, and water during seasonal allowance. The parking area is managed and maintained by the Parks Department.

Public transportation to the Natural Area exists via the Northern Arizona Intergovernmental Public Transportation Authority (NAIPTA) Blue Line. As of December 2018, NAIPTA operates six bus stops along Cedar/Forest Avenue and Gemini Road to provide access for individuals wanting to visit McMillan Mesa Natural Area.

The Natural Area itself is a non-motorized recreational area. The City and its contractors can use FUTS trail alignments and other rights-of-way for motorized access throughout the Natural Area for administrative purposes (e.g. maintaining infrastructure).

Management Goal: McMillan Mesa Natural Area will be managed to ensure reasonable public access for non-motorized recreational activities and eliminate unauthorized motorized travel within the property.

Management Policies: In addition to the general policies guiding public access to and roads within McMillan Mesa Natural Area (outlined in Chapter 2.3.1), the following policies:

- Consider impacts associated with neighborhood versus public access when planning access points for the Natural Area.
- Utilize FUTS trails and other Rights-of-Way (ROWs) to access and complete administrative tasks (e.g. maintaining recreational and utility infrastructure).
- Roads already developed for utility access should be managed to minimize disturbance to native vegetation and prevent the spread of invasive plants.

Planned Management Actions: In addition to the general management actions planned for managing public access and roads (outlined in Chapter 2.3.1), the following actions are planned for McMillan Mesa Natural Area.

- Parking
 - Work with Parks to investigate the possibilities of maintaining and/or improving the Buffalo Park parking lot to accommodate users of both Buffalo Park and McMillan Mesa.
 - Investigate opportunities to address public parking for the natural area.
 - Work with BASIS School to discourage parking at N Manzanita Way and N Hemlock Way that is not related to the use of the natural area.
- Investigate the potential of constructing an additional pedestrian bridge across Forest Avenue near Turquoise Drive to connect the north side of Forest Avenue (Buffalo Park/McPherson Park) to McMillan Mesa Natural Area. This would create several loop trail opportunities, enhancing opportunities for running and biking events (e.g. 3K, 5K, 10K loops). While this recommendation is not presently included in the current FUTS Master Plan, it will be incorporated into future FUTS Master Plans for consideration.
- Flagstaff Urban Trail System (FUTS)
 - Finalize Beale Trail alignment to enhance non-motorized access from the northwest, as outlined in the FUTS Master Plan.
 - Investigate opportunities to work with FUTS to achieve accessible and/or ADA compliant access and trails.
- Evaluate unauthorized access points from Izabel St and determine management direction.
- Consider installation of boundary signs in appropriate areas to educate the public about the non-motorized regulations.
- Work with APS to restore soil and vegetation surrounding their parcel.

5.4.2 Recreational Use

Summary of Current Conditions:

The Natural Area receives a significant amount of public use from Flagstaff residents and visitors. Trails from surrounding neighborhoods and additional access allows visitors to participate in activities including, hiking, jogging, bike riding, cross-country skiing, snowshoeing, and wildlife watching (Table 20). The Natural Area, combined with the adjacent Buffalo Park, provides visitors a sense of peace and quiet within the City center.

One of the two primary goals of the Campaign for a Greater Buffalo Park effort was preserving opportunities to recreate within the urban environment and establish a “neighborhood” to be a buffer of natural communities for adjacent neighborhoods.

The second primary goal of the Campaign for a Greater Buffalo Park effort was preserving the expansive viewsheds of the San Francisco Peaks. Views of the peaks and other visually prominent features express the true nature of the city. These ‘mountain town’ views are important to maintain the character of the city, create a healthy environment to spend time in, and stimulate communities’ economic wellbeing.

Prior to the Natural Area’s preservation, most use occurred here by default rather than under planned management. With increasing numbers of people using the neighborhoods, more management is necessary. Increased neighborhood involvement and stewardship can help create and maintain the natural character and facilities of this Natural Area.

Existing Trails⁶⁶ (Figure 17):

- **Arrowhead Trail** (FUTS⁶⁷, Adopt-A-FUTS⁶⁸)
- **Arizona Trail** (FUTS) – A portion of the 800-mile trail that traverses from the Mexico to Utah borders is located on the property. A 30-foot-wide trail easement was established with neighboring landowners, including the San Francisco De Asis Roman Catholic Parish. The Flagstaff passage runs north and south through the middle of Flagstaff, starting south of town and traveling over McMillan Mesa and through Buffalo Park. This section of the Arizona Trail is a maintained walking trail with an improved surface of mostly gravel. The trail is maintained by the City Parks Department and Arizona Trail Stewards. Any modifications to the Arizona Trail require coordination with the Arizona Trail Association and FUTS staff.

⁶⁶ Many of the trails are included in the Flagstaff Urban Trails System (FUTS). The FUTS Master Plan can be viewed [online](#).

⁶⁷ FUTS trails are non-motorized, shared-use pathways utilized by bicyclists, walkers, hikers, and runners for recreation and transportation. All FUTS trails are primarily managed by the City Parks Department.

⁶⁸ The Adopt-A-FUTS program is managed by the Community Stewards program within the Sustainability Section of the City. The program allows community groups and individuals to adopt a trail section by committing to perform 3 cleanups per year.

- ***Cedar Trail (FUTS, Adopt-A-FUTS)***– A pedestrian/commuter trail that is parallel to Cedar Avenue but buffered from the road by a band of “open space”. It crosses over McMillan Mesa along the south side of Cedar and Forest Avenues from Turquoise Drive to West Street. Going over the Mesa means there are steady and at times very steep climbs from both ends of the trail. Approximately half of the trail is concrete (the portion west of pedestrian bridge), while the other half is constructed with an aggregate material (the portion east of pedestrian bridge).
- ***McMillan Mesa Trail (FUTS, Adopt-A-FUTS)*** – A recreational trail traveling east-west across McMillan Mesa Natural Area, connecting the Sunset Trail just west of the Natural Area to the Arizona Trail within the eastern portion of the Natural Area.
- ***Mesa Ridge Trail (FUTS, Adopt-A-FUTS)*** – A recreational 0.3-mile recreational FUTS trail connecting Cedar Trail to McMillan Mesa Trail. The trail is constructed with aggregate material and is relatively flat with very little elevation change.
- ***Sego Lily Trail (FUTS, Adopt-A-FUTS)*** – This unpaved, 0.64-mile trail climbs the east slope of McMillan Mesa, and provides access to open space between Isabel St./Sixth Ave. and the Arizona Trail. It is especially important to providing access for the Sunnyside neighborhood.
- ***Sunset Trail*** – A connector trail along the top of the cliff at the west edge of McMillan Mesa. There may be a future opportunity to bridge Cedar Avenue to continue the trail north to the Switzer Canyon Trail. The existing portion is 0.60 miles, with 0.14 miles planned, for a total length of 0.74 miles.
- ***Switzer Canyon Trail (FUTS, Adopt-A-FUTS)*** – A recreational trail located on an old roadbed that was the previous alignment for Cedar Avenue. When Forest Avenue was built over McMillan Mesa, this section of Cedar Avenue was abandoned and converted into a trail. When complete, this trail will allow users to travel from downtown Flagstaff to Buffalo Park while crossing only two major streets. The portion of Switzer Canyon Trail north of Forest Avenue is an aggregate-surfaced trail, while the portion of the trail south of Forest Avenue is concrete. Construction of the missing segment, which is outside the boundary of McMillan Mesa Natural Area, from Terrace Avenue to Switzer Canyon Road, is anticipated in 2019.

Planned Trails:

- ***Quarry Trail*** – This trail will follow the forest hillside on the southwest corner of McMillan Mesa, from the Arizona Trail to the Switzer Canyon Trail. Upon completion, total length will be 0.85 miles. The east end of the trail overlooks an historic quarry, which is the source of the iconic red Moenkopi sandstone used in numerous buildings in Flagstaff and elsewhere.

Management Goal: McMillan Mesa Natural Area will be managed to provide a wide variety of developed and dispersed day-use recreational opportunities.

Management Policies: In addition to the general policies guiding recreational use (outlined in Chapter 2.3.2), the following policies apply to managing recreational use of McMillan Mesa Natural Area:

- Limit developed recreation opportunities to preserve the scenic resources.
- Provide ADA-accessible recreational opportunities within current trails.
- Manage dispersed recreation to minimize soil compaction and impacts to wildlife forage.

Planned Management Actions: In addition to the general management actions planned for managing recreational use (outlined in Chapter 2.3.2), the following actions are planned for McMillan Mesa Natural Area:

- Investigate options to realign the steep section of the Cedar Trail to enhance public safety.
- Calculate existing unauthorized trail alignments for inclusion/exclusion in the trail system as connector trails to the existing FUTS network.
- Investigate the need for design and installation of interpretive signs throughout the Natural Area describing the ecological importance of grasslands and forest succession of the Natural Area.
- Design and construct ADA compliant trails within the Natural Area.

Trail Map

McMillan Mesa Natural Area

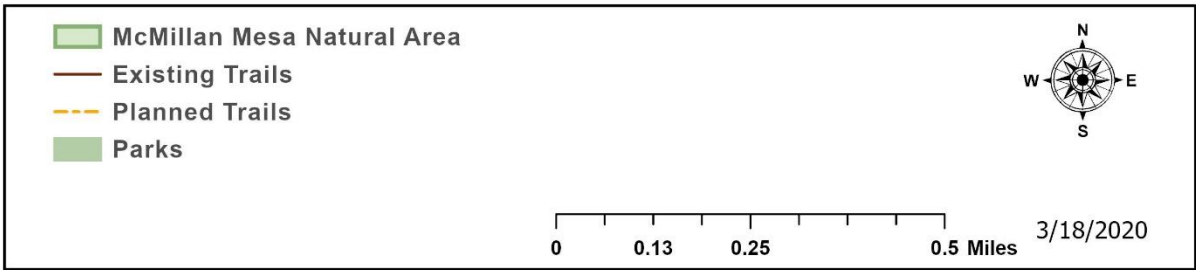
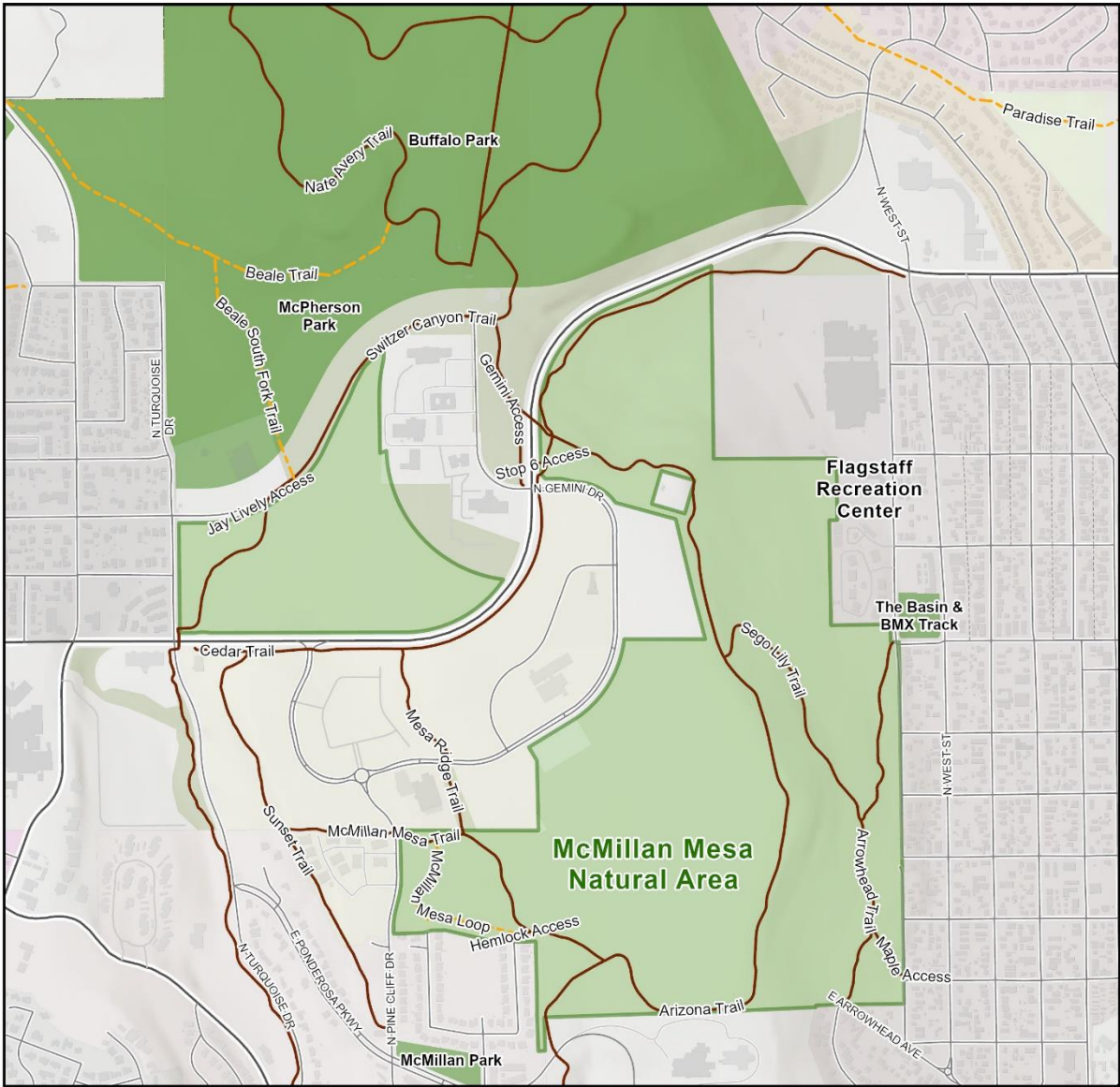


Figure 17: Existing and planned trails within the vicinity of McMillan Mesa Natural Area.

5.4.3 Easements and Leases

Summary of Current Conditions:

There are existing easements within and adjacent to the Natural Area, as well as utilities that cross the Natural Area that do not have easements. Many easements are under current roads. Given the amount of private and residential development surrounding the Natural Area, existing infrastructure is primarily for utilities and water (including water lines and water valves), which the City of Flagstaff holds rights to. An official easement assessment has not yet been conducted for the Natural Area.

Existing waterlines that run through the McMillan Mesa Natural Area will need to be accessed for work. City Water Services will work with Open Space to ensure that the Natural Area is properly managed and restored to open space standards in the event of any impacts. Per City of Flagstaff engineering standards and City Code, no infrastructure (buildings, bathrooms, fences, walls, etc.) can be built on top of or within 10 feet of a public water main.

Given that this property has been under City ownership since trading for it in 1959 from the National Forest Service, there may be utilities crossing the property that do not have easements, as it would have been unnecessary for the City to obtain an easement from itself at the time. All existing utilities are required to be managed to prevent or minimize impacts and to fully restore any effects from operations. This requires the use of appropriate tools and the development of management strategies to limit impacts and restore impacts to Open Space standards.

In 1969, the City established a scenic easement over much of the greater McMillan Mesa area to protect the natural features of the property.⁶⁹ This easement covered much of the Natural Area boundary, including Buffalo Park and much of the private property to the southwest. The scenic easement was abandoned in 1992 through Ordinance 1783. The next iteration of this type of protection is the Specific McMillan Mesa Village Plan⁷⁰, which set height restrictions specific for every Tract, including a 45-foot maximum building height.

Future development on private parcels on McMillan Mesa (outside of the Natural Area boundary) will tie in with existing water utility infrastructure. The City does not anticipate needing to construct or install additional water lines in the area but does need to ensure access for maintenance of existing infrastructure.

When the veteran facility is constructed it will be necessary for the City to investigate alternatives to complete the project without ground disturbance in the protected Natural Area. Additionally, there is a planned gravity sewer line in which one of the proposed alternatives could cross through the northwestern section of the Natural Area. Alternative solutions will need to be considered by the City to prevent impacts to the Natural Area.

⁶⁹ Flagstaff City Ordinance 744, 1969

⁷⁰ <https://www.flagstaff.az.gov/DocumentCenter/View/45052/McMillan-Mesa-Village-Specific-Plan?bidId=>

To meet future access needs, Open Space will encourage all easement access through any existing easements. New easement requests, including access to existing utilities that do not have easements, will be reviewed by Open Space staff and if found appropriate will be forwarded to the Flagstaff City Council for approval and adoption of the appropriate ordinance. This includes all projects not directly related to the management of the Natural Area. Furthermore, any projects approved that could alter the McMillan Mesa Natural Area will need to provide solutions that restore the property to an improved condition. Projects directly related to the administration of the Natural Area, such as facility improvements or resource management, will be reviewed by Open Space staff. If the task is found appropriate for the management of the property, a project plan addressing potential and unintended changes to ensure the property is fully restored at the completion of the project must be finished before implementation can occur.

Management Goal: Manage McMillan Mesa Natural Area for non-consumptive, sustainable uses.

Management Policies: In addition to the general policies applicable to managing easements and leases in Chapter 2.3.3, the following policies apply to managing easements and leases within McMillan Mesa Natural Area.

- City Water Services Department are to retain access for maintenance and improvements to their water infrastructure.
- Encourage future utilities to be below ground to protect the scenic values of the property, while minimizing other impacts. This requires the use of appropriate tools and the development of management strategies to limit impacts and restore the area to Open Space standards, in many circumstances requiring multi-year commitments.
- Use existing easements and reservations to the extent practical.
- Address new and existing utilities to prevent or minimize visual impacts, noise pollution, light pollution, ground disturbance, vegetation disturbance, interference with wildlife, conflicts with approved recreation, and other environmental impacts.

Planned Management Actions: In addition to the general management actions planned for managing easements and leases in Chapter 2.3.3, the following actions are planned for McMillan Mesa Natural Area.

- Ensure that ground-disturbing activities associated with easements and leases are coordinated with the Open Space Program to preserve resources and improve the condition of the Natural Area.
- Conduct an easement assessment for the Natural Area to generate a complete list of easements and licenses for the property.

5.4.4 Education and Research

Summary of Current Conditions:

The abundance of educational opportunities in the immediate area is a testament to the educational and research opportunities available within the McMillan Mesa Natural Area. Since 1990, the Flagstaff Festival of Science has worked to connect and inspire the citizens of Northern Arizona, with the wonders of science and the joy of scientific discovery. In partnership, the City of Flagstaff utilizes Buffalo Park as an outdoor classroom, using the space to host astronomy programs and night sky viewings. Throughout the year, several additional events are hosted in the area, including Lights Out Flagstaff and Arizona Trail Days.

McMillan Mesa's preservation is an important contribution to education. Grasslands are in decline due to detrimental development, agriculture, and other land use practices that have isolated them from other grasslands. Additionally, grasslands are in danger from shrub encroachment, which has affected over 35,200 km² (8.7 million acres) of grasslands across the nation.⁷¹ McMillan Mesa provides a unique opportunity to further understand these endangered ecosystems.

McMillan Mesa's urban location and proximity to educational institutions make it a good fit for the biological studies of species, environmental investigations, and opportunities to visit the property to learn about land management and urban planning. Coconino High School is near the northeast, BASIS Flagstaff Charter School to the east, and the Montessori Charter School of Flagstaff to the south. Also, within walking distance is the Peak School, Killip Elementary School, and Pine Forest Charter School.

Management Goal: McMillan Mesa Natural Area will be managed to provide diverse educational and research opportunities.

Management Policies: Policies applicable to managing education and research opportunities within McMillan Mesa Natural Area are outlined in Chapter 2.3.4.

Planned Management Actions: In addition to the general management actions planned for managing education and research in Chapter 2.3.4, the following actions are planned for McMillan Mesa Natural Area:

- Collaborate with adjacent schools to use the Natural Area as an outdoor classroom for their students.

⁷¹ Nielson, J., Reeves, K., and Thomas, L. 2010. "[Grasslands of the American Southwest – Introduction and Grassland Types.](#)" Southern Colorado Plateau Network Inventory and Monitoring Program.

5.4.5 Facility Development

Summary of Current Conditions:

Because of the fragile characteristics of soil, the construction of facilities can have a negative impact on ecological succession, native plant populations, and soil retention and development. Facility development should avoid construction on steep terrain and ecologically sensitive areas. Locations with well-established native plant populations should be avoided for facility and infrastructure development, as they stabilize the soil and form nutrient-rich organic matter. Facilities result in greater soil compaction and reduced water infiltration, while persistent foot traffic along steep slopes can exacerbate erosion rates.

McMillan Mesa is important for dark night sky preservation. The City was recognized as the world's first International Dark Sky City on October 24, 2001, for its pioneering work in the development and implementation of lighting codes that balance the need to preserve Flagstaff's dark sky resource with the need for safe lighting practices. The purpose of this division is to help assure that dark skies remain a resource to be enjoyed by the Flagstaff community and its visitors, and to provide safe and efficient outdoor lighting regulations that protect Flagstaff's dark skies from careless and wasteful lighting practices. Dark starry nights, like natural landscapes, forests, clean water, wildlife, and clear unpolluted air, are valued in many ways by the residents of this community, and they provide the natural resource upon which our world-renowned astronomical industry depends.

Current facilities within McMillan Mesa Natural Area are primarily focused on the extensive FUTS trail network within the area, including trail signs and other trail-related infrastructure (e.g. trash cans, benches). From the McMillan Mesa usage survey, Open Space received over 400 responses. Overall most people indicated that they prefer developments/improvements be minimized and that the property be kept as natural as possible. Most responses indicated that infrastructure such as signage, trails, parking and restrooms be minimal, and that emphasis be placed on maintaining the health and preservation of the ecosystem.

Management Goal: McMillan Mesa Natural Area will be managed to provide facilities that enhance visitors' experiences.

Management Policies: In addition to the general policies applicable to developing facilities in Chapter 2.3.5, the following policies apply to McMillan Mesa Natural Area:

- New facilities must follow night sky City Code 10.50.70.
- Focus and cluster facilities to areas that are already developed (e.g. along Gemini, near Apple, by USGS) to reduce impacts to the interior portion of the Mesa.
- Design facilities with colors and materials that blend in with the landscape.

Planned Management Actions: In addition to the general management actions planned for developing facilities in Chapter 2.3.5, the following actions apply to McMillan Mesa Natural Area:

- Design and install minimal signage, such as boundary signs, regulatory signage, trail signs, directional signs, orientation kiosks, and interpretive signs for key locations in the Natural Area.
- Investigate the need for benches throughout the Natural Area to encourage passive use of the property.
- Investigate opportunities to work with FUTS to improve some trails to achieve ADA compliant access and trails.
- Investigate need for recycling and trash facilities to provide at the primary trailhead and opportunities to partner with Parks.
- Investigate need for bathroom facilities and opportunities to partner with Parks to provide portable toilets.

5.5 Priority Action Plan

Provided below is a summary of priority actions that will be taken related to the expansion, development, and management of the Natural Area. It is anticipated that this Priority Action Plan will be updated every two years. The biannual review will be conducted in advance of the City of Flagstaff's budget development process. Modifications to the plan will be made to reflect existing conditions at the time of each update.

Table 21: McMillan Mesa Priority Action Plan – Facility Development

Action:	Responsibility:	Implementation Date:	Estimated Cost:
Install dog waste bag dispenser at primary access points.	City of Flagstaff	Summer 2020	\$2,000
Provide support to City Stormwater Section to determine the necessity and feasibility of constructing and maintaining a drainage basin near Izabel Street to capture and retain runoff.	City of Flagstaff	Summer 2020	\$0
Install minimal trail orientation signage.	City of Flagstaff	Spring 2021	\$1,000
Install minimal interpretive signage.	City of Flagstaff	Summer 2021	\$5,000
Install minimal orientation kiosks.	City of Flagstaff	Summer 2021	\$5,000
Investigate opportunity to install a welcome sign on Arizona Trail bridge.	City of Flagstaff	Summer 2021	\$5,000
Investigate potential partnering opportunities to provide parking access.	City of Flagstaff	Summer 2021	\$50,000
Investigate potential partnership with Parks to install “pit” toilets at primary trailhead.	City of Flagstaff	Summer 2021	\$100,000
Work with FUTS to complete the trail plan.	City of Flagstaff	Summer 2021	\$10,000
Decommission and revegetate unauthorized trails and roads not designated as part of planned trail system.	City of Flagstaff	Summer 2022	\$10,000
Investigate better connectivity of trails between Buffalo Park and McMillan Mesa.	City of Flagstaff	Summer 2022	\$5,000
Investigate partnership with Parks to maintain trash and recycling receptacles at primary trailhead.	City of Flagstaff	on-going/ monthly	\$5,000
Utilize volunteers and partner organizations to complete area monitoring and trail maintenance.	City of Flagstaff	on-going/ monthly	\$0

Table 22: McMillan Mesa Priority Action Plan – Resource Management

Action:	Responsibility:	Implementation Date:	Estimated Cost:
Develop trail maintenance standards and schedules.	City of Flagstaff	Summer 2020	\$0
Establish cultural resource baseline documentation.	City of Flagstaff, with volunteers	Summer 2020	\$18,000
Secure sustainable funding for ongoing, appropriate maintenance.	City of Flagstaff	Summer 2020	\$30,000/year
Complete rezone application to rezone the property to Public Open Space.	City of Flagstaff	Fall 2020	TBD
Conduct reptile and amphibian surveys.	AGFD with volunteer assistance	Summer 2021	Unknown
Conduct wildlife surveys for endangered and special-status species.	City of Flagstaff with AZGFD assistance	Summer 2021 and then as needed	\$5,000
Restore soil and vegetation surrounding APS parcel.	City of Flagstaff and APS	Summer 2021	\$3,910
Survey the property for user-created (unauthorized) roads and trails.	City of Flagstaff	Summer 2021	\$3,500
Conduct noxious plant surveys and maintain map of occurrence locations.	City of Flagstaff and volunteers	On-going	\$3,000/annum
Develop and maintain plant and animal species observation database.	City of Flagstaff and volunteers	On-going	\$0
Monitor insect and disease occurrences.	City of Flagstaff	On-going	\$0
Utilize volunteers and partner organizations to conduct trash clean ups.	City of Flagstaff	On-going	\$0
Treat invasive weeds biannually.	City of Flagstaff	Bi-Annually	\$3,000/annum
Coordinate with Flagstaff Fire Department and Arizona State Forestry to complete forest health improvement projects.	City of Flagstaff	Variable	\$0

Table 23: McMillan Mesa Priority Action Plan – Partnerships

Action:	Responsibility:	Implementation Date:	Estimated Cost:
Document rock art and other cultural resources.	City of Flagstaff with volunteers	Winter 2020	\$18,000
Partner with the Flagstaff Kestrel Project to install nesting boxes and monitor the American Kestrel population.	City of Flagstaff and Flagstaff Kestrel Project	Summer 2020	\$0
Work with City Streets to investigate installing additional signs along Cedar/Forest Ave. to minimize wildlife collisions.	City of Flagstaff with AZGFD assistance	Fall 2022	Unknown
Maintain communication with adjacent landowners regarding projects and events at the Preserve.	City of Flagstaff	On-going	\$200/annum
Manage Site Stewards Program in partnership with Arizona State Parks.	City of Flagstaff	On-going	\$0
Conduct meeting with Northern Arizona University representatives regarding on-site natural resource research work.	City of Flagstaff	Annually	\$500/annum
Establish informal agreements with private organizations and volunteer groups related to annual bird surveys.	City of Flagstaff	Update/renew annually	\$0
Confirm existing agreements and/or establish new agreements with AZGFD regarding annual mammal and reptile/amphibian surveys.	City of Flagstaff	As needed	\$0

Completed Priority Actions:

- Amend the Regional Plan and Zoning Code to reflect the outcomes of Proposition 413 (Winter 2019)
- Establish formal Volunteer/Docent Program for the Natural area (Winter 2019)

Chapter 6: Complementary Open Space Properties

Complementary Open Space properties are generally smaller than the regional preserves described in Chapters 3-5. These properties add to the user experience and provide additional value to the existing system of Open Spaces through providing buffers, protecting viewsheds, or improving trail transit and recreational opportunities. The general management goals, policies, and actions outlined in Chapter 2 apply to all Complementary Open Space Properties. Below are the special considerations for each property.

6.1 Schultz Creek Trailhead and Natural Area

6.1.1 Property Overview

The Schultz Creek Trailhead and Natural Area is a 20-acre legally-designated open space property⁷² located east of the intersection of Schultz Pass and Mount Elden Lookout roads. The legal description of the parcel is as follows: East half of the SE Quarter of the SW Quarter, Section 33, Township 22N, Range 7E of the Gila and Salt River Meridian, Coconino County, Arizona. The property is in a minimally developed area with adjacent federal and private property (Figure 18).

In 1898, the City of Flagstaff's first water reservoir was created through a contract with the Santa Fe Pacific Railroad that leased the land in exchange for City water infrastructure connecting springs on the San Francisco Peaks to the lumber and railroad industries and the town. The land and water rights were deeded to the City in 1916. The reservoir was replaced by new facilities on an adjacent property six years later. When those facilities were abandoned, John G. Avery leased the property to the Cowboy Country Club between 1939 and 1982 when it burned down. In 1999, the City Council passed Ordinance 2001 authorizing the sale of the property through the public bidding process. The property is still owned by the City.

In 2013, the City Council directed the Open Spaces Commission to review this parcel for its value as open space. The Commission felt that the parcel has significant value given the cultural and historic resources on site, significant scenic values, ecological values, accessibility, and recreational opportunities. The City Council passed Resolution 2014-04 memorializing it as open space and adopted Ordinance 2014-02 to permanently preserve the parcel as open space and repeal any conflicting ordinances. During this process, the Flagstaff community expressed significant concern with selling or developing the parcel and supported the designation.

In 2017, the Schultz Creek Trailhead and Natural Area was annexed into City limits⁷³ and rezoned from rural residential to public open space with a landmark overlay, a resource protection overlay, and rural floodplain designation.⁷⁴ Additionally, in 2017, the City's Heritage Preservation Commission voted to incorporate the parcel into the Landmark Overlay Zoning District given the role it played in Flagstaff's development and growth.

⁷² APN 300-47-004

⁷³ Flagstaff City Ordinance 2017-06

⁷⁴ Flagstaff City Ordinance 2017-07

Overview

Schultz Creek Trailhead and Natural Area



Figure 18: Schultz Creek Trailhead and Natural Area land management and vicinity map.

6.1.2 Natural Resource Considerations

Central to the overall management of Schultz Creek Trailhead and Natural Area is the effective management of its natural resources. The water, wildlife, vegetation, and geologic resources are important factors that supported the acquisition of the property and the establishment of the Natural Area. To ensure the protection of the biological, physical, and visual resources, targeted management objectives, policies, and planned management actions have been identified.

The Schultz Creek Trailhead area contains a designated “floodway” that is a Rural Floodplain (Figure 19). However, the area does not fall under regulation by the Federal Emergency Management Act (FEMA) and is instead managed by the City Stormwater Section.⁷⁵ There are strict regulatory requirements associated with this area and any projects planned within this footprint must be reviewed by Stormwater in the initial stages of planning.⁷⁶ The “floodplain” designated in the southeast corner of the property is not regulated – it is a buffer for the “floodway” adjacent to the parcel.

Schultz Creek Trailhead and Natural Area is located within a typical northern Arizona ponderosa pine forest. The overstory is comprised of primarily ponderosa pine (*Pinus ponderosa*), with multiple willow trees (*Salix sp.*) along Schultz Creek. The Natural Area is within the Flagstaff Watershed Protection Project (FWPP), the goal of which is to reduce the risk of large wildfires and post-fire flooding.⁷⁷ As it is within the FWPP footprint, future prescription burns may be required in the Natural Area.

Many special status plant (Table 24) and wildlife (Table 25) species have been identified in the Schultz Creek Trailhead area by land management organizations such as the U.S. Forest Service and the State of Arizona.

Table 24: Special status plant species identified within a 5-mile radius of Schultz Creek Trailhead.

Common Name	Scientific Name	Identification Agency
Arizona Sneezeweed	<i>Helenium arizonicum</i>	USFS
Bulblet Fern	<i>Cystopteris bulbifera</i>	None
Caltha-leaf Phacelia	<i>Phacelia calthifolia</i>	None
Clustered Leather Flower	<i>Clematis hirsutissima</i>	USFS, State
Flagstaff Beardtongue	<i>Penstemon nudiflorus</i>	USFS
Flagstaff Cinquefoil	<i>Potentilla sanguinea</i>	None
Flagstaff False Pennyroyal	<i>Hedeoma diffusa</i>	USFS, State
Hairy Water Clover	<i>Marsilea vestita</i>	None

⁷⁵ According to Zoning Code 10-50.90.040

⁷⁶ *Ibid*

⁷⁷ Flagstaff Watershed Protection Project [website](#)

Common Name	Scientific Name	Identification Agency
Intermountain Bitterweed	<i>Hymenoxys helenoides</i>	None
Many-leaved Ivesia	<i>Ivesia multifoliolata</i>	None
Mogollon Columbine	<i>Aquilegia desertorum</i>	State
Mountain Hollyfern	<i>Polystichum scopulinum</i>	None
Rusby's Milkvetch	<i>Astragalus rusbyi</i>	USFS
Seashore Cactus	<i>Opuntia martiniana</i>	State
Schultz Rough Whitlow Grass (Rough Draba)	<i>Draba asprella</i> var. <i>stelligera</i>	None

*None = no state or federal status.

Table 25: Special status animal species identified within a 5-mile radius of Schultz Creek Trailhead.

Common Name	Scientific Name	Identification Agency
Allen's Lappet-browed Bat	<i>Idionycteris phyllotis</i>	FWS, USFS, BLM
Arizona Myotis	<i>Myotis occultus</i>	FWS, BLM
Arizona (Mountain) Treefrog	<i>Hyla wrightorum</i>	None
Bald Eagle	<i>Haliaeetus leucocephalus</i>	FWS, USFS, BLM
Big Brown Bat	<i>Eptesicus fuscus</i>	None
Boreal Chorus Frog	<i>Pseudacris maculata</i>	None
Fringed Myotis	<i>Myotis thysanodes</i>	FWS
Greater Short-horned Lizard	<i>Phrynosoma hernandesi</i>	None
Greater Western Bonneted Bat	<i>Eumops perotis californicus</i>	FWS, BLM
Hoary Bat	<i>Lasiurus cinereus</i>	None
Little Colorado Spinedace	<i>Lepidomeda vittata</i>	FWS
Long-eared Myotis	<i>Myotis evotis</i>	FWS
Long-legged Myotis	<i>Myotis Volans</i>	FWS
Mexican Spotted Owl	<i>Strix occidentalis lucida</i>	FWS
Northern Goshawk	<i>Accipiter gentilis</i>	FWS, USFS, BLM
Silver-haired Bat	<i>Lasionycteris noctavagans</i>	None
Southwestern Myotis	<i>Myotis auriculus</i>	None
Variable Skink	<i>Plestiodon multivirgatus</i> <i>epipleurotus</i>	None

*None = no state or federal status.

Water Courses

Schultz Creek Trailhead and Natural Area

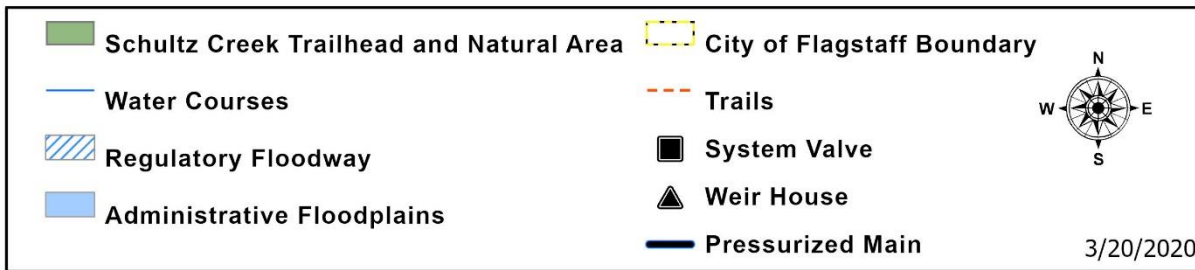


Figure 19: Floodplain map for the Schultz Creek Trailhead vicinity.

6.1.3 Cultural and Historic Resource Considerations

There has not yet been a formal cultural survey of the Natural Area to look for cultural resources. However, a Landmarks Overlay has been designated to the Schultz Creek Trailhead property to protect the remnants of the reservoir and associated infrastructure, a marker from the old Beale Wagon Road that crosses the property, and the remains from the Cowboy Country Club. See management policies in Chapter 3.3 for more details on the requirements for a Landmarks Overlay.

6.1.4 Public Use

The Schultz Creek Trailhead and Natural Area provides access between the City and Coconino National Forest properties like Mount Elden Dry Lakes. The property is used significantly by the public to participate in outdoor recreation activities and there are many user-created trails throughout the parcel.

Table 26: Permitted and Prohibited Recreational Uses of Schultz Creek Trailhead

Permitted Uses	Prohibited Uses
Cross Country Skiing	Campfires
Virtual geocaching	Camping
Hiking/Running	Fuelwood Collection (except with permit)
Horseback Riding	Off Highway Vehicles/Driving
Snow Shoeing	Hunting
Mountain Biking	Large-Scale Activities/Events (except with written approval from the Open Space Specialist)
Nature Study/Environmental Education	Flying model aircraft, such as drones, airplanes, or rockets (except with permit)
Wildlife Watching	

Motorized access to the property and nearby FUTS trails is by Mount Elden Lookout Road, maintained by Coconino County but federally owned, located along the southern boundary of the parcel. There is an informal parking area located on an adjacent private parcel that has significantly encroached onto the southwest corner of the City property that needs to be restored with the placement of boulders and re-seeding.

The Schultz Creek Trailhead and Natural Area is used as a hub for outdoor activities like trail runs and mountain biking events. There is potential to expand that use and designate the area as a primary access point for other outdoor recreation due to the proximity to the Mount Elden, Dry Lake Hills, and Fort Valley trail systems. However, there are many user-created trails in the eastern portion of the property that needs to be sustainably aligned with the designated trails and the Schultz Creek channel.

The property also contains water utilities infrastructure including an inner basin pipeline. City of Flagstaff Water Services requires access to these facilities for operation, maintenance, and repair, and can remove, alter, or maintain any improvements or obstructions within 15 feet of all City infrastructure.⁷⁸ However, any alterations or potential impacts to natural or cultural resources must be coordinated with the Open Space Program (see Chapter 2.3.3). The City holds an easement for the waterline that crosses through the parcels on the west side of the property.⁷⁹ In addition to the waterline easement, there is also a telephone and telegraph easement along the western property boundary with multiple telephone boxes along Schultz Pass Road.⁸⁰

To avoid public trespass onto these City utility areas, the existing infrastructure may be fenced off. Other fencing on the property does not align with property boundaries and will need to be moved to the proper locations. All fencing will be built to wildlife-friendly specifications.

6.1.5 Additional Management Policies

In addition to the general management policies outlined in Chapter 2: General Management Policies the following policies apply to Schultz Creek Trailhead.

Water Resources

- Improvement projects should include low impact development and green infrastructure aspects to encourage water infiltration on site and enhance water quality.

Cultural and Historic Resources

- Approval is required from the City Heritage Preservation Commission prior to implementing projects as required by the inclusion of Schultz Creek Trailhead in the City Landmarks Overlay District.

Access Management

- Utilities needs to retain access to their infrastructure and facilities for maintenance, operations, and repairs.

⁷⁸ Ordinance 2017-07

⁷⁹ Ordinance No. 1446

⁸⁰ Book 7 of Promiscuous Records, Page 514

6.1.6 Priority Action Plan

Provided below is a summary of priority actions that will be taken related the management of the property. It is anticipated that this Priority Action Plan will be updated every two years. The biannual review will be conducted in advance of the City of Flagstaff's budget development process. Modifications to the plan will be made to reflect existing conditions at the time of each update.

Actions – Facility Development

- Work with Coconino County to investigate upgrading the culvert under Mount Elden Lookout Road to improve Schultz Creek drainage.
- Work with Flagstaff Community Development – Multi-Modal Planning to designate and construct FUTS trails that provide non-motorized access to the parcel.
- Work with the Forest Service and Flagstaff Trail Initiative to determine an access solution for outdoor recreation connectivity to the Mount Elden, Dry Lake Hills, and Fort Valley trail systems.
- Partner with Flagstaff Trail Initiative to secure funding for an educational accessible trail interpreting the historic reservoir and Schultz Creek.

Actions – Resource Management

- Inventory the forest and cultural resources on the property.
- Develop a Forest Stewardship Plan that delineates which treatments are required.
- Install rock structures in the creek bed to slow down the water in Schultz Creek.
- Conduct noxious plant surveys and maintain map of occurrence locations.
- Coordinate with Flagstaff Fire Department and Arizona State Forestry to complete forest improvement projects.
- Treat invasive weeds biannually.
- Restore vehicle impacts and restore impacted vegetation.

Chapter 7: Open Space Connectors

Open Space Connectors link regional preserves and complementary open space using the Flagstaff Urban Trail System, washes, hillsides, floodplains, or other areas that are not fit for development. While there are currently no Open Space Connectors, the general management goals, policies, and actions outlined in Chapter 2 will apply when those properties are acquired.

Appendix A: Picture Canyon ALTA Survey

ALTA/ACSM LAND TITLE SURVEY

A PORTION OF SECTION 4, TOWNSHIP 21 NORTH,
RANGE 8 EAST OF THE GILA SALT RIVER MERIDIAN,
COCONINO COUNTY, ARIZONA



VICINITY MAP
NOT TO SCALE

SCHEDULE B - EXCEPTIONS
FROM COMMITMENT FOR TITLE INSURANCE, ISSUED BY PIONEER TITLE AGENCY, INC.
ORDER NO.: 0066587, EFFECTIVE DATE: 12/29/11 AT 2:30 A.M., AMENDED 01/12/2012

ITEM NO.	DESCRIPTION	NOTES
1	ANY ACTIONS TAX ASSESSMENTS	INDETERMINATE
2	RIGHT OF ENTRY RESERVED	INDETERMINATE
3	EASEMENTS AND RIGHTS	SHOWN HEREON
4	EASEMENTS AND RIGHTS	INDETERMINATE
5	EASEMENTS AND RIGHTS	INDETERMINATE
6	AGREEMENT ACCORDING TO TERMS	INDETERMINATE
7	LAND SURVEY MONUMENT RECORD	SHOWN HEREON
8	LAND SURVEY MONUMENT RECORD	SHOWN HEREON
9	THE EFFECT OF RESOLUTION	INDETERMINATE
10	GRAZING LEASE	INDETERMINATE
11	RIGHT OF WAY	INDETERMINATE
12	RIGHT OF WAY	SHOWN HEREON
13	RIGHT OF WAY	INDETERMINATE
14	RIGHT OF WAY	INDETERMINATE
15	RIGHT OF WAY	SHOWN HEREON
16	RIGHT OF WAY	SHOWN HEREON
17	RIGHT OF WAY	SHOWN HEREON
18	RIGHT OF WAY	SHOWN HEREON
19	RIGHT OF WAY	SHOWN HEREON
20	RIGHT OF WAY	SHOWN HEREON
21	RIGHT OF WAY	SHOWN HEREON
22	APPLICATION FOR RIGHT OF WAY	INDETERMINATE
23	APPLICATION FOR RIGHT OF WAY	SHOWN HEREON
24	APPLICATION FOR RIGHT OF WAY	INDETERMINATE
25	RIGHTS AS DISCLOSED	INDETERMINATE
26	AMBIGUITY OF THE DESCRIPTION	SHOWN HEREON
27	RESERVATION OR EXCEPTIONS	INDETERMINATE
28	WATER RIGHTS, CLAIMS OR TITLE	INDETERMINATE

LEGAL DESCRIPTION

FROM EXHIBIT A, COMMITMENT FOR TITLE INSURANCE, ORDER NO.: 0066587
Section 4, Township 21 North, Range 8 East, Gila & Salt River Base of Meridian, Coconino County, Arizona.

EXCEPT the South half of the Southwest quarter, (of the Southwest quarter), and the Southwest quarter of the Southwest quarter of the Southwest quarter of said Section 4, AND

EXCEPT the East half of the Southwest quarter of the Northwest quarter of the Southwest quarter; the Southwest quarter of the Northwest quarter of the Southwest quarter; the East half of the Northwest quarter of the Southwest quarter of the Southwest quarter; the Northwest quarter of the Southwest quarter of the Southwest quarter; the West 2/3 of the West half of the Southwest quarter of the Northwest quarter of the Southwest quarter; and the West 2/3 of the West half of the Northwest quarter of the Southwest quarter of the Southwest quarter of said Section 4, AND

EXCEPT a portion of the South half of said Section 4 lying Southwesterly of "an electric transmission line".

EXCEPT all oil and other hydrocarbon substances, helium or other substances of a gaseous nature, geothermal resources, coal, metals, minerals, fossils, fossils of every nature and description and except all materials which may be essential to production of fossilizable material as reserved in Arizona Revised Statutes.

BASE OF BEARING AND COORDINATE SYSTEM

LINEAR UNIT: INTERNATIONAL FOOT
GEODETIC DATUM: NAD 83 - ARIZONA
VERTICAL DATUM: NAVD83 (GEOID)
SYSTEM: CITY OF FLAGSTAFF LOW DISTORTION SYSTEM

PROJECTION

TRANSVERSE MERCATOR
LATITUDE OF GRID ORIGIN: 35° 00' 00" N
LONGITUDE OF CENTRAL MERIDIAN: 111° 31' 00" W
NORTHING AT GRID ORIGIN: 0.000 FT
EASTING AT CENTRAL MERIDIAN: 763,000.00 FT
CENTRAL MERIDIAN SCALE FACTOR: 1.000333 (EXACT)

THIS SURVEY WAS CONDUCTED USING GPS REFERENCED TO NGS (NATIONAL GEODETIC SURVEY) OPUS (ON-LINE POSITIONING SYSTEM) AND CONTINUED TO A LEAST-SQUARES ADJUSTMENT WITH AN ESTIMATED ACCURACY OF 30% CONFIDENCE LEVEL.

ALL MEASURED DISTANCES AND BEARINGS SHOWN HEREON ARE GRID VALUES BASED ON THE LOW DISTORTION PROJECTION SYSTEM. THIS PROJECTION IS DEFINED SUCH THAT GRID DISTANCES ARE EQUIVALENT TO "GROUND" DISTANCES IN THE PROJECT AREA.

THE BASIS OF BEARINGS IS TRUE GEODETIC NORTH. NOTE THAT THE MEASURED GRID BEARINGS SHOWN HEREON DO NOT EQUAL GEODETIC BEARINGS DUE TO MERIDIAN CONVERGENCE.

ORTHOMETRIC HEIGHTS (ELEVATIONS) WERE TRANSFERRED TO THE SITE FROM CITY OF FLAGSTAFF FOR THE "HEIGHT" USING GPS WITH NGS GEOID MODEL "GEOID09".

NOTES

AS TO THE MATTERS SHOWN HEREON, THE WLB GROUP INC. HAS RELIED SOLELY ON THE COMMITMENT FOR TITLE INSURANCE PREPARED AND ISSUED BY PIONEER TITLE AGENCY, INC. (ORDER NO.: 0066587; EFFECTIVE DATE: 12/29/11 AT 2:30 A.M., AMENDED 01/12/2012). THE WLB GROUP INC. AND THOMAS J. BUTLER, JR. MAKES NO STATEMENT AS TO THE ACCURACY OR COMPLETENESS OF THE SUBJECT COMMITMENT FOR TITLE INSURANCE.

AS TO SCHEDULE B EXCEPTIONS ITEMS 3, 15, AND 16, THE LOCATION OF THE 80 FEET WIDE RIGHT OF WAY AS SHOWN ON SHEET 2 WAS DETERMINED BY A BEST FIT TO THE FIBERGLASS GROUND LINE MARKERS LOCATED IN THE FIELD AT THE TIME OF THIS SURVEY AND A DESCRIPTION PROVIDED BY THE STATE LAND OFFICE.

AS TO SCHEDULE B EXCEPTIONS ITEM 12, THE LOCATION OF THE SPERAL LAND USE PERMIT (SULU) AREA AS SHOWN ON SHEET 2 WAS DETERMINED BY SCALING AN EXHIBIT PROVIDED BY THE STATE LAND OFFICE.

AS TO SCHEDULE B EXCEPTIONS ITEM 10, THE LOCATION OF THE RIGHT OF WAY (ROW) AREA AS SHOWN ON SHEET 2 WAS DETERMINED BY A BEST FIT LOCATION FROM THE CITY OF FLAGSTAFF GEOSPATIAL INFORMATION SYSTEM (GIS) AND BY SCALING AN EXHIBIT PROVIDED BY THE STATE LAND OFFICE.

AS TO SCHEDULE B EXCEPTIONS ITEM 18, THE LOCATION OF THE 30 FEET WIDE RIGHT OF WAY AS SHOWN ON SHEET 3 WAS DETERMINED BY A BEST FIT TO THE FIBERGLASS WATER LINE MARKERS LOCATED IN THE FIELD AT THE TIME OF THIS SURVEY AND A DESCRIPTION PROVIDED BY THE STATE LAND OFFICE.

AS TO SCHEDULE B EXCEPTIONS ITEMS 21 AND 23, THE LOCATION OF THE 10 FEET WIDE RIGHT OF WAY AS SHOWN ON SHEET 2 WAS DETERMINED BY A BEST FIT LOCATION FROM SCALING AN EXHIBIT PROVIDED BY THE STATE LAND OFFICE.

AS TO SCHEDULE B EXCEPTIONS ITEM 26, THE LEGAL DESCRIPTION HAS BEEN CONDUCTED AS SHOWN HEREON WITH ITALIC AND PARENTHESES TO DESCRIBE THE AREA OF THIS SURVEY.

AS TO ALL EASEMENTS AND RIGHT OF WAY SHOWN HEREON, THEY ARE FOR REFERENCE ONLY AND MAY NOT REFLECT ACTUAL LOCATIONS AND AREAS. AS TO THE SCHEDULE B ITEMS LISTED HEREON AS INDETERMINATE, THESE ITEMS WERE EITHER NOT FURNISHED BY THE TITLE COMPANY OR DO NOT HAVE SUFFICIENT METES AND BOUNDS DESCRIPTIONS TO CORRECTLY LOCATE THE LOCATIONS OF THIS SURVEY.

LEGAL DESCRIPTION

FURNISHED BY SURVEYOR, Form 4, SCHEDULE B REQUIREMENTS, COMMITMENT FOR TITLE INSURANCE, ORDER NO.: 0066587

The following is a legal description of a parcel land lying within Section 4, Township 21 North, Range 8 East, of the Gila Salt River Meridian, Coconino County, Arizona, more particularly described as follows:

Being the TRUE POINT OF BEGINNING at a found 3" BLM brass cap 722N, RBE, S33, S34, S4, S5, T21N, 1987" at the northwest corner of said Section;

Thence South 00°32'30" West along the east line of said Section, a distance of 228.85 feet to a set 1/2" rebar with aluminum cap T.S. 408461 at the east quarter corner of said Section, from which a found 1/2" aluminum cap "K.C. 1/4, S5, S3, 1084" bears South 087°19'59" West, a distance of 5.00 feet;

Thence continuing along said line South 00°12'05" West, a distance of 83.84 feet to a set 1/2" rebar with aluminum cap T.S. 408407 on the northerly line of the Arizona Public Service 100.00 foot Right of Way;

Thence South 28°13'00" West along said Right of Way line, a distance of 275.74 feet to a set 1/2" rebar with aluminum cap T.S. 408407;

Thence continuing along said Right of Way line South 57°01'00" West, a distance of 571.50 feet to a set 1/2" rebar with aluminum cap T.S. 408407 on a line parallel with said 100.00 foot east of the east line of the southwest quarter of the southwest quarter of the southwest quarter of said Section;

Thence South 00°13'02" East along said parallel line, a distance of 888.17 feet to a set 1/2" rebar with aluminum cap T.S. 408407 on the south line of said Section;

Thence North 89°45'05" West along said Section line, a distance of 100.00 feet to a set 1/2" rebar with aluminum cap T.S. 408407 of the southeast corner of the southwest quarter of the southwest quarter of said Section;

Thence North 00°13'02" West along the east line of the southwest quarter of the southwest quarter of the southwest quarter of said Section, a distance of 638.50 feet to a set 1/2" rebar with aluminum cap T.S. 408407 at the northeast corner of the southwest quarter of the southwest quarter of the southwest quarter of said Section;

Thence North 89°33'06" West along the north line of the southwest quarter of the southwest quarter of the southwest quarter of said Section, a distance of 338.31 feet to a found 2" square metal plate in concrete "S.E. CORN" of the southwest corner of the E. Case National Gas property;

Thence North 00°13'13" West along the east line of said property, a distance of 1314.92 feet to a found 2" square metal plate in concrete "N.E. CORN" at the northeast corner of said property;

Thence South 89°33'25" West, along the north line of said property, a distance of 1288.42 feet to a found 2" square metal plate in concrete "N.W. CORN" at the northwest corner of said property;

Thence South 00°14'30" East along the west line of said property, a distance of 1206.38 feet to a found 2" square metal plate in concrete "S" at the southwest corner of said property;

Thence North 89°54'19" West along the north line of the southwest quarter of the southwest quarter of the southwest quarter of said Section, a distance of 1330.83 feet to a set 1/2" rebar with aluminum cap T.S. 408407 on the west line of said Section;

Thence North 00°16'31" West along said Section line, a distance of 1354.81 feet to a found 1/2" aluminum cap 722N, RBE, 1/4, S3, S4, LS 14671, 1886" at the west quarter corner of said Section;

Thence continuing along said Section line North 00°21'36" West, a distance of 2586.04 feet to a found 1/2" aluminum cap 722N, RBE, 1/4, S3, S3, S5, S4, T21N, LS 9431, 1979" at northwest corner of said Section;

Thence North 88°43'58" East along the north line of said Section, a distance of 2684.52 feet to a found 3" BLM brass cap 722N, RBE, 1/4, S3, S4, T21N, 1987" at the north quarter corner of said Section;

Thence continuing along said Section line North 89°18'14" East, a distance of 2655.14 feet to the TRUE POINT OF BEGINNING.

Containing 477.80 Acres, more or less

CERTIFICATION

To The City of Flagstaff, Pioneer Title Agency, Inc., Old Republic National Title Insurance Company, and the State of Arizona, a Body Politic:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standards Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ASLTA and NSPS, and includes Items 1, 2, 3, 4, 8, 10, 11(a), 11(b), 13, 16, 17, 20(a), and 20(b) of Table A thereof. The field work was completed on 02-02-2012.

Date: 02/15/2012

Thomas J. Butler, Jr.
(Thomas J. Butler, RLS, 40840)



DATE:	
TITLE:	
TOP:	

Surveyor's Name: **WLB**
Company Name: **The WLB Group, Inc.**
Address: 1000 North McDowell Avenue, Suite 100, Flagstaff, AZ 86001
Phone: (909) 778-1500

ALTA/ACSM LAND TITLE SURVEY
PICTURE CANYON
COVER SHEET

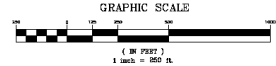
APPROVED FOR:	DATE:
CHECKED BY:	DATE:

PROJECT NO.	3110184002
SHEET	OF
1	3

ALTA/ACSM LAND TITLE SURVEY

A PORTION OF SECTION 4, TOWNSHIP 21 NORTH,
RANGE 8 EAST OF THE GILA SALT RIVER MERIDIAN,
COCONINO COUNTY, ARIZONA

RECORD INFORMATION
 R1 = LEGAL DESCRIPTION AND EXHIBIT PROVIDED BY THE STATE LAND OFFICE
 R2 = ARIZONA LAND SURVEY MONUMENT RECORD, DOCKET 1212, PAGE 207,
 OFFICIAL RECORDS COCONINO COUNTY RECORDERS OFFICE (ITEM #7)
 R3 = ARIZONA LAND SURVEY MONUMENT RECORD, DOCKET 1347, PAGE 493,
 OFFICIAL RECORDS COCONINO COUNTY RECORDERS OFFICE (ITEM #8)
 (M) = MEASURED DISTANCES
 (C) = CALCULATED DISTANCES



LINE	BEARING	DISTANCE
L1(R1)	S 49°38'24" W	120.04'
L1(R2)	SW	120.00'
L2(W)	S 21°52'25" W	81.18'
L2(R2)	SOUTHERLY	81.00'
L3(W)	S 00°16'05" E	5.00'
L3(R3)	SOUTH	5.00'

LEGEND

- SUBJECT PROPERTY LINE
- MID-SECTION LINE
- ADJUTANT LINE
- ADJACENT PROPERTY LINE
- EASEMENT/RIGHT OF WAY LINE

- FOUND 3" BLM BRASS CAP ON 2" PIPE (AS NOTED)
- FOUND 2 1/2" U.S.F.S. ALUMINUM CAP ON 2" PIPE (AS NOTED)
- FOUND 2" X 2" METAL PLATE "4" IN CONCRETE (AS NOTED)
- FOUND 1/2" REBAR WITH PLASTIC CAP (AS NOTED)
- FOUND 2 1/2" ALUMINUM CAP ON 2" PIPE (AS NOTED)
- FOUND REBAR WITH ALUMINUM CAP (AS NOTED)
- FOUND 5/8" REBAR (UNLESS OTHERWISE NOTED)
- SET 1/2" REBAR WITH ALUMINUM CAP "LS 40840" (UNLESS OTHERWISE NOTED)
- CALCULATED POINT (NOTHING FOUND OR SET)
- SET 1/2" REBAR (CONTROL POINT)



NO PORTION OF THIS SURVEY MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM WLB GROUP, INC.
 1-800-782-5348
 WWW.WLBGROUP.COM

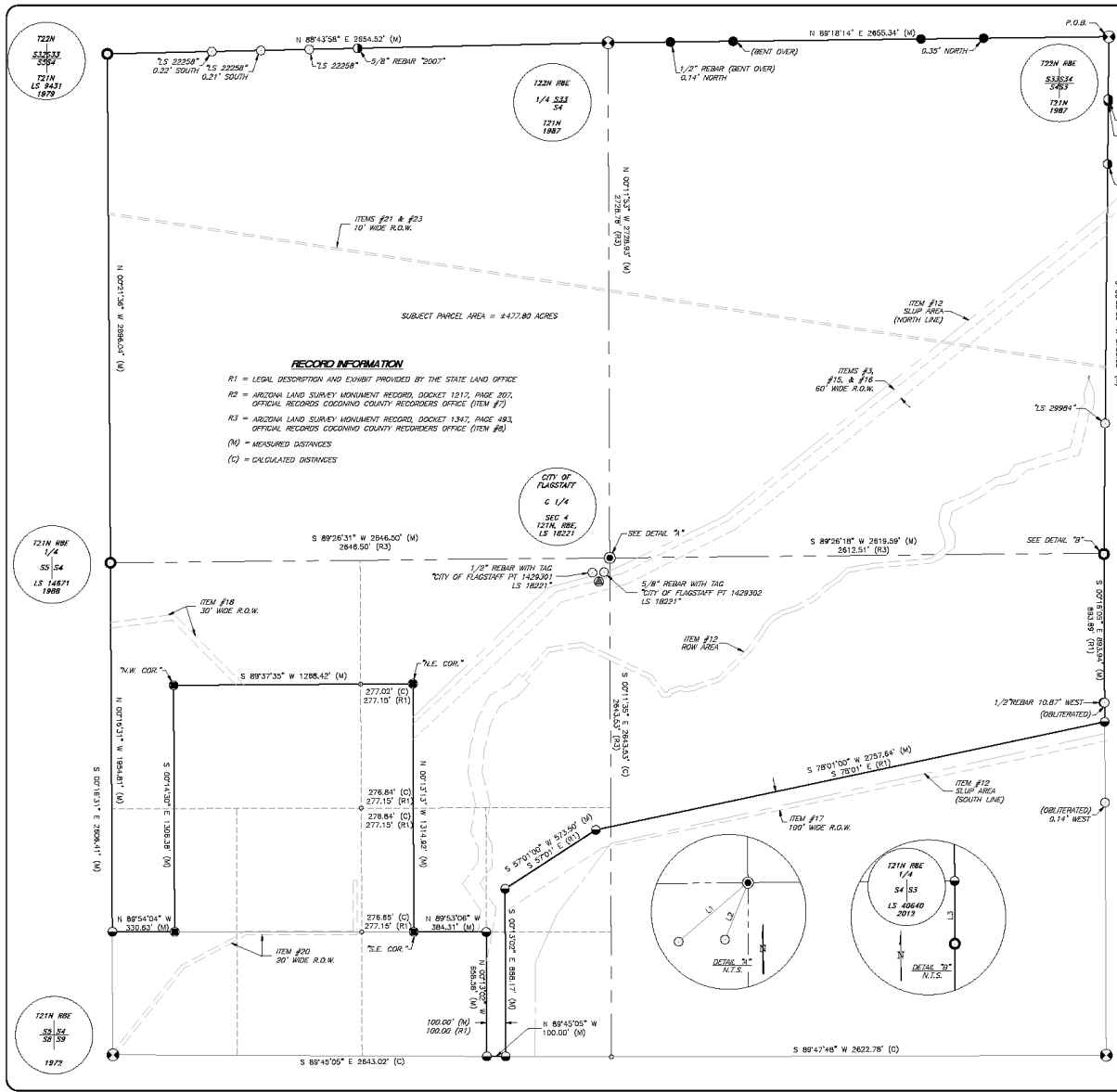
DATE:	
BY:	
SCALE:	AS SHOWN

The WLB Group, Inc.
 Surveying & Mapping
 303 N. Warner Street, Flagstaff, AZ 86001
 PH: (908) 778-1500

ALTA/ACSM LAND TITLE SURVEY
 PICTURE CANYON
 GEOMETRY SHEET

REVISION:	DATE:	BY:

PROJECT NO.	3110194002
SHEET	OF
2	3



**ALTA/ACSM LAND
TITLE SURVEY**
A PORTION OF SECTION 4, TOWNSHIP 21
NORTH, RANGE 8 EAST OF THE GILA SALT
RIVER MERIDIAN,
COCONINO COUNTY, ARIZONA

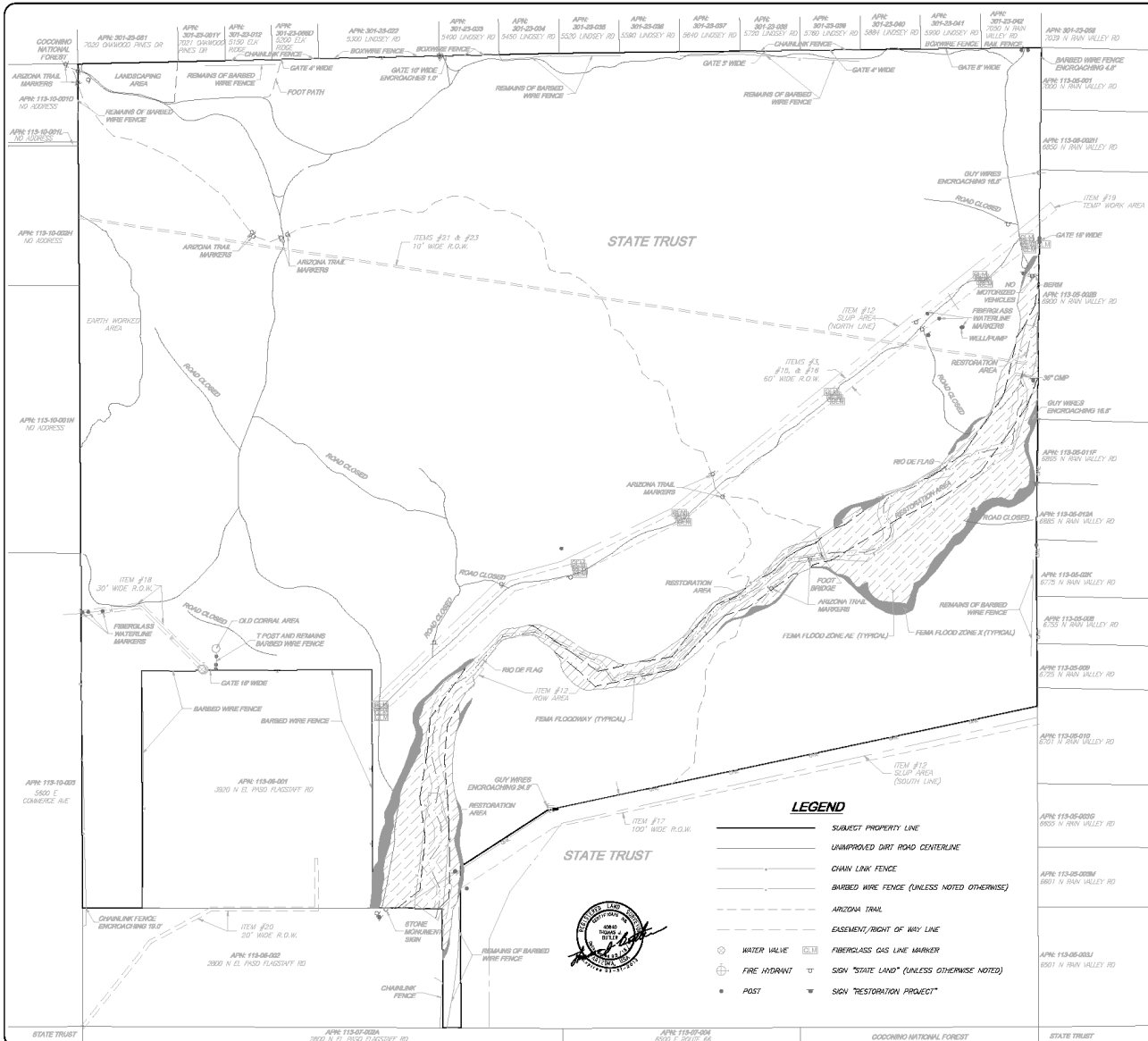
TITLE:	
DATE:	
DRAWN BY:	
CHECKED BY:	
SCALE:	AS SHOWN

Surveyed & Plotted by
The WLB Group, Inc.
 203 N. Second Street, Flagstaff, AZ 86001
 PH: (908) 778-1500

**ALTA/ACSM LAND TITLE SURVEY
PICTURE CANYON
TOPOGRAPHY SHEET**

ASAP/PROJ. NO.:	31194002
DATE:	07/20/11
DRAWN BY:	JEP
CHECKED BY:	JEP
SCALE:	AS SHOWN

PROJECT NO.	31194002
SHEET OF	3 3
1-800-782-5348	
NEW STATE ORDER	



NOTES:

THE UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON ABOVE GROUND APPURTENANCES LOCATED AT THE TIME THE FIELD SURVEY WAS BEING CONDUCTED AND INFORMATION OBTAINED FROM CITY OF FLAGSTAFF GIS.

UNLESS LABELED HEREON, THE ADJOINING PARCEL FENCE LINES DO NOT ENCOMPASS THE SUBJECT PARCELS.

REMARKS OF BARBED WIRE FENCE LINES SHOWN HEREON ARE BASED ON FIELD LOCATIONS OF EXISTING FENCE, OLD WIRE FOUND ON THE GROUND, AND OLD RECORDS.

THE CENTERLINE OF UNAPPROVED DIRT ROADS SHOWN HEREON ARE BASED ON FIELD LOCATIONS AND GOOGLE EARTH IMAGE DATED JUNE 2011.

THE CENTERLINE OF RIO DE FLAG SHOWN HEREON IS BASED ON FIELD LOCATIONS AND GOOGLE EARTH IMAGE DATED JUNE 2011.

THE ROADS LABELED HEREON AS CLOSED HAD A SIGN OR LOG BARRIER ADDRESS THEM TO PREVENT ACCESS.

THE CENTERLINE OF THE ARIZONA TRAIL SHOWN HEREON IS BASED ON FIELD LOCATIONS AND GOOGLE EARTH IMAGE DATED JUNE 2011.

THE LANDSCAPE AREA SHOWN HEREON DID NOT HAVE ANY PERMANENT FEATURES OR EARTHWORK OBSERVED AT THE TIME THE FIELD SURVEY WAS BEING CONDUCTED.

THE EARTH WORKED AREA SHOWN HEREON IS BASED ON GOOGLE EARTH IMAGE DATED JUNE 2011 AND IS AN AREA OF EXCAVATION FOR CANALS.

THE WELL/PUMP SHOWN HEREON SHOULD BE VERIFIED BY A PROFESSIONAL AS TO WHAT EXACTLY IT IS.

THE ADDRESS AND LINE WORK OF THE ADJOINING PARCELS SHOWN HEREON ARE BASED ON CITY OF FLAGSTAFF GIS AND ARE FOR REFERENCE ONLY.

THE EASEMENTS AND RIGHTS OF WAY SHOWN HEREON ARE BASED ON THE INFORMATION AS NOTED ON SHEET 1 AND ARE FOR REFERENCE ONLY AND MAY NOT REFLECT ACTUAL LOCATIONS AND AREAS.

THE FEMA FLOOD ZONES AND FLOODWAY SHOWN HEREON ARE BASED ON A SCALED IMAGE OF FEMA FLOOD INSURANCE RATE MAP NUMBER 0405050210, EFFECTIVE DATE SEPTEMBER 3, 2010.

ZONE AE = AREA OF SPECIAL FLOOD HAZARD SUBJECT TO INUNDATION BY 1% ANNUAL CHANCE FLOOD, BASE FLOOD ELEVATION DETERMINED.

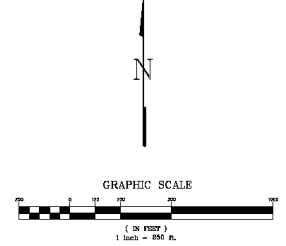
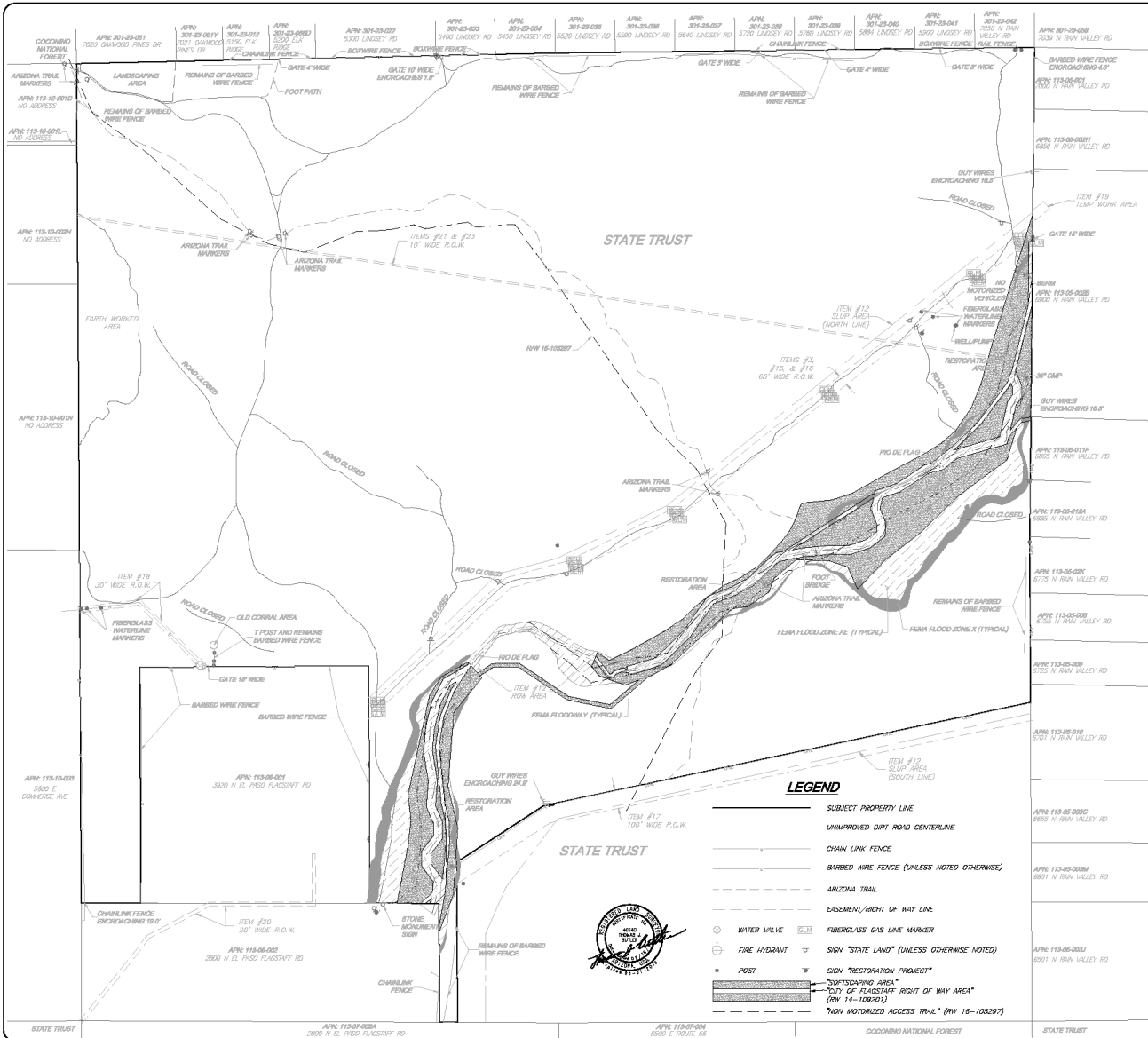
ZONE X = AREA OF 0.2% ANNUAL CHANCE FLOOD; AREA OF 1% ANNUAL CHANCE FLOOD WITH INCREASE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD.

FLOODWAY AREA IN ZONE AE = THE CHANNEL OF A STREAM PLUS ANY ADJACENT FLOODPLAIN AREAS THAT MUST BE KEPT FREE OF ENCROACHMENTS SO THAT THE 1% ANNUAL CHANCE FLOOD CAN BE CARRIED WITHOUT SUBSTANTIAL INCREASES IN FLOOD HEIGHTS.



1-800-782-5348
NEW STATE ORDER

EXHIBIT DRAWING
A PORTION OF SECTION 4, TOWNSHIP 21
NORTH, RANGE 8 EAST OF THE GILA SALT
RIVER MERIDIAN,
COCOONINO COUNTY, ARIZONA



NOTES

THIS DOCUMENT WAS PREPARED TO SHOW ADDITIONAL RIGHT OF WAY (R/W #14-108201 AND R/W #16-105297) NOT LISTED IN THE TITLE HEREIN, SCHEDULE B EXCEPTIONS, AND IN RELATIONSHIP TO THE ALTA/ACSM LAND TITLE SURVEY PREPARED FOR THE SUBJECT PARCEL.

THE UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON ABOVE GROUND APURTAINANCES LOCATED AT THE TIME THE FIELD SURVEY WAS BEING CONDUCTED AND INFORMATION OBTAINED FROM CITY OF FLAGSTAFF GIS.

UNLESS LABELED HEREON, THE ADJOINING PARCEL FENCE LINES DO NOT ENCRICH ADDRESS THE SUBJECT PARCEL.

REMAINS OF BARBED WIRE FENCE LINES SHOWN HEREON ARE BASED ON FIELD LOCATIONS OF EXISTING FENCE, OLD WIRE FOUND ON THE GROUND, AND OLD POST.

THE CENTERLINE OF UNIMPROVED DIRT ROADS SHOWN HEREON ARE BASED ON FIELD LOCATIONS AND GOOGLE EARTH IMAGE DATED JUNE 2011.

THE CENTERLINE OF RD OF FLAG SHOWN HEREON IS BASED ON FIELD LOCATIONS AND GOOGLE EARTH IMAGE DATED JUNE 2011.

THE ROADS LABELED HEREON AS CLOSED AND A SIGN OR LOG BARRIER ADDRESS THEM TO PREVENT ACCESS.

THE CENTERLINE OF THE ARIZONA TRAIL SHOWN HEREON IS BASED ON FIELD LOCATIONS AND GOOGLE EARTH IMAGE DATED JUNE 2011.

THE LANDSCAPE AREA SHOWN HEREON DID NOT HAVE ANY PERMANENT FEATURES OR EARTHWORK OBSERVED AT THE TIME THE FIELD SURVEY WAS BEING CONDUCTED.

THE EARTH WORKED AREA SHOWN HEREON IS BASED ON GOOGLE EARTH IMAGE DATED JUNE 2011 AND IS AN AREA OF EXCAVATION FOR CINDERS.

THE WELL PUMP SHOWN HEREON SHOULD BE VERIFIED BY A PROFESSIONAL AS TO HOW EXISTES IT IS.

THE ADDRESS AND LINE WORK OF THE ADJOINING PARCELS SHOWN HEREON ARE BASED ON CITY OF FLAGSTAFF GIS AND ARE FOR REFERENCE ONLY.

THE EASEMENTS AND RIGHTS OF WAY SHOWN HEREON ARE BASED ON THE INFORMATION AS NOTED ON THE ALTA/ACSM LAND TITLE SURVEY AND ARE FOR REFERENCE ONLY AND MAY NOT REFLECT ACTUAL LOCATIONS AND AREAS.

THE FEMA FLOOD ZONES AND FLOODWAY SHOWN HEREON ARE BASED ON A SCALED IMAGE OF FEMA FLOOD INSURANCE RATE MAP, MAP NUMBER 04080C0216G, EFFECTIVE DATE SEPTEMBER 3, 2010.

ZONE AC = AREA OF SPECIAL FLOOD HAZARD SUBJECT TO INUNDATION BY 1% ANNUAL CHANCE FLOOD; BASE FLOOD ELEVATION DETERMINED.

ZONE X = AREA OF 0.2% ANNUAL CHANCE FLOOD; AREA OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM THE ANNUAL CHANCE FLOOD.

FLOODWAY AREA IN ZONE AC = THE CHANNEL OF A STREAM PLUS ANY ADJACENT FLOODPLAIN AREAS THAT MUST BE KEPT FREE OF ENCUMBRANCES SO THAT THE 1% ANNUAL CHANCE FLOOD CAN BE CARRIED WITHOUT SUBSTANTIAL INCREASES IN FLOOD HEIGHTS.

- LEGEND**
- SUBJECT PROPERTY LINE
 - UNIMPROVED DIRT ROAD CENTERLINE
 - CHAIN LINK FENCE
 - BARBED WIRE FENCE (UNLESS NOTED OTHERWISE)
 - ARIZONA TRAIL
 - EASEMENT/RIGHT OF WAY LINE
 - FIBERGLASS GAS LINE MARKER
 - WATER VALVE
 - FIRE HYDRANT
 - POST
 - SLIP AREA (SOUTH LINE)
 - SIGN "STATE LAND" (UNLESS OTHERWISE NOTED)
 - SIGN "RESTORATION PROJECT"
 - "RESTORATION AREA"
 - "CITY OF FLAGSTAFF RIGHT OF WAY AREA" (R/W 14-108201)
 - "NON MOTORIZED ACCESS TRAIL" (R/W 16-105297)



TITLE
DATE
NO.

Indicated by a star in the title block, the survey was prepared by WLB Group, Inc., a Registered Professional Surveyor in the State of Arizona. License No. 12186. P.O. Box 779 - Flagstaff, AZ 86007. PH: 908-779-1500

The WLB Group

EXHIBIT DRAWING
PICTURE CANYON
TOPOGRAPHY SHEET

DATE PLOTTED	DATE CHECKED	DATE PLOTTED	DATE CHECKED
BY:	BY:	BY:	BY:
PROJECT NO.	SHEET	OF	
3110184002	11		

1-800-782-5348
 SEE OTHER SHEETS

Appendix B: Arizona State Parks Conservation Easement

Attachment C

DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 8 day of November, 2012 by The City of Flagstaff, having an address at 211 West Aspen Avenue, Flagstaff, Arizona 86002 (“Grantor”), in favor of Arizona State Parks Board, having an address at 1300 W. Washington, Phoenix, Arizona, 85007 (“Grantee”).

WITNESSETH:

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Coconino County, Arizona, more particularly described in Exhibit A attached hereto and incorporated by this reference (the “Property”); and

WHEREAS, the Property possesses ecological values (collectively, “conservation values”) of great importance to Grantors and the people of the State of Arizona; and

WHEREAS, in particular, Picture Canyon provides a scenic gateway into Flagstaff from I-40 and historic Route 66. Sheep Hill is located to the west and Turkey Hill is located to the east of the project area. The large village site of Elden Pueblo is roughly ½ mile to the northwest. The parcel contains the Rio de Flag floodway, one of the natural landmarks of the community, and is vital to the Rio de Flag greenbelt. The Rio channel, which runs through Picture Canyon, contains steep topography, a rare waterfall, pit houses, caves and petroglyph panels. The parcel reflects many of the qualities of Flagstaff’s unique scenic beauty – its high desert ponderosa pine forest, piñon and juniper vegetation, and meadows; and

WHEREAS, the specific conservation values of the Property are further documented in an inventory of relevant features of the Property, submitted by Grantor as application for matching funds from the Land Conservation Fund through the Growing Smarter Trust Land Acquisition Grant Program and incorporated by this reference (“Baseline Documentation”), which consists of reports, maps, photographs, and other documentation that the parties provide, collectively, an accurate representation of the Property at the time of this grant and which is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantor intends that the conservation values of the Property be preserved and maintained by permitting only those land uses on the Property that do not significantly impair or interfere with them, including, without limitation, those land uses relating to existing at the time of the grant; and

WHEREAS, Grantor further intends, as owner of the Property, to convey to Grantee the right to preserve and protect the conservation values of the Property in perpetuity; and

WHEREAS, Grantee is an Arizona state agency whose primary purpose is to manage and conserve Arizona's natural, cultural and recreational resources for the benefit of the people;

NOW, THEREFORE, in consideration of a Grant Award in the amount not to exceed \$2,389,000 and in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of Arizona and in particular A.R.S. § 33-271 through § A.R.S. 33-276 and A.R.S. §41-511.23, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

1. **Purpose.** It is the purpose of this easement to assure that the Property will be retained forever in predominantly the condition reflected in the Baseline Documentation referenced in this document and to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property. Grantor intends that this Easement will confine the use of the Property to such activities, including, without limitation, those involving passive recreational uses compatible with the maintenance of the Property's Conservation Values, such as hiking and horseback riding, educational gatherings, periodic planting of native plant species, release of rehabilitated or displaced wildlife and other activities, as are not inconsistent with the purpose of this Easement. This Easement is intended to assure that the goals of the Growing Smarter Act, as amended, to conserve open spaces in or near urban areas and other areas experiencing high growth pressures, will be met. This Easement seeks to conserve open space, defined as land that is generally free of uses that would jeopardize the conservation values of the land or development that would obstruct the scenic beauty of the land. Conserved land remains open space if the stewards of the parcel maintain protection of both the natural and cultural assets for the long-term benefit of the land and the public and the unique resources that the area contains, such as scenic beauty, protected plants, wildlife, archaeology, passive recreation values and the absence of extensive development.
2. **Rights of Grantee.** To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this easement:
 - (a) To preserve and protect the conservation values of the Property;
 - (b) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement in accordance with paragraph 8; provided that, except in cases

where Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Easement, such entry shall be upon prior reasonable notice to Grantor; unless entry is open to the public, in which case notice to enter upon Property is assumed if it complies with the Grantor's enforced rules of public access, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and

- (c) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in paragraph 8.
3. **Restricted Uses.** Regardless, no more than 10% of the acquired land, up to a limit of 20 acres total, may be eligible for alteration or development, and all such proposed work must be approved by the Grantee in advance, subject to Paragraph 6 below. No changes may be made to the parcel that would seriously or negatively affect its conservation and open space values. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are allowed only upon prior approval of the Grantee:
- (a) **Construction of Buildings and Other Structures.** The construction or reconstruction of any building or other structure or improvement, except those existing on the date of this Easement, is prohibited, except those alterations which are approved in advance by the Grantee and listed in sub-paragraphs (b) and (c).
 - (b) **Trail and Parking Lot Construction.** No trail, road, parking lot, ramada, staging area or other man made structure shall be constructed without the advance written permission of Grantee. Such permission shall not be unreasonably withheld unless Grantee determines that the proposed location of any trail, road, parking lot, ramada or staging area will substantially diminish or impair the Conservation Values of the Property or is otherwise inconsistent with this Deed.
 - (c) **Signage or Billboards.** No signs, billboards, awnings or advertisements shall be displayed or placed on the Property, except for appropriate and customary signs for interpretive and recreational purposes, such as "no trespassing" signs and trail markers, and then only with advance written permission from Grantee. Under no circumstances shall any sign or marker be erected that materially adversely affects the Conservation Values of the Property.
 - (d) **Temporary Fundraising Activity.** Grantor may request the right to perform periodic and temporary fundraising activities on the Property if

the revenues earned from those activities will be used for stewardship of the Property. Such fundraising activities shall be allowed only upon written approval of Grantee if Grantee determines that the proposed activity will not substantially diminish or impair the Conservation Values of the Property or is otherwise inconsistent with this Deed.

Where Grantee's approval is required, as set forth above, Grantee shall grant or withhold its approval in writing within a reasonable period of time. Grantor's written request shall include a description of the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with purpose of this Easement. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. If Grantee does not respond to the request within 60 days, the request shall be deemed denied. In the event of approval, any deviation from the nature, scope, design, location, timetable or any other material aspect of the proposed activity requires that Grantor submit an additional request for approval.

4. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:
 - (a) **Subdivision.** Any division or subdivision of title to the Property, whether by physical or legal process, is prohibited.
 - (b) **Commercial or Industrial Activity.** No commercial or industrial uses shall be allowed on the Property.
 - (c) **Mining.** The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel, or any other mineral substance is prohibited.
 - (d) **Water Rights.** Grantor shall retain and reserve the right to use water rights sufficient to maintain and improve the Conservation Values of the Property, and shall not transfer, encumber, lease, sell, or otherwise separate water rights necessary and sufficient to maintain and improve the Conservation Values of the Property from title to the Property itself.
 - (e) **Trash and Dumping.** The dumping or uncontained accumulation of any kind of trash or refuse on the Property is prohibited.
5. **Reserved Rights.** Grantors reserve to themselves, and to their personal representatives, heirs, successors, assigns, all rights accruing from their ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of

the foregoing, and subject to the terms of paragraph 3, the following rights are expressly reserved:

- (a) To engage in and permit others to engage in recreational uses of the Property, including, without limitation, hiking, horseback riding, and other forms of passive recreation that require no surface alteration or other development of the Property.
- (b) To engage in and permit others to engage in educational and scientific study activities, without limitation, provided that no unauthorized alteration of the Property or of objects or sites addressed in paragraph 7 will occur as a result of these activities.
- (c) To remove invasive plant species and to re-vegetate portions of the Property with indigenous plants if needed after flood, fire, or other disturbance.

Grantor is required to notify Grantee prior to undertaking or permitting new activities on the Property, if not specifically listed above, in order to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are not inconsistent with the purpose of the Easement. Grantor shall provide notice to Grantee in writing not less than 60 days prior to the date Grantor intends to undertake or permit the new activity in question.

6. Notice of Intention to Undertake Certain Permitted Actions.

6.1 Where Grantee's approval is required, as set forth in paragraphs 3(a) through 3(d), Grantee shall grant or withhold its approval in writing within 60 days of receipt of Grantor's written request therefore. The written request shall include a description of the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with purpose of this Easement. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. If Grantee does not respond to the request within the 60-day time frame, the request shall be deemed denied. In the event of approval, any deviation from the nature, scope, design, location, timetable or any other material aspect of the proposed activity requires that Grantor submit an additional request for approval.

6.2 Grantor is required to notify Grantee prior to undertaking permitted activities consistent with the Easement, other than those activities governed by paragraphs 3(a) through 3(d) and 6.1 to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are not inconsistent with the purpose of the Easement. Grantor shall provide notice to Grantee in writing not less than 60 days prior to the date Grantor intends to undertake the activity in question.

7. Historic Properties and Preservation of Resources.

7.1 Definition. Historic Properties are defined as sites, buildings, structures and objects significant in this state's history, architecture, archaeology, engineering and culture which meet eligibility criteria which the Arizona Parks Board establishes for listing on the Arizona Register of Historic Places or which are listed on the National Register of Historic Places.

7.2 General Preservation. Grantor agrees to consider the use of and impact upon historic properties located on the Property and to undertake any reasonable preservation that is necessary to carry out the terms of this Easement. In addition, the Grantor agrees to avoid any demolition, substantial alteration or significant deterioration of historic properties and objects on the Property.

7.3 Land Uses and Historic Preservation. Grantor agrees that only those uses that are compatible with preservation of the cultural resources located on the Property shall be allowed on the Property and ensure that the pre-historical, historical, architectural or culturally significant values will be preserved or enhanced.

7.4 Unintentional Disturbance. The Grantor agrees to monitor the Property for the unintentional disturbance of human remains or funerary objects and historic properties on the Property and shall report any such disturbance to the Director of the Arizona State Museum, the State Historic Preservation Officer and the Grantee. The Grantor agrees to exercise any and all measures recommended by either the Director of the Arizona State Museum, or other permitting authority as established by state law, or the Grantee, to see that on further disturbance of the remains or objects occurs.

7.5 Prohibition on Excavation. The Grantor agrees that it will not disturb or excavate or grant any other person permission to disturb or excavate in or upon any historic property, or any historic or prehistoric ruin, burial ground, archaeological or vertebrate pale ontological specimen. For the purpose of this provision, archaeological specimen means any item resulting from past human life or activities which is at least 50 years old including petroglyphs, pictographs, paintings, pottery, tools, ornaments, jewelry, textiles, ceremonial objects, weapons, armaments, vessels, vehicles and human skeletal remains. Archaeological specimen does not include arrowheads, coins or bottles. Notwithstanding the applicability of these prohibitions, the Grantee, in consultation with the State Historic Preservation Officer, may consider and allow for the excavation in or upon a historic property, provided that the Conservation Values of the Property are not adversely affected. In addition, any excavation of disturbance that is allowed by the Grantee is still subject to approval by and the permitting requirements of the Director of the Arizona State Museum, or other permitting authority established in law.

7.6 Prohibition on Defacing Property. The Grantor agrees not to deface or otherwise alter any site or object on the Property and embraced within the terms stated in provisions 7.1 through 7.5. The Grantor further agrees to make reasonable efforts to avoid the potential that persons and entities entering upon the site for approved purposes

may deface or otherwise alter any site or object embraced within the terms stated in provisions 7.1 through 7.5.

7.7 Reporting Discoveries. The Grantor agrees that during the course of acting as steward of the Property and especially during any work to prepare the Property for public access, such as a survey, excavation, construction or other like activity, that it shall report promptly to the Director the Arizona State Museum, or other permitting authority as established by state law, the State Historic Preservation Officer and the Grantee, the existence of any archaeological, pale ontological or historical site or object that is at least 50 years old and that is discovered in the course of such survey, excavation, construction, other like activity, or other activities undertaken as the steward of the Property. All such discoveries are subject to the provisions of the Arizona Antiquities Act. Any discoveries may require treatment such as remediation or restoration if the site or object was adversely impacted as a result of the survey, excavation, construction or other like activity, which the cost of any such remediation or restoration shall be borne by Grantor.

8. Grantee's Remedies.

8.1 Notice of Violation; Corrective Action. If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantors of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee at Grantor's expense.

8.2 Injunctive Relief. If Grantor fails to cure the violation within 20 days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a **20** day period, fail to begin curing the violation within the 20 day period, or fail to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.

8.3 Damages. Grantee shall be entitled to recover damages up to, but not in excess of the grant amount, directly resulting from violation of the terms of this Easement or injury to any conservation values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting the Grantors' liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

8.4 Emergency Enforcement. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this

paragraph 8 without prior notice to Grantor or without waiting for the period provided for cure to expire.

8.5 Scope of Relief. Grantee's rights under this section 8 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in paragraph 8.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Paragraph 8 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

8.6 Costs of Enforcement. All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantors, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantors' violation of the terms of this Easement shall be borne by Grantor.

8.7 Forbearance. Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

8.8 Waiver of Certain Defenses. Grantors hereby waive any defense of laches, estoppel, or prescription.

8.9 Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, mitigate significant injury to the Property resulting from such causes. Notwithstanding the foregoing, nothing herein shall preclude Grantor's and Grantee's rights to pursue any third party for damages to the Property from vandalism, trespass or any other violation of the terms of this Easement.

9. Arbitration. Notwithstanding the remedies available to the parties pursuant to Paragraph 8 above, the parties agree to resolve all disputes arising out of or relating to this Easement 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.

10. Access. Grantor agrees to provide reasonable public access to the Property and agrees to impose no restrictions that would limit reasonable public access.

11. Records Retention. Grantor agrees to retain all data, books and other records (“Records”) relating to the grant for a period of five years. All records shall be open to inspection and audit by the grantee at reasonable times. Upon request, the Grantor will provide a legible copy of any or all such records within a reasonable time.

12. Annual Reports and Certification. Grantor agrees to report annually on the condition of the Property and to report any change in the Property from the Baseline Documentation to the Grantee in a format of the Grantee’s choosing. The Grantor shall certify compliance with the obligations of the Deed of Conservation Easement every year in perpetuity, on a form to be provided by the BOARD. In addition, on-site inspections shall be conducted periodically at the discretion of the BOARD. The following point shall be taken into consideration during the inspection of properties that have been acquired or developed with grant assistance: retention and use appearance, maintenance, management, availability, environment, signing, and interim use.

13. Costs, Liabilities, Taxes, and Environmental Compliance.

13.1 Costs, Legal Requirements, and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate liability self-insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by the Grantors.

13.2 Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively “taxes”), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.

13.3 Representations and Warranties. Grantors represent and warrant that, after reasonable investigation and to the best of their knowledge:

- (a) No substance defined, listed or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, soil, or in any way harmful or threatening to human health or the environment exists or has been released, generated, treated, stored, used disposed of, deposited, abandoned, or transported in, on, from or across the Property;
- (b) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed

- from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements;
- (c) Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;
 - (d) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property; and
 - (e) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, local law, regulation, or requirement applicable to the Property and its use, nor do there exist any facts or circumstances that the Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

13.4 Remediation. If, during Grantor's ownership of the Property, there occurs, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agree to take all steps reasonably necessary to assure its containment and remediation, including any cleanup that may be legally required, unless the releases were caused by the Grantee, in which case Grantee shall be responsible therefore.

13.5 Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA").

14. Extinguishment and Condemnation.

14.1 Extinguishment. If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement may be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction or by mutual written agreement of the parties. Unless otherwise required by applicable law at the time, in the event of any sale of all or a portion of the Property (or any other property received in connection with an exchange or involuntary conversion of the Property) after such termination or extinguishment, and after the satisfaction of prior claims and net of any costs or expenses association with such sale, Grantor and Grantee shall divide the proceeds from such sale (minus any amount attributable to the value of improvements made by Grantor after the effective date of this Easement, which amount is reserved to Grantor) in accordance with their respective percentage interests in the fair market value of the Property, adjusted, if necessary, to reflect a partial termination or

extinguishment of this Easement. Grantor shall use all such proceeds received by Grantor in a manner consistent with Grantor's conservation purposes.

14.2 Condemnation. If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of their interests in the Property, including Grantee's interest in the amount of the Grant Award, subject to the taking or in lieu of purchase and all direct or incidental damages resulting there from. All expenses reasonable incurred shall be paid out of the amount recovered.

15. Amendment. Notwithstanding the provisions related to extinguishment of this Easement, if circumstances arise under which an amendment to or modification of this Easement would be appropriate, the Grantor and Grantee are free to jointly amend this Easement, provided that no amendment shall be allowed that will affect the qualifications of this document as an Easement under the laws of Arizona, and any amendment shall be consistent with the purpose of this Easement and shall not have a material negative affect on the Conservation Values. Such amendments shall be in writing and executed by both Grantor and Grantee.

16. Subsequent Transfers. Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantors further agree to give written notice to Grantee of the transfer of any interest at least 30 days prior to the date of such transfer. The failure of Grantors to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

17. Estoppel Certificates. Upon request by Grantor, Grantee shall within 30 days of receiving the request, execute and deliver to Grantor, or to any party designated by Grantors, any document, including an estoppel certificate, which certifies, to the best of Grantee's knowledge, Grantor's compliance with any obligation of Grantor contained in this Easement or otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within 30 days of receipt of Grantor's written request therefore.

18. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantors:
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

To Grantee:
Arizona State Parks
1300 West Washington Street
Phoenix, Arizona 85007

or to such other address as either party from time to time shall designate by written notice to the other.

19. **Recordation.** Grantee shall record this instrument in timely fashion in the official records of Maricopa County, Arizona, and may re-record it at any time as may be required to preserve its rights in this Easement.

20. **General Provisions.**

20.1 **Controlling Law.** The laws of the State of Arizona shall govern the interpretation and performance of this Easement. Proper venue for any dispute relating to the Easement shall be the Superior Court of Maricopa County.

20.2 **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of A.R.S. §33-271 through §33-276 and A.R.S. §41-511.23. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

20.3 **Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

20.4 **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

20.5 No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantors' title in any respect.

20.6 Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties, hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and its successors, and assigns, and the above-named Grantee and its successors and assigns.

20.7 Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

20.8 Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

20.9 Non-discrimination. The Parties hereby acknowledge that they are bound by Executive Order 99-4 concerning non-discrimination in employment.

20.10 Non-Availability of Funds. Every payment obligation of the Grantee and Grantor under this Easement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Easement, this Easement may be terminated by the Grantee at the end of the period for which funds are available. No liability shall accrue to the Grantee in the event this provision is exercised, and the Grantee shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

20.11 Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, the Grantor and the Grantee have executed this Deed of Conservation Easement, which shall become effective immediately upon signature by both parties.

GRANTOR: CITY OF FLAGSTAFF

Kevin Burke
Signature

Kevin Burke
Print Name

City Manager
Title

10/25/12
Date

ACKNOWLEDGMENT BY GRANTOR

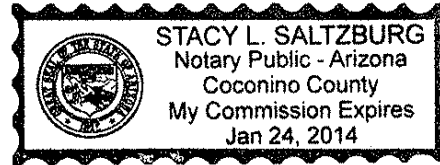
State of Arizona)
County of Coconino)

The foregoing instrument was acknowledged before me this 25th day of October, 2012

By Kevin Burke
GRANTOR

Stacy L. Saltzburg
Notary Public

(Seal)



GRANTEE: ARIZONA STATE PARKS BOARD

Bryan Martyn
Signature

BRYAN MARTYN
Print Name

DIRECTOR
Title

11/8/2012
Date

ACKNOWLEDGMENT BY GRANTEE

State of Arizona)
County of Maricopa)

The foregoing instrument was acknowledged before me, this 8th day of November, 2012

By BRYAN MARTYN
GRANTEE

Vivia Strang
Notary Public

(Seal)



Appendix C: Picture Canyon Annual Monitoring Checklist

Picture Canyon Natural and Cultural Preserve Annual Monitoring Checklist

Site Visit Information

Monitor:

Monitoring Date:

Hours Spent on Property:

Method of Monitoring (foot, car, aerial, etc.):

Areas of Property Visited (include coordinates, if possible):

Areas of Property Not Visited:

Monitoring Site Visit Observations

Property Improvements

Roads:

Trails:

Fencing:

Utilities (powerlines, gas lines, water utilities):

Signs:

Gates:

Other:

Resource Management and Land Uses

Easements and Leases:

Have any water or utility improvements been constructed?

Forest Health and Vegetation:

Are noxious or invasive weeds present on the property? Are they encroaching into the riparian area?

Are there forest health improvement projects (e.g. thinning, broadcast/prescribed burning) occurring on the property?

Is there evidence of insects or disease (mistletoe boughs, sap pitches, etc.)?

Public Use:

Have there been any changes to public access to the parcel?

Is there any evidence of illegal vehicle trespass onto the property?

What type of recreational activities did you encounter during your visit?

Have any new trails been constructed as part of the planned trail system?

Are there new unauthorized user-created trails on the property?
Is there any evidence of illegal dumping or pollution?
Is there any evidence of overnight use (e.g. campers, campfire rings)?

Wildlife:

Have any habitat improvement projects been completed?
Is there evidence of wildlife presence?

Water Resources:

Have there been any impacts to the riparian area or Rio de Flag floodplain?
Are cattails encroaching into the deep water pond?
Is there any damage to the stream channel (e.g. banks devoid of vegetation, noticeable erosion)?

Adjacent Property Owners:

Is there evidence of encroachment or unauthorized use?
Are there any noticeable adverse impacts occurring from adjacent properties?

Archaeological Resources:

Is there any evidence of damage to petroglyphs (e.g. scratching)?

Miscellaneous:

Have there been any impacts to the property from natural causes (e.g. floods, fires, stormwater run-off)?
Do you have any general observations or notes that are not captured in other sections of this report (wildlife or plants seen, habitat or land condition)?

Post-Monitoring

Summarize any potential problems, issues of concern, or conflicts with the terms of the easement.

Please list out any questions, requests, or required follow-up items.

Please list out any potential issues for next year's monitoring visit.

Monitored by:

Signature:
Date:
Name:
Title:

Reviewed by:

Signature:
Date:
Name:
Title:

Appendix D: Observatory Mesa ALTA Survey

ALTA/ACSM LAND TITLE SURVEY

SECTION 12, T 21 N, R 6 E, & PORTION OF SECTION 6,
SECTIONS 8, 18 & PORTIONS OF SECTION 19, T 21 N, R 7 E,
G & SRM, COCONINO COUNTY, ARIZONA

PARCEL DESCRIPTIONS

The West half and the West half of the East half of Section 6, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

Combining 19,832.9/8 square feet (452.30 acres), more or less.

The West half, and the West half of the East half of Section 6, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.

Combining 20,740,888 square feet (476.33 acres), more or less.

All of Section 12, Township 21 North, Range 6 East, Gila and Salt River Meridian, Coconino County, Arizona.

Combining 27,800,743 square feet (640.81 acres), more or less.

Government Lots 1 through 4; the northeast quarter, the East half of the West half, and the West portion of the Southeast quarter lying Northwesterly of the southerly line of the BNSF (formerly the Atchison, Topeka and Santa Fe) Railway right-of-way situated in Section 18, Township 21 North, Range 7 West, Gila and Salt River Meridian, Coconino County, Arizona.

Except that parcel described by instrument No. 2059197, R.O.C.

Combining 27,467,742 square feet (630.57 acres), more or less.

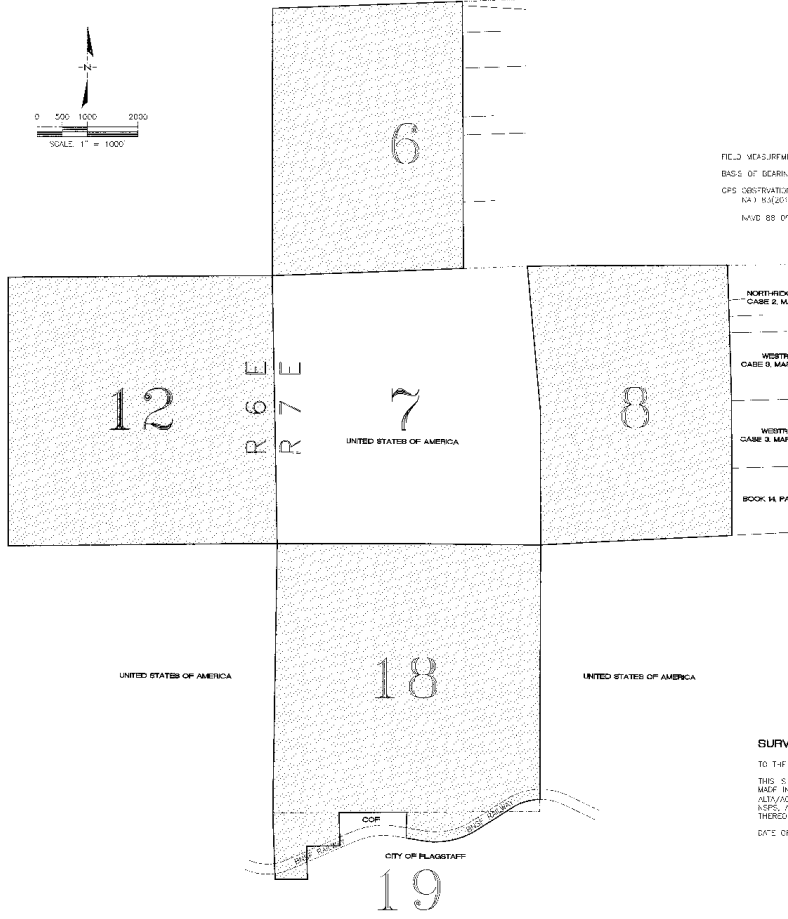
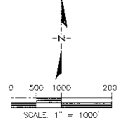
Government Lot 3, and the northeast quarter of the of the Northeast quarter of Section 19, Township 21 North, Range 7 West, Gila and Salt River Meridian, Coconino County, Arizona.

Containing 1,285.25 square feet (29.51 acres), more or less.

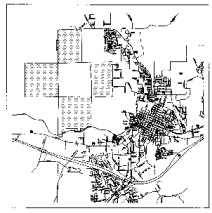
That portion of the North half of the North half of the Northeast quarter of Section 19, Township 21 North, Range 7 West, Gila and Salt River Meridian, Coconino County, Arizona, lying north of the south line of the Burlington Northern and Santa Fe Railway.

Containing 698,508 square feet (16.08 acres), more or less.

NOTE: Inches and eighths are abbreviated to mean eighths past-hundred, NOT eighths.



FIELD MEASUREMENTS PERT TO FINISHING THIS MAP WERE MADE IN APRIL - JUNE, 2013.
BASE OF SECTION 6, T21N17R6E10W GRS OBSERVATION
GPS OBSERVATIONS MADE INCLUDING CODE SECTION 18, T21N17R6E10W
T21N17R6E10W POINT COORDINATES: 321107.583515787 N
1111187.262569690 W
NAVD 88 DATUM (NAD 83) 680611.142



VICINITY MAP
FLAGSTAFF, ARIZONA (NOT TO SCALE)

- NORTH-RIDGE ESTATES
- CASE 2 MAP 45, R.O.C.
- WESTRIDGE
- CASE 8 MAP 28, R.O.C.
- WESTRIDGE
- CASE 3 MAP 28, R.O.C.
- BOOK 14 PAGE 16, R.O.C.

SHEET INDEX

- SHEET 2: SECTION 6
- SHEET 3: SECTION 12
- SHEET 4: SECTION 8
- SHEET 5: SECTIONS 18 & 19

ADDITIONAL DOCUMENTS REVIEWED

- A.T. & S.F. RAILWAY CO. "SECOND FILING MAP", APPROVED MAY 22, 1918 BY THE U.S. DEPT. OF INTERIOR.
- U.S. PL.M. SURVEY PLAT NOS. 00910, 00920 & 00922
- U.S. PL.M. FIELD BOOK NOS. A28342 & A28387
- COCONINO COUNTY RECORDER INSTRUMENT NOS.: 1100104, 1426418, 2065271, 3532701, 3622004, 9498304, 1033309, 1454656, 3225709, 3476403, 0099812, 300933, 3052179, 3393441, 900111, 1488608, 5011039, 1273389

SURVEY NOTES

- THIS MAP WAS PREPARED FROM NOTES OF A FIELD SURVEY CONDUCTED UNDER MY SUPERVISION USING THE METHOD OF JOHN W. GIBB, 2011 TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS MAP IS A COMPLETE AND ACCURATE REPRESENTATION OF THE SUBJECT.
- NO WARRANTIES ARE MADE BY THE ENGINEER AND SURVEYOR REGARDING THE ACCURACY OF ANY PROPERTY ORIGIN OR LOCATION IN THIS SURVEY SPECIAL OWNERSHIP INTERESTS WILL BE AFFECTED BY INSTRUMENTS, MAPS OF RECORDATION, AND OTHER RECORDS OF RECORD.
- THIS SURVEY WAS CONDUCTED IN CONJUNCTION WITH PUBLIC TITLE ADVISORY INC. REPORT OF TITLE RECORDED, JUNE 2013, AT 7:30 AM.

SURVEYOR'S CERTIFICATION

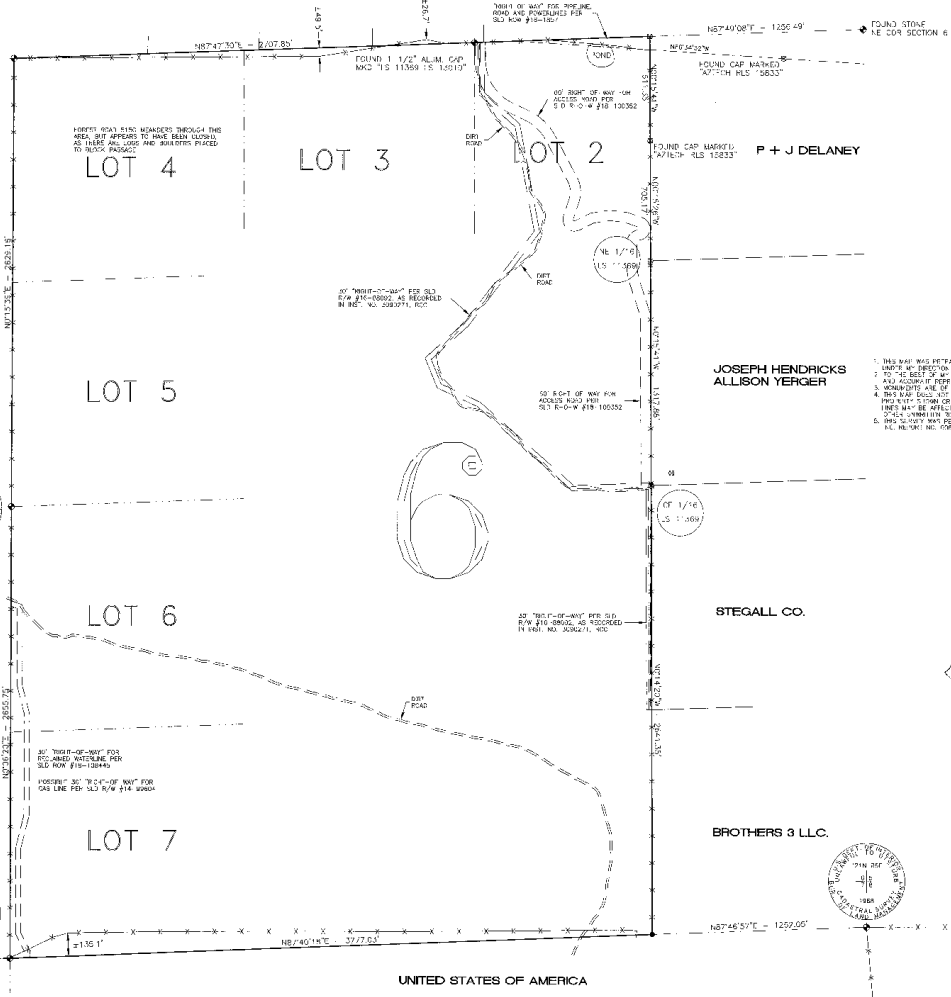
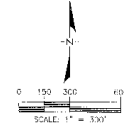
TO THE CITY OF FLAGSTAFF, ARIZONA:
THIS IS TO CERTIFY THAT THIS MAP AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND RPS, AND EXCEEDED THEM IN 2, 3, 4, 14, 12, 13, 16, 18, AND 20 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON JUNE 12, 2013.
DATE OF PLAT OR MAP: June 14, 2013.



FLOOD ZONE
ALL OF THE PROPERTY SURVEYED LIES IN FEMA ZONE X

WOODSON ENGINEERING AND SURVEYING INC.
154 N. ELM ST., FLAGSTAFF, AZ 86001-1706 TEL: (928) 774-4608 FAX: (928) 774-4648
113621
ALTA/ACSM LAND TITLE SURVEY
OBSERVATORY MESA
CITY OF FLAGSTAFF
DATE: MAY 20, 2013
11:58:30 AM

TINTAGLE
BOOK 5, PAGE 63



SURVEY NOTES

FIELD MEASUREMENTS USED TO PREPARE THIS MAP WERE MADE IN MARCH - JUNE, 2013.
 BASIS OF MEASUREMENTS DERIVED FROM GPS OBSERVATIONS.
 GPS OBSERVATIONS MADE UTILIZING CORE STATION: NAL FLAGSTAFF CORE ARP: PD - 011640
 NAD 83 (2011) POSITION: 32° 10' 38.33178\"/>

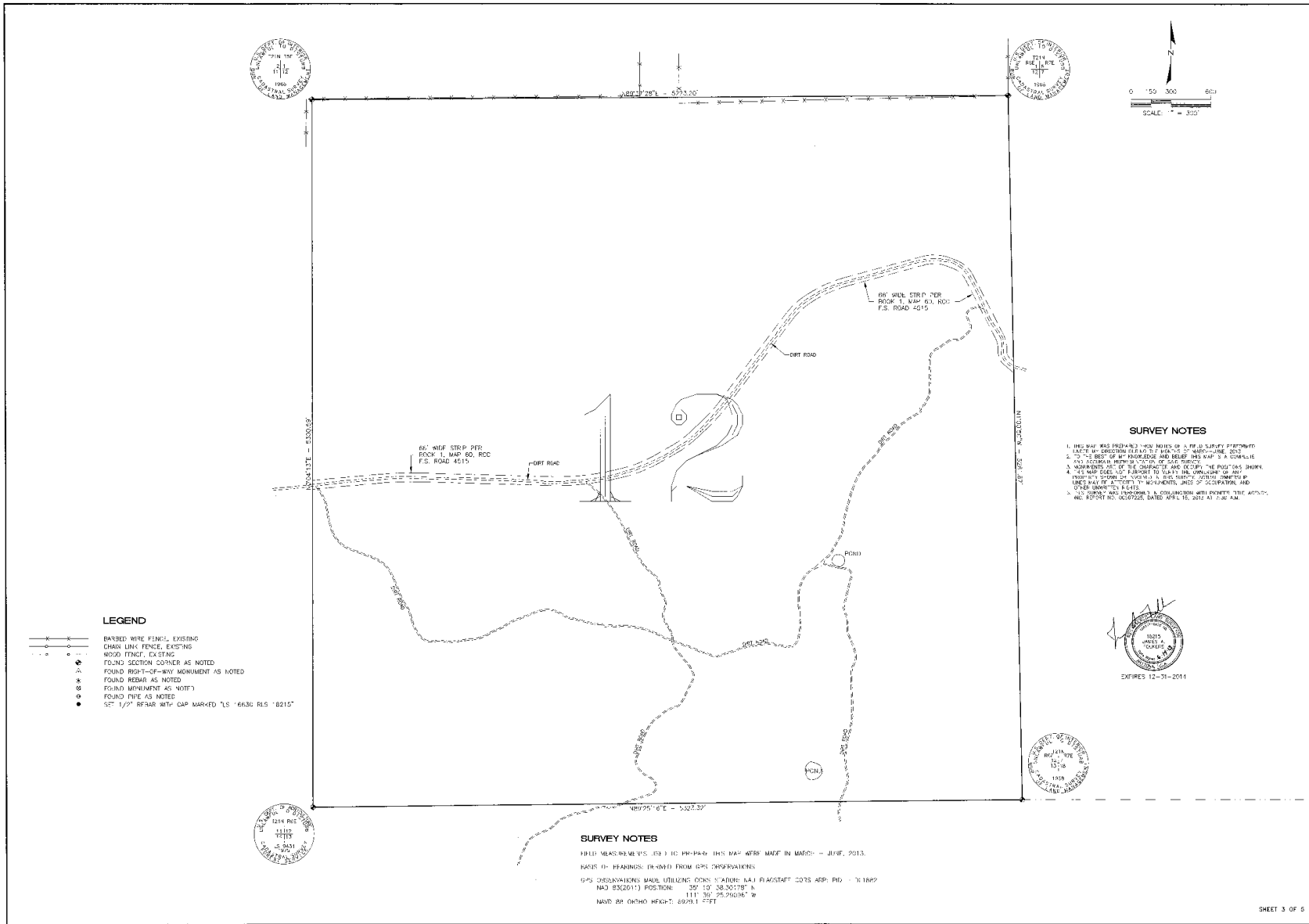
SURVEY NOTES

1. THIS MAP WAS PREPARED FROM NOTES OF A FIELD SURVEY PERFORMED
2. UNDER MY SUPERVISION DURING THE MONTHS OF MARCH - JUNE, 2013.
3. TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS MAP IS A CORRECT AND ACCURATE REPRESENTATION OF SAID SURVEY.
4. THIS MAP DOES NOT PURPORT TO COPY THE ORIGINAL SURVEY.
5. THE EXISTENCE OF ANY RIGHTS OR INTERESTS IN THE SURVEYED PROPERTY ARE NOT TO BE AFFECTED BY MEASUREMENTS, MAPS OF COORDINATION, AND OTHER INSTRUMENTS.
6. THIS SURVEY WAS PERFORMED IN COOPERATION WITH A PRIVATE TITLE AGENCY, ALL RIGHTS RESERVED, 1214 W. JEFFERSON, SUITE 200, PHOENIX, AZ 85007.

LEGEND

- BARBED WIRE FENCE, EXISTING
- CHAIN LINK FENCE, EXISTING
- WOOD FENCE, EXISTING
- STEEL FENCE, EXISTING
- GUARDRAIL, EXISTING
- HANDRAIL, EXISTING
- FOUND SECTION CORNER AS NOTED
- FOUND RIGHT-OF-WAY MONUMENT AS NOTED
- FOUND BENCHMARK AS NOTED
- FOUND MONUMENT AS NOTED
- FOUND PIPE AS NOTED
- 1/2\"/> BEAR WIRE CAP MARKED "S 16K30 RLS 18215"

6-14-2013
WOODSON ENGINEERING AND SURVEYING, INC.
 124 N. BERRY ST., FLAGSTAFF, AZ 86001 • PHONE: (928) 774-4838 FAX: (928) 774-4848
 113821
 ALTA/ACSM LAND TITLE SURVEY
 SECTION 61, T1N, R16E, S8 & 9M
 CITY OF FLAGSTAFF, AZ
 EX#1955 12-3-2014
 SHEET 2 OF 5



- LEGEND**
- x—x— BARBED WIRE FENCE, EXISTING
 - o—o— CHAIN LINK FENCE, EXISTING
 - - - - - WOOD FENCE, EXISTING
 - ⊕ FOUND SECTION CORNER AS NOTED
 - ⊖ FOUND RIGHT-OF-WAY MONUMENT AS NOTED
 - * FOUND REBAR AS NOTED
 - ⊗ FOUND MONUMENT AS NOTED
 - ⊙ FOUND TIE AS NOTED
 - SET 1/2" REBAR WITH CAP MARKED "LS 16630 RLS 18215"

SURVEY NOTES

1. THIS MAP WAS PREPARED FROM DATA OF A SURVEY PERFORMED ON THE LANDS DESCRIBED HEREIN BY MEASUREMENTS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND UNDER MY CLOSE PERSONAL SUPERVISION.
2. I AM A LICENSED SURVEYOR IN THE STATE OF ARIZONA.
3. I AM NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS MAP WHICH MAY BE CAUSED BY NEGLIGENCE OR OTHER UNREASONABLE CARE.
4. THIS MAP DOES NOT REPRESENT ANY GUARANTEE OF TITLE OR INTEREST IN THE LANDS DESCRIBED HEREIN.
5. THIS MAP DOES NOT REPRESENT ANY GUARANTEE OF ACCURACY OR CORRECTNESS OF THE INFORMATION HEREON.
6. THIS MAP DOES NOT REPRESENT ANY GUARANTEE OF THE ACCURACY OR CORRECTNESS OF THE INFORMATION HEREON.
7. THIS MAP DOES NOT REPRESENT ANY GUARANTEE OF THE ACCURACY OR CORRECTNESS OF THE INFORMATION HEREON.
8. THIS MAP DOES NOT REPRESENT ANY GUARANTEE OF THE ACCURACY OR CORRECTNESS OF THE INFORMATION HEREON.
9. THIS MAP DOES NOT REPRESENT ANY GUARANTEE OF THE ACCURACY OR CORRECTNESS OF THE INFORMATION HEREON.
10. THIS MAP DOES NOT REPRESENT ANY GUARANTEE OF THE ACCURACY OR CORRECTNESS OF THE INFORMATION HEREON.

SURVEY NOTES

FIELD MEASUREMENTS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION ON MARCH - JUNE, 2013.

BASE OF BEARINGS DERIVED FROM GPS OBSERVATIONS.

GPS OBSERVATIONS MADE UTILIZING COGNIS STATION: AA1 FLAGSTAFF 2075 APR: PID: 131897

NAD 83(2011) POSITION: 35° 10' 38.30578" N
111° 30' 25.79036" W

NAVD 83 OGDHO HEIGHT: 6929.1 FEET

WOODSON ENGINEERING AND SURVEYING INC
 124 N. CANYON BLVD. FLAGSTAFF, AZ 86001 PHONE: (928) 774-4025 FAX: (928) 774-4046
 6-14-2013
 113621
 ALTA/ACSM LAND TITLE SURVEY
 SECTION 12, T. 21 N., R. 6 E., S. 8 W.
 COUNTY OF FLAGSTAFF, AZ
 SHEET 3 OF 5

SURVEY NOTES

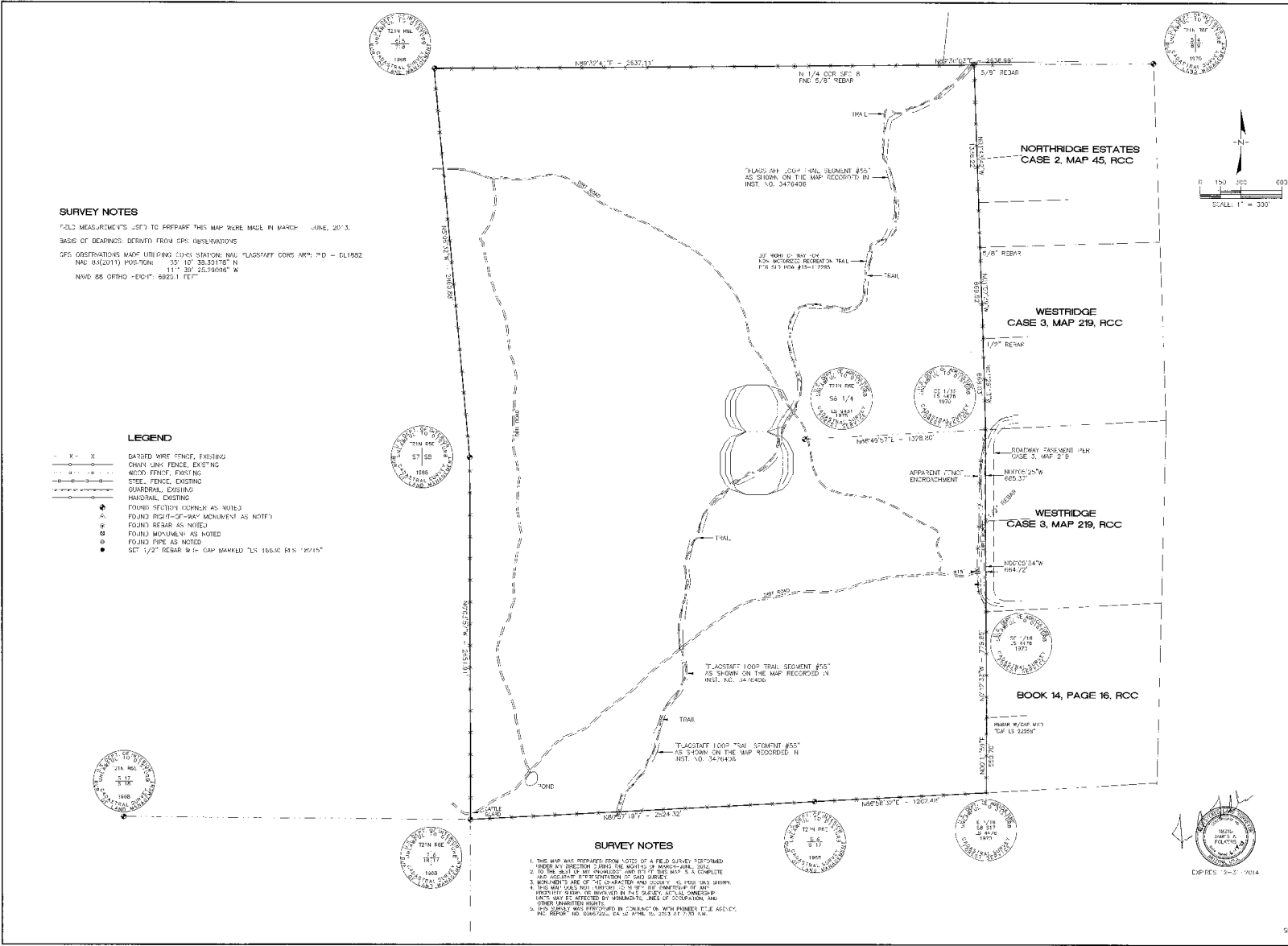
FIELD MEASUREMENTS USED TO PREPARE THIS MAP WERE MADE IN MARCH - JUNE, 2013.
 BAGS OF BEARINGS DERIVED FROM GPS OBSERVATIONS
 GPS OBSERVATIONS MADE UTILIZING CHRS STATION NAD FLA STAFF CORS ART 20 - 011852
 NAD 83(2011) POSITION: 33° 10' 38.33178" N
 111° 30' 25.99084" W
 NAD83 ORTHO -ELEV: 8922.1 FEET

LEGEND

- - - - - DASHED W/IT FINISH, EXISTING
- - - - - CHAIN LINK FENCE, EXISTING
- - - - - WOOD FENCE, EXISTING
- - - - - STEEL FENCE, EXISTING
- - - - - QUADRANT CROSSING
- - - - - HANDRAIL, EXISTING
- ⬆ FOUND SECTION CORNER AS NOTED
- ⊕ FOUND BIRTH-OF-RIVER MONUMENT AS NOTED
- ⊙ FOUND REBAR AS NOTED
- ⊙ FOUND MONUMENT AS NOTED
- ⊙ FOUND PIPE AS NOTED
- SET 1/2" REBAR W/ CAP MARKED "LS 10532 R/S 12915"

SURVEY NOTES

1. THIS MAP WAS PREPARED FROM NOTES OF A FIELD SURVEY PERFORMED UNDER MY DIRECTION DURING THE MONTHS OF MARCH-APRIL, 2013.
2. TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS MAP IS A COMPLETE AND ACCURATE REPRESENTATION OF SAID SURVEY.
3. MONUMENTS ARE OF THE CHARACTER AND QUALITY AS SHOWN UNLESS NOTED OTHERWISE.
4. THIS MAP DOES NOT WARRANT TO BE FREE FROM ALL ENCUMBRANCES, UNLESS SHOWN BY APPROPRIATE LINES OF OCCUPATION AND OTHER SHOWN THEREON.
5. THE SURVEY WAS PERFORMED IN CONJUNCTION WITH PINNACLES LLC AND THE REPORT WAS SUBMITTED TO THE STATE OF FLORIDA ON 06/11/2013 AT 09:55 AM.



6-14-2013
WOODSON ENGINEERING AND SURVEYING INC.
 124 N. ELDER ST., FLAGSTAFF, AZ 86001 • PHONE: (928) 774-8858 FAX: (928) 774-8848
 113621
ALTA/ACSM LAND TITLE SURVEY
 SECTION 08, T12N, R11E, S18W
 COUNTY OF FLAGSTAFF, AZ
 EXP: 05-2-2014
 SHEET 4 OF 5

Appendix E: Arizona State Parks Conservation Easement for Observatory Mesa

Attachment C

DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 24th day of JANUARY, 2014, ~~2013~~ by **The City of Flagstaff**, having an address at **211 West Aspen Avenue, Flagstaff, Arizona 86001** (“Grantor”), in favor of Arizona State Parks Board, having an address at 1300 W. Washington, Phoenix, Arizona, 85007 (“Grantee”).

WITNESSETH:

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Coconino County, Arizona, more particularly described in Exhibit A attached hereto and incorporated by this reference (the “Property”); and

WHEREAS, the Property possesses ecological values (collectively, “conservation values”) of great importance to Grantors and the people of the State of Arizona; and

WHEREAS, in particular, Observatory Mesa, located in west Flagstaff is a southerly facing mesa that is an integral part of the ecology centered on the San Francisco Peaks. Elevation, creviced drainages, and sloping terrain support a diversity of plants and wildlife. Its location provides wildlife grazing between the Peaks and lower elevations. Observatory Mesa overlooks Flagstaff and much of the surrounding countryside, with unobstructed views extending north to the San Francisco Peaks and south to the Mogollon Rim; and

WHEREAS, the specific conservation values of the Property are further documented in an inventory of relevant features of the Property, submitted by Grantor as application for matching funds from the Land Conservation Fund through the Growing Smarter Trust Land Acquisition Grant Program and incorporated by this reference (“Baseline Documentation”), which consists of reports, maps, photographs, and other documentation that the parties provide, collectively, an accurate representation of the Property at the time of this grant and which is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantor intends that the conservation values of the Property be preserved and maintained by permitting only those land uses on the Property that do not significantly impair or interfere with them, including, without limitation, those land uses relating to existing at the time of the grant; and

WHEREAS, Grantor further intends, as owner of the Property, to convey to Grantee the right to preserve and protect the conservation values of the Property in perpetuity; and

WHEREAS, Grantee is an Arizona state agency whose primary purpose is to manage and conserve Arizona's natural, cultural and recreational resources for the benefit of the people;

NOW, THEREFORE, in consideration of a Grant Award in the amount not to exceed \$6,000,000 and in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of Arizona and in particular A.R.S. § 33-271 through § A.R.S. 33-276 and A.R.S. §41-511.23, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

1. **Purpose.** It is the purpose of this easement to assure that the Property will be retained forever in predominantly the condition reflected in the Baseline Documentation referenced in this document and to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property. Grantor intends that this Easement will confine the use of the Property to such activities, including, without limitation, those involving passive recreational uses compatible with the maintenance of the Property's Conservation Values, such as hiking and horseback riding, educational gatherings, periodic planting of native plant species, release of rehabilitated or displaced wildlife and other activities, as are not inconsistent with the purpose of this Easement. This Easement is intended to assure that the goals of the Growing Smarter Act, as amended, to conserve open spaces in or near urban areas and other areas experiencing high growth pressures, will be met. This Easement seeks to conserve open space, defined as land that is generally free of uses that would jeopardize the conservation values of the land or development that would obstruct the scenic beauty of the land. Conserved land remains open space if the stewards of the parcel maintain protection of both the natural and cultural assets for the long-term benefit of the land and the public and the unique resources that the area contains, such as scenic beauty, protected plants, wildlife, archaeology, passive recreation values and the absence of extensive development.
2. **Rights of Grantee.** To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this easement:
 - (a) To preserve and protect the conservation values of the Property;
 - (b) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement in accordance with paragraph 8; provided that, except in cases where Grantee determines that immediate entry is required to prevent,

terminate, or mitigate a violation of this Easement, such entry shall be upon prior reasonable notice to Grantor; unless entry is open to the public, in which case notice to enter upon Property is assumed if it complies with the Grantor's enforced rules of public access, and Grantee shall not in any case unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and

- (c) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in paragraph 8.

3. **Restricted Uses.** Regardless, no more than 10% of the acquired land, up to a limit of 20 acres total, may be eligible for alteration or development, and all such proposed work must be approved by the Grantee in advance, subject to Paragraph 6 below. No changes may be made to the parcel that would seriously or negatively affect its conservation and open space values. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are allowed only upon prior approval of the Grantee:

- (a) **Construction of Buildings and Other Structures.** The construction or reconstruction of any building or other structure or improvement, except those existing on the date of this Easement, is prohibited, except those alterations which are approved in advance by the Grantee and listed in sub-paragraphs (b) and (c).
- (b) **Trail and Parking Lot Construction.** No trail, road, parking lot, ramada, staging area or other man made structure shall be constructed without the advance written permission of Grantee. Such permission shall not be unreasonably withheld unless Grantee determines that the proposed location of any trail, road, parking lot, ramada or staging area will substantially diminish or impair the Conservation Values of the Property or is otherwise inconsistent with this Deed.
- (c) **Signage or Billboards.** No signs, billboards, awnings or advertisements shall be displayed or placed on the Property, except for appropriate and customary signs for interpretive and recreational purposes, such as "no trespassing" signs and trail markers, and then only with advance written permission from Grantee. Under no circumstances shall any sign or marker be erected that materially adversely affects the Conservation Values of the Property.
- (d) **Temporary Fundraising Activity.** Grantor may request the right to perform periodic and temporary fundraising activities on the Property if the revenues earned from those activities will be used for stewardship of

the Property. Such fundraising activities shall be allowed only upon written approval of Grantee if Grantee determines that the proposed activity will not substantially diminish or impair the Conservation Values of the Property or is otherwise inconsistent with this Deed.

Where Grantee's approval is required, as set forth above, Grantee shall grant or withhold its approval in writing within a reasonable period of time. Grantor's written request shall include a description of the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with purpose of this Easement. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. If Grantee does not respond to the request within 60 days, the request shall be deemed denied. In the event of approval, any deviation from the nature, scope, design, location, timetable or any other material aspect of the proposed activity requires that Grantor submit an additional request for approval.

4. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- (a) **Subdivision.** Any division or subdivision of title to the Property, whether by physical or legal process, is prohibited.
- (b) **Commercial or Industrial Activity.** No commercial or industrial uses shall be allowed on the Property.
- (c) **Mining.** The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel, or any other mineral substance is prohibited.
- (d) **Water Rights.** Grantor shall retain and reserve the right to use water rights sufficient to maintain and improve the Conservation Values of the Property, and shall not transfer, encumber, lease, sell, or otherwise separate water rights necessary and sufficient to maintain and improve the Conservation Values of the Property from title to the Property itself.
- (e) **Trash and Dumping.** The dumping or uncontained accumulation of any kind of trash or refuse on the Property is prohibited.

5. **Reserved Rights.** Grantors reserve to themselves, and to their personal representatives, heirs, successors, assigns, all rights accruing from their ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, and subject to the terms of paragraph 3, the following rights are expressly reserved:

- (a) To engage in and permit others to engage in recreational uses of the Property, including, without limitation, hiking, horseback riding, and other forms of passive recreation that require no surface alteration or other development of the Property.
- (b) To engage in and permit others to engage in educational and scientific study activities, without limitation, provided that no unauthorized alteration of the Property or of objects or sites addressed in paragraph 7 will occur as a result of these activities.
- (b)(c) To remove invasive plant species and to re-vegetate portions of the Property with indigenous plants if needed after flood, fire, or other disturbance.

Grantor is required to notify Grantee prior to undertaking or permitting new activities on the Property, if not specifically listed above, in order to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are not inconsistent with the purpose of the Easement. Grantor shall provide notice to Grantee in writing not less than 60 days prior to the date Grantor intends to undertake or permit the new activity in question.

6. Notice of Intention to Undertake Certain Permitted Actions.

- 6.1 Where Grantee's approval is required, as set forth in paragraphs 3(a) through 3(d), Grantee shall grant or withhold its approval in writing within 60 days of receipt of Grantor's written request therefore. The written request shall include a description of the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with purpose of this Easement. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement. If Grantee does not respond to the request within the 60-day time frame, the request shall be deemed denied. In the event of approval, any deviation from the nature, scope, design, location, timetable or any other material aspect of the proposed activity requires that Grantor submit an additional request for approval.
- 6.2 Grantor is required to notify Grantee prior to undertaking permitted activities consistent with the Easement, other than those activities governed by paragraphs 3(a) through 3(d) and 6.1 to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are not inconsistent with the purpose of the Easement. Grantor shall provide notice to Grantee in writing not less than 60 days prior to the date Grantor intends to undertake the activity in question.

7. Historic Properties and Preservation of Resources.

7.1 Definition. Historic Properties are defined as sites, buildings, structures and objects significant in this state's history, architecture, archaeology, engineering and culture which meet eligibility criteria which the Arizona Parks Board establishes for listing on the Arizona Register of Historic Places or which are listed on the National Register of Historic Places.

7.2 General Preservation. Grantor agrees to consider the use of and impact upon historic properties located on the Property and to undertake any reasonable preservation that is necessary to carry out the terms of this Easement. In addition, the Grantor agrees to avoid any demolition, substantial alteration or significant deterioration of historic properties and objects on the Property.

7.3 Land Uses and Historic Preservation. Grantor agrees that only those uses that are compatible with preservation of the cultural resources located on the Property shall be allowed on the Property and ensure that the pre-historical, historical, architectural or culturally significant values will be preserved or enhanced.

7.4 Unintentional Disturbance. The Grantor agrees to monitor the Property for the unintentional disturbance of human remains or funerary objects and historic properties on the Property and shall report any such disturbance to the Director of the Arizona State Museum, the State Historic Preservation Officer and the Grantee. The Grantor agrees to exercise any and all measures recommended by either the Director of the Arizona State Museum, or other permitting authority as established by state law, or the Grantee, to see that on further disturbance of the remains or objects occurs.

7.5 Prohibition on Excavation. The Grantor agrees that it will not disturb or excavate or grant any other person permission to disturb or excavate in or upon any historic property, or any historic or prehistoric ruin, burial ground, archaeological or vertebrate pale ontological specimen. For the purpose of this provision, archaeological specimen means any item resulting from past human life or activities which is at least 50 years old including petroglyphs, pictographs, paintings, pottery, tools, ornaments, jewelry, textiles, ceremonial objects, weapons, armaments, vessels, vehicles and human skeletal remains. Archaeological specimen does not include arrowheads, coins or bottles. Notwithstanding the applicability of these prohibitions, the Grantee, in consultation with the State Historic Preservation Officer, may consider and allow for the excavation in or upon a historic property, provided that the Conservation Values of the Property are not adversely affected. In addition, any excavation of disturbance that is allowed by the Grantee is still subject to approval by and the permitting requirements of the Director of the Arizona State Museum, or other permitting authority established in law.

7.6 Prohibition on Defacing Property. The Grantor agrees not to deface or otherwise alter any site or object on the Property and embraced within the terms stated in provisions 7.1 through 7.5. The Grantor further agrees to make reasonable efforts to avoid the potential that persons and entities entering upon the site for approved purposes may deface or otherwise alter any site or object embraced within the terms stated in provisions 7.1 through 7.5.

7.7 Reporting Discoveries. The Grantor agrees that during the course of acting as steward of the Property and especially during any work to prepare the Property for public access, such as a survey, excavation, construction or other like activity, that it shall report promptly to the Director the Arizona State Museum, or other permitting authority as established by state law, the State Historic Preservation Officer and the Grantee, the existence of any archaeological, pale ontological or historical site or object that is at least 50 years old and that is discovered in the course of such survey, excavation, construction, other like activity, or other activities undertaken as the steward of the Property. All such discoveries are subject to the provisions of the Arizona Antiquities Act. Any discoveries may require treatment such as remediation or restoration if the site or object was adversely impacted as a result of the survey, excavation, construction or other like activity, which the cost of any such remediation or restoration shall be borne by Grantor.

8. Grantee's Remedies.

8.1 Notice of Violation; Corrective Action. If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantors of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee at Grantor's expense.

8.2 Injunctive Relief. If Grantor fails to cure the violation within 20 days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 20 day period, fail to begin curing the violation within the 20 day period, or fail to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.

8.3 Damages. Grantee shall be entitled to recover damages up to, but not in excess of the grant amount, directly resulting from violation of the terms of this Easement or injury to any conservation values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting the Grantors' liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

8.4 Emergency Enforcement. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this paragraph 8 without prior notice to Grantor or without waiting for the period provided for cure to expire.

8.5 Scope of Relief. Grantee's rights under this section 8 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in paragraph 8.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Paragraph 8 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

8.6 Costs of Enforcement. All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantors, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantors' violation of the terms of this Easement shall be borne by Grantor.

8.7 Forbearance. Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

8.8 Waiver of Certain Defenses. Grantors hereby waive any defense of laches, estoppel, or prescription.

8.9 Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, mitigate significant injury to the Property resulting from such causes. Notwithstanding the foregoing, nothing herein shall preclude Grantor's and Grantee's rights to pursue any third party for damages to the Property from vandalism, trespass or any other violation of the terms of this Easement.

9. Arbitration. Notwithstanding the remedies available to the parties pursuant to Paragraph 8 above, the parties agree to resolve all disputes arising out of or relating to this Easement 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.

10. Access. Grantor agrees to provide reasonable public access to the Property and agrees to impose no restrictions that would limit reasonable public access.

11. **Records Retention.** Grantor agrees to retain all data, books and other records (“Records”) relating to the grant for a period of five years. All records shall be open to inspection and audit by the grantee at reasonable times. Upon request, the Grantor will provide a legible copy of any or all such records within a reasonable time.

12. **Annual Reports and Certification.** Grantor agrees to report annually on the condition of the Property and to report any change in the Property from the Baseline Documentation to the Grantee in a format of the Grantee’s choosing. The Grantor shall certify compliance with the obligations of the Deed of Conservation Easement every year in perpetuity, on a form to be provided by the BOARD. In addition, on-site inspections shall be conducted periodically at the discretion of the BOARD. The following point shall be taken into consideration during the inspection of properties that have been acquired or developed with grant assistance: retention and use appearance, maintenance, management, availability, environment, signing, and interim use.

13. **Costs, Liabilities, Taxes, and Environmental Compliance.**

13.1 **Costs, Legal Requirements, and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate liability self-insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by the Grantors.

13.2 **Taxes.** Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively “taxes”), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.

13.3 **Representations and Warranties.** Grantors represent and warrant that, after reasonable investigation and to the best of their knowledge:

- (a) No substance defined, listed or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, soil, or in any way harmful or threatening to human health or the environment exists or has been released, generated, treated, stored, used disposed of, deposited, abandoned, or transported in, on, from or across the Property;
- (b) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed

- from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements;
- (c) Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;
 - (d) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property; and
 - (e) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, local law, regulation, or requirement applicable to the Property and its use, nor do there exist any facts or circumstances that the Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

13.4 Remediation. If, during Grantor's ownership of the Property, there occurs, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agree to take all steps reasonably necessary to assure its containment and remediation, including any cleanup that may be legally required, unless the releases were caused by the Grantee, in which case Grantee shall be responsible therefore.

13.5 Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA").

14. Extinguishment and Condemnation.

14.1 Extinguishment. If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement may be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction or by mutual written agreement of the parties. Unless otherwise required by applicable law at the time, in the event of any sale of all or a portion of the Property (or any other property received in connection with an exchange or involuntary conversion of the Property) after such termination or extinguishment, and after the satisfaction of prior claims and net of any costs or expenses association with such sale, Grantor and Grantee shall divide the proceeds from such sale (minus any amount attributable to the value of improvements made by Grantor after the effective date of this Easement, which amount is reserved to Grantor) in accordance with their respective percentage interests in the fair market value of the Property, adjusted, if necessary, to reflect a partial termination or

extinguishment of this Easement. Grantor shall use all such proceeds received by Grantor in a manner consistent with Grantor's conservation purposes.

14.2 Condemnation. If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of their interests in the Property, including Grantee's interest in the amount of the Grant Award, subject to the taking or in lieu of purchase and all direct or incidental damages resulting there from. All expenses reasonable incurred shall be paid out of the amount recovered.

15. Amendment. Notwithstanding the provisions related to extinguishment of this Easement, if circumstances arise under which an amendment to or modification of this Easement would be appropriate, the Grantor and Grantee are free to jointly amend this Easement, provided that no amendment shall be allowed that will affect the qualifications of this document as an Easement under the laws of Arizona, and any amendment shall be consistent with the purpose of this Easement and shall not have a material negative affect on the Conservation Values. Such amendments shall be in writing and executed by both Grantor and Grantee.

16. Subsequent Transfers. Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantors further agree to give written notice to Grantee of the transfer of any interest at least 30 days prior to the date of such transfer. The failure of Grantors to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

17. Estoppel Certificates. Upon request by Grantor, Grantee shall within 30 days of receiving the request, execute and deliver to Grantor, or to any party designated by Grantors, any document, including an estoppel certificate, which certifies, to the best of Grantee's knowledge, Grantor's compliance with any obligation of Grantor contained in this Easement or otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within 30 days of receipt of Grantor's written request therefore.

18. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantors:
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

To Grantee:
Arizona State Parks
1300 West Washington Street
Phoenix, Arizona 85007

or to such other address as either party from time to time shall designate by written notice to the other.

19. Recordation. Grantee shall record this instrument in timely fashion in the official records of Maricopa County, Arizona, and may re-record it at any time as may be required to preserve its rights in this Easement.

20. General Provisions.

20.1 Controlling Law. The laws of the State of Arizona shall govern the interpretation and performance of this Easement. Proper venue for any dispute relating to the Easement shall be the Superior Court of Maricopa County.

20.2 Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of A.R.S. §33-271 through §33-276 and A.R.S. §41-511.23. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

20.3 Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

20.4 Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

20.5 No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantors' title in any respect.

20.6 Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties, hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and its successors, and assigns, and the above-named Grantee and its successors and assigns.

20.7 Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

20.8 Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

20.9 Non-discrimination. The Parties hereby acknowledge that they are bound by Executive Order 99-4 concerning non-discrimination in employment.

20.10 Non-Availability of Funds. Every payment obligation of the Grantee and Grantor under this Easement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Easement, this Easement may be terminated by the Grantee at the end of the period for which funds are available. No liability shall accrue to the Grantee in the event this provision is exercised, and the Grantee shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

20.11 Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, the Grantor and the Grantee have executed this Deed of Conservation Easement, which shall become effective immediately upon signature by both parties.

GRANTOR: CITY OF FLAGSTAFF

Kevin Burke
Signature

Kevin Burke
Print Name

City Manager
Title

1/24/14
Date

ACKNOWLEDGMENT BY GRANTOR

State of Arizona)
County of Coconino)

The foregoing instrument was acknowledged before me this 24th day of January, 2013

By Kevin Burke
GRANTOR

Stacy L. Saltzburg
Notary Public



GRANTEE: ARIZONA STATE PARKS BOARD

Bryan Martin
Signature

Bryan Martin
Print Name

Executive Director
Title

1/2/14
Date

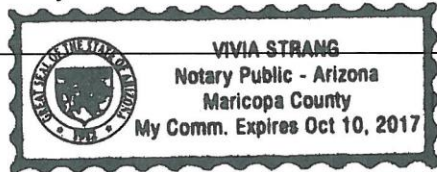
ACKNOWLEDGMENT BY GRANTEE

State of Arizona)
County of Maricopa)

The foregoing instrument was acknowledged before me this 2nd day of January, 2013 2014


By BRYAN MARTIN
GRANTEE

Vivia Strang
Notary Public




Grant Agency: Arizona State Parks, Growing Smarter Land Acquisition
Project Title: Observatory Mesa
Grant Number: 231303

Attest:



City Clerk

Approved as to Form:



FOR City Attorney

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Carmen Pryer, Real Estate Specialist
Co-Submitter: Dan Folke
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Adoption of Resolution No. 2020-38: A resolution of the Flagstaff City Council authorizing the acquisition of real property interests necessary for the Rio de Flag Flood Control Project, a public use, providing for delegation of authority, condemnation authority, prior approval of purchases, and establishing an effective date.

STAFF RECOMMENDED ACTION:

- 1) Read Resolution No. 2020-38 by title only
- 2) City Clerk reads Resolution No. 2020-38 by title only (if approved above)
- 3) Adopt Resolution No. 2020-38

Executive Summary:

Approval of this Resolution is necessary to move forward in the project acquisition of five (5) additional property interests needed for Phase 1, in the Clay Avenue Wash Area. The U.S. Department of the Army and the City entered into a Project Cooperation Agreement for construction of the Rio de Flag Flood Control and Recreation Project dated August 13, 2004, and per Articles III and IV, the City shall acquire real property necessary for the project.

Financial Impact:

The U.S. Army Corps of Engineers has approved \$52 million in funding for its FY2020 Work Plan for the Rio de Flag Flood Control and Recreation Project.

The City has adopted stormwater fees to generate revenues for flood control and stormwater projects, has included the Rio de Flag Flood Control and Recreation Project in its Capital Improvement Program (CIP), so the City is able to pay its required share of funding for the project.

The City is obtaining appraisals and review appraisals by the U.S. Army Corps of Engineers to determine the just compensation to be paid for the real property interests necessary for the project.

Policy Impact:

The City of Flagstaff (“the City”) has authority to acquire real property pursuant to Article 1, Section 3 of the Charter of the City of Flagstaff.

The City has authority acquire real property necessary for a public use by right of eminent domain (condemnation), pursuant to A.R.S. §§ 9-240, 9-276, 12-1111, 12-1113, and pursuant to A.R.S. § 12-1142 for a public works project funded in part by a federal agency.

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

Completion of the Rio De Flag Flood Control project advances goals to protect and remove properties that are within the floodplain and proximity of the Rio De Flag. The project will protect property and life, remove the Rio De Flag channel from the Southside neighborhood and relocate the channel back to its original alignment.

Has There Been Previous Council Decision on This:

The City Council has given prior approval for purchases of the Real Property without the need for any further approval of the Council.

The City Council has directed the City Manager and Real Estate Manager to provide updates on the status of acquisitions upon the request of a Council Member, to all Council Members.

Ordinance No. 1983 on October 6, 1998

Ordinance No. 2009-22 on August 4, 2009 amending Ordinance No. 1983

Resolution No. 2020-05 on February 18, 2020

Resolution No. 2020-24 on May 19, 2020

Options and Alternatives:

Without authorization to acquire the property, the current design of the Rio De Flag Flood Control project cannot be constructed.

Background/History:

City Council adopted Ordinance No. 1983 on October 6, 1998, authorizing the acquisition of real property for flood control and to provide the opportunity for future development along the Rio de Flag and the Clay Avenue Wash.

Although broad authority for the acquisition of the property interests necessary for the Rio de Flag Project is provided for under Ordinance No. 1983, as amended by Ordinance No. 2009-22, the City Council hereby desires to more specifically approve the acquisition of five (5) additional property interests necessary for the construction and completion of Phase 1 of the Rio de Flag Flood Control Project (which includes areas known as the Lower Reach of the Rio de Flag and the Clay Avenue Wash and is conceptually depicted in the map attached hereto as Exhibit 1), and as legally described in the attached Exhibit 2 (“the Real Property Interests”).

The U.S. Army Corps of Engineers, in consultation with the City and the design engineer, has determined that the real properties identified in this resolution are necessary for the project.

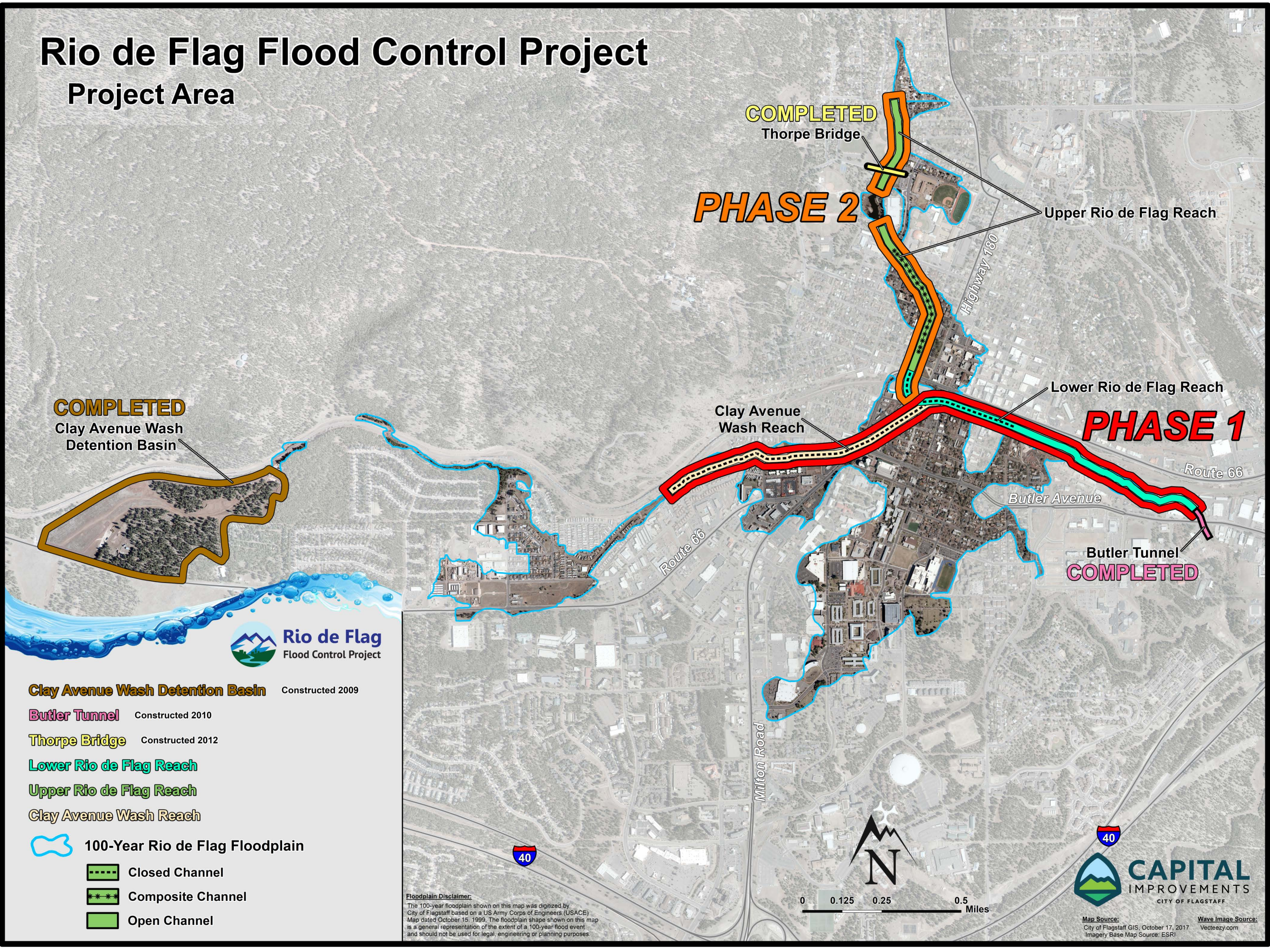
Key Considerations:

The acquisition of real property interest is necessary for the Rio de Flag Flood Control Project.

Community Benefits and Considerations:

Rio de Flag Flood Control Project

Project Area



COMPLETED
Clay Avenue Wash
Detention Basin

COMPLETED
Thorpe Bridge

PHASE 2

Upper Rio de Flag Reach

Lower Rio de Flag Reach

PHASE 1

Clay Avenue
Wash Reach

Butler Tunnel
COMPLETED



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

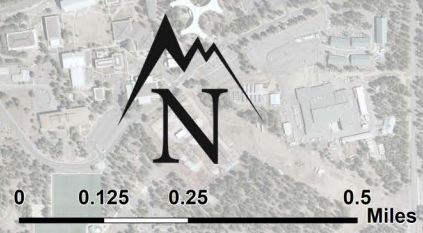
100-Year Rio de Flag Floodplain

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

EXHIBIT 2

RIO DE FLAG FLOOD CONTROL PROJECT PHASE 1 - ADDITIONAL PROPERTY INTERESTS

Intention is to acquire a perpetual easement, unless listed as a temporary work area easement. If deemed appropriate fee simple may be acquired in lieu of perpetual easement.

CLAY AVENUE WASH AREA (see also Resolution No. 2020-24):

LEGAL DESCRIPTION APN: 103-02-030A

TEMPORARY WORK AREA EASEMENT LEGAL DESCRIPTION APN: 103-02-030A

LOWER REACH (see also Resolution Nos. 2020-05, 2020-24)

TEMPORARY WORK AREA EASEMENT APN: 104-07-005Y

RIGHT OF WAY APN: 104-07-005Z

TEMPORARY WORK AREA EASEMENT (2) APN: 104-07-008

Council previously authorized acquisition of one temporary easement and one perpetual easement across this parcel 104-07-008 per Resolution No. 2020-05. As redesigned, a perpetual easement is no longer needed but this second temporary easement is needed.

EXHIBIT 'A'

LEGAL DESCRIPTION

APN: 103-02-030A

A portion of that parcel of land as described in Instrument Number 3760355, Official Records of Coconino County, and as shown in Instrument Number 3794080, Official Records of Coconino County (herein referred to as R1), lying within the Northwest quarter of Section 21, Township 21 North, Range 7 East, of the Gila and Salt River Meridian, Coconino County, Arizona, described as follows:

Commencing at the southeast corner of said parcel, said point being in common with the westerly Right-of-Way line of South Malpais Lane, from which the northeast corner of said parcel bears North 00°39'17" West, 152.96 feet (Basis of Bearing; North 00°28'31" West, 153.33 feet per R1) and the **TRUE POINT OF BEGINNING**;

Thence leaving said Right-of-Way line, and along the south line of said parcel, South 88°02'27" West, 512.26 feet to the southwest corner of said parcel;

Thence along the west line of said parcel, North 02°11'36" West, 22.82 feet;

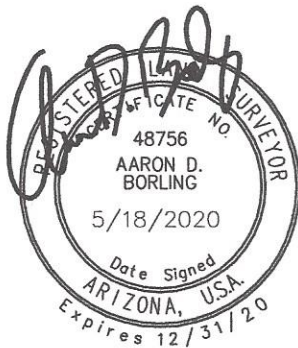
Thence leaving said west line, North 86°22'56" East, 513.43 feet to a point on said Right-of-Way line and the east line of said parcel;

Thence along said east line, and said Right-of-Way line, South 00°39'17" East, 37.70 feet to the **TRUE POINT OF BEGINNING**.

Containing 0.36 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.



City File No.

Descriptive Title

PLOTTED: May 19, 2020-4:58pm

EXHIBIT 'B' TO ACCOMPANY LEGAL DESCRIPTION

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

APN:
103-02-001D

APN:
103-02-001C

SUBJECT PARCEL
APN: 103-02-030A
INSTRUMENT NO. 3794080

EXISTING 20' PUE

N 86°22'56" E 513.43'

37.70'

S 88°02'27" W 512.26'

N 2°11'36" W 22.82'

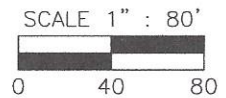
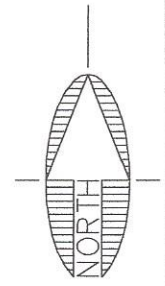
N 0°39'17" W 152.96'
BASIS OF BEARING
115.26'

P.O.B

S MALPAIS LN

APN:
103-02-031

APN:
103-02-005Y



NOTE:
THIS EXHIBIT DOES NOT REPRESENT THE
RESULTS OF A BOUNDARY SURVEY AND
SHOULD NOT BE CONSTRUED AS ONE.
ITS SOLE PURPOSE IS TO DEPICT THE
LOCATION OF THE AREA DESCRIBED.

CITY FILE NO. _____

DESCRIPTIVE TITLE: _____

FILE: P:\2004\04473\SURVEY\LEGAL\EXHIBITS\EXHIBIT RW 103-02-030A.DWG ABORLING



Shephard & Wesnitzer, Inc.

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.8934 fax

www.swiaz.com

JOB NO. 04473
DATE MAY 2020
SCALE 1" = 80'
DRAWN MB
DESIGN
CHECKED ADB

APN: 103-02-030A

FLAGSTAFF
ARIZONA

LEGAL EXHIBIT

SHEET

2

OF 2

EXHIBIT 'A'
TEMPORARY WORK AREA EASEMENT
LEGAL DESCRIPTION

APN: 103-02-030A

A portion of that parcel of land as described in Instrument Number 3760355, Official Records of Coconino County, and as shown in Instrument Number 3794080, Official Records of Coconino County (herein referred to as R1), lying within the Northwest quarter of Section 21, Township 21 North, Range 7 East, of the Gila and Salt River Meridian, Coconino County, Arizona, described as follows:

Commencing at the southeast corner of said parcel, said point being in common with the westerly Right-of-Way line of South Malpais Lane, from which the northeast corner of said parcel bears North 00°39'17" West, 152.96 feet (Basis of Bearing; North 00°28'31" West, 153.33 feet per R1);

Thence leaving said Right-of-Way line, and along the south line of said parcel, South 88°02'27" West, 512.26 feet to the southwest corner of said parcel;

Thence along the west line of said parcel, North 02°11'36" West, 42.83 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing along said west line, North 02°11'36" West, 13.48 feet;

Thence leaving said west line, North 87°54'29" East, 191.56 feet;

Thence South 02°00'27" East, 8.38 feet;

Thence South 86°22'56" West, 191.60 feet to the **TRUE POINT OF BEGINNING**.

Containing 0.05 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.



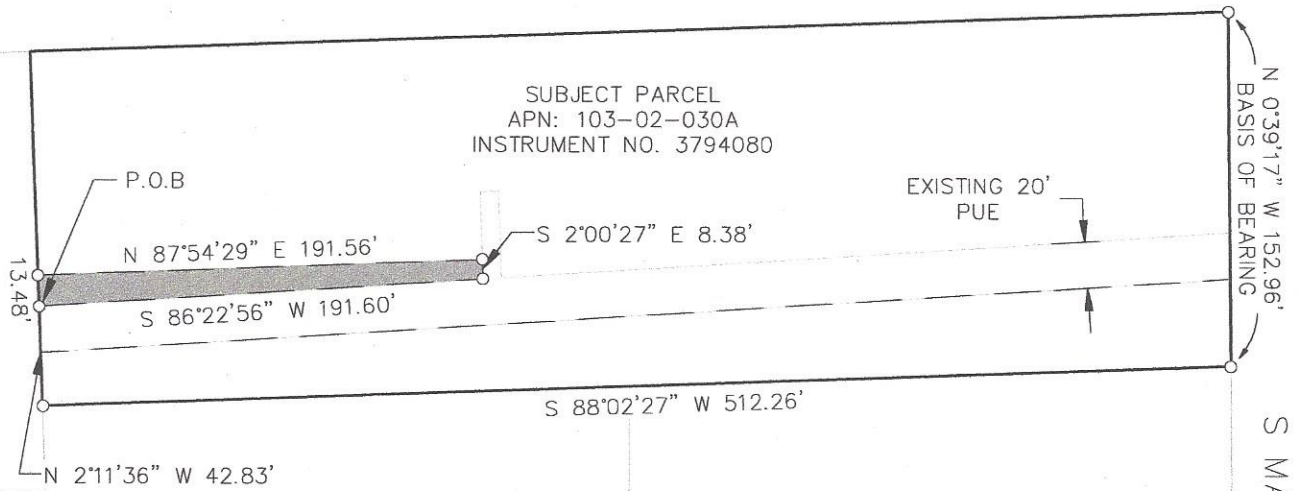
City File No.

Descriptive Title

PLOTTED: May 19, 2020-5:11pm

EXHIBIT 'B' TO ACCOMPANY LEGAL DESCRIPTION

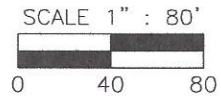
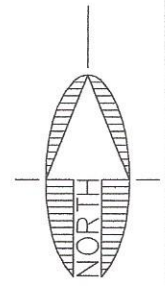
LOCATED IN THE NORTHWEST QUARTER OF SECTION 21,
TOWNSHIP 21 NORTH, RANGE 7 EAST
GILA AND SALT RIVER MERIDIAN,
COCONINO COUNTY, ARIZONA



SUBJECT PARCEL
APN: 103-02-030A
INSTRUMENT NO. 3794080

APN:
103-02-031

APN:
103-02-005Y



NOTE:
THIS EXHIBIT DOES NOT REPRESENT THE
RESULTS OF A BOUNDARY SURVEY AND
SHOULD NOT BE CONSTRUED AS ONE.
ITS SOLE PURPOSE IS TO DEPICT THE
LOCATION OF THE AREA DESCRIBED.

CITY FILE NO. _____

DESCRIPTIVE TITLE: _____

FILE: P:\2004\04473\SURVEY\LEGALS\EXHIBITS\EXHIBIT TCE 103-02-030A.DWG ABORLING



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

JOB NO.	04473
DATE	MAY 2020
SCALE	1" = 80'
DRAWN	MB
DESIGN	
CHECKED	ADB

APN: 103-02-030A

FLAGSTAFF
ARIZONA

LEGAL EXHIBIT

SHEET

2

OF 2

EXHIBIT 'A'
TEMPORARY WORK AREA EASEMENT
LEGAL DESCRIPTION

APN: 104-07-005Y

The following is a legal description of a parcel of land lying within Section 22, Township 21 North, Range 7 East, of the Gila Salt River Meridian, Coconino County, Arizona, more particularly described as follows:

Commencing at the southwest corner of that parcel of land as described in Instrument Number 3650503, Official Records of Coconino County (herein referred to as R1), said point being in common with the north Right-of-Way line of Butler Avenue as shown on Book 6 of Surveys, Page 26, Official Records of Coconino County, from which the northwest corner of that parcel of land as described in Instrument Number 3583219, Official Records of Coconino County (herein referred to as R2) bears North 10°02'54" East, 302.47 feet (Basis of Bearing, North 10°10'00" East per R1);

Thence along the westerly line of said parcel, North 10°02'54" East, 272.82 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing along said westerly line, North 10°02'54" East, 12.73 feet to the northwest corner of said parcel;

Thence along the northerly line of said parcel, North 47°08'14" East, 10.81 feet to the beginning of a non-tangent curve concave to the south having a radius of 333.95 feet and a central angle of 11°50'06" and being subtended by a chord which bears South 84°06'58" East 68.86 feet;

Thence leaving said northerly line, and easterly along said curve, 68.98 feet to the beginning of a non-tangent curve concave to the south having a radius of 322.69 feet and a central angle of 28°10'04" and being subtended by a chord which bears South 75°03'01" East 157.05 feet;

Thence southeasterly along said curve, 158.64 feet;

Thence South 60°04'02" East, 34.19 feet;

Thence South 56°30'19" East, 64.95 feet;

Thence South 48°05'52" East, 17.39 feet;

Thence South 45°50'12" East, 4.85 feet;

Thence North 52°03'24" West, 32.55 feet to the beginning of a non-tangent curve concave to the southwest having a radius of 620.27 feet and a central angle of 7°19'29" and being subtended by a chord which bears North 57°59'50" West 79.24 feet;

Thence northwesterly along said curve, 79.29 feet to the beginning of a curve concave to the south having a radius of 339.30 feet and a central angle of 39°36'09" and being subtended by a chord which bears North 81°10'38" West 229.88 feet;

Thence westerly along said curve, 234.52 feet;

Thence South 80°52'22" West, 10.69 feet to the **TRUE POINT OF BEGINNING.**

Containing 0.04 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.



City File No.

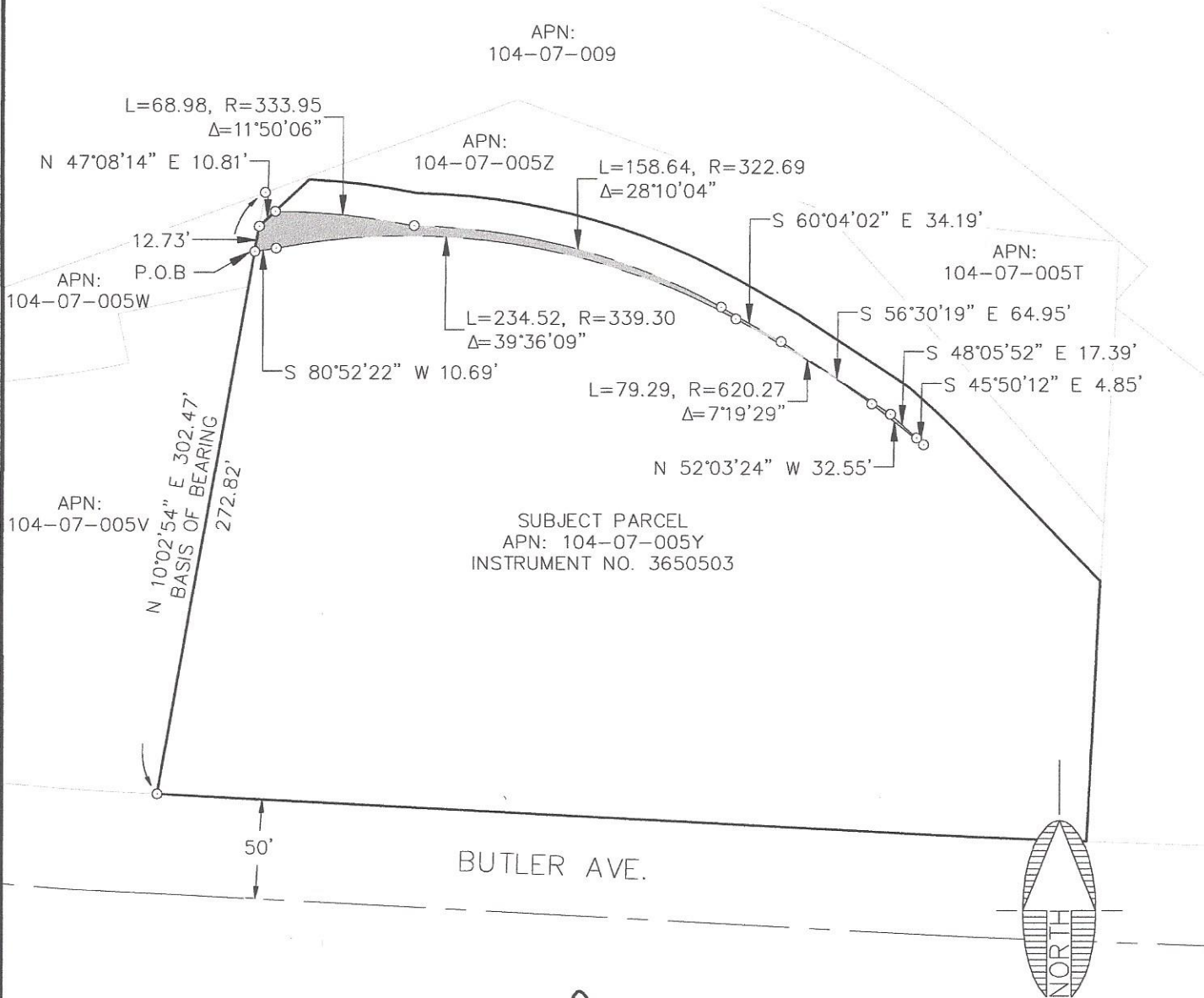
Descriptive Title

EXHIBIT 'B' TO ACCOMPANY LEGAL DESCRIPTION

LOCATED IN THE NORTHEAST QUARTER OF SECTION 22,
TOWNSHIP 21 NORTH, RANGE 7 EAST
GILA AND SALT RIVER MERIDIAN,
COCONINO COUNTY, ARIZONA

PLOTTED: Feb 21, 2020-10:26am

FILE: P:\2004\04473\SURVEY\LEGALS\EXHIBITS\EXHIBIT RW 104-07-005Y.DWG ABORLING



NOTE:
THIS EXHIBIT DOES NOT REPRESENT THE
RESULTS OF A BOUNDARY SURVEY AND
SHOULD NOT BE CONSTRUED AS ONE.
ITS SOLE PURPOSE IS TO DEPICT THE
LOCATION OF THE AREA DESCRIBED.

CITY FILE NO. _____

DESCRIPTIVE TITLE: _____

EXHIBIT 'A'
RIGHT-OF-WAY
LEGAL DESCRIPTION

APN: 104-07-005Z

The following is a legal description of a parcel of land lying within Section 22, Township 21 North, Range 7 East, of the Gila Salt River Meridian, Coconino County, Arizona, more particularly described as follows:

Commencing at the southwest corner of that parcel of land as described in Instrument Number 3650503, Official Records of Coconino County (herein referred to as R1), said point being in common with the north Right-of-Way line of Butler Avenue as shown on Book 6 of Surveys, Page 26, Official Records of Coconino County, from which the northwest corner of that parcel of land as described in Instrument Number 3583219, Official Records of Coconino County (herein referred to as R2) bears North 10°02'54" East, 302.47 feet (Basis of Bearing, North 10°10'00" East per R1);

Thence along the westerly line of said parcel, North 10°02'54" East, 285.55 feet to the southwest corner of said parcel of land as described in R2, and the **TRUE POINT OF BEGINNING**;

Thence along the westerly line of said parcel, North 10°02'54" East, 16.92 feet to the northwest corner of said parcel;

Thence along the northerly line of said parcel, North 69°52'54" East, 132.66 feet;

Thence continuing along said northerly line, South 70°16'37" East, 160.54 feet;

Thence continuing along said northerly line, South 41°51'19" East, 208.09 feet to the easterly line of said parcel;

Thence along said easterly line, South 02°59'32" West, 29.02 feet to the southeast corner of said parcel;

Thence along the southerly line of said parcel, North 43°50'02" West, 102.10 feet;

Thence continuing along said southerly line, North 45°50'12" West, 13.17 feet;

Thence continuing along said southerly line, North 48°05'52" West, 18.88 feet;

Thence continuing along said southerly line, North 56°30'19" West, 66.63 feet;

Thence continuing along said southerly line, North 60°04'02" West, 34.81 feet to the beginning of a non-tangent curve concave to the south having a radius of 338.69 feet and a central angle of 27°55'49" and being subtended by a chord which bears North 74°54'36" West 163.47 feet;

Thence continuing along said southerly line, and northwesterly along said curve, 165.10 feet to the beginning of a non-tangent curve concave to the south having a radius of 349.95 feet and a central angle of 8°49'44" and being subtended by a chord which bears North 82°51'49" West 53.87 feet;

Thence continuing along said southerly line, and westerly along said curve, 53.92 feet;

Thence continuing along said southerly line, South 47°08'14" West, 33.75 feet to the **TRUE POINT OF BEGINNING.**

Containing 0.36 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.



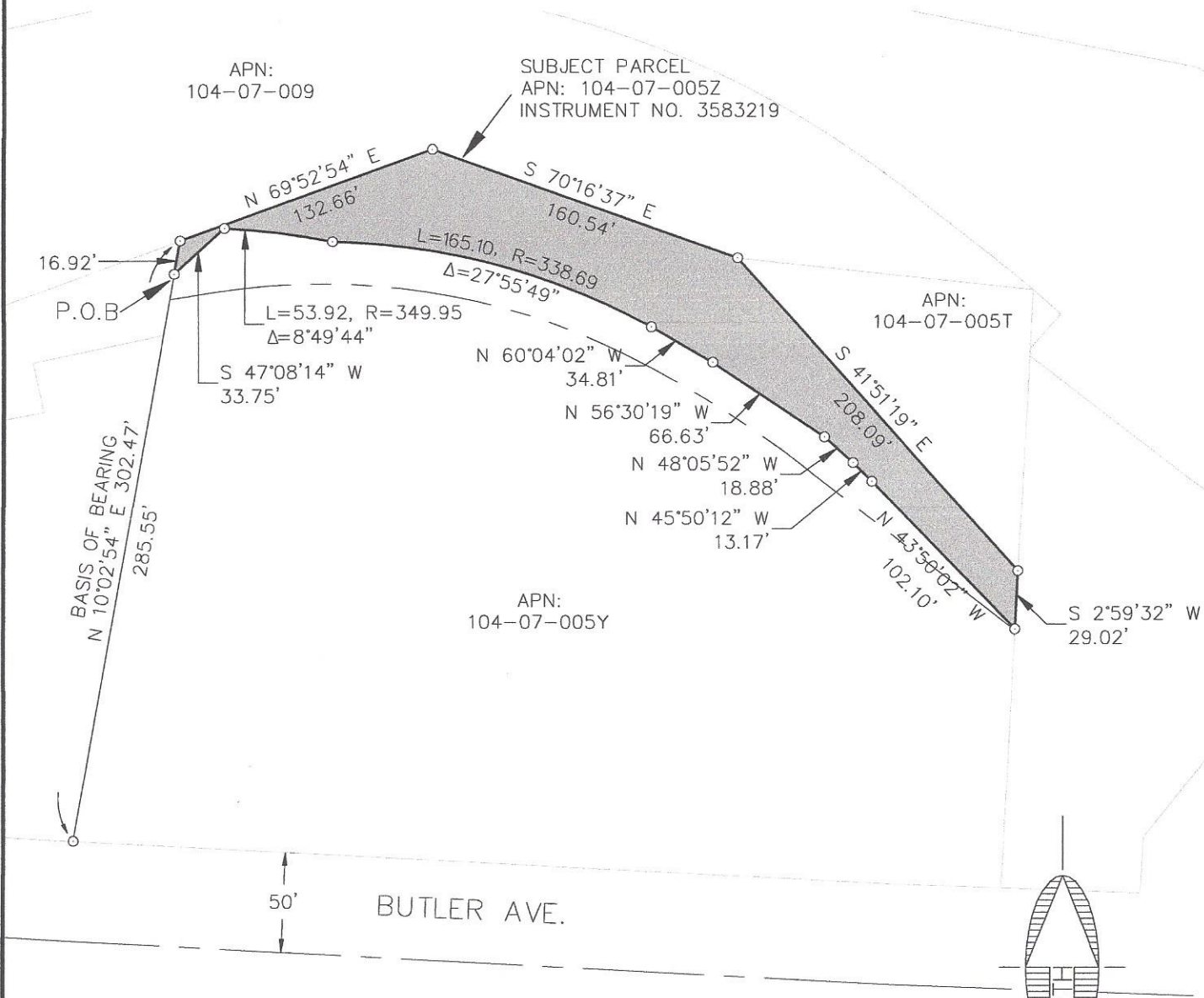
City File No.

Descriptive Title

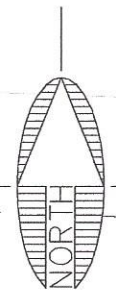
PLOTTED: Dec 19, 2019-12:36pm

EXHIBIT 'B' TO ACCOMPANY LEGAL DESCRIPTION

LOCATED IN THE NORTHEAST QUARTER OF SECTION 22,
TOWNSHIP 21 NORTH, RANGE 7 EAST
GILA AND SALT RIVER MERIDIAN,
COCONINO COUNTY, ARIZONA



50' BUTLER AVE.



SCALE 1" : 80'

NOTE:
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LOCATION OF THE AREA DESCRIBED.

CITY FILE NO. _____

DESCRIPTIVE TITLE: _____

FILE: P:\2004\04473\SURVEY\LEGALS\EXHIBITS\EXHIBIT RW 104-07-005Z.DWG ABORLING



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

JOB NO.	04473
DATE	DEC 2019
SCALE	1" = 80'
DRAWN	MB
DESIGN	
CHECKED	ADB

APN: 104-07-005Z

FLAGSTAFF ARIZONA

LEGAL EXHIBIT

SHEET
3
OF 3

EXHIBIT 'A'
TEMPORARY WORK AREA EASEMENT
LEGAL DESCRIPTION

APN: 104-07-008

The following is a legal description of a parcel of land lying within Section 22, Township 21 North, Range 7 East, of the Gila Salt River Meridian, Coconino County, Arizona, more particularly described as follows:

Parcel 1:

Commencing at a point on the southerly line of that parcel of land as described in Instrument Number 3367466, Official Records of Coconino County (herein referred to as R1), and as shown on Instrument Number 3854611, Official Records of Coconino County, said point being in common with the north Right-of-Way line of Butler Avenue as described in R1, from which a point on said north Right-of-Way line bears North 87°00'29" West, 101.95 feet (Basis of Bearing, North 87°34'09" West, 102.00 feet per R1);

Thence along said Right-of-Way line, North 87°00'29" West, 8.00 feet to the **TRUE POINT OF BEGINNING;**

Thence continuing along said Right-of-Way line, North 87°00'29" West, 45.84 feet to a point on the westerly line of said parcel;

Thence leaving said Right-of-Way line, and along said westerly line, North 12°51'25" West, 19.88 feet;

Thence leaving said westerly line, South 35°54'21" East, 20.69 feet;

Thence North 64°55'10" East, 37.29 feet;

Thence South 11°38'57" East, 21.26 feet to the **TRUE POINT OF BEGINNING.**

Containing 0.012 Acres, more or less.

Parcel 2:

Commencing at the southwest corner of a portion of that parcel of land as described in Instrument Number 3556691, Official Records of Coconino County (herein referred to as R1), said point being in common with the north Right-of-Way line of Butler Avenue as described in R1;

Thence along the westerly line of said parcel, North 02°59'32" East, 264.02 feet (Basis of Bearing, North 03°09'54" East per R1) to a point on the westerly line of that parcel as described in Instrument Number 3367466, Official Records of Coconino County, and as shown on Instrument Number 3854611, Official Records of Coconino County, and the **TRUE POINT OF BEGINNING;**

Thence continuing along said westerly line, North 02°59'32" East, 3.69 feet;

Thence continuing along said westerly line, North 42°04'05" East, 9.53 feet;

Thence leaving said westerly line, South 51°03'37" East, 90.82 feet;

Thence South 35°54'21" East, 34.77 feet to a point on said westerly line, and the beginning of a non-tangent curve concave to the southwest, having a radius of 312.95 feet and a central angle of 4°31'22" and being subtended by a chord which bears North 52°57'55" West, 24.70 feet;

Thence along said westerly line, and northwesterly along said curve, 24.70 feet;

Thence continuing along said westerly line, North 52°34'22" West, a distance of 98.08 feet to the **TRUE POINT OF BEGINNING**;

Containing 0.027 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.



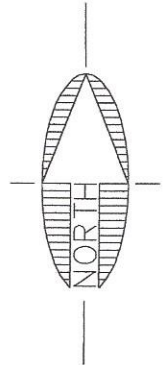
City File No.

Descriptive Title

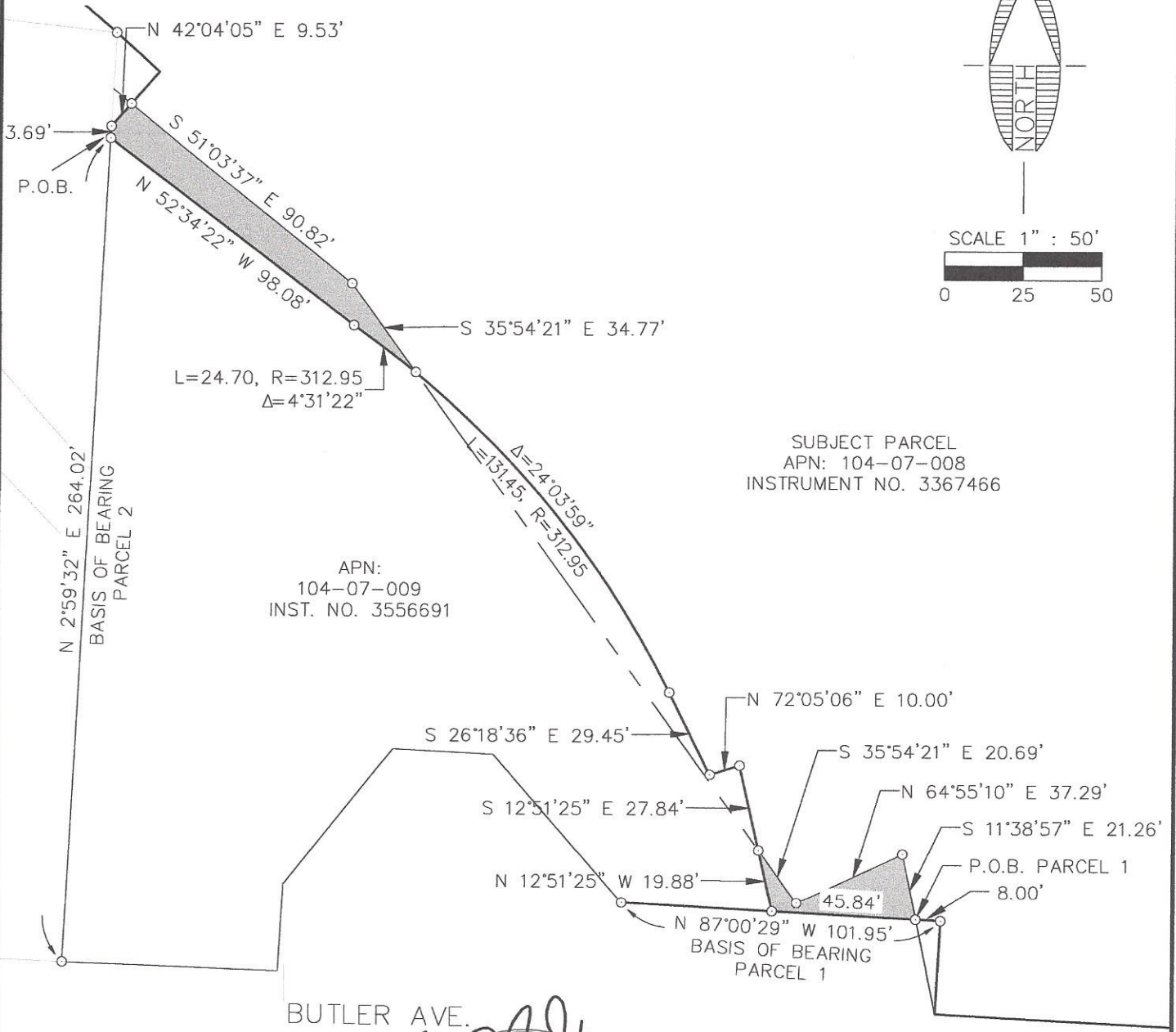
EXHIBIT 'B' TO ACCOMPANY LEGAL DESCRIPTION

LOCATED IN THE NORTHEAST QUARTER OF SECTION 22,
TOWNSHIP 21 NORTH, RANGE 7 EAST
GILA AND SALT RIVER MERIDIAN,
COCONINO COUNTY, ARIZONA

PLOTTED: Dec 20, 2019-1:09pm

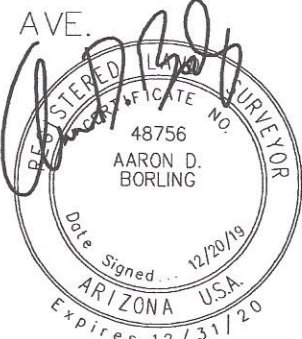


SCALE 1" : 50'
0 25 50



SUBJECT PARCEL
APN: 104-07-008
INSTRUMENT NO. 3367466

APN:
104-07-009
INST. NO. 3556691



NOTE:
THIS EXHIBIT DOES NOT REPRESENT THE
RESULTS OF A BOUNDARY SURVEY AND
SHOULD NOT BE CONSTRUED AS ONE.
ITS SOLE PURPOSE IS TO DEPICT THE
LOCATION OF THE AREA DESCRIBED.

CITY FILE NO. _____

DESCRIPTIVE TITLE: _____

FILE: P:\2004\04473\SURVEY\LEGALS\EXHIBITS\EXHIBIT RW 104-07-008.DWG ABORLING



Shephard & Associates, Inc.

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

JOB NO. 04473
DATE DEC 2019
SCALE 1" = 50'
DRAWN MB
DESIGN
CHECKED ADB

APN: 104-07-008

FLAGSTAFF
ARIZONA

LEGAL EXHIBIT

SHEET

3

OF 3

RESOLUTION NO. 2020-38

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, AUTHORIZING THE ACQUISITION OF REAL PROPERTY INTERESTS NECESSARY FOR THE RIO DE FLAG FLOOD CONTROL PROJECT, A PUBLIC USE, PROVIDING FOR DELEGATION OF AUTHORITY, CONDEMNATION AUTHORITY, PRIOR APPROVAL OF PURCHASES; AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City Council adopted an Ordinance No. 1983 on October 6, 1998 authorizing the acquisition of real property for flood control and to provide the opportunity for future development along the Rio de Flag and the Clay Avenue Wash, situated within Section 16, the southwest quarter of Section 15, the north half of Section 21, the north half of Section 22, and the northwest quarter of Section 23, Township 21 North, Range 7 East, Gila and Salt River Meridian Coconino County Arizona;

WHEREAS, the City Council adopted an Ordinance No. 2009-22 on August 4, 2009 amending Ordinance No. 1983 to add parcels of real property for flood control and redevelopment within the Rio de Flag Flood Control Project;

WHEREAS, the City Council approved Resolution No. 2020-05 on February 18, 2020, which approves acquisition of property interests needed for the Lower Reach and Upper Reach of the Rio de Flag (this resolution will need to be amended in the future as there will be different legal descriptions for the Upper Reach per revised design documents);

WHEREAS, the City Council approved Resolution No. 2020-24 on May 19, 2020, which approves acquisition of additional property interests needed for Phase 1 of project, which includes the Lower Reach and Clay Avenue Wash Area;

WHEREAS, the City Council is approving this Resolution No. 2020-38, to approve acquisition of five (5) additional property interests needed for Phase 1 of the project;

WHEREAS, the City of Flagstaff ("the City") has authority to acquire real property pursuant to Article 1, Section 3 of the Charter of the City of Flagstaff;

WHEREAS, the City has authority acquire real property necessary for a public use by right of eminent domain (condemnation), pursuant to A.R.S. §§ 9-240, 9-276, 12-1111, 12-1113, and pursuant to A.R.S. § 12-1142 for a public works project funded in part by a federal agency;

WHEREAS, the U.S. Department of the Army and the City entered into a Project Cooperation Agreement for construction of the Rio de Flag Flood Control and Recreation Project dated August 13, 2004, and, per Articles III and IV, the City shall acquire real property necessary for the project;

WHEREAS, the U.S. Army Corps of Engineers has approved \$52 million in funding for its FY2020 Work Plan for the Rio de Flag Flood Control and Recreation Project;

WHEREAS, City has adopted storm water fees to generate revenues for flood control and storm water projects, has included the Rio de Flag Flood Control and Recreation Project in its Capital Improvement Program (CIP), so the City is able to pay its required share of funding for the project;

WHEREAS, the U.S. Army Corps of Engineers, in consultation with the City and the design engineer, has determined that the real properties identified in this resolution are necessary for the project;

WHEREAS, the City is obtaining appraisals and review appraisals by the U.S. Army Corps of Engineers to determine the just compensation to be paid for the real property interests necessary for the project.

ENACTMENTS:

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

SECTION 1. In General.

Although broad authority for acquisition of the property interests necessary for the Rio de Flag Project is provided for under Ordinance No. 1983, as amended by Ordinance No. 2009-22, the City Council hereby desires to more specifically approve acquisition of two (2) additional property interests necessary for the construction and completion of Phase 1 of the Rio de Flag Flood Control Project (which includes areas known as the Lower Reach of the Rio de Flag and the Clay Avenue Wash and is conceptually depicted in the map attached hereto as Exhibit 1), and as legally described in the attached Exhibit 2 ("the Real Property Interests").

SECTION 2. Delegation of Authority.

The City Manager and his designees, including the Real Estate Manager and City Attorney's Office are hereby authorized to negotiate with the owners of the Real Property, with the intent to obtain the necessary property by donation, and with the approval of the terms and conditions of sale by the City Manager, including just compensation to be paid, by purchase.

SECTION 3. Condemnation Authority.

When, in the opinion of the City Manager, it appears that it will be necessary to institute and prosecute condemnation actions, the City Attorney is authorized to initiate the actions and proceed on behalf of the City or with the approval of the City Manager to retain the services of private counsel to do so. All legal actions necessary or appropriate to acquire the Real Property, including any negotiated settlement, may proceed without the need for any further approval of the City Council.

SECTION 4. Prior Approval of Purchases.

The City Council hereby gives its prior approval for purchases of the Real Property without the need for any further approval of the Council.

The City Council hereby directs the City Manager and Real Estate Manager to provide updates on the status of acquisitions upon the request of a Council Member, to all Council Members.

SECTION 5. Effective Date.

This Resolution shall be immediately effective.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of July, 2020

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:

Exhibit 1 Map showing Phase 1

Exhibit 2 Legal descriptions for additional property interests for Phase 1

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Carmen Pryer, Real Estate Specialist
Co-Submitter: Dan Folke
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Adoption of Ordinance No. 2020-20: An ordinance of the Flagstaff City Council authorizing the acquisition of approximately .082 acres of real property located at 424 East Butler Avenue, Coconino County Assessor Parcel Number 104-01-023, for the Lone Tree Overpass Project, providing for delegation of authority; and establishing an effective date.

STAFF RECOMMENDED ACTION:

At the July 7, 2020 Council Meeting:

- 1) Read Ordinance No. 2020-20 by title only for the first time
- 2) City Clerk reads Ordinance No. 2020-20 by title only (if approved above)

At the August 18, 2020 Council Meeting:

- 3) Read Ordinance No. 2020-20 by title only for the final time
- 4) City Clerk reads Ordinance No. 2020-20 by title only (if approved above)
- 5) Adopt Ordinance No.2020-20

Executive Summary:

Adoption of this ordinance will authorize the acquisition of approximately .082 acres (3,588 square feet) of real property located at 424 East Butler Avenue, Coconino County Assessor Parcel Number 104-01-023, for Lone Tree Overpass project. The lot is located on the northwest corner of Butler Avenue and Colorado Street and has an existing single-family home. The property owner recently approached the City and asked whether the City would be interested in purchasing the subject property.

Financial Impact:

The final Real Estate Purchase Contract and the purchase price will be subject to future Council approval. City staff will obtain an appraisal of the property.

In November of 2018, Flagstaff voters passed Proposition 420, a tax dedicated to paying for the costs of a Lone Tree Railroad Overpass from Butler Avenue to Route 66, along with related pedestrian, bicycle, and street connections.

The City of Flagstaff has programmed funding for the Lone Tree Overpass Project in its 5-year Capital Improvement Program.

Policy Impact:

None.

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

Completion of the Lone Tree Overpass project advances goals to alleviate congestion along Milton Road, the primary north-south corridor. The project will contribute to the roadway capacity needed for existing and future conditions, establish a grade separated crossing of the BNSF, provide greater viability to existing and future businesses and link to J.W. Powell Boulevard in connection with the City of Lone Tree Comprehensive Plan.

Has There Been Previous Council Decision on This:

In 2006 the Flagstaff City Council adopted the Lone Tree Corridor Study which provided 15% conceptual plans for the entire corridor. In 2010, the City Council adopted the Lone Tree Overpass study which provided 30% plans for the overpass. In 2018 the City Council placed Proposition 420 on the ballot, which funds the design and construction of the Lone Tree Overpass. On June 17, 2020, the City Council adopted the 2020-21 budget which includes funding for Lone Tree Overpass in the Capital Improvement Program.

Options and Alternatives:

1. Adopt the ordinance to authorize acquisition; or
2. Do not adopt the ordinance, and purchase the property at a later date.

Background/History:

The property owner recently approached the City and asked whether the City would be interested in purchasing the subject property. The property was identified in the 2010 Lone Tree Overpass study as necessary for acquisition.

Key Considerations:

The Flagstaff voters approved funding to design and construct the Lone Tree Overpass, based on the 2010 study. Acquisition of the subject property is required to construct the project.

Community Benefits and Considerations:

The Lone Tree Overpass Project will provide a new entry in to downtown Flagstaff, provide enhanced regional mobility, and improve community and local circulation. The project will enhance the multi-modal initiatives of the community, including inclusion of bicycle and pedestrian facilities and transit opportunities.

Community Involvement:

Capital Engineering is preparing a Request for Statement of Qualifications (RSOQ) to retain a professional consultant team to complete final design and construction plans. The scope of services will include a public participation plan to engage the community in design and operational input. The project team has also discussed a specific task to assess the projects impact to the Southside neighborhood and mitigation strategies.

Attachments: [Ord. 2020-20](#)

Exhibit A

Map of Property

Sample Purchase Contract

ORDINANCE NO. 2020-20

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AUTHORIZING THE ACQUISITION OF APPROXIMATELY .082 ACRES OF REAL PROPERTY LOCATED AT 424 EAST BUTLER AVENUE, COCONINO COUNTY ASSESSOR PARCEL NUMBER 104-01-023, FOR THE LONE TREE OVERPASS PROJECT, PROVIDING FOR DELEGATION OF AUTHORITY; AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, Article VII, Section 5 of the Flagstaff City Charter provides that the City acquire real property by ordinance;

WHEREAS, the City of Flagstaff desires to acquire certain real property for the Lone Tree Overpass Project;

WHEREAS, in November, 2018 Flagstaff voters passed Proposition 420, to establish a 0.23% local transaction privilege tax (sales) tax rate for a 20 year period, on the gross revenues derived from engaging in business activities within the city of Flagstaff, and dedicating use of the revenues to pay for the costs of a Lone Tree Railroad Overpass from Butler Avenue to Route 66, along with related pedestrian, bicycle, and street connections (“Lone Tree Overpass Project”);

WHEREAS, the City of Flagstaff has programmed funding for the Lone Tree Overpass Project in its 5-year Capital Improvement Program;

ENACTMENTS:

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

SECTION 1. In General.

The Flagstaff City Council hereby authorizes the acquisition of approximately .082 acres of real property located 424 East Butler Avenue, Coconino County Assessor Parcel Number 104-01-023, and legally described as set forth in Exhibit A, attached hereto (“the Property”), by purchase or donation.

The final Real Estate Purchase Contract and purchase price is subject to City Council approval.

SECTION 2. Delegation of Authority.

The Mayor, City Manager, City Attorney, City Clerk, Finance Director, Real Estate Manager, or their delegates or agents, are hereby authorized and directed to take all steps and execute all documents necessary to acquire the Property and to carry out the purpose and intent of this ordinance.

SECTION 3. Severability.

That if any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the City Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 18th day of August, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Attachments:

Exhibit A- Legal description for property to be acquired

Exhibit A

Legal Description:

The Easterly 35.00 feet of LOTS 5 and 6, BLOCK 25, BRANNEN ADDITION TO THE TOWN OF FLAGSTAFF, as shown on the plat thereof, recorded in Book 1 of Maps, Page 42, records of Coconino County, Arizona.

10401023



Show search results for 10401...



Rio de Flag

Coconino
National
Forest

10401023
Show search results for 10401...



This attachment should be given to the Buyer prior to the submission of any offer and is not part of the Residential Resale Real Estate Purchase Contract's terms.



ATTENTION BUYER!

You are entering into a legally binding agreement.

1. **Read the entire contract *before* you sign it.**
2. **Review the Residential Seller's Property Disclosure Statement (See Section 4a).**
 - This information comes directly from the Seller.
 - Investigate any blank spaces, unclear answers or any other information that is important to you.
3. **Review the Inspection Paragraph (see Section 6a).**

If important to you, hire a qualified:

 - Mold inspector
 - Roof inspector
 - Pest inspector
 - Pool inspector
 - Heating/cooling inspector

Verify square footage (see Section 6b)
Verify the property is on sewer or septic (see Section 6f)
4. **Confirm your ability to obtain insurance and insurability of the property during the inspection period with your insurance agent (see Sections 6a and 6e).**
5. **Apply for your home loan now, if you have not done so already, and provide your lender with all requested information (see Section 2f).**

It is your responsibility to make sure that you and your lender follow the timeline requirements in Section 2, and that you and your lender deliver the necessary funds to escrow in sufficient time to allow escrow to close on the agreed upon date. Otherwise, the Seller may cancel the contract and you may be liable for damages.
6. **Read the title commitment within five days of receipt (see Section 3c).**
7. **Read the CC&R's and all other governing documents within five days of receipt (see Section 3c), especially if the home is in a homeowner's association.**
8. **Conduct a thorough final walkthrough (see Section 6m). If the property is unacceptable, speak up. After the closing may be too late.**

You can obtain information through the Buyer's Advisory at <http://www.aaronline.com>.

Remember, you are urged to consult with an attorney, inspectors, and experts of your choice in any area of interest or concern in the transaction. Be cautious about verbal representations, advertising claims, and information contained in a listing. *Verify anything important to you.*

Buyer's Check List

RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT

Document updated:
September 2015



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



1. PROPERTY

1a. 1. **BUYER:** _____
BUYER'S NAME(S)

2. **SELLER:** _____ or as identified in section 9c.
SELLER'S NAME(S)

3. Buyer agrees to buy and Seller agrees to sell the real property with all improvements, fixtures, and appurtenances thereon
4. or incidental thereto, plus the personal property described herein (collectively the "Premises").

1b. 5. Premises Address: _____ Assessor's #: _____

6. City: _____ County: _____ AZ, Zip Code: _____

7. Legal Description: _____

1c. 8. \$ _____ Full Purchase Price, paid as outlined below

9. \$ _____ Earnest money

10. \$ _____

11. \$ _____

12. _____

13. _____

14. _____

1d. 15. **Close of Escrow:** Close of Escrow ("COE") shall occur when the deed is recorded at the appropriate county recorder's office.

16. Buyer and Seller shall comply with all terms and conditions of this Contract, execute and deliver to Escrow Company all closing
17. documents, and perform all other acts necessary in sufficient time to allow COE to occur on

18. _____, 20____ ("COE Date"). If Escrow Company or recorder's office is closed on COE Date,
MONTH DAY YEAR

19. COE shall occur on the next day that both are open for business.

20. Buyer shall deliver to Escrow Company a cashier's check, wired funds or other immediately available funds to pay any down
21. payment, additional deposits or Buyer's closing costs, and instruct the lender, if applicable, to deliver immediately available funds to
22. Escrow Company, in a sufficient amount and in sufficient time to allow COE to occur on COE Date.

1e. 23. **Possession:** Seller shall deliver possession, occupancy, existing keys and/or means to operate all locks, mailbox, security

24. system/alarms, and all common area facilities to Buyer at COE or _____.

25. Broker(s) recommend that the parties seek appropriate counsel from insurance, legal, tax, and accounting professionals regarding
26. the risks of pre-possession or post-possession of the Premises.

1f. 27. **Addenda Incorporated:** AS IS Additional Clause Buyer Contingency Domestic Water Well H.O.A.

28. Lead-Based Paint Disclosure Loan Assumption On-site Wastewater Treatment Facility Seller Financing Short Sale

29. Other: _____

1g. 30. **Fixtures and Personal Property:** Seller agrees that all existing fixtures on the Premises, and any existing personal property

31. specified herein, shall be included in this sale, including the following:

- 32. • free-standing range/oven
- 33. • ceiling fans
- 34. • attached floor coverings
- 35. • window and door screens, sun screens
- 36. • garage door openers and controls
- 37. • outdoor landscaping, fountains, and lighting
- 38. • pellet, wood-burning or gas-log stoves
- 39. • storage sheds
- light fixtures
- towel, curtain and drapery rods
- flush-mounted speakers
- storm windows and doors
- attached media antennas/satellite dishes
- attached fireplace equipment
- timers
- draperies and other window coverings
- shutters and awnings
- water-misting systems
- solar systems
- mailbox
- central vacuum, hose, and attachments
- built-in appliances

>>

SELLER SELLER

<Initials

Initials>

BUYER BUYER

Residential Resale Real Estate Purchase Contract >>

40. If owned by the Seller, the following items also are included in this sale:
41. • pool and spa equipment (including any mechanical or other cleaning systems)
42. • security and/or fire systems and/or alarms
43. • water softeners
44. • water purification systems
45. **Additional existing personal property included in this sale** (if checked): refrigerator washer dryer as described:
46. _____
47. _____
48. Other: _____
49. _____
50. Additional existing personal property included shall not be considered part of the Premises and shall be transferred with no monetary value, and free and clear of all liens or encumbrances.
51. _____
52. Fixtures and leased items NOT included: _____
53. **IF THIS IS AN ALL CASH SALE, GO TO SECTION 3.**

2. FINANCING

- 2a. 54. **Pre-Qualification:** An AAR Pre-Qualification Form *is* attached hereto and incorporated herein by reference.
- 2b. 55. **Loan Contingency:** Buyer's obligation to complete this sale is contingent upon Buyer obtaining loan approval for the loan described in the AAR Loan Status Update ("LSU") form without Prior to Document ("PTD") conditions no later than three (3) days prior to the COE Date. **No later than three (3) days prior to the COE Date, Buyer shall either: (i) sign all loan documents; or (ii) deliver to Seller or Escrow Company notice of loan approval without PTD conditions AND date(s) of receipt of Closing Disclosure(s) from Lender; or (iii) deliver to Seller or Escrow Company notice of inability to obtain loan approval without PTD conditions.**
56. _____
57. _____
58. _____
59. _____
60. _____
- 2c. 61. **Unfulfilled Loan Contingency:** This Contract shall be cancelled and Buyer shall be entitled to a return of the Earnest Money if after diligent and good faith effort, Buyer is unable to obtain loan approval without PTD conditions no later than three (3) days prior to the COE Date. Buyer acknowledges that prepaid items paid separately from earnest money are not refundable.
62. _____
63. _____
- 2d. 64. **Interest Rate / Necessary Funds:** Buyer agrees that (i) the inability to obtain loan approval due to the failure to lock the interest rate and "points" by separate written agreement with the lender; or (ii) the failure to have the down payment or other funds due from Buyer necessary to obtain the loan approval without conditions and close this transaction is not an unfulfilled loan contingency.
65. _____
66. _____
67. _____
- 2e. 68. **Loan Status Update:** Buyer shall deliver to Seller the LSU with at a minimum lines 1-40 completed describing the current status of the Buyer's proposed loan within ten (10) days after Contract acceptance and instruct lender to provide an updated LSU to Broker(s) and Seller upon request.
69. _____
70. _____
- 2f. 71. **Loan Application:** Unless previously completed, within three (3) days after Contract acceptance Buyer shall (i) provide lender with Buyer's name, income, social security number, Premises address, estimate of value of the Premises, and mortgage loan amount sought; and (ii) grant lender permission to access Buyer's Trimerged Residential Credit Report.
72. _____
73. _____
- 2g. 74. **Loan Processing During Escrow:** Within ten (10) days after receipt of the **Loan Estimate** Buyer shall (i) provide lender with notice of intent to proceed with the loan transaction in a manner satisfactory to lender; and (ii) provide to lender all requested signed disclosures and the documentation listed in the LSU at lines 32-35. Buyer agrees to diligently work to obtain the loan and will promptly provide the lender with all additional documentation requested.
75. _____
76. _____
77. _____
- 2h. 78. **Type of Financing:** Conventional FHA VA USDA Assumption Seller Carryback _____
79. (If financing is to be other than new financing, see attached addendum.)
- 2i. 80. **Loan Costs:** All costs of obtaining the loan shall be paid by Buyer, unless otherwise provided for herein.
- 2j. 81. **Seller Concessions (if any):** In addition to the other costs Seller has agreed to pay herein, Seller agrees to pay up to _____% of the Purchase Price or \$ _____ for Buyer's loan costs including pre-pays, impounds and Buyer's title / escrow closing costs.
82. _____
- 2k. 83. **VA Loan Costs:** In the event of a VA loan, Seller agrees to pay the escrow fee and up to \$ _____ of loan costs not permitted to be paid by the Buyer, in addition to the other costs Seller has agreed to pay herein, including Seller's Concessions.
84. _____
85. _____
- 2l. 86. **Changes:** Buyer shall immediately notify Seller of any changes in the loan program, financing terms, or lender described in the Pre-Qualification Form attached hereto or LSU provided within ten (10) days after Contract acceptance and shall only make any such changes without the prior written consent of Seller if such changes do not adversely affect Buyer's ability to obtain loan approval without PTD conditions, increase Seller's closing costs, or delay COE.
87. _____
88. _____
89. _____

>>

_____	_____
SELLER	SELLER

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_____	_____
BUYER	BUYER

Residential Resale Real Estate Purchase Contract >>

- 2m. 90. **Appraisal Contingency:** Buyer's obligation to complete this sale is contingent upon an appraisal of the Premises acceptable to lender for at least the purchase price. If the Premises fail to appraise for the purchase price in any appraisal required by lender, Buyer has five (5) days after notice of the appraised value to cancel this Contract and receive a refund of the Earnest Money or the appraisal contingency shall be waived.
- 2n. 94. **Appraisal Fee(s):** Appraisal Fee(s), when required by lender, shall be paid by Buyer Seller Other _____
- 95. Appraisal Fee(s) are are not included in Seller Concessions, if applicable.

3. TITLE AND ESCROW

- 3a. 96. **Escrow:** This Contract shall be used as escrow instructions. The Escrow Company employed by the parties to carry out the terms of this Contract shall be:

98. "ESCROW/TITLE COMPANY" _____

99. ADDRESS _____ CITY _____ STATE _____ ZIP _____

100. EMAIL _____ PHONE _____ FAX _____

- 3b. 101. **Title and Vesting:** Buyer will take title as determined before COE. Taking title may have significant legal, estate planning and tax consequences. Buyer should obtain legal and tax advice.
- 3c. 103. **Title Commitment and Title Insurance:** Escrow Company is hereby instructed to obtain and deliver to Buyer and Seller directly, addressed pursuant to 8t and 9c or as otherwise provided, a Commitment for Title Insurance together with complete and legible copies of all documents that will remain as exceptions to Buyer's policy of Title Insurance ("Title Commitment"), including but not limited to Conditions, Covenants and Restrictions ("CC&Rs"); deed restrictions; and easements. Buyer shall have five (5) days after receipt of the Title Commitment and after receipt of notice of any subsequent exceptions to provide notice to Seller of any items disapproved. Seller shall convey title by warranty deed, subject to existing taxes, assessments, covenants, conditions, restrictions, rights of way, easements and all other matters of record. Buyer shall be provided at Seller's expense an American Land Title Association ("ALTA") Homeowner's Title Insurance Policy, or if not available, an ALTA Residential Title Insurance Policy ("Plain Language"/"1-4 units") or, if not available, a Standard Owner's Title Insurance Policy, showing title vested in Buyer. Buyer may acquire extended coverage at Buyer's own additional expense. If applicable, Buyer shall pay the cost of obtaining the ALTA Lender Title Insurance Policy.
- 3d. 113. **Additional Instructions:** (i) Escrow Company shall promptly furnish notice of pending sale that contains the name and address of the Buyer to any homeowner's association in which the Premises is located. (ii) If the Escrow Company is also acting as the title agency but is not the title insurer issuing the title insurance policy, Escrow Company shall deliver to the Buyer and Seller, upon deposit of funds, a closing protection letter from the title insurer indemnifying the Buyer and Seller for any losses due to fraudulent acts or breach of escrow instructions by the Escrow Company. (iii) All documents necessary to close this transaction shall be executed promptly by Seller and Buyer in the standard form used by Escrow Company. Escrow Company shall modify such documents to the extent necessary to be consistent with this Contract. (iv) Escrow Company fees, unless otherwise stated herein, shall be allocated equally between Seller and Buyer. (v) Escrow Company shall send to all parties and Broker(s) copies of all notices and communications directed to Seller, Buyer and Broker(s). (vi) Escrow Company shall provide Broker(s) access to escrowed materials and information regarding the escrow. (vii) If an Affidavit of Disclosure is provided, Escrow Company shall record the Affidavit at COE.
- 3e. 123. **Tax Prorations:** Real property taxes payable by the Seller shall be prorated to COE based upon the latest tax information available.
- 3f. 124. **Release of Earnest Money:** In the event of a dispute between Buyer and Seller regarding any Earnest Money deposited with Escrow Company, Buyer and Seller authorize Escrow Company to release Earnest Money pursuant to the terms and conditions of this Contract in its sole and absolute discretion. Buyer and Seller agree to hold harmless and indemnify Escrow Company against any claim, action or lawsuit of any kind, and from any loss, judgment, or expense, including costs and attorney fees, arising from or relating in any way to the release of Earnest Money.
- 3g. 129. **Prorations of Assessments and Fees:** All assessments and fees that are not a lien as of the COE, including homeowner's association fees, rents, irrigation fees, and, if assumed, insurance premiums, interest on assessments, interest on encumbrances, and service contracts, shall be prorated as of COE or Other: _____
- 3h. 132. **Assessment Liens:** The amount of any assessment, other than homeowner's association assessments, that is a lien as of the COE, shall be paid in full by Seller prorated and assumed by Buyer. Any assessment that becomes a lien after COE is the Buyer's responsibility.
- 3i. 135. **IRS and FIRPTA Reporting:** Seller agrees to comply with IRS reporting requirements. If applicable, Seller agrees to complete, sign, and deliver to Escrow Company a certificate indicating whether Seller is a foreign person or a non-resident alien pursuant to the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller acknowledge that if the Seller is a foreign person, Buyer must withhold a tax equal to 10% of the purchase price, unless an exemption applies. >>>

SELLER SELLER

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BUYER BUYER

Residential Resale Real Estate Purchase Contract >>

4. DISCLOSURE

- 4a. 139. **Seller Property Disclosure Statement ("SPDS"):** Seller shall deliver a completed AAR Residential SPDS form to the Buyer
140. within five (5) days after Contract acceptance. Buyer shall provide notice of any SPDS items disapproved within the Inspection
141. Period or five (5) days after receipt of the SPDS, whichever is later.
- 4b. 142. **Insurance Claims History:** Seller shall deliver to Buyer a written five-year insurance claims history regarding Premises (or a claims
143. history for the length of time Seller has owned the Premises if less than five years) from Seller's insurance company or an insurance
144. support organization or consumer reporting agency, or if unavailable from these sources, from Seller, within five (5) days after
145. Contract acceptance. (Seller may obscure any reference to date of birth or social security number from the document). Buyer shall
146. provide notice of any items disapproved within the Inspection Period or five (5) days after receipt of the claims history, whichever
147. is later.
- 4c. 148. **Lead-Based Paint Disclosure:** If the Premises were built prior to 1978, the Seller shall: (i) notify the Buyer of any known lead-
149. based paint ("LBP") or LBP hazards in the Premises; (ii) provide the Buyer with any LBP risk assessments or inspections of the
150. Premises in the Seller's possession; (iii) provide the Buyer with the Disclosure of Information on Lead-based Paint and Lead-based
151. Paint Hazards, and any report, records, pamphlets, and/or other materials referenced therein, including the pamphlet "Protect Your
152. Family from Lead in Your Home" (collectively "LBP Information"). Buyer shall return a signed copy of the Disclosure of Information
153. on Lead-Based Paint and Lead-Based Paint Hazards to Seller prior to COE.
154. LBP Information was provided prior to Contract acceptance and Buyer acknowledges the opportunity to conduct LBP risk
155. assessments or inspections during Inspection Period.
156. Seller shall provide LBP Information within five (5) days after Contract acceptance. Buyer may within ten (10) days
157. or _____ days after receipt of the LBP Information conduct or obtain a risk assessment or inspection of the Premises for the
158. presence of LBP or LBP hazards ("Assessment Period"). Buyer may within five (5) days after receipt of the LBP Information or five
159. (5) days after expiration of the Assessment Period cancel this Contract.
160. Buyer is further advised to use certified contractors to perform renovation, repair or painting projects that disturb lead-based paint in
161. residential properties built before 1978 and to follow specific work practices to prevent lead contamination.
162. If Premises were constructed prior to 1978, **(BUYER'S INITIALS REQUIRED)** _____ BUYER BUYER
163. If Premises were constructed in 1978 or later, **(BUYER'S INITIALS REQUIRED)** _____ BUYER BUYER
- 4d. 164. **Affidavit of Disclosure:** If the Premises is located in an unincorporated area of the county, and five or fewer parcels of property
165. other than subdivided property are being transferred, the Seller shall deliver a completed Affidavit of Disclosure in the form required
166. by law to the Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any Affidavit of Disclosure items
167. disapproved within the Inspection Period or five (5) days after receipt of the Affidavit of Disclosure, whichever is later.
- 4e. 168. **Changes During Escrow:** Seller shall immediately notify Buyer of any changes in the Premises or disclosures made herein, in
169. the SPDS, or otherwise. Such notice shall be considered an update of the SPDS. Unless Seller is already obligated by Section 5a
170. or otherwise by this Contract or any amendments hereto, to correct or repair the changed item disclosed, Buyer shall be allowed
171. five (5) days after delivery of such notice to provide notice of disapproval to Seller.

5. WARRANTIES

- 5a. 172. **Seller Warranties:** Seller warrants and shall maintain and repair the Premises so that at the earlier of possession or COE: (i) all
173. heating, cooling, mechanical, plumbing, and electrical systems (including swimming pool and/or spa, motors, filter systems, cleaning
174. systems, and heaters, if any), free-standing range/oven, and built-in appliances will be in working condition; (ii) all other agreed upon
175. repairs and corrections will be completed pursuant to Section 6j; (iii) the Premises, including all additional existing personal property
176. included in the sale, will be in substantially the same condition as on the date of Contract acceptance; and (iv) all personal property
177. not included in the sale and all debris will be removed from the Premises.
- 5b. 178. **Warranties that Survive Closing:** Seller warrants that Seller has disclosed to Buyer and Broker(s) all material latent defects
179. and any information concerning the Premises known to Seller, excluding opinions of value, which materially and adversely affect
180. the consideration to be paid by Buyer. Prior to the COE, Seller warrants that payment in full will have been made for all labor,
181. professional services, materials, machinery, fixtures, or tools furnished within the 150 days immediately preceding the COE in
182. connection with the construction, alteration, or repair of any structure on or improvement to the Premises. Seller warrants that the
183. information regarding connection to a sewer system or on-site wastewater treatment facility (conventional septic or alternative) is
184. correct to the best of Seller's knowledge.
- 5c. 185. **Buyer Warranties:** Buyer warrants that Buyer has disclosed to Seller any information that may materially and adversely affect the
186. Buyer's ability to close escrow or complete the obligations of this Contract. At the earlier of possession of the Premises or COE,
187. Buyer warrants to Seller that Buyer has conducted all desired independent inspections and investigations and accepts the Premises.
188. **Buyer warrants that Buyer is not relying on any verbal representations concerning the Premises except disclosed as follows:**
189. _____
190. _____

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SELLER	SELLER

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Initials>

BUYER	BUYER

Residential Resale Real Estate Purchase Contract >>**6. DUE DILIGENCE**

- 6a. 191. **Inspection Period:** Buyer's Inspection Period shall be ten (10) days or _____ days after Contract acceptance. During the
 192. Inspection Period Buyer, at Buyer's expense, shall: (i) conduct all desired physical, environmental, and other types of inspections
 193. and investigations to determine the value and condition of the Premises; (ii) make inquiries and consult government agencies,
 194. lenders, insurance agents, architects, and other appropriate persons and entities concerning the suitability of the Premises and
 195. the surrounding area; (iii) investigate applicable building, zoning, fire, health, and safety codes to determine any potential hazards,
 196. violations or defects in the Premises; and (iv) verify any material multiple listing service ("MLS") information. If the presence of
 197. sex offenders in the vicinity or the occurrence of a disease, natural death, suicide, homicide or other crime on or in the vicinity is a
 198. material matter to the Buyer, it must be investigated by the Buyer during the Inspection Period. Buyer shall keep the Premises free
 199. and clear of liens, shall indemnify and hold Seller harmless from all liability, claims, demands, damages, and costs, and shall repair
 200. all damages arising from the inspections. Buyer shall provide Seller and Broker(s) upon receipt, at no cost, copies of all inspection
 201. reports concerning the Premises obtained by Buyer. Buyer is advised to consult the Arizona Department of Real Estate Buyer
 202. *Advisory* provided by AAR to assist in Buyer's due diligence inspections and investigations.
- 6b. 203. **Square Footage:** BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE PREMISES, BOTH THE
 204. REAL PROPERTY (LAND) AND IMPROVEMENTS THEREON, IS APPROXIMATE. IF SQUARE FOOTAGE IS A MATERIAL
 205. MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.
- 6c. 206. **Wood-Destroying Organism or Insect Inspection:** IF CURRENT OR PAST WOOD-DESTROYING ORGANISMS OR INSECTS
 207. (SUCH AS TERMITES) ARE A MATERIAL MATTER TO THE BUYER, THESE ISSUES MUST BE INVESTIGATED DURING THE
 208. INSPECTION PERIOD. The Buyer shall order and pay for all wood-destroying organism or insect inspections performed during the
 209. Inspection Period. If the lender requires an updated Wood-Destroying Organism or Insect Inspection Report prior to COE, it will be
 210. performed at Buyer's expense.
- 6d. 211. **Flood Hazard:** Flood hazard designations or the cost of flood hazard insurance shall be determined by Buyer during the
 212. Inspection Period. If the Premises are situated in an area identified as having any special flood hazards by any governmental
 213. entity, the lender may require the purchase of flood hazard insurance. Special flood hazards may also affect the ability to
 214. encumber or improve the Premises.
- 6e. 215. **Insurance:** IF HOMEOWNER'S INSURANCE IS A MATERIAL MATTER TO THE BUYER, BUYER SHALL APPLY FOR
 216. AND OBTAIN WRITTEN CONFIRMATION OF THE AVAILABILITY AND COST OF HOMEOWNER'S INSURANCE FOR THE
 217. PREMISES FROM BUYER'S INSURANCE COMPANY DURING THE INSPECTION PERIOD. Buyer understands that any
 218. homeowner's, fire, casualty, or other insurance desired by Buyer or required by lender should be in place at COE.
- 6f. 219. **Sewer or On-site Wastewater Treatment System:** The Premises are connected to a:
 220. sewer system septic system alternative system
221. **IF A SEWER CONNECTION IS A MATERIAL MATTER TO THE BUYER, IT MUST BE INVESTIGATED DURING THE**
 222. **INSPECTION PERIOD.** If the Premises are served by a septic or alternative system, the AAR On-site Wastewater Treatment
 223. Facility Addendum is incorporated herein by reference.
224. _____ (BUYER'S INITIALS REQUIRED) _____
 BUYER BUYER
- 6g. 225. **Swimming Pool Barrier Regulations:** During the Inspection Period, Buyer agrees to investigate all applicable state, county, and
 226. municipal Swimming Pool barrier regulations and agrees to comply with and pay all costs of compliance with said regulations prior to
 227. occupying the Premises, unless otherwise agreed in writing. If the Premises contains a Swimming Pool, Buyer acknowledges receipt
 228. of the Arizona Department of Health Services approved private pool safety notice.
229. _____ (BUYER'S INITIALS REQUIRED) _____
 BUYER BUYER
- 6h. 230. **BUYER ACKNOWLEDGMENT: BUYER RECOGNIZES, ACKNOWLEDGES, AND AGREES THAT BROKER(S) ARE NOT**
 231. **QUALIFIED, NOR LICENSED, TO CONDUCT DUE DILIGENCE WITH RESPECT TO THE PREMISES OR THE SURROUNDING**
 232. **AREA. BUYER IS INSTRUCTED TO CONSULT WITH QUALIFIED LICENSED PROFESSIONALS TO ASSIST IN BUYER'S**
 233. **DUE DILIGENCE EFFORTS. BECAUSE CONDUCTING DUE DILIGENCE WITH RESPECT TO THE PREMISES AND THE**
 234. **SURROUNDING AREA IS BEYOND THE SCOPE OF THE BROKER'S EXPERTISE AND LICENSING, BUYER EXPRESSLY**
 235. **RELEASES AND HOLDS HARMLESS BROKER(S) FROM LIABILITY FOR ANY DEFECTS OR CONDITIONS THAT COULD**
 236. **HAVE BEEN DISCOVERED BY INSPECTION OR INVESTIGATION.**
237. _____ (BUYER'S INITIALS REQUIRED) _____
 BUYER BUYER
- 6i. 238. **Inspection Period Notice:** Prior to expiration of the Inspection Period, Buyer shall deliver to Seller a signed notice of any items
 239. disapproved. AAR's Buyer's Inspection Notice and Seller's Response form is available for this purpose. Buyer shall conduct all
 240. desired inspections and investigations prior to delivering such notice to Seller and all Inspection Period items disapproved shall be
 241. provided in a single notice.

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Residential Resale Real Estate Purchase Contract >>

- 6j. 242. **Buyer Disapproval:** If Buyer, in Buyer's sole discretion, disapproves of items as allowed herein, Buyer shall deliver to Seller notice
 243. of the items disapproved and state in the notice that Buyer elects to either:
 244. (1) immediately cancel this Contract and all Earnest Money shall be released to Buyer, or
 245. (2) provide the Seller an opportunity to correct the items disapproved, in which case:
 246. (a) Seller shall respond in writing within five (5) days or _____ days after delivery to Seller of Buyer's notice of items
 247. disapproved. Seller's failure to respond to Buyer in writing within the specified time period shall conclusively be deemed
 248. Seller's refusal to correct any of the items disapproved.
 249. (b) **If Seller agrees in writing to correct items disapproved, Seller shall correct the items, complete any repairs in a**
 250. **workmanlike manner and deliver any paid receipts evidencing the corrections and repairs to Buyer three (3) days**
 251. **or _____ days prior to COE Date.**
 252. (c) If Seller is unwilling or unable to correct any of the items disapproved, Buyer may cancel this Contract within five (5)
 253. days after delivery of Seller's response or after expiration of the time for Seller's response, whichever occurs first, and
 254. all Earnest Money shall be released to Buyer. If Buyer does not cancel this Contract within the five (5) days as provided,
 255. Buyer shall close escrow without correction of those items that Seller has not agreed in writing to correct.
 256. VERBAL DISCUSSIONS WILL NOT EXTEND THESE TIME PERIODS. Only a written agreement signed by both parties will extend
 257. response times or cancellation rights.
 258. BUYER'S FAILURE TO GIVE NOTICE OF DISAPPROVAL OF ITEMS OR CANCELLATION OF THIS CONTRACT WITHIN
 259. THE SPECIFIED TIME PERIOD SHALL CONCLUSIVELY BE DEEMED BUYER'S ELECTION TO PROCEED WITH THE
 260. TRANSACTION WITHOUT CORRECTION OF ANY DISAPPROVED ITEMS.
- 6k. 261. **Notice of Non-Working Warranted Items:** Buyer shall provide Seller with notice of any non-working warranted item(s) of which
 262. Buyer becomes aware during the Inspection Period or the Seller warranty for that item(s) shall be waived. Delivery of such notice
 263. shall not affect Seller's obligation to maintain or repair the warranted item(s).
- 6l. 264. **Home Warranty Plan:** Buyer and Seller are advised to investigate the various home warranty plans available for purchase. The
 265. parties acknowledge that different home warranty plans have different coverage options, exclusions, limitations, service fees and
 266. most plans exclude pre-existing conditions.
 267. A Home Warranty Plan will be ordered by Buyer or Seller with the following optional coverage
 268. _____, to be issued by _____ at a cost
 269. not to exceed \$ _____, to be paid for by Buyer Seller
 270. Buyer declines the purchase of a Home Warranty Plan.
- 6m. 271. **Walkthrough(s):** Seller grants Buyer and Buyer's inspector(s) reasonable access to conduct walkthrough(s) of the Premises for
 272. the purpose of satisfying Buyer that any corrections or repairs agreed to by the Seller have been completed, warranted items are in
 273. working condition and that the Premises is in substantially the same condition as of the date of Contract acceptance. If Buyer does
 274. not conduct such walkthrough(s), Buyer releases Seller and Broker(s) from liability for any defects that could have been discovered.
- 6n. 275. **Seller's Responsibility Regarding Inspections and Walkthrough(s):** Seller shall make the Premises available for all inspections
 276. and walkthrough(s) upon reasonable notice by Buyer. Seller shall, at Seller's expense, have all utilities on, including any propane,
 277. until COE to enable Buyer to conduct these inspections and walkthrough(s).

7. REMEDIES

- 7a. 278. **Cure Period:** A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with any
 279. provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If the
 280. non-compliance is not cured within three (3) days after delivery of such notice ("Cure Period"), the failure to comply shall become a
 281. breach of Contract.
- 7b. 282. **Breach:** In the event of a breach of Contract, the non-breaching party may cancel this Contract and/or proceed against the
 283. breaching party in any claim or remedy that the non-breaching party may have in law or equity, subject to the Alternative Dispute
 284. Resolution obligations set forth herein. In the case of the Seller, because it would be difficult to fix actual damages in the event of
 285. Buyer's breach, the Earnest Money may be deemed a reasonable estimate of damages and Seller may, at Seller's option, accept
 286. the Earnest Money as Seller's sole right to damages; and in the event of Buyer's breach arising from Buyer's failure to deliver the
 287. notice required by Section 2b, or Buyer's inability to obtain loan approval due to the waiver of the appraisal contingency pursuant
 288. to Section 2m, Seller shall exercise this option and accept the Earnest Money as Seller's sole right to damages. An unfulfilled
 289. contingency is not a breach of Contract. The parties expressly agree that the failure of any party to comply with the terms and
 290. conditions of Section 1d to allow COE to occur on the COE Date, if not cured after a cure notice is delivered pursuant to Section 7a,
 291. will constitute a material breach of this Contract, rendering the Contract subject to cancellation.

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Residential Resale Real Estate Purchase Contract >>

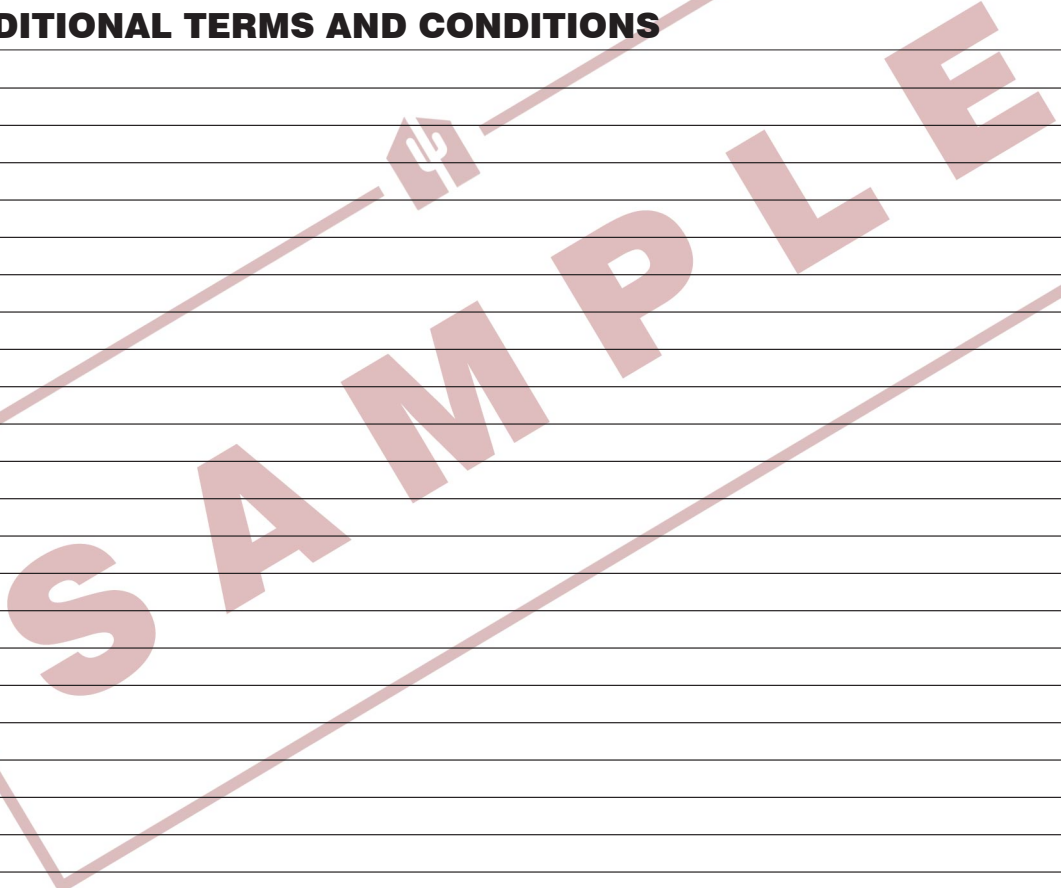
- 7c. 292. **Alternative Dispute Resolution ("ADR"):** Buyer and Seller agree to mediate any dispute or claim arising out of or relating to this
 293. Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs shall be paid
 294. equally by the parties. In the event that mediation does not resolve all disputes or claims, the unresolved disputes or claims shall
 295. be submitted for binding arbitration. In such event, the parties shall agree upon an arbitrator and cooperate in the scheduling of
 296. an arbitration hearing. If the parties are unable to agree on an arbitrator, the dispute shall be submitted to the American Arbitration
 297. Association ("AAA") in accordance with the AAA Arbitration Rules for the Real Estate Industry. The decision of the arbitrator shall be
 298. final and nonappealable. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.
 299. Notwithstanding the foregoing, either party may opt out of binding arbitration within thirty (30) days after the conclusion of the
 300. mediation conference by notice to the other and in such event either party shall have the right to resort to court action.

- 7d. 301. **Exclusions from ADR:** The following matters are excluded from the requirement for ADR hereunder: (i) any action brought in the
 302. Small Claims Division of an Arizona Justice Court (up to \$3,500) so long as the matter is not thereafter transferred or removed from
 303. the small claims division; (ii) judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or
 304. agreement for sale; (iii) an unlawful entry or detainer action; (iv) the filing or enforcement of a mechanic's lien; or (v) any matter that
 305. is within the jurisdiction of a probate court. Further, the filing of a judicial action to enable the recording of a notice of pending action
 306. ("lis pendens"), or order of attachment, receivership, injunction, or other provisional remedies shall not constitute a waiver of the
 307. obligation to submit the claim to ADR, nor shall such action constitute a breach of the duty to mediate or arbitrate.

- 7e. 308. **Attorney Fees and Costs:** The prevailing party in any dispute or claim between Buyer and Seller arising out of or relating to this
 309. Contract shall be awarded their reasonable attorney fees and costs. Costs shall include, without limitation, attorney fees, expert
 310. witness fees, fees paid to investigators, and arbitration costs.

8. ADDITIONAL TERMS AND CONDITIONS

8a. 311. _____
 312. _____
 313. _____
 314. _____
 315. _____
 316. _____
 317. _____
 318. _____
 319. _____
 320. _____
 321. _____
 322. _____
 323. _____
 324. _____
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 340. _____



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SELLER	SELLER

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BUYER	BUYER

Residential Resale Real Estate Purchase Contract >>

8q. 396. THIS CONTRACT CONTAINS NINE PAGES EXCLUSIVE OF ANY ADDENDA AND ATTACHMENTS. PLEASE ENSURE THAT
 397. YOU HAVE RECEIVED AND READ ALL NINE PAGES OF THIS OFFER AS WELL AS ANY ADDENDA AND ATTACHMENTS.

8r. 398. Broker on behalf of Buyer:

399. PRINT SALESPERSON NAME _____ AGENT MLS CODE _____ AGENT STATE LICENSE NO. _____

400. PRINT FIRM NAME _____ FIRM MLS CODE _____

401. FIRM ADDRESS _____ STATE _____ ZIP CODE _____ FIRM STATE LICENSE NO. _____

402. PREFERRED TELEPHONE _____ FAX _____ EMAIL _____

8s. 403. **Agency Confirmation:** The Broker named in Section 8r above is the agent of (check one):

404. the Buyer; the Seller; or both the Buyer and Seller

8t. 405. **The undersigned agree to purchase the Premises on the terms and conditions herein stated and acknowledge receipt of**
 406. **a copy hereof including the Buyer Attachment.**

407. ^ BUYER'S SIGNATURE _____ MO/DA/YR _____ ^ BUYER'S SIGNATURE _____ MO/DA/YR _____

408. ADDRESS _____ ADDRESS _____

409. CITY, STATE, ZIP CODE _____ CITY, STATE, ZIP CODE _____

9. SELLER ACCEPTANCE

9a. 410. Broker on behalf of Seller:

411. PRINT SALESPERSON NAME _____ AGENT MLS CODE _____ AGENT STATE LICENSE NO. _____

412. PRINT FIRM NAME _____ FIRM MLS CODE _____

413. FIRM ADDRESS _____ STATE _____ ZIP CODE _____ FIRM STATE LICENSE NO. _____

414. PREFERRED TELEPHONE _____ FAX _____ EMAIL _____

9b. 415. **Agency Confirmation:** The Broker named in Section 9a above is the agent of (check one):

416. the Seller; or both the Buyer and Seller

9c. 417. **The undersigned agree to sell the Premises on the terms and conditions herein stated, acknowledge receipt of a**
 418. **copy hereof and grant permission to Broker named on Section 9a to deliver a copy to Buyer.**

419. Counter Offer is attached, and is incorporated herein by reference. Seller should sign both this offer and the Counter Offer.
 420. If there is a conflict between this offer and the Counter Offer, the provisions of the Counter Offer shall be controlling.

421. ^ SELLER'S SIGNATURE _____ MO/DA/YR _____ ^ SELLER'S SIGNATURE _____ MO/DA/YR _____

422. SELLER'S NAME PRINTED _____ SELLER'S NAME PRINTED _____

423. ADDRESS _____ ADDRESS _____

424. CITY, STATE, ZIP CODE _____ CITY, STATE, ZIP CODE _____

425. **OFFER REJECTED BY SELLER:** _____ , 20____
 MONTH DAY YEAR (SELLER'S INITIALS)

For Broker Use Only:

Brokerage File/Log No. _____ Manager's Initials _____ Broker's Initials _____ Date _____
 MO/DA/YR

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Martin Ince, Multi-Modal Planner
Co-Submitter: Carmen Pryer
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Adoption of Ordinance No. 2020-19: An Ordinance of the Flagstaff City Council authorizing the abandonment of a parking easement across real property located along the west side of Woodlands Village Boulevard north of McConnell Drive in exchange for a Flagstaff Urban Trails System easement; delegating authority, approving forms, and establishing an effective date

STAFF RECOMMENDED ACTION:

At the July 7, 2020 Council Meeting:

- 1) Read Ordinance No. 2020-19 by title only for the first time
- 2) City Clerk reads Ordinance No. 2020-19 by title only (if approved above)

At the August 18, 2020 Council Meeting:

- 3) Read Ordinance No. 2020-19 by title only for the final time
- 4) City Clerk reads Ordinance No. 2020-19 by title only (if approved above)
- 5) Adopt Ordinance No. 2020-19

Executive Summary:

Approval of Ordinance 2020-19 will authorize the City to abandon its interest in an existing parking easement and record a FUTS easement on a parcel located on the northwest corner of Woodlands Village Boulevard and McConnell Drive.

Financial Impact:

The City will be receiving a FUTS easement at no cost to City, in exchange for abandoning its property interest in a parking easement. Financial impacts are limited to administrative costs associated with the easements, including the cost of preparing a legal description and recording fees. Expenses will be paid from the Neighborhood Open Space and FUTS bond, which allows for administrative costs of FUTS easement acquisition.

Policy Impact:

None

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

TRANSPORTATION & PUBLIC INFRASTRUCTURE

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

Has There Been Previous Council Decision on This:

No

Background/History:

In 2019 the City was approached by a property owner requesting that the City abandon its interest in a parking easement that benefits adjacent land owned by the City and planned for a future neighborhood park.

The parking easement was recorded 1995 and re-recorded in 1997 across parcels 1B, 1C, 1D, and 1E along the west side of Woodlands Village Boulevard between Forest Meadows Street and Highland Avenue (McConnell Drive). The easement allowed up to 61 parking spaces, which were presumably intended as additional parking for a planned commercial development to the south on Tract A of the Woodlands Village Unit Three subdivision. The Tract A site is now occupied by the Staples store, Your Pie restaurant, and other commercial businesses. Subsequent to the easement, a commercial development was built on Tract A, but the additional parking was never built on the adjoining easement.

During the process of development, Tract A was split into several parcels, and the City was given two parcels on the northwest side of Staples for a future park and open space. When the City obtained these parcels, it also inherited an interest in the parking easement. The City's property interest in the parking easement is approximately 39% of the total easement area, or about 24 parking spaces. The City's Parks and Recreation Division is now planning park improvements on the parcel.

The owner of parcel 1D, Westside Veterinary Clinic, has a site plan application before the City to construct a veterinary clinic on the site, which is located on the northwest corner of Woodlands Village and McConnell. They have asked the City to abandon its interest in the easement to allow the development to move forward. Several other parcel owners have already abandoned their interest in the parking easement.

In exchange for abandoning the parking easement, the City has requested a 20-foot FUTS easement across the westerly edge of the site for a future FUTS connection between Mountain Trail Apartments and the Woodlands Village/McConnell intersection and local businesses.

There is also an access easement across the south side of the parcel, corresponding to the short segment of street, called Highland Avenue, on the west leg of the Woodlands Village/McConnell intersection. This segment appears to be a public street, but in fact it is an access easement across a private parcel. The access easement will remain in place and is not affected by the abandonment of the parking easement or recording the FUTS easement.

Key Considerations:

The parking easement on parcel 1D is not a suitable location for additional or overflow parking for the City's planned westside park, so the parking easement does not have a significant benefit to the City. The access easement could potentially serve as secondary or maintenance access to the park, depending on site layout.

The new FUTS easement will allow a future pedestrian and bicycle connection between Mountain Trails Apartments and the Woodlands Village/McConnell intersection. There is already an informal path that makes this connection across the site, likely used by students walking or biking to the NAU campus along McConnell Drive. If no FUTS easement is granted then when the parcel develops this informal

connection will be blocked, and residents of Mountain Trail will be required to go the long way around on Highland Mesa and Forest Meadows to make the same connection. The trail also provides convenient access to the commercial area for apartment residents away from traffic.

Easements across two other parcels, including the Mountain Trail parcel, will be necessary to complete the trail connection. The acquisition of these parcels will be pursued separately.

There is also potential to extend the FUTS connection north in the future across the westerly edge of two other vacant land parcels, 1B and 1C, to complete the trail connection to Forest Meadows Street. This route is already used by residents of neighborhoods to the north, who are also likely commuting to the NAU campus. The parking easement also encumbers both of these parcels. When a development proposal for parcels 1B and 1C is reviewed, the City will work with the applicant on an extension of the trail and abandonment of the parking easement.

The FUTS easement is compatible with the site plan for the proposed vet clinic. The easement area is limited to the westerly 20-feet of the site, which remains undeveloped on the site plan. Parking for the clinic and a retaining wall are planned just east of the easement area. The vet clinic has agreed to dedicate the easement.

City staff has ordered a legal description for the FUTS easement, and if feasible this will be attached to the staff summary prior to the July 7, 2020, council meeting.

Attachments: [Ord. 2020-19](#)
 [Parcels and easements map](#)
 [Form of Abandonment of Parking Easement](#)
 [Form of FUTS Easement](#)
 [FUTS map](#)
 [FUTS legal description](#)
 [Westside Vet Clinic site plan](#)
 [Parking easement \(Instrument 95-20394\)](#)
 [Redlined FUTS Easement](#)

ORDINANCE NO. 2020-19

AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AUTHORIZING ABANDONMENT OF A PARKING EASEMENT ACROSS REAL PROPERTY LOCATED ALONG THE WEST SIDE OF WOODLANDS VILLAGE BOULEVARD NORTH OF MCCONNELL DRIVE IN EXCHANGE FOR A FLAGSTAFF URBAN TRAIL SYSTEM EASEMENT; DELEGATING AUTHORITY, APPROVING FORMS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City of Flagstaff owns vacant land identified as Coconino County Assessor Parcel nos. 112-29-021F, -021G ("City Properties"), that the City is planning to develop as a neighborhood park near Boulder Pointe subdivision; and

WHEREAS, the City owns non-exclusive access and parking easement rights for the benefit of the City Properties, over adjacent land identified as Coconino County Assessor Parcel nos. 112-29-001B, -001C, -001D, -001E ("the Burdened Properties"), pursuant to an Easement Agreement recorded in the Coconino County Recorder's Office, Instrument No. 95-15826 and corrected in Instrument No. 95-20394 ("Easement Agreement"); and

WHEREAS, a reference map is attached hereto as Exhibit 1 to show the City Properties, other benefited properties, the Burdened Properties, and the access and parking easements under the Easement Agreement; and

WHEREAS, the City is willing to abandon its parking easement across Coconino County Assessor Parcel No. 112-29-001D in exchange for the grant of a Flagstaff Urban Trail System ("FUTS") Easement across the same parcel.

ENACTMENTS:

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

SECTION 1: In General.

The City Council hereby authorizes the abandonment of a parking easement across the vacant land identified as Coconino County Assessor Parcel nos. 112-29-001D ("Parcel D") contingent upon the following:

1. The owner(s) of Parcel D shall grant to the City an approximately 20-foot wide Flagstaff Urban Trail System (FUTS) Easement running along the western boundary of Parcel D to the City, using the form of FUTS Easement, along with the exhibit depicting the easement area and a legal description for the easement area attached hereto as Exhibit 2; and
2. The City will abandon its parking easement across Parcel D, using the form of Abandonment of Parking Easement (Partial) attached hereto as Exhibit 3; and

3. The City Clerk shall record documents in the Coconino County Recorder’s Office in the following order:

- First: FUTS Easement;
- Second: Abandonment of Parking Easement (Partial).

SECTION 2: Delegation of Authority.

The Mayor is authorized to execute all documents approved herein.

The City Manager, the City Attorney, the City Clerk, the Finance Director, the City Real Estate Manager, or other employees or agents as deemed necessary, are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this ordinance. The City Attorney is authorized to approve minor or clerical revisions to the documents attached hereto, prior to recording.

SECTION 3: Effective Date

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 18th day of August 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Attachments:

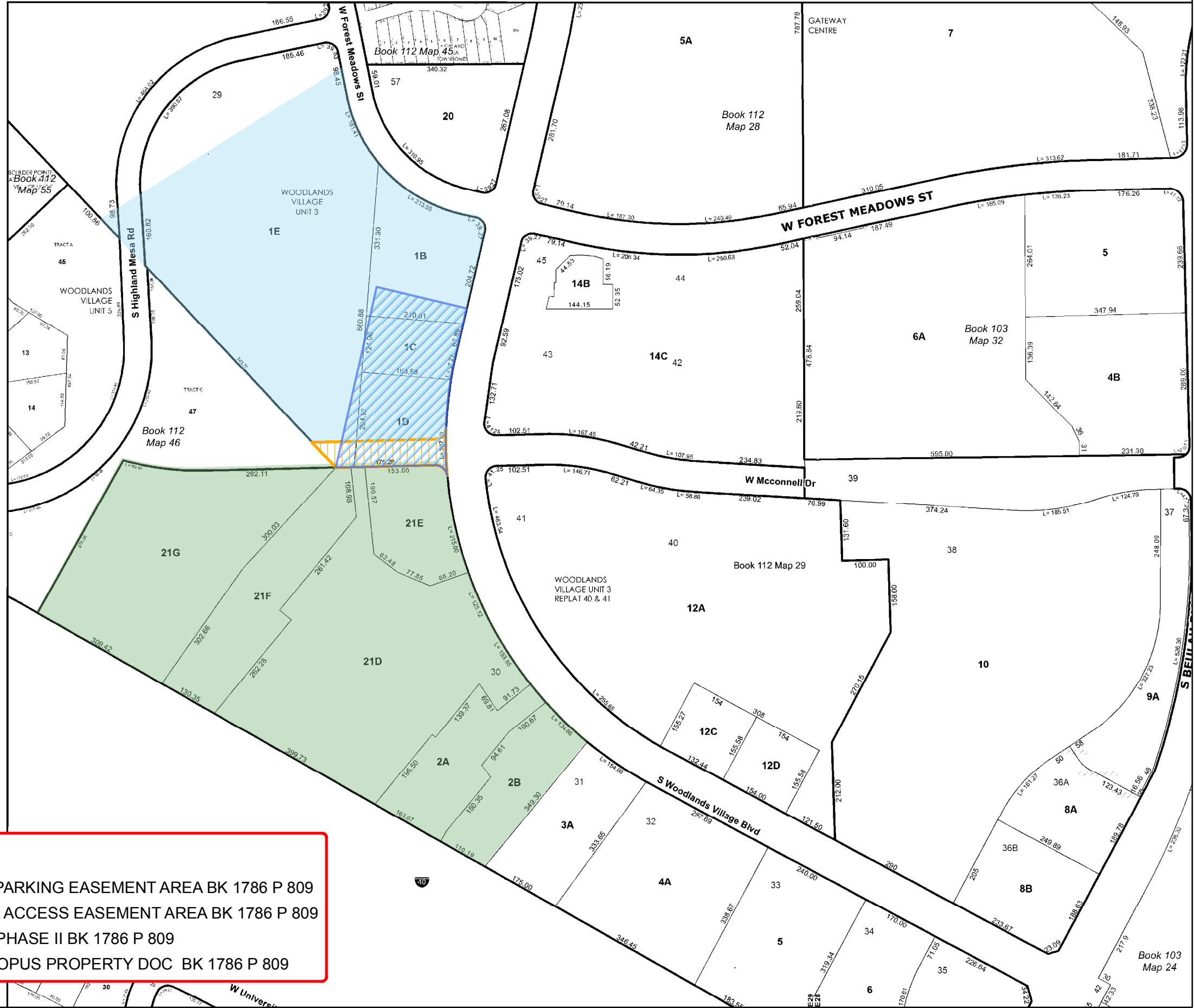
- Exhibit 1 Map
- Exhibit 2 FUTS Easement form, along with an exhibit map and legal description
- Exhibit 3 Abandonment of Parking Easement (Partial) form

Order #







PLOTTED EASEMENTS ARE PROVIDED AS AN ACCOMMODATION ONLY AND NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA. FOR FURTHER ASSURANCES, AT YOUR OWN EXPENSE, YOU CAN OBTAIN THE SERVICES OF A LICENSED SURVEYOR OR REGISTERED CIVIL ENGINEER.

gu



Legend

-  EXHIBIT " A " PARKING EASEMENT AREA BK 1786 P 809
-  EXHIBIT " A-1 " ACCESS EASEMENT AREA BK 1786 P 809
-  EXHIBIT " B ": PHASE II BK 1786 P 809
-  EXHIBIT " C ": OPUS PROPERTY DOC BK 1786 P 809

When Recorded Return To:

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

**ABANDONMENT OF PARKING EASEMENT
(PARTIAL)**

WHEREAS, the City of Flagstaff, a municipal corporation organized under laws of the state of Arizona, owns land identified as Coconino County Assessor Parcel nos. 112-29-021F and -021G (“City Properties”);

WHEREAS, the City owns non-exclusive access and parking easement rights for the benefit of City Properties, across portions of adjacent land identified as Coconino County Assessor Parcel nos. 112-29-001B, -001C, -001D, and -001E (“the Burdened Properties”), pursuant to an Easement Agreement recorded in the Coconino County Recorder’s Office, Instrument No. 95-15826 and corrected in Instrument No. 95-20394 (the “Easement Agreement”);

WHEREAS, a reference map, depicting all burdened and benefited properties under the Easement Agreement, is attached hereto as Exhibit 1 but shall have no legal effect;

WHEREAS, this Abandonment of Parking Easement (Partial) has been approved as set forth in City of Flagstaff Ordinance No. 2020-___;

NOW, therefore, the City hereby abandons all its parking easement rights in the real property identified as Coconino County Assessor Parcel no. 112-29-001D and legally described in Exhibit A attached hereto and incorporated by reference (“Parcel D”).

The City has not abandoned its separate non-exclusive access easement rights under the Easement Agreement.

DATED this _____ day of _____, 2020.

CITY OF FLAGSTAFF

By: Coral Evans

Its: Mayor

Attest: _____

City Clerk

Approved as to form:

City Attorney

STATE OF)
) ss.
COUNTY OF)

This instrument was acknowledged before me this _____ day of _____, 2020, by _____, being duly authorized in her capacity as the Mayor on behalf of the City of Flagstaff, a municipal corporation.

Notary Public

My commission expires:

EXHIBIT 1
REFERENCE MAP

EXHIBIT A
LEGAL DESCRIPTION OF PARCEL D

LOT 29D, as shown on the Survey and Split of LOT 29, WOODLANDS VILLAGE UNIT THREE, as shown on the plat thereof, recorded in Case 4, Maps 131 through 131B, inclusive, and being replatted in Case 6, Map 43 and Affidavit of Correction recorded in Docket 1880, Page 845, and as revised in Case 7, Map 11, records of Coconino County, Arizona.

When recorded, mail to:

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

URBAN TRAILS EASEMENT

For Valuable consideration, the sufficiency and receipt of which is hereby acknowledged, Aspen View Properties, LLC, an Arizona limited liability company, hereinafter referred to as “Grantor”, hereby grants and conveys unto the CITY OF FLAGSTAFF, a municipal corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Grantee”, a perpetual easement, hereinafter referred to as “Easement,” for a non-motorized public access pathway for pedestrians, bicycles and other similar non-motorized uses, hereinafter referred to as the “Trail” as part of the Flagstaff Urban Trails System under, over, across and through the real property of Grantor situated in Coconino County, Arizona, and described in Exhibits A and A-1, both of which are attached hereto and by reference made a part hereof under the terms and conditions set forth below.

1. Purpose. This Easement is granted to Grantee for the benefit of the public, and to enable the Grantee at its own expense to locate, construct, repair, replace, alter, maintain and operate a non-motorized public access trail as part of the Flagstaff Urban Trails System, including any fencing, walls, grading, landscaping, lateral and subjacent support, drainage structures and facilities, signing, or other features associated with the Trail.
2. Non-Exclusive. This Easement is granted on a non-exclusive basis; provided however, any subsequently recorded easement or permit shall not conflict or interfere with public safety, the use, operation, or maintenance of the Trail or terms and conditions of this Easement.
3. Prohibited Encroachments. Grantor shall not construct or permit any improvements within the Easement, including buildings, structures, poles, driveways, parking lots, fences, walls, cut or fill slopes, grading, or surface drainage features.
4. Underground/Utility Encroachments. Grantor may construct or permit underground improvements within the Easement, subject to all of the following:
 - a. Prior written consent of Grantee is required. Consent will not be unreasonably withheld, provided that the proposed improvement will not conflict or interfere with public safety, the use, operation, or maintenance of the Trail as determined by Grantee.
 - b. Utility boxes, meter boxes, valve boxes, manholes, or handholes (collectively “Utility Equipment”) shall not be constructed within that portion of the Trail that is designed, maintained or designated for regular public travel or within three (3) feet of either side of that pathway (the pathway and shoulders collectively referred to as the “Clear Zone”).
 - c. Grantor and/or its permittee shall restore the Trail to its original condition after completion of any construction or maintenance.

5. Vegetation. Grantee may remove, alter, and maintain vegetation within the limits of the Easement that conflicts or interferes with the use, operation, or maintenance of the Trail. Grantor shall make no claim for and shall hold Grantee harmless from any claim by a third person for damage to or destruction of the vegetation so removed or altered.
6. Lateral Support. Grantee further agrees for itself and its heirs, successors, and assigns that it shall not cause or allow any act, occurrence, or condition of land that disturbs the lateral and subjacent support of the Trail. Lateral and subjacent support may include cut or fill slopes and retaining walls.
7. Maintenance Access. Grantee shall have the right of reasonable access to the Easement over adjacent property owned or controlled by the Grantor limited to the extent necessary for construction, maintenance, repair, or reconstruction of the Trail.
8. Restoration. Upon completion of any removal, alteration or maintenance of the Trail improvements within the Easement by Grantee, the Grantee shall have the obligation to restore the attributes of the property disturbed by any such removal, alteration or maintenance to as near the pre-disturbance condition or better, as physical characteristics of the constructed Trail improvements permit.
9. Indemnification. To the extent permitted by Arizona law, Grantee shall indemnify and hold Grantor harmless from any liabilities for injuries or damages to persons or property arising out of Grantee's or its officers', agents', employees', licensees', and invitees' use of the Easement granted herein.
10. Covenant to Run with the Land. Grantor hereby agrees that this instrument shall be binding upon itself, its successor and assigns.

If Grantor is a corporation, by the signature of its authorized agent it signifies that the agent has been authorized by its Board of Directors or other necessary authorities to make this conveyance on behalf of the corporation.

IN WITNESS WHEREOF, Grantor has caused this Urban Trails Easement to be executed in its name by the undersigned officers this _____ day of _____, 2020.

GRANTOR:

By: _____

Title: _____

STATE OF _____)

County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____,
2020, by _____, the _____ of
_____, on behalf of _____.

Notary Public

My Commission Expires:

S:\Legal\Easements\FUTS ezmt form 10-3-17.docx

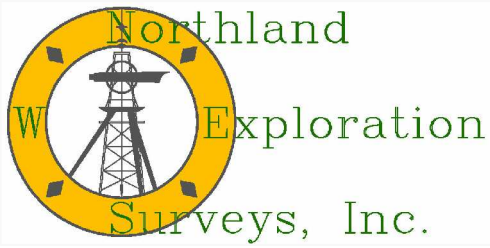


EXHIBIT "A-1"

A Strip of land, 20 feet in width, said strip of land being a portion of Lot 29D as recorded in Case 7, Map 11, Records of Coconino County, situated in Section 29, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona

APN 112-29-001C
Docket 1949, Page 212

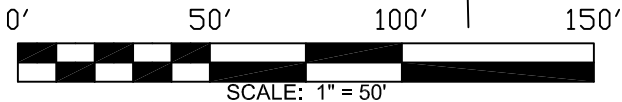
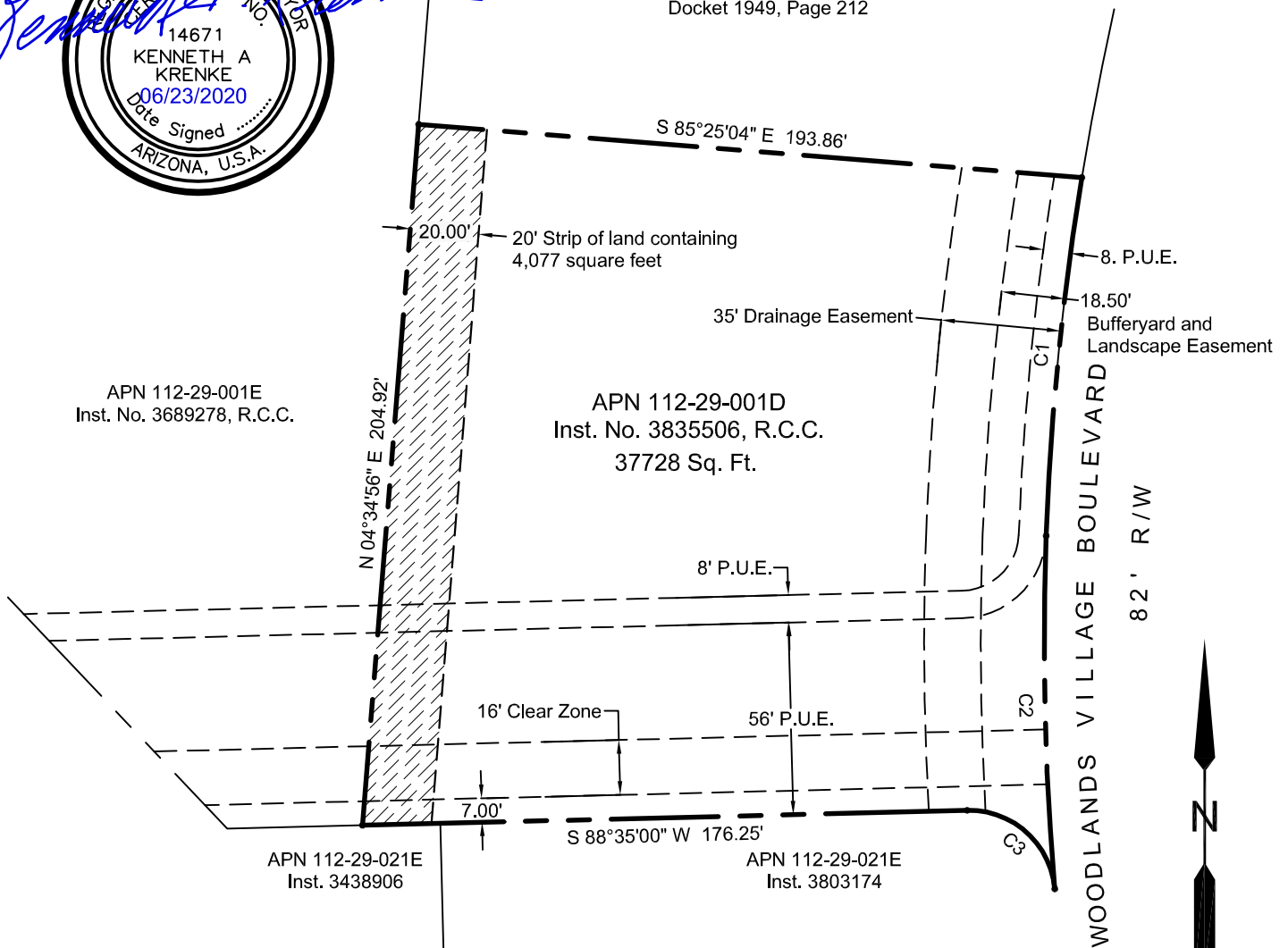


APN 112-29-001E
Inst. No. 3689278, R.C.C.

APN 112-29-001D
Inst. No. 3835506, R.C.C.
37728 Sq. Ft.

APN 112-29-021E
Inst. 3438906

APN 112-29-021E
Inst. 3803174



ACCEPTED
CITY OF FLAGSTAFF
ENGINEERING DIVISION

DC 06/23/2020
INITIAL DATE

Curve Data:

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	7°07'56"	843.73'	105.03'	104.96'	S 05°40'14" W
C2	6°59'24"	843.73'	102.93'	102.87'	N 01°23'18" W
C3	86°30'49"	25.01'	37.76'	34.28'	N 48°09'36" W

FUTS Easement

Descriptive Title
City File No. **PZ-19-00002**



EXHIBIT "A"

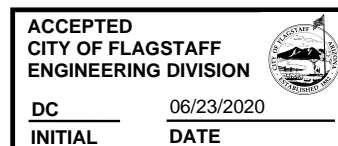
LEGAL DESCRIPTION:

A strip of land, 20 feet in width, said strip of land being a portion of Lot 29D, as recorded in Case 7, Map 11, Records of Coconino County (R.C.C.), situated in Section 29, Township 21 North, Range 7 East, Gila and Salt River Meridian, City of Flagstaff, Coconino County, Arizona, said strip of land being more particularly described as follows:

The WEST 20.00 feet of said Lot 29D;

said strip of land contains 4,077 square feet of land, more or less, including any easements of record over the above described parcel, as shown on Exhibit "A-1", which is made a part hereof by this reference.

NES #20-064-E



REECE AND ROWE ARCHITECTS, PLLC, EXPRESSLY RESERVES THE COMMON LAW COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS ARE NOT TO BE CHANGED OR COPIED IN ANY FORM OR MANNER, WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST OBTAINING WRITTEN PERMISSION AND CONSENT OF REECE AND ROWE ARCHITECTS, PLLC. ©

WESTSIDE VETERINARY

JENNY SISS

2507 S. WOODLANDS VILLAGE BLVD



REECE and ROWE
RR
ARCHITECTS

4343 E. Avalon Drive
Phoenix, Arizona 85018
Phone: 602-957-4343
Fax: 602-957-7546

1254 W. University Ave #100
Flagstaff, Arizona 86001
Phone: 928-779-4340
Fax: 928-779-5087

REVISIONS:

TITLE: SITE PLAN
SCALE: As indicated
DATE: 2020-05-14
JOB NO: 19502

A1.0

SITE LEGEND

- PROJECT AREA
- BUILDING FOOTPRINT
- FUTURE LANDSCAPE AREAS
- TREES TO REMAIN
- TREES TO BE REMOVED

PARKING CALCULATION

OFFICES, GENERAL: 1 SPACE PER 300sf GROSS FLOOR AREA:
4,500 sf / 300 = 15 SPACES REQUIRED (INCLUDING 1 ACCESSIBLE)
19 SPACES PROVIDED (INCLUDING 1 ACCESSIBLE)

IMPERVIOUS AREA CALCULATION

SITE AREA: 26,480 sf
IMPERVIOUS AREA: 10,937 sf
PERCENTAGE: 41.2% IMPERVIOUS

CIVIL L.I.D. - ROCV TABLE

The SUBJECT PARCEL to be developed has an area of 26,480 SF, exclusive of that portion within the HIGHLAND AVENUE easement. Impervious areas are tabulated in the ROCV TABLE. Computations for ROCV are per the TABLE.

ELEMENT	AREA	ROCV		COMMENTS
		REQUIRED	PROVIDED	
ROOF	5265 SF	439 CF	0 CF	PIPE TO DETENTION CHAMBERS
PAVEMENT	5214 SF	434 CF	533 CF	IN #57 ROCK UNDER DETENTION CHAMBERS
SIDEWALK	899 SF	75 CF	0 CF	SHEET FLOW TO PAVEMENT
RPGP	1713 SF	0 CF	685 CF	IN #57 ROCK (12" THICK) UNDER TRU-GRID
TOTAL	13091 SF	948 CF	1218 CF	PROVIDED > REQUIRED

BICYCLE PARKING

BICYCLE PARKING SHALL BE A POWDER-COATED TUBE STL FRAME AS PROVIDED BY HELIX BIKE RACKS (SEE SPEC)
ALL SETBACKS AND CLEARANCES SHALL CONFORM TO CITY OF FLAGSTAFF ZONING CODE FOR BICYCLE PARKING 10-50.80.050
VERIFY IN-FIELD

II.5 NATURAL RESOURCE PROTECTION PLAN

SITE DOES NOT HAVE ANY SIGNIFICANT (MODERATE, STEEP OR GREATER) GRADES. SITE IS NOT IN A RECORDED FLOODPLAIN. OVER 30% OF THE RESOURCE TREES ARE DESIGNATED AS PRESERVED.

PER CITY OF FLAGSTAFF ZONING CODE: THE FOLLOWING TABLE IS THE RESULT OF THE OWNER'S SURVEY. EXISTING RESOURCE TREE POINT CALCULATIONS ARE BASED UPON THE DIAMETER AT REAST-HEIGHT (A.B.H.).

SEE L.I.D. AND RESOURCE TREE TABLES FOR RESOURCE PROTECTION CALCULATIONS.

RESOURCE TREES

MARK	DEMO PHASE	DIA. A.B.H.	POINTS*
P-7	New Construction	40.25"	20.00
P-8	New Construction	28"	20.00
P-9	New Construction	29"	20.00
P-10	New Construction	29"	20.00
P-11	New Construction	34"	20.00
P-15	New Construction	41.75"	20.00
P-16	New Construction	30.75"	20.00
P-21	New Construction	27.75"	20.00
P-25	New Construction	22.75"	8.00
P-26	New Construction	30.75"	20.00
P-27	New Construction	22.75"	8.00
P-28	New Construction	19.5"	8.00
P-29	New Construction	11.75"	2.00
P-30	New Construction	26"	20.00
P-31	New Construction	27.5"	20.00
P-32	New Construction	38.75"	20.00
P-33	New Construction	32.25"	20.00
P-34	New Construction	29"	20.00
P-35	New Construction	14.75"	4.00
P-36	New Construction	18"	8.00
P-37	New Construction	29"	20.00
P-38	New Construction	19.5"	8.00
P-39	New Construction	32.25"	20.00
New Construction: 23			366.00

RESOURCE TREES

MARK	DEMO PHASE	DIA. A.B.H.	POINTS*
P-1	None	39.25"	0.00
P-2	None	30.75"	0.00
P-3	None	29"	0.00
P-4	None	30.75"	0.00
P-5	None	32.25"	20.00
P-6	None	30.75"	20.00
P-12	None	35.5"	20.00
P-13	None	24.25"	8.00
P-14	None	30.75"	20.00
P-17	None	38.75"	20.00
P-18	None	29"	0.00
P-19	None	19.5"	0.00
P-20	None	29"	20.00
P-22	None	35.5"	20.00
P-23	None	29"	20.00
P-24	None	26"	20.00
None: 16			188.00
Grand total: 39			554.00

TOTAL AREA OF TREE CANOPY = 605.74sf
TOTAL AREA ENCROACHED = 95.03sf
95.03/605.74 = 18.8% < 20% MAX.

RESOURCE TREE RETENTION

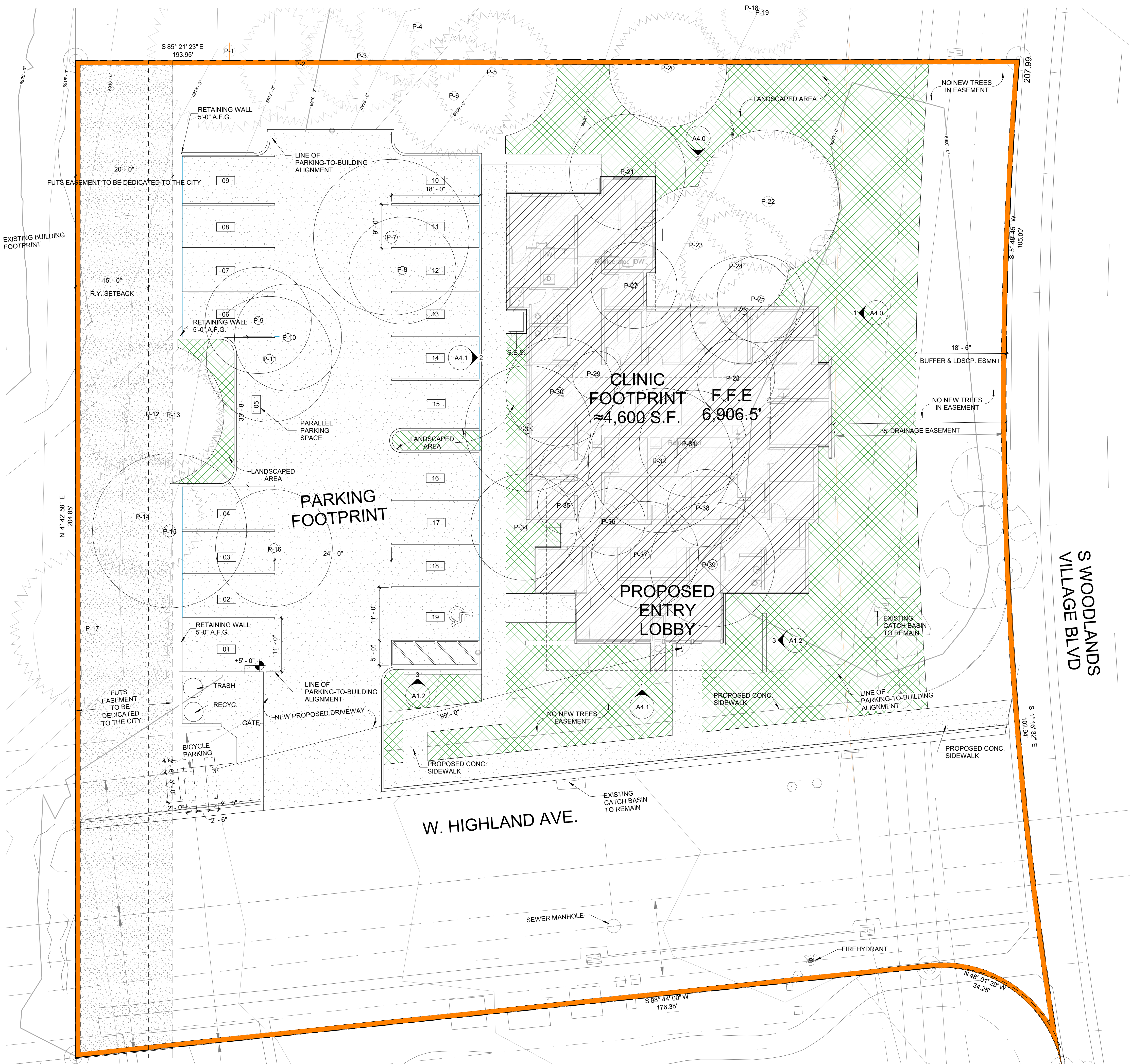
188 / 554 = 34% RETAINED


SITE PLAN NOTES

- *RESOURCE TREES w/ POINT VALUE 0.00 ARE EXCLUDED FROM THE TABULATION
- REFER TO CIVIL SHEET II.2C FOR INFORMATION ON EXISTING AND PROPOSED UTILITIES
- FOR ADDITIONAL SITE INFORMATION REGARDING EXISTING SITE FEATURES SEE ATTACHMENT: OWNER SURVEY (PROVIDED IN 1ST CONCEPT PLAN SUBMITTAL)

STORMWATER NOTE

DRAINAGE EASEMENT BOUNDARY TO BE STAKED BY REGISTERED LAND SURVEYOR AT TIME OF CONSTRUCTION.
ALL BUILDING OR SITE-IMPROVEMENT ELEMENTS INCLUDING FOOTINGS, ROOF EAVES & GUTTERS, OR OTHER PROJECTIONS SHALL STAY MIN. 6" CLEAR OF DRAINAGE EASEMENT BOUNDARY, V.I.F.



**CANDACE OWENS**
COCONINO COUNTY RECORDER
OFFICIAL RECORDS OF
COCONINO COUNTY

INST: 95-20394 FEE:\$ 19.00
AT THE REQUEST OF:
FIRST AMERICAN TITLE
DATE: 07/19/1995 TIME: 04:00
DKT: 1786 PG: 809 PAGES: 014

WHEN RECORDED, RETURN TO:

Mr. Gregory L. Mast
Gallagher & Kennedy, P.A.
2600 North Central Avenue
Phoenix, Arizona 85004-3020

108049


EASEMENT AGREEMENT

This Easement Agreement is being re-recorded in order to correct the legal descriptions contained in Exhibits "A" and "A-1" thereto and to record a Consent to Easement thereto.

**recorded . Docket 1774, Page 827, attached

GRANTOR:

VVC, INC., an Arizona corporation

By 
James P. Previti
Its President

GRANTEE:

OPUS SOUTHWEST CORPORATION, a
Minnesota corporation

By 
Thomas W. Roberts
Its President

204760
1877-0430

-i-

1786-809

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STATE OF California)
County of San Bernardino) ss.

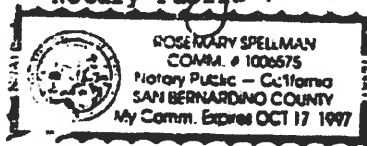
11th The foregoing instrument was acknowledged before me this day of July, 1995, by James P. Previti, the President of VVC, INC., an Arizona corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto have set my hand and official seal.

Rosemary Spellman
Notary Public

My Commission Expires:

Oct 17, 1997



STATE OF ARIZONA)
County of Maricopa) ss.

13th The foregoing instrument was acknowledged before me this day of July, 1995, by Thomas W. Roberts, the President of OPUS SOUTHWEST CORPORATION, Minnesota corporation, on behalf of the corporation.


IN WITNESS WHEREOF, I hereunto have set my hand and official seal.

Annette M. Foster
Notary Public

My Commission Expires:

Sept. 30, 1997



 **CANDACE OWENS**
COCOON COUNTY RECORDER
OFFICIAL RECORDS OF
COCOON COUNTY
INST: 95-15826 FEE:\$ 15.00
AT THE REQUEST OF:
FIRST AMERICAN TITLE
DATE: 06/02/1995 TIME: 04:45
DKI: 1774 PG: 827 PAGES: 011

WHEN RECORDED, RETURN TO:

Mr. Gregory I. Mast
Gallagher & Kennedy, P.A.
2600 North Central Avenue
Phoenix, Arizona 85004-3020

108049 #8

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "Agreement") is made this 2nd day of June, 1995, by and between VVC, INC., an Arizona corporation (the "Grantor"), and Opus Southwest Corporation, a Minnesota corporation (the "Grantee").

WHEREAS, Grantor is the fee owner of that certain real property described in Exhibits "A" and "A-1" attached hereto and incorporated herein (the "Initial Parking Easement Area" and the "Access Easement Area", respectively) and that certain real property of which the Initial Parking Easement Area is a part described in Exhibit "B" attached hereto and incorporated herein ("Phase II");

WHEREAS, Grantee has acquired as of the date of recordation hereof fee title to that certain real property described in Exhibit "C" attached hereto and incorporated herein (the "Opus Property"); and

WHEREAS, Grantor desires to grant the easements described herein on, across and through the Initial Parking Easement Area and the Access Easement Area for the benefit of the Opus Property.

NOW, THEREFORE, in consideration of Ten Dollars and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. Grantor hereby grants an easement on, across, under and through the Initial Parking Easement Area for the benefit of the Opus Property for the use by Grantee and tenants and occupants of the Opus Property and their customers, invitees, licensees, employees, agents and contractors for vehicular and pedestrian ingress to and egress from the Opus Property and the Access Easement Area, for vehicular parking and for the construction, operation, repair and maintenance on such Initial Parking Easement Area of (a) a parking area containing sixty-one (61) standard vehicular parking spaces and (b) any driveways incidental to such parking

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area; provided, however, Grantee shall not be obligated hereby to construct such parking area or any such driveways.

2. In the event Grantee does not acquire Phase II, Grantor may, prior to Grantee's construction of the parking area to be located within the Initial Parking Easement Area, relocate the Initial Parking Easement Area to a portion of Phase II adjacent to the Opus Property so long as (a) Grantor furnishes to Grantee four weeks' advance written notice of such relocation, which notice shall contain a site plan depicting the location of the Initial Parking Easement Area upon relocation thereof, a legal description of the relocated Initial Parking Easement Area and reasonable evidence that such relocation satisfies the conditions of this sentence and (b) such relocated Initial Parking Easement Area is of sufficient size for the construction of a parking area containing sixty-one (61) standard vehicular parking spaces, together with any driveways to be constructed in connection therewith, and is otherwise acceptable to such governmental authorities such that such relocated Initial Parking Easement Area will permit the Opus Property to comply with such parking ratios and other parking requirements. Such right of relocation may only be exercised as needed in the reasonable, good faith discretion of Grantor and so long as the conditions for such relocation contained in this paragraph are satisfied; for purposes of any subsequent exercise of such right after the first exercise thereof, if any, the previously relocated Initial Parking Easement Area shall be deemed to be the Initial Parking Easement Area for purposes of this Agreement. Upon the exercise of said right and the satisfaction of the conditions contained in the second preceding sentence, Grantor shall, at its expense, cause the recordation in the Official Records of the County Recorder of Coconino County, Arizona of an amendment to this Agreement setting forth the new location of the Initial Parking Easement Area.

3. No party other than Grantee, or its successors or assigns, may use or rely on any parking spaces constructed on the Initial Parking Easement Area for the satisfaction of any parking ratios or other parking requirements applicable to such party or any land owned by such party.

4. Grantor hereby grants an easement on, across, under and through the Access Easement Area for the benefit of the Opus Property for the use by Grantee and tenants and occupants of the Opus Property and their customers, invitees, licensees, employees, agents and contractors for vehicular and pedestrian ingress to and egress from the Opus Property and for the construction, operation, repair and maintenance of a driveway for purposes of providing such ingress and egress; provided, however, Grantee shall not be obligated hereby to construct such driveway.

5. Until such time as any portion of Phase II is developed, Grantee shall plan, construct and keep any parking area

-2-

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and any driveways constructed by Grantee on the Initial Parking Easement Area and any driveway constructed by Grantee on the Access Easement Area in good maintenance and repair. From and after the date on which any portion of Phase II is developed, the then owner(s) of Phase II shall keep any parking area and any driveways located on the Initial Parking Easement Area and any driveway constructed on the Access Easement Area in good maintenance and repair.

6. Grantee shall not suffer any mechanic's or materialman's lien on Phase II resulting from construction by Grantee, and Grantor shall not suffer any mechanic's or materialman's lien on the Initial Parking Easement Area or the Access Easement Area resulting from construction by Grantor.

7. This Agreement shall be binding upon and inure to the benefit of Grantor and Grantee, and their successors and assigns, and shall run with the land.

-3-

1786-813

1774-829

SENT BY:

6- 1-95 ; 5:46PM ; GALLAGHER & KENNEDY-

909 987 8958:# 5/ 9

IN WITNESS WHEREOF, the parties hereto have executed this
Easement Agreement as of the date first set forth above.

GRANTOR:

VVC, INC., an Arizona corporation

By 
James P. Previti
Its President

GRATTEE:

OPUS SOUTHWEST CORPORATION, a
Minnesota corporation

By _____
Thomas W. Roberts
Its President

288981
1827-6430

-4-

1786-814
1774-830

2285000

SENT BY:

6- 1-85 : 2:20PM : GALLAGHER & KENNEDY-CORNOYER/NEORICK INC:# 5/ 6

IN WITNESS WHEREOF, the parties hereto have executed this
Easement Agreement as of the date first set forth above.

GRANTOR:

VVC, INC., an Arizona corporation

By _____
Its _____

GRANTEE:

OPUS SCOUTMEST CORPORATION, a
Minnesota corporation

By Thomas W. Roberts
Thomas W. Roberts
Its President

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2827-6433

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1786-815

1774-831

2285111

SENT BY:

6- 1-95 : 5:46PM : GALLAGHER & KENNEDY-

909 987 8958:# 6/ 9

STATE OF California
County of San Bernardino

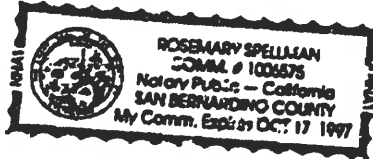
1st The foregoing instrument was acknowledged before me this day of June, 1995, by James P. Previti, the President of VVC, INC., an Arizona corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto have set my hand and official seal.

Rosemary Spellman
Notary Public

My Commission Expires:

Oct 17, 1997



STATE OF ARIZONA)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this day of June, 1995, by Thomas W. Roberts, the President of OPUS SOUTHWEST CORPORATION, a Minnesota corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto have set my hand in: official seal.

Notary Public

My Commission Expires:

-5-

1786-816

1774-332

SENT BY:

6-1-95 : 2:20PM : GALLAGHER & KENNEDY-CORNGYER/HEDRICK INC:# 6/ 6

STATE OF _____)
County of _____) ss.

The foregoing instrument was acknowledged before me this
day of June, 1995, by _____, the
of VVC, INC., an Arizona corporation, or behalf of the corporation.

IN WITNESS WHEREOF, I hereunto have set my hand and official seal.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
County of Maricopa) ss.

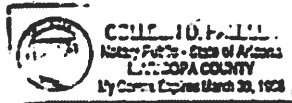
^{15th} The foregoing instrument was acknowledged before me this
day of June, 1995, by Thomas W. Roberts, the President of OPUS
SOUTHWEST CORPORATION, a Minnesota corporation, on behalf of the
corporation.

IN WITNESS WHEREOF, I hereunto have set my hand and official seal.

Colleen D'Allella

Notary Public

My Commission Expires:



- 5 -

1786-817

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EXHIBIT "A"

LEGAL DESCRIPTION OF PARKING EASEMENT AREA

A part of Woodlands Village Unit Three as recorded in Case 4, Map 131-A&B, Records of Coconino County, Arizona. More particularly described as follows:

Beginning at the Southwest corner of Highland Avenue right of way;

Thence, North $12^{\circ}46'32''$ East, 400.00 feet;

Thence, South $76^{\circ}50'17''$ east, 200.00 feet to a point on the West right-of-way line of Woodlands Village Drive;

Thence, South $13^{\circ}09'43''$ West, along said West line, 101.32 feet to the beginning of a tangent curve having a radius of 841.00 feet, concave Southeasterly;

Thence, Southerly, along said curve, through a central angle of $18^{\circ}04'20''$, a distance of 265.27 feet to the cusp of a curve concave Southwesterly, having a radius of 25.00 feet;

Thence, Northwesterly, along said curve, through a central angle of $86^{\circ}29'29''$, a distance of 37.74 feet to the South line of said Highland Avenue right-of-way;

Thence, South $88^{\circ}35'55''$ West, along said South line, 215.00 feet to the True Point of Beginning.

20471711027-0430

Exhibit "A"
(Page 1 of 1)

1786-818

2985 [IT]

EXHIBIT "A-1"

LEGAL DESCRIPTION OF ACCESS EASEMENT AREA

A part of Woodlands Village Unit Three as recorded in Case 4, Map 131-A&B, Records of Coconino County, Arizona. More particularly described as follows:

Beginning at the Southwest corner of Highland Avenue right of way;

Thence, North 43°29'08" West, a distance of 75.46 feet;

Thence, North 88°35'55" East, 266.24 feet to the beginning of a tangent curve having a radius of 25.00 feet, concave Northwesterly;

Thence, Northeasterly along said curve, through a central angle of 86°29'29", a distance of 37.74 feet to the cusp of a curve concave Southeasterly, having a radius of 841.00 feet, bearing South 87°54'09" East;

Thence, Southerly along said curve, through a central angle of 7°01'03", 103.00 feet to the cusp of a curve concave Southwesterly, having a radius of 25.00 feet, bearing South 85°06'36" West;

Thence, Northwesterly along said curve, through a central angle of 89°29'29", a distance of 37.74 feet;

Thence, South 88°35'55" West along the South right-of-way line, a distance of 215.66 feet to the True Point of Beginning.

29471911427-0430

Exhibit "A-1"
(Page 1 of 1)

1786-819

SENT BY:

6- 1-95 : 5:47PM : GALLAGHER & KENNEDY-

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EXHIBIT "B"

LEGAL DESCRIPTION OF PHASE II

Lot 29 of WOODLANDS VILLAGE UNIT THREE, according to the plat of record in the office of the County Recorder of Coconino County, Arizona, recorded in Case 4, Map 131-131 6

Exhibit "B"
(Page 1 of 1)

1786-820

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SENT BY:

6- 1-95 : 5:47PM : GALLAGHER & KENNEDY-

909 987 8958:# 9/ 9

EXHIBIT "C"

LEGAL DESCRIPTION OF THE OPUS PROPERTY

Lot 30 and Tract A, of WOODLANDS VILLAGE UNIT THREE, according to the plat of record in the office of the County Recorder of Coconino County, Arizona, recorded in Case 4, Map 131-131 β

Exhibit "C"
(Page 1 of 1)

1786-821

1774-837

CONSENT TO EASEMENT

As Beneficiary under that certain Deed of Trust dated April 25, 1995, and recorded April 26, 1995 in the Official Records of the County Recorder of Coconino County, Arizona in Docket 1764 at Page 155 (as it is now or may hereafter be amended, the "Deed of Trust"), and as its interest may appear, Bank One, Arizona, NA, a national banking association, for good and valuable consideration to it in hand paid, the receipt and adequacy of which are hereby acknowledged, does hereby consent to and approve the foregoing Easement Agreement by and between Opus Southwest Corporation, a Minnesota corporation, and VVC, Inc., an Arizona corporation, and does hereby agree that its rights under the Deed of Trust are subordinate to the rights granted to Opus Southwest Corporation or its successors and assigns in the Easement Agreement.

IN WITNESS WHEREOF, the undersigned has caused this Consent to Easement to be signed this 7th day of June, 1995.

BANK ONE, ARIZONA, NA, a national banking association

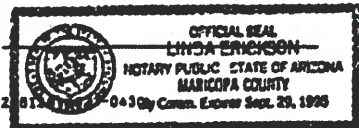
By [Signature]
Its [Signature]

STATE OF ARIZONA)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this 8th day of June, 1995, by Blair R. Young, the Vice President of BANK ONE, ARIZONA, NA, a national banking association, on behalf of the association.

Linda Bontempo
Notary Public Ericson

My Commission Expires:



1786-822

When recorded, mail to:

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

URBAN TRAILS EASEMENT

For Valuable consideration, the sufficiency and receipt of which is hereby acknowledged, _____, a _____, hereinafter referred to as “Grantor”, hereby grants and conveys unto the CITY OF FLAGSTAFF, a municipal corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter referred to as “Grantee”, a perpetual easement, hereinafter referred to as “Easement,” for a non-motorized public access pathway for pedestrians, bicycles and other similar non-motorized uses, hereinafter referred to as the “Trail” as part of the Flagstaff Urban Trails System under, over, across and through the real property of Grantor situated in Coconino County, Arizona, and described in Exhibits A and A-1, both of which are attached hereto and by reference made a part hereof under the terms and conditions set forth below.

1. Purpose. This Easement is granted to Grantee for the benefit of the public, and to enable the Grantee at its own expense to locate, construct, repair, replace, alter, maintain and operate a non-motorized public access trail as part of the Flagstaff Urban Trails System, including any fencing, walls, grading, landscaping, lateral and subjacent support, drainage structures and facilities, signing, or other features associated with the Trail.
2. Non-Exclusive. This Easement is granted on a non-exclusive basis; provided however, any subsequently recorded easement or permit shall not conflict or interfere with public safety, the use, operation, or maintenance of the Trail or terms and conditions of this Easement.
3. Prohibited Encroachments. Grantor shall not construct or permit any improvements within the Easement, including buildings, structures, poles, driveways, parking lots, fences, walls, cut or fill slopes, grading, or surface drainage features.
4. Underground/Utility Encroachments. Grantor may construct or permit underground improvements within the Easement, subject to all of the following:
 - a. Prior written consent of Grantee is required. Consent will not be unreasonably withheld, provided that the proposed improvement will not conflict or interfere with public safety, the use, operation, or maintenance of the Trail as determined by Grantee.
 - b. Utility boxes, meter boxes, valve boxes, manholes, or handholes (collectively “Utility Equipment”) shall not be constructed within that portion of the Trail that is designed, maintained or designated for regular public travel or within three (3) feet of either side of that pathway (the pathway and shoulders collectively referred to as the “Clear Zone”).
 - c. Grantor and/or its permittee shall restore the Trail to its original condition after completion of any construction or maintenance.

5. Vegetation. Grantee may remove, alter, and maintain vegetation within the limits of the Easement that conflicts or interferes with the use, operation, or maintenance of the Trail. Grantor shall make no claim for and shall hold Grantee harmless from any claim by a third person for damage to or destruction of the vegetation so removed or altered.
6. Lateral Support. Grantee further agrees for itself and its heirs, successors, and assigns that it shall not cause or allow any act, occurrence, or condition of land that disturbs the lateral and subjacent support of the Trail. Lateral and subjacent support may include cut or fill slopes and retaining walls.
7. Maintenance Access. Grantee shall have the right of reasonable access to the Easement over the Access Easement (as recorded in the Coconino County public records and identified in instrument No. 95-15826 and later corrected by Instrument No. 95-20394, Docket 1786, Page 809, recorded on July 19, 1995 and identified as the "Access Easement Area" in Exhibit A-1 thereto),. for construction, maintenance, repair, or reconstruction of the Trail.
8. Restoration. Upon completion of any removal, alteration or maintenance of the Trail improvements within the Easement by Grantee, the Grantee shall have the obligation to restore the attributes of the property disturbed by any such removal, alteration or maintenance to as near the pre-disturbance condition or better, as physical characteristics of the constructed Trail improvements permit.
9. Indemnification. To the extent permitted by Arizona law, Grantee shall indemnify and hold Grantor harmless from any liabilities for injuries or damages to persons or property arising out of Grantee's or its officers', agents', employees', licensees', and invitees' use of the Easement granted herein.
10. Covenant to Run with the Land. Grantor hereby agrees that this instrument shall be binding upon itself, its successor and assigns.

If Grantor is a corporation, by the signature of its authorized agent it signifies that the agent has been authorized by its Board of Directors or other necessary authorities to make this conveyance on behalf of the corporation.

IN WITNESS WHEREOF, Grantor has caused this Urban Trails Easement to be executed in its name by the undersigned officers this _____ day of _____, 2020.

GRANTOR:

By: _____

Title: _____

STATE OF _____)

County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____,
2020, by _____, the _____ of
_____, on behalf of _____.

Notary Public

My Commission Expires:

S:\Legal\Easements\FUTS ezmt form 10-3-17.docx

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Kevin Fincel, Deputy City Attorney
Co-Submitter: Greg Clifton
Co-Submitter: Greg Clifton
Date: 07/06/2020
Meeting Date: 07/07/2020



TITLE:

Consideration and Adoption of Resolution No. 2020-47: A resolution approving Amendment Three to lease agreement between the City of Flagstaff and Theatrikos, Inc.

STAFF RECOMMENDED ACTION:

- 1) Read Resolution No. 2020-47 by title only
- 2) City Clerk reads Resolution No. 2020-47 by title only (if approved above)
- 3) Adopt Resolution No. 2020-47

Executive Summary:

The City of Flagstaff entered into a lease agreement with Theatrikos, Inc. on October 17, 2006, for the lease of the building and real property located at 11 West Cherry Avenue in Flagstaff, Arizona (“Premises”). Theatrikos operates the Premises as a community theatre, which has been the Premise’s use since 1988. The City and Theatrikos agree that it is beneficial for both parties to amend the lease to add a force majeure clause that will allow the City to relieve Theatrikos of certain obligations under the lease in the case of an uncontrollable event that prevents Theatrikos from operating the Premises as expected under the lease.

Financial Impact:

This item does not involve any expenditures. If the added force majeure clause is invoked, all or a portion of Theatrikos's payment obligations due under the lease could be abated.

Policy Impact:

None.

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

Strategic priority #4: Work in partnership to enhance a safe and livable community
2. Cultivate community partnerships through civic engagement and participation.

Has There Been Previous Council Decision on This:

The Theatrikos lease has been amended on two prior occasions for various reasons.

Attachments: Res. 2020-47
 Amendment 3

RESOLUTION NO. 2020-47

**A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING
AMENDMENT THREE TO LEASE AGREEMENT BETWEEN THE CITY OF
FLAGSTAFF AND THEATRIKOS, INC.**

RECITALS:

WHEREAS, the City of Flagstaff ("City") entered into a lease agreement with Theatrikos, Inc. ("Theatrikos") on October 17, 2006, for the lease of the building and real property located at 11 West Cherry Avenue in Flagstaff, Arizona ("Premises"); and

WHEREAS, Theatrikos operates the Premises as a community theatre, which has been the Premise's use since 1988; and

WHEREAS, the City and Theatrikos agree that it is beneficial for both parties to amend the lease to add a force majeure clause that will allow the City to relieve Theatrikos of certain obligations under the lease in the case of an uncontrollable event that prevents Theatrikos from operating the Premises as expected under the lease.

ENACTMENTS:

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

SECTION 1. The City Council approves Amendment Three to the 2006 lease agreement between the City and Theatrikos regarding property located at 11 West Cherry Avenue in Flagstaff, AZ.

SECTION 2. The Mayor is authorized and directed to execute Amendment Three and take such other actions as are necessary to carry out the purpose of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 7th day of July, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:
Amendment Three to Theatrikos Lease

Amendment Three
Lease Agreement
between
City of Flagstaff and Theatrikos, Inc.

This Amendment Three (“Amendment”) is made this _____ day of July 2020 and is incorporated into and made a part of the Lease Agreement between the City of Flagstaff (“Lessor”) and Theatrikos, Inc. (“Lessee”), dated October 17, 2006, as amended by Amendment One dated June 22, 2011, and Amendment Two dated February 6, 2018 (“the Lease”).

In consideration for mutual promises contained herein, the Parties hereby agree as follows:

Section 32 is hereby added to the Lease to read as follows:

32. Force Majeure. There may be events that occur during the term of this Lease that are beyond the control of both the Lessor and the Lessee, including events of war, natural disasters, acts of terrorism, government acts or orders, epidemics, pandemics, public health emergencies, and other acts of God (“Force Majeure Event”). If a Force Majeure Event results in the temporary or permanent inability of Lessee to use the Premises as a community Playhouse, which is the use envisioned and expected by both Lessor and Lessee, Lessee may provide notice to Lessor of the Force Majeure Event and seek relief of its payment obligations under the Lease. The notice must identify the Force Majeure Event, describe how the Force Majeure Event has impacted Lessee’s expected use of the Premises and the steps Lessee has taken to mitigate those impacts, and state the relief requested under this section. Upon receipt of said notice, Lessor, in its sole discretion, may abate all or a portion of the Rent obligations (Section 4.1) and Repair Adjustments (Section 4.3) due under the Lease for as long as the Force Majeure Event continues to adversely impact Lessor’s expected use of the Premises. Lessee agrees to immediately inform Lessor when it is able to resume partial or full use of the Premises.

The City Manager will have authority to abate Rent and Repair Adjustments pursuant to this section for a period up to six months. Any relief beyond six months must be approved by the City Council. During any period relief is provided pursuant to this section, Lessee agrees to continue to take steps to mitigate the impacts of the Force Majeure Event, including seeking relief from other sources such as the State or Federal Government. If Lessee obtains any other form of relief that enables it to resume its payment obligations under the Lease, whether in whole or in part, Lessee will immediately inform Lessor of the additional relief, at which time Lessor may adjust any abatements previously granted under this section. Lessor reserves the right to reduce or cease abatements previously granted at any time.

All other terms of the Lease remain intact.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed.

City of Flagstaff

Theatrikos, Inc.

Mayor Coral Evans

Title: _____

Attest:

City Clerk

City Attorney

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Jack Fitchett, Management Analyst
Co-Submitter: Claire Hardi
Co-Submitter: Rose Toehe
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE

Indigenous Commission / Committee & Youth Commission / Committee

STAFF RECOMMENDED ACTION:

Staff is seeking Council direction to determine whether the City should create a Commission or Committee for these two groups.

EXECUTIVE SUMMARY:

Council requested a discussion regarding the creation of an Indigenous Commission or Committee. Council requested a discussion regarding the creation of a Youth Commission or Committee.

*****Presentation will be included with the Final Agenda*****

INFORMATION:

Staff will present key differences between the committee vs commission structure and how these similarities and differences may affect the formation of an Indigenous and Youth advisory group.

There will be a third possible option to consider for the Indigenous Commission/Committee outcome that will be explained by staff during the presentation.

Attachments: [Presentation - Youth Committee](#)
[Presentation - Indigenous Advisory Board](#)

Youth Commission vs. Committee

Claire Hardi
Data Collection Specialist





Commission or Committee?

Outline

- I. Youth Commission Background
- II. Commissions vs. Committees
- III. Pros & Cons
- IV. Conclusion
- V. Council Direction & Questions



Youth Commission Background

- 2009
 - Youth Commission Ordinance repealed
- 10/2018
 - FAIR by Councilmember Odegaard
- 12/2018
 - Council discussion
- 11/2019
 - Council requested further discussion and information



Commissions vs. Committees

Commission

- Requires an ordinance
 - Participants must reside within city limits
- Subject to open-meeting laws
- Council appoints a Council liaison
- Direct involvement and authority in decision making

Committee

- No ordinance required
 - Participants do not need to reside within city limits
- Not subject to open-meeting laws
- Council participation is discretionary
- Recommendations made to on an unofficial basis



Pros & Cons

Youth Commission & Committee Considerations

- Commission allows official involvement in decision making.
- Commission requires formal Council involvement.
- Committee is more inclusive.
- Committee input is possible, but unofficial.



Conclusion

- 2009 – Commission repealed
 - Lack of participation
 - Term length – full year vs. school year
 - Student schedules
 - Quorum needed
- Council Considerations
 - Council/staff time and resources
 - Student engagement
 - Commission is more formal
 - Committee could be more inclusive
 - Committee option provides more flexibility for participation

Direction Needed

- Should the Youth group be structured as a committee or a commission?

Thank you



Indigenous Commission vs. Committee

Rose Toehe, Coordinator
Indigenous Initiatives



Ya'at'eeh
Greetings
Mayor Evans
and
Council
Members

July 7, 2020



- Land Acknowledgement
- Introduction



Commission or Committee?

Outline

- I. Indigenous Commission Background
- II. Commissions vs. Committees
- III. A Third Option
- IV. Pros and Cons
- V. Conclusion & Questions
- VI. Council Direction



Indigenous Commission Summary

Background

- Late 2017: City Manager's office brought up Indigenous Community Coalition
- 2018: Meetings with Mayor Evans and Indigenous Circle of Flagstaff (ICF) discussions on Indigenous Commission
- May 2020: Council recommended as priority item
- June 2020: Combined research efforts of City staff - present to Council with options to consider



Indigenous Commission Summary



Background Discussion

- Consideration for now and the future
 - What is best fit for City & Indigenous Community
 - Timeframe on Future Council Agenda
- Consistency on Community Interface & Engagement
 - Community accountability
 - City accountability



Commission vs. Committee

Commission

- Requires an ordinance
 - Participants must reside within city limits
- Subject to open-meeting laws
- Council appoints a Council liaison
- Direct involvement and authority in decision making

Committee

- No ordinance required
 - Participants do not need to reside within city limits
- Not subject to open-meeting laws
- Council participation is discretionary
- Recommendations made to on an unofficial basis



A Third Option



Indigenous Commission with an MOU

- Work with Coconino County Inter-Tribal Advisory Council (ITAC) through a Memorandum of Understanding (MOU)
 - Received legal input
- MOU will spell out involvement of members outside of City boundaries
- Act as ex-officio members



Pros & Cons

Indigenous Commission Considerations

- Commission allows official involvement in decision making.
- Commission requires formal Council involvement.
- Committee is more inclusive - outside of City boundaries
- Input is possible in a Committee, but unofficial.
- Work plan & community input can look similar with either structure



Conclusion and Questions

Indigenous Group

- Three Options
 - Commission
 - Committee
 - Commission with MOU
 - ITAC
- All options will involve
 - Community engagement
 - Council recommendations

Direction Needed

- Should the Indigenous group be structured as a committee, commission, or as a third option?

Thank you



**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacy Saltzburg, City Clerk
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE

Follow-up Discussion: Partial lane and partial alley closures in Downtown

STAFF RECOMMENDED ACTION:

Discussion.

EXECUTIVE SUMMARY:

There have been exploratory discussions related to possible partial lane closures to assist in the downtown core, and perhaps other areas, in terms of adding new spaces to enhance social distancing. The desire is to increase table capacity outside to better accommodate social distancing requirements and reduced capacity inside the businesses.

INFORMATION:

Items of Consideration:

Possible Permits Required

- This pursuit is premised on economic development and the ability for the downtown businesses to continue operating while maintaining social distance requirements and possibly expanding capacity.
- Discussion needs to be had as to what permits, if any, are applicable.

Liquor Licenses

- The idea of allowing restaurants to extend to the streets is permissible in the views of liquor laws. If the Council decided to allow this the following will have to happen:
 - Each individual business would have to apply for a temporary extension of premise which will include a detailed drawing of where they propose their new seating will be
 - Each business would have to figure out a way to clearly mark their boundaries in the street as co-mingling business serving alcohol is not allowed.
 - The extension request can be as long as the council desires (i.e. weekends or ongoing). To be consistent we have signed off for a two-month extension in the past. The extension is signed and approved by the Police Department.

Safety Considerations

- Arrangements to barricade seating areas with removable barriers for the safety of patrons on the street.

- Additional insurance requirements for businesses extending their premises listing the City as an additional insured.
- Proposal may not have to alter existing traffic patterns.

ParkFlag Operations

- ParkFlag and Downtown Business Alliance staff are meeting with the Downtown Master Plan consultants, PUMA, to understand what they've been learning through their planning process about the business community needs, and what some best practices for re-engagement are they are seeing in other communities. That information will be combined with stakeholder feedback and internal discussions to consider possible re-implementation options.
- The intention is to develop two or three scenarios for re-implementation that would be discussed with the Board of Directors for the Downtown Business Alliance and Downtown businesses to be presented to Council on August 18, 2020.
- These options would likely involve different timelines related to re-implementation of the employee permits and ways to best begin managing pay parking again. The success of the downtown, the rebound of the businesses, and the fiscal realities of the program will all be considered.
- A CCR will be provided to the Council with additional information to consider in advance of the meeting after summer break.

Attachments: [Presentation](#)



FLAGSTAFF TEMPORARY BUSINESS EXPANSION PLAN

RE-OPENING IN THE AGE OF COVID:

A BUSINESS AND PUBLIC HEALTH FIRST APPROACH



DON'T LET COLORADO GET ALL THE ATTENTION...



GOLDEN, CO



DENVER, CO



BOULDER, CO



ARVADA, CO

1 block of Tejon Street will close Saturday in Colorado Springs for 'Dine Out Downtown'



Logo courtesy: Downtown Partnership of Colorado Springs

COLORADO SPRINGS, CO

AND MANY, MANY MORE...



LITTLETON, CO

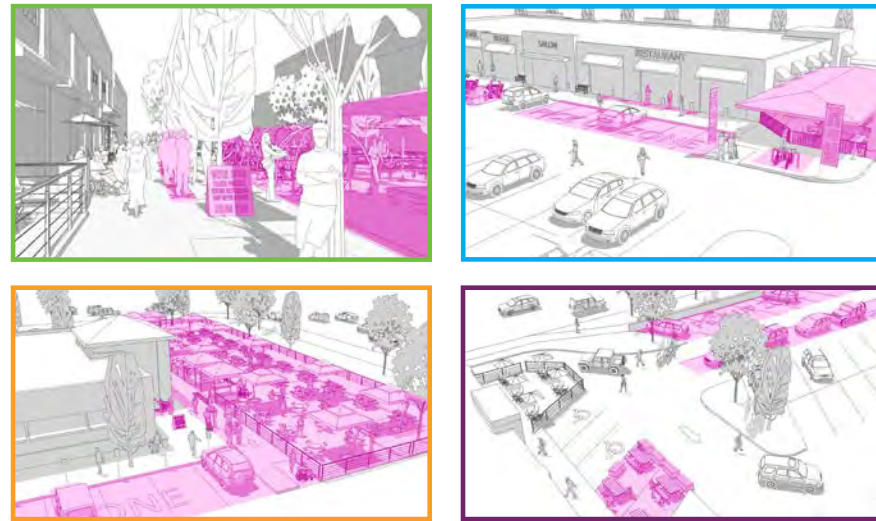


FRISCO, CO

WE ARE EXPERTS IN THE FIELD OF HANDS-ON EXPERIENCE!



A FRIENDLY BUSINESS GUIDE FOR OUTDOOR EXPANSION TACTICS

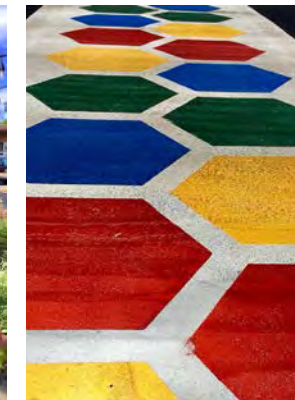


HOW TO USE THIS GUIDE:

- 1 FIND YOUR CONTEXT
- 2 REFER TO GUIDELINES
- 3 EXPLORE DESIGN IDEAS & RESOURCES

This guide is meant to be a resource for communities and businesses considering temporary outdoor expansion to support the success of local business in the age of COVID-19 and a phased statewide reopening strategy. It offers design ideas and guidelines for outdoor expansion tactics for various contexts, covering a wide array of potential situations and solutions.

A Friendly Business Guide for Outdoor Expansion Tactics (Studio Seed)



Activate East Sherman: A Pilot Project | Coeur d'Alene, ID (Studio Seed)



Golden Triangle Pop Up Event (P.U.M.A.)

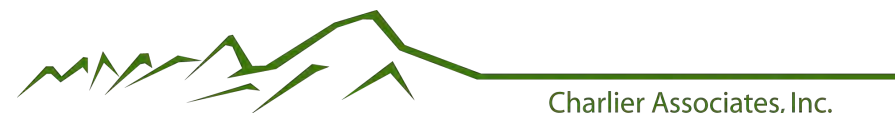


"Better Block" Projects in Colorado (Studio Seed)

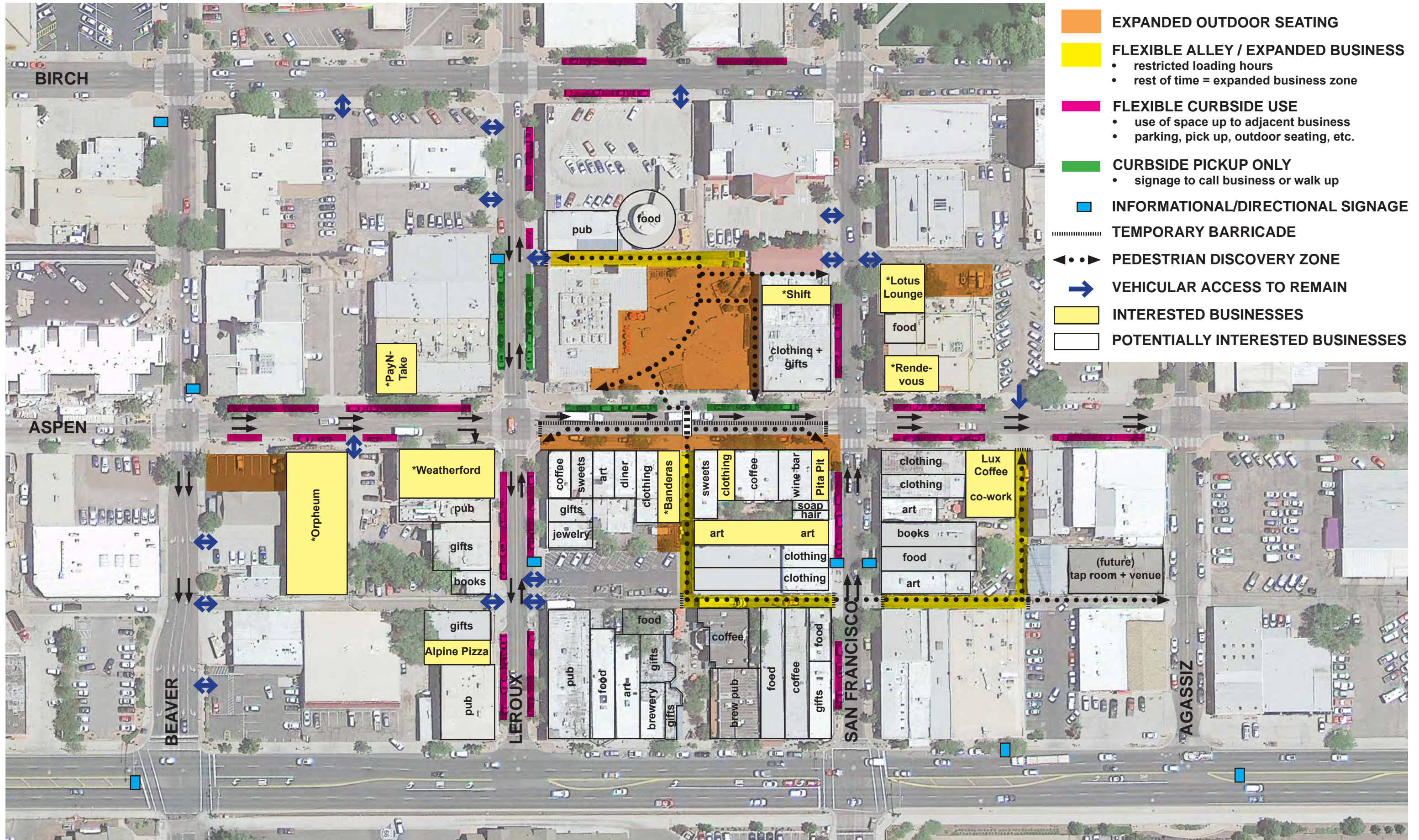
PROGRESSIVE URBAN
MANAGEMENT ASSOCIATES



URBAN DESIGN + PLANNING
www.studioseed.org



Charlier Associates, Inc.

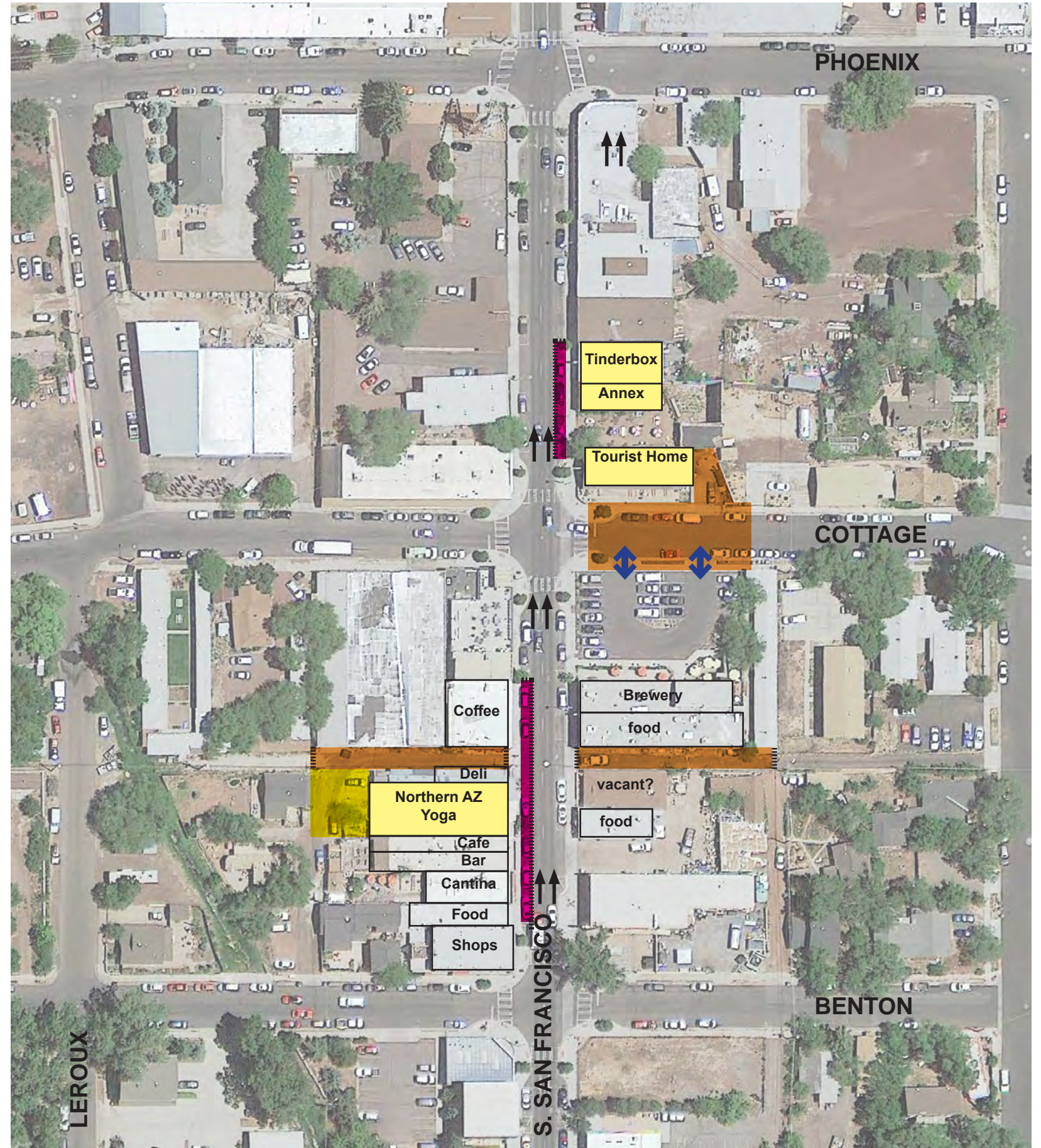


- EXPANDED OUTDOOR SEATING
- FLEXIBLE ALLEY / EXPANDED BUSINESS
 - restricted loading hours
 - rest of time = expanded business zone
- FLEXIBLE CURBSIDE USE
 - use of space up to adjacent business
 - parking, pick up, outdoor seating, etc.
- CURBSIDE PICKUP ONLY
 - signage to call business or walk up
- INFORMATIONAL/DIRECTIONAL SIGNAGE
- TEMPORARY BARRICADE
- PEDESTRIAN DISCOVERY ZONE
- VEHICULAR ACCESS TO REMAIN
- INTERESTED BUSINESSES
- POTENTIALLY INTERESTED BUSINESSES

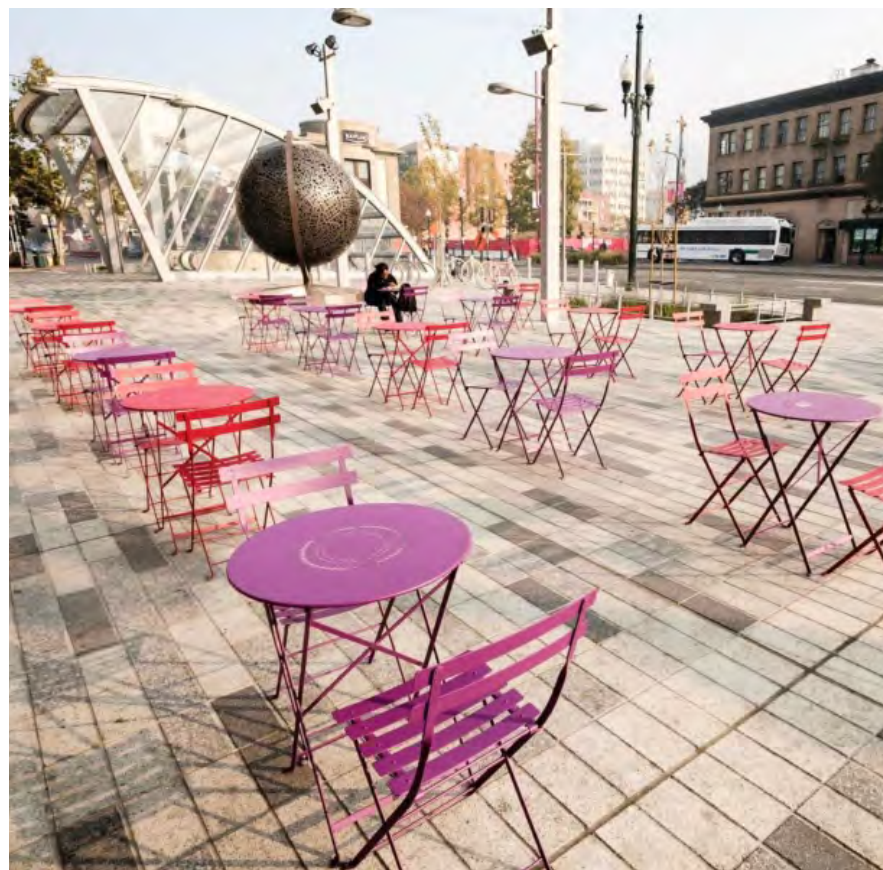
FLAGSTAFF TEMPORARY BUSINESS EXPANSION PLAN | NORTHSIDE



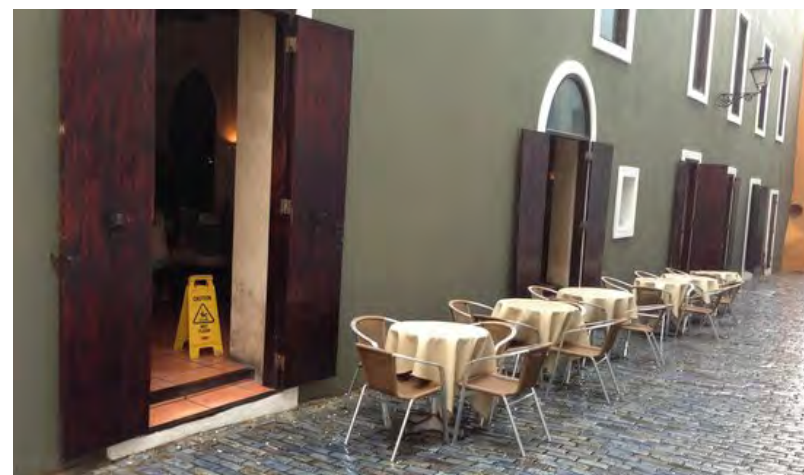
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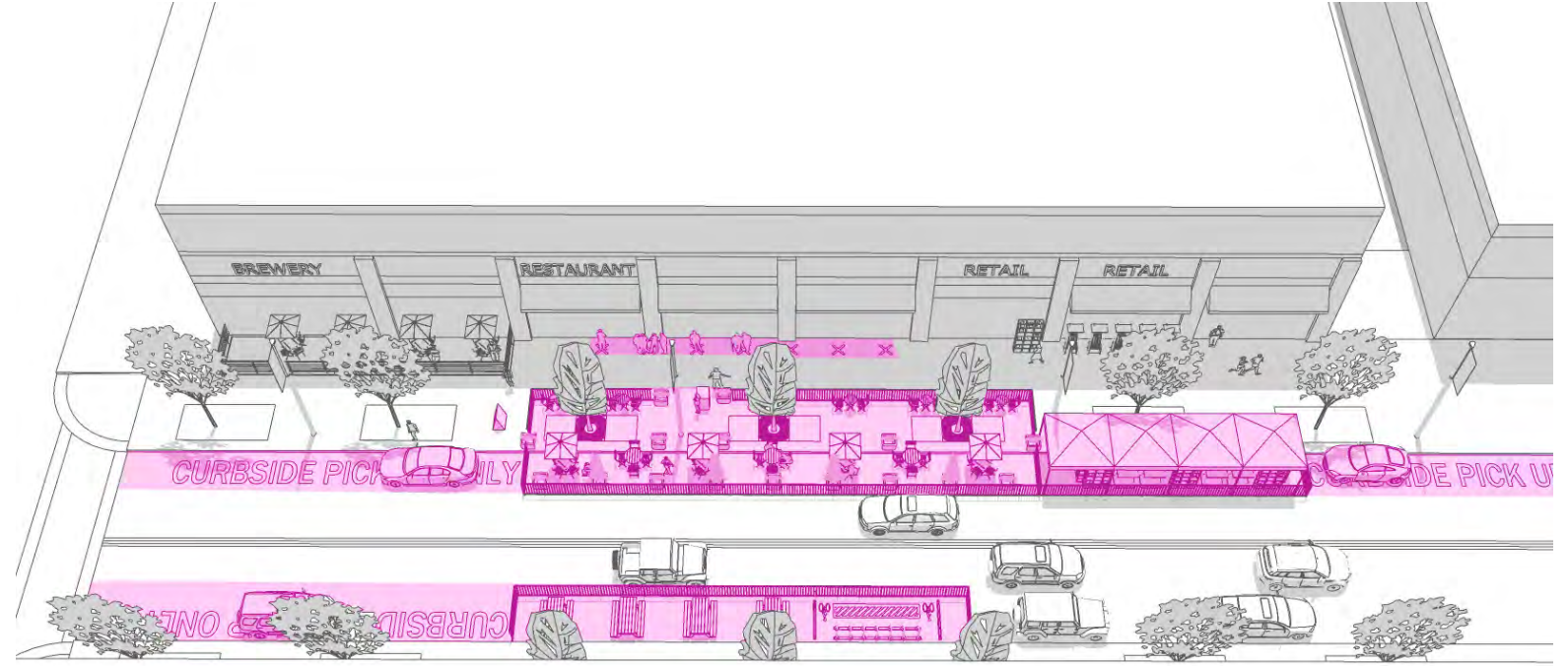
EXPANDED OUTDOOR SEATING ZONE



FLEXIBLE ALLEY / EXPANDED BUSINESS ZONE



CURBSIDE FLEX ZONE



Different curbside uses have varying abilities to draw people to an area and to support nearby businesses



BIKE SHARE STATION
40 riders/day²

FOOD TRUCK
150 meals/day
\$800–1800 income/day³

PARKLET
100 visitors/day
10–20% revenue boost to nearby businesses⁴

LOADING ZONE
20 deliveries/day supporting \$10,000 in daily sales per block

PARATRANSIT & ACCESSIBLE LOADING
Serving 19% of the US population⁵

METERED PARKING SPOT
15 vehicles/day^{6, 7, 8}

BUS STOP
1,000 riders/day

PASSENGER DROP-OFF ZONE
100 passengers/day

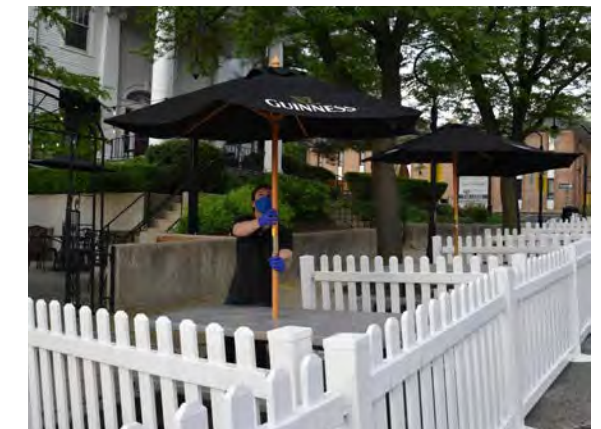
DEDICATED CURBSIDE PICKUP ZONE



SPECIAL SIGNAGE



BARRICADES



TIMELINE AND ACTION ITEMS

1. CITY/BOARD APPROVAL

IMMEDIATE ACTION!

- * Confirm expansion program is acceptable to city.
- * Confirm DBA Board approval for redirecting consultant funds to assist with program.
- * Find matching funds (City general fund, beautification, etc.?)
- * Establish process for businesses who wish to expand into parking (keep it simple!)
- * Establish timeline for program (recommend September/October.)

2. FINALIZE PLAN AND OUTREACH

JUNE 29 - JULY 10

- * Begin working with existing interested businesses.
- * Reach out to all DBA property and business owners to make them aware of options.
- * Utilize “Friendly Business Guide” to assist businesses.
- * Work with property owners willing to allow murals.
- * Call to artists and generate excitement on social media.

3. MOBILIZATION

JULY 6 - JULY 10

- * Order materials and furniture (bistro sets, fencing rental, lighting, paint, signage, planters, etc.)
- * BRAND the temporary expansion project, create hashtag for social media (FLG OPEN AIR, Flagstaff Summer Market, Flagstaff Expands, etc.)
- * Finalize traffic control plan.
- * Final outreach to business and property owners.
- * Communication via DBA, City, Chamber websites and social media.
- * Establish implementation date and volunteer team and sign up process.

4. IMPLEMENTATION

WEEK OF JULY 13

- * Volunteers install fencing, bistro sets, signage, paint crosswalk, and murals.
- * Businesses expand with seating, tents, planters, etc.

5. ENJOY!

JULY 18 - OCTOBER ?

- * Flagstaff is OPEN for business.

PARTNERSHIP ROLES AND RESPONSIBILITIES

DOWNTOWN BUSINESS ALLIANCE

- 1) **Business Outreach**
- 2) **Property Owner Outreach**
- 3) **Finalize Plan**
- 4) **Order Materials and/or Identify Sponsors**
 - * Bistro sets for Heritage Square
 - * Paint for Murals and Crosswalk
 - * Lighting for Alley(s)
 - * Barricades (not provided by City)
 - * Planters (not provided by City)
 - * Banners and Signage (not provided by City)
- 5) **Find Artists and Volunteers**
- 6) **Implementation**

CONSULTANT TEAM

- 1) **Donate \$5,000 from Expense Budget for Downtown Plan**
- 2) **Provide Resources and Expertise**
- 3) **Assistance Finalizing Plan**
- 4) **Assistance Implementing**

CITY OF FLAGSTAFF

- 1) **City Council Approval**
- 2) **Department Leadership/Action**
 - * City Manager = Initiate Program + Delegation
 - * Community Development = Expedited Permitting (we have examples!)
 - * Economic Vitality = Marketing, Communication Plan & Beautification (planters? lighting? murals?)
 - * Fire Department = O.K. Basic Guidelines (no blocking fire lane, fire hydrants) + Lenience
 - * Police Department = Safety
 - * Public Works = Traffic Management + Provide Signs and Barricades
- 3) **Match Funding**

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacy Saltzburg, City Clerk
Date: 07/01/2020
Meeting Date: 07/07/2020



TITLE

Future Agenda Item Request (F.A.I.R.) A Citizens' Petition requesting that the Council "review and reform our Flagstaff Police Department's use-of-force policies, funding allocations, and community engagement policies."

STAFF RECOMMENDED ACTION:

Council direction.

EXECUTIVE SUMMARY:

In accordance with Art. II, Sect. 17 of the Flagstaff City Charter, any citizen may present a written petition to the City Manager, signed by a minimum of 25 citizens from the City...who shall present it to the Council at its next regular meeting. The attached petition was filed with the City Clerk's Office on June 15, 2020, requesting that the Council "review and reform our Flagstaff Police Department's use-of-force policies, funding allocations, and community engagement policies."

INFORMATION:

Chapter 1-12 of the Flagstaff City Code formalizes the information to be required, and the attached petition conforms to those requirements. As outlined in this chapter, the petition is to be submitted to the Council under Future Agenda Item Request (F.A.I.R.) to determine if there is Council interest in placing the item on a future agenda for consideration.

Attachments: [Petition #2020-04](#)

PETITION TO FLAGSTAFF CITY COUNCIL
Pursuant to Flagstaff City Charter Article II Section 17
and Flagstaff City Code Title I Chapter 12

Pursuant to the Flagstaff City Charter and the City Code, any citizen (resident) of the City may present a written petition to the City Manager, signed by a minimum of 25 citizens from the City of Flagstaff, which shall be presented to the City Council.


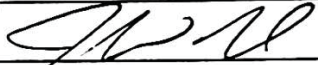
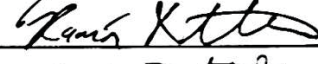
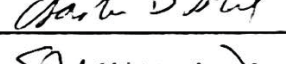
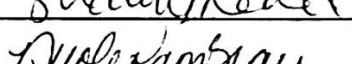





Title of Issue: Flagstaff Police Reform: Use of Force and Funding

Action Requested: We request that you review and reform our Flagstaff Police Department's use-of-force policies, funding allocations, and community engagement policies.

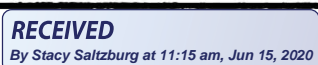
Printed Name of Submitter: Audrey Kruse - citizen of Flagstaff
 (Submitter must also sign below and complete information)

Contact Information: audreykruse@gmail.com, (201) 787-9145
 (Phone Number and/or e-mail address)

PETITION SIGNATURES

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6/6/20	Audrey Kruse	3044 W Ann Ln	
6/6/2020	JASON WAHL	3044 W. ANN LN	
6/7/2020	Ramon DL Alatorre	1340 S. Lone Tree Rd	
6/7/2020	Sasha D Stortz	3130 W Sheila Dr	
6/7/2020	Shawn Newell	3308 N. Grandview Dr.	
6/8/2020	Nicole Rambeau	3435 N Loma Vista Dr.	
6-8-2020	DAVID COAR	3034 W. ANN LN	
6/8/2020	Bella Caruso	1428 S. Talley Ln	
06/08/2020	John Phelps	1428 South Talley Ln	
06/08/2020	Michael Porzio	3109 N. Park Dr.	

RECEIVED BY CITY OF FLAGSTAFF

DATE RECEIVED	BY	COUNCIL MEETING DATE
	Stacy Saltzburg <small>Digitally signed by Stacy Saltzburg DN: cn=Stacy Saltzburg, o=City of Flagstaff, ou=City Clerk, email=stacy.saltzburg@flagstaffaz.gov, c=US Date: 2020.06.15 11:16:52 -0700</small>	07/07/2020 City Council Meeting

PETITION TO FLAGSTAFF CITY COUNCIL
Pursuant to Flagstaff City Charter Article II Section 17
and Flagstaff City Code Title I Chapter 12

Pursuant to the Flagstaff City Charter and the City Code, any citizen (resident) of the City may present a written petition to the City Manager, signed by a minimum of 25 citizens from the City of Flagstaff, which shall be presented to the City Council.

Title of Issue: Flagstaff Police Use of Force and Funding REFORM

Action Requested: We request that the Flagstaff City Mayor, City Council, and Police Department take immediate action by committing to reviewing our police force's use of force policies, engaging our community more thoroughly in police activity and funding reforms, and transferring funding away from police to community support like mental health services, housing services, and other social services targeting our most vulnerable citizens.

Printed Name of Submitter: Audrey Kruse - citizen of Flagstaff

(Submitter must also sign below and complete information)

Contact Information: audreykruse@gmail.com, (201) 787-9145

(Phone Number and/or e-mail address)

PETITION SIGNATURES

DATE SIGNED	PRINTED NAME	RESIDENCE ADDRESS	SIGNATURE
6-11-2020	Kathy Fraser	3919 E. Hawk Ln, Flagstaff	<i>Kathy Fraser</i>
6-11-2020	ROBERT WALLACE	111 E. OAK AVE. #7 ^{FLAGSTAFF AZ 86001}	<i>Robert Wallace</i>
9-11-2020	Holly Bubam	77A N. Canyon Terrace Dr.	<i>Holly Bubam</i>
10-11-2020	Kara Attrep	111 E. Oak Ave #7 ^{Flagstaff AZ 86001}	<i>Kara Attrep</i>
8-11-2020	Linda Chan	2521 W. Lynette Dr.	<i>Linda P. Chan</i>
6-11-2020	Emmanuel Wharton	2020 W. Fremont Blvd	<i>Emmanuel Wharton</i>
6-11-2020	Amy Bacon	2784 NW Olympic	<i>Amy Bacon</i>
6-11-2020	CHRISTOPHER POON	483 E Tower Oaks Dr	<i>Christopher Poon</i>
10-11-2020	Rachel Vers	3726 E Fairmount Ave <i>Rachel Vers</i>	<i>Rachel Vers</i>
8-11-2020	ASTRID THOMAS	1000 W. Grand Canyon Ave 86001 Flagstaff	<i>Astrid Thomas</i>

RECEIVED BY CITY OF FLAGSTAFF

DATE RECEIVED	BY	COUNCIL MEETING DATE

Dear Mayor Evans and City Council Members,

I am submitting this Citizen Petition, on behalf of these petition-signers, **requesting that you review and reform our Flagstaff Police Department's use-of-force policies, funding allocations, and community engagement policies.**

The killings of George Floyd, Breonna Taylor, Ahmaud Arbery and so many other black, indigenous, and people of color at the hands of police, have resulted in national outrage, including in the streets of Flagstaff. Black people, indigenous people, and people of color are far more likely to suffer violent interactions with police than white people (see Appendix A). The City of Flagstaff has had many days of mostly peaceful protests in response to the systemic racism institutionalized in this country's government and public services, but we are not immune from these same systemic pressures that disproportionately affect our most vulnerable citizens. **NOW is the time to look deeply inward, at our own systems and policies, over which we have DIRECT control, and be the CHANGE we want to see.**

We ask you today – to [take President Obama's PLEDGE to address police use of force policies in our City](#) – and more importantly to commit to REVIEWING and REFORMING our Police department's policies. Specifically, we would like you to focus on these three areas:

1. De-escalation emphasis over use-of-force emphasis in policing policies
2. Reallocation of funds from the police department to community support services
3. Community engagement becomes a measurable and incentivized part of policing policies

1. De-escalation rather than use-of-force:

After reading through the [Flagstaff Police Policy Manual](#), we have substantial concerns over its emphasis on the use-of-force policies rather than emphasizing de-escalation, cultural awareness, and engagement with vulnerable community members. **Police are hearing the message that use of force is preferred over de-escalation techniques.**

For example:

- The term “de-escalation” appears nine times in the policy manual (two of which are in the definition paragraph, so really seven times in 802 pages).
- The term “use of force” appears 92 times in the 802 page policy manual.
- De-escalation is described in only 2 paragraphs on pg. 42, and as an after-thought to pulling and using a taser (pgs 71-72). In only three additional places is de-escalation mentioned: briefly on pgs. 333 (related to hostage negotiations), pgs 367 (related to bringing in a mental health patient), and pgs 481 (related to responding to a civil dispute).
- **Never** is there an explicit description of what *de-escalation training* looks like, how often it should be done, how officers are evaluated on their use of this vs. use-of-force (even lethal force).
- **All of pages 44-47** explicitly cover use-of-force techniques allowed by our police in great detail and it is mentioned in **many other places** throughout the manual.
- The Use of Force Board has no medical personnel, citizens, or mental health professionals designated to serve on it.

- It is good to see the Racial- or Bias-Based Profiling Policy in the Manual. However, we are concerned with the wording of this policy because racial-profiling is supposedly prohibited, but an officer can “consider factors such as race or ethnicity ... to establish reasonable suspicion or probable cause”. We believe this section needs greater clarity.

2. Reallocation of funds from the police department to community support services

After reading through the [City of Flagstaff's 2020 Budget Proposal and 2019 Accomplishments](#) and the [City of Flagstaff's 2019 Budget Proposal and 2018 Accomplishments](#), we would like to see funding decreased for the Police department and funding increased for community support services:

- The Police budget for 2020 is \$22.5 million – an increase of 4% from last year (see page 222 of the [2020 Budget](#)). The Police Budget was 16.8% of our City's overall [budget in 2019](#) and now is 17.1% of our City's overall [budget in 2020](#).
- The Police budget should specifically include substantial line-items for trainings in cultural competency, racial-bias awareness, and creating inclusive communities; it currently does not. The increase in spending went to more equipment (vehicles) for the police force.
- The Community Development Section's budget (which includes Housing and the Housing Authority for low-income and vulnerable citizens) has dropped from 10.8% (in 2019) to 9.5% (in 2020) of the City's budget. These are the areas that need more funding right now, not less.
- The City should fund access to mental health services for its most vulnerable citizens as an alternative to punitive and penal measures; **the City currently does not fund any mental health services for citizens.**
- The City should convene a citizen's panel/commission to decide how **funds removed from the Police's budget for militarized gear and lethal weapons** can best be spent on mental health support services, addiction support services, and food and housing for those living in poverty in this town. 20% of our Flagstaff citizens live in poverty (see Appendix A).

3. Community engagement becomes a measurable and incentivized part of policing policies

After reading through the [City of Flagstaff's 2020 Budget Proposal and 2019 Accomplishments](#) and the [City of Flagstaff's 2019 Budget Proposal and 2018 Accomplishments](#), we would like to see explicit targets, measurable metrics, and incentives for community engagement by police officers:

- The whole paradigm of “target” numbers as a way to measure performance is flawed and perpetuates a broken system (pg. 215-221 in the 2020 Budget). Target quotas should instead be a percentage of decrease from previous year's number of incidents. For example: the target for “number of DUI arrests” is 451 a year. Fiscal year 2019 saw 505 arrests, and 2020 is proposed to have 474 arrests. Why is the target not a 10% decrease in DUI arrests each year ... or 406 arrests in 2020, and 366 in 2021, etc.?
- There should be Performance Measures for the Police Department regarding how many people are referred each year to mental health assistance programs. There should be performance measures for how many people are moved from unsheltered situations into long-term housing situations. **Where are the positive-community engagement metrics?**

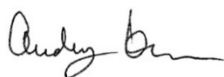
- The 2018 Accomplishments listed two four-hour trainings for police officers in Navajo Cultural Awareness. This is a start but many more trainings and education reform programs are needed than a one-time 8 hour session.
- 9% of our City's population identifies as Indigenous. What percent of officers on the City of Flagstaff's police force come from Indigenous communities? How many officers speak Navajo or Hopi and are familiar with the cultural practices of our nearby tribal communities?
- How many Hispanic-Latinx cultural awareness trainings were done in the last 2 years? None were listed. Our City is ~20% Hispanic. How many officers are fluent in Spanish and identify as Hispanic-Latinx themselves? Similarly, is 2% of the Police department staffed by black individuals? (see Appendix A)
- The Police department's 2020 Social Justice Goal states: "Conduct additional sessions of Cultural Awareness and other related training as needed to provide newer officers with a larger perspective" (pg 218 in the [2020 Budget](#)). This is a good start but needs greater specificity and clarity. We believe ALL officers (not just newer officers) should be undergoing regular (monthly) cultural competency and communications trainings, and they should be evaluated on how they implement these practices and trainings.
- We were pleased to see there was **one** transgender training done in 2019. Why was this training only for command staff? We believe **all staff** can benefit from this kind of training. What were the "minor policy recommendations" that resulted from this training and how were they enacted?
- How are police officers held accountable in considering personal characteristics like race, gender-identity, or mental disability (among all other protected classes) when interacting with the public in tense situations?

Related to these three requests, we are concerned that latest [draft budget for Fiscal Year 2021](#), has none of the police performance metrics or goals written out, only a budget table (for Police, it's on pg. 121). We were not able to locate, online or anywhere else, the proposed metrics of evaluation for the police department for 2021. This represents a disturbing move toward a lack of transparency, rather than greater transparency for the public.

We believe that the City of Flagstaff can take a proactive, transparent, and reformative approach to budgeting, policing, and policy-making. We are a courageous community and it is time to do the work of dismantling systemic racial injustice.

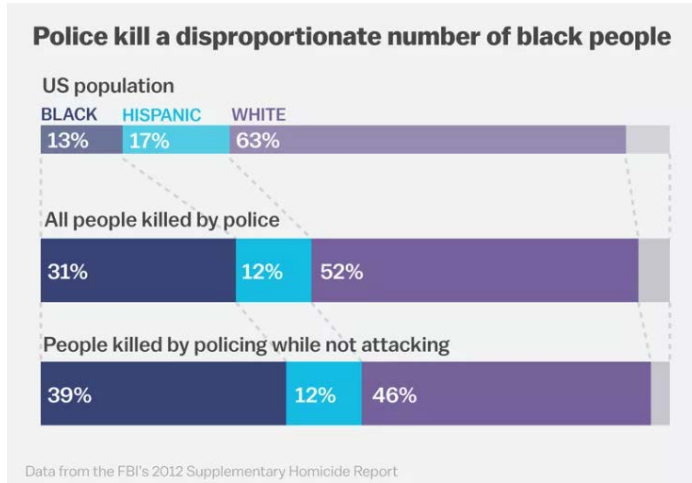
Let's commit together to a new era of public safety and community-policing that serves everyone in our City equitably and inclusively.

With the expectation that you will be the leaders we proudly elected
and with gratitude,



Audrey Kruse, and my fellow concerned citizens

Appendix A



Source: Vox.com

According to Census.gov:

20% of our town identifies as Hispanic-Latino

8.6% of our town identifies as Native-Indigenous

2.3% of our town identifies as Black

64% of our town identifies at White

19.7% of Flagstaff lives in poverty

Appendix B

To get you started, here are a list of actions we would like you to consider adopting (adapted from [CivilRights.org](https://www.civilrights.org) and other sources):

The Use of Force

- Permit the use of force only when necessary.
- Prohibit and regulate tools and tactics with a high risk of death or injury.
- Ensure officers consider personal characteristics such as age, size, or disability before using force.
- Require officers to intervene in improper uses of force and to report them immediately.
- Establish robust processes for reporting and investigating uses of force.

The First Amendment and Free Speech

- Engage in cooperative and strategic advance planning.
- Demilitarize officers and require them to interact with assemblers in a respectful and positive manner, while setting clear limits on the use of force.
- Hold officers accountable for their public assemblies.

Accountability

- Supervise, monitor, and hold officers accountable for policy violations.
- Create transparent, effective processes for conducting misconduct investigations.
- Ensure supervisors address and discipline officer misconduct.
- Use early intervention systems to track officer behavior and address officer needs and deficiencies at the earliest opportunity.
- Investigate misconduct to the extent permissible after statutory or contractual time limitations for discipline have passed.
- Expand the role of community/civilian review boards and independent monitors in discipline.
- Establish clear protocols for determining who investigates and prosecutes officer-involved crimes and shootings.
- Oppose provisions that weaken accountability systems when negotiating collective bargaining agreements.
- Collect and publish demographic and enforcement data to make publicly available.

Discriminatory Policing

- Adopt comprehensive bias-free policies, and ensure officers are trained in bias-free policing (our Police Handbook needs significant work in this section).
- Address and thoroughly investigate all complaints and calls for service based on racial and ethnic profiling.
- Collect, analyze, and publicly report data relating to bias-based policing.

Stops, Searches, and Arrests

- Ban formal and informal quotas (i.e. performance measures based on target quotas)
- Eliminate discriminatory and bias-based stops, searches, and arrests.
- Provide comprehensive training and require detailed reports on stops, searches, and arrests.
- Reduce reliance on arrests and incarceration.

Responding to Crises

- Develop integrated community-based support services to *prevent* crises and to *respond* to crises.
- Establish protocols for interactions with people with mental health or developmental disabilities or who are experiencing substance use disorder crises.
- Train all officers in basic techniques to identify and manage crises.

- Pair crisis response teams with mental health and developmental disability co-responders.
- Partner with local service providers to coordinate responses.
- Adopt harm-reduction models for people with substance use disorders.
- Track officer responses to crises and assess crisis response programs.

Community Interests

- Give communities a direct, ongoing say in police practices.
- Invest in social and community-based services that improve public safety, as well as housing, education, medical care, and employment opportunities.
- Develop performance measures that include community engagement.
- Build understanding of the societal causes and consequences of social problems.
- Implement policies for encounters with people with limited English proficiency.
- Prohibit officers from asking people about their sexual orientation or immigration status.

Appendix C

Resources for City Council and the City of Flagstaff



- Campaign Zero – Research and an agenda to end police violence: <https://www.joincampaignzero.org/#research>
- Freedom to Thrive: Reimagining Safety and Security in Our Communities: <https://populardemocracy.org/news/publications/freedom-thrive-reimagining-safety-security-our-communities>
- Urgent Actions Local Officials Can Take: <https://static1.squarespace.com/static/55ad38b1e4b0185f0285195f/t/5ed2961e7f741f7a2f1bc708/1590859294859/CampaignZero+Policing.pdf>
- Take the Pledge: <https://www.obama.org/mayor-pledge/>
- Anguish and Action: <https://www.obama.org/anguish-and-action/>
- CivilRights.org – A New Era of Public Safety: <https://civilrights.org/edfund/creating-a-new-era-of-public-safety/>
- Community Data Empowerment Project in Dallas: <https://data4dallas.org/>
- Crime Rates in Flagstaff: <https://www.macrotrends.net/cities/us/az/flagstaff/crime-rate-statistics>
- Eight Can't Wait: <https://www.vox.com/2020/6/5/21280402/8-cant-wait-explained-policing-reforms>
- Minneapolis City Council votes unanimously for police reform: (June 6, 2020) <https://www.cbsnews.com/news/minneapolis-police-department-chokehold-ban-push-police-reform/>
- The Obama-era Policy Reform Task Force issued this report: https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf
- Police Commissioners and Chiefs op-ed in the NYTimes: (June 4, 2020) <https://www.nytimes.com/2020/06/04/opinion/police-reform-obama-task-force.html>

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacy Saltzburg, City Clerk
Date: 07/02/2020
Meeting Date: 07/07/2020



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

July 2, 2020

Council and Colleagues, Greetings.

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...

Police

The Flagstaff Police Department completed a total of 24,862 training hours in 2019. 5,366 of these hours were outside of the police academy setting. Given the 118 officers in the Flagstaff Police Department this averages out to over 45 hours of training per officer. In 2020, the City funded the ability of each officer to complete 8 hours of training in Fair & Impartial Policing which addresses implicit bias in addition to the state mandated proficiency training. Specific to the Council amendments to the new Budget, in FY2020-2021 the City will fund an additional \$25,000 to fund de-escalation and/or more implicit bias training.

Police Chief Treadway (during his last week with the City) and Deputy Chief Musselman met with a member of the young democrats of NAU who had questions about the police budget. The two also attended a conference call with the Navajo Human Rights Commission who wanted information from Chiefs of Border Towns on protests and activities in our communities.

Fire Season is Upon Us

On Saturday June 16th, our B shift crews responded to a large, wind-driven fire on Dodge Ave. This was a multi-agency response that included 9 fire units and 3 BC's from Summit Fire and Medical District (SFMD), Flagstaff Fire Department (FFD) and Highlands Fire District (HFD) who all worked this fire. There was a red flag warning with wind speeds up to 50 mph which caused it to spread through spot fires at the head of the fire. Crews were able to stop the spread and control it after several hours. There were many exposures that crews were able to save including a large propane storage facility. This was a successful averting of a catastrophic event.

Another issue with this fire was that there was a large trash truck with a full load that burned for an extended period of time. City Streets personnel were called to assist with opening the trash truck and getting the load out with a backhoe. Crew 1 who was on severity patrol due to the red flag alert also responded and assisted in extinguishing hot spots for the fire. FPD was on scene to assist with traffic and Guardian Medical Transport (GMT) was staged in case there were injuries. A full recall for FFD and HFD needed to occur to cover calls in the region during this fire. There were no injuries and the cause of the fire is still under investigation. (See photo).





The B shift crews from FFD assisted USFS with a wildfire near the airport runway. Crews were able to rapidly dig a line around the fire and stop the spread at less than one acre. The fire was near a USFS station and crews were on scene quicker than normal. This was a red flag day and the fire was spreading rapidly prior to crews being able to put a line around it (see picture).

Public Works

Parks and Recreation Staff entered a sweepstakes for a free pole-mounted hand sanitizing station offered by Gametime, a nationwide playground equipment manufacturer. Much to our delight, we were awarded a fixture which will be installed at Bushmaster Park (see image).

HVAC unit #3 was replaced at the Aquaplex by Pueblo Mechanical. Facilities staff spearheaded the project with a new unit being purchased with the Facilities Catastrophic Fund from TRANE. The unit arrived on a truck and Marco crane hoisted the old unit off the roof and the new unit on. Pueblo Mechanical was onsite to facilitate the install of the unit and will be working the next few days to get the unit online. The contractors anticipate full operation by Friday.

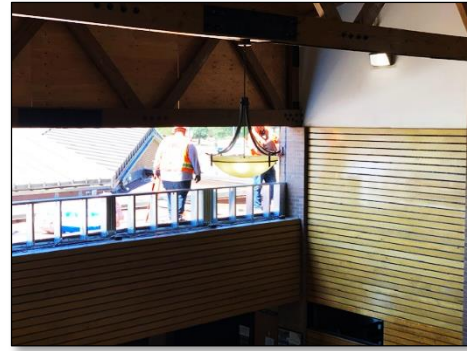


On the subject of facilities upgrades, weight room benches at the Hal Jensen Recreation Center were taken to Northland Upholstery to be reupholstered. The benches had the foam padding exposed which would be very difficult to sanitize upon reopening the weight room.

A Streets vegetation crew has been addressing shrub and tree growth that creates visual sight line issues. The chip seal project has been completed. The restriping of the roadway segments has also begun. The concrete replacements programed through the overlay portion of the project continues. Living in the neighborhood where the chip seal has occurred, a personal testimonial is that the work was performed quite thoroughly and timely. Related, a long-awaited patch truck was received this week, preparations and training is now underway to get the unit into service and available.

The Lions Club public auction, which includes City surplus equipment along with lots of other items was held on Saturday, June 27th.

The City Hall lobby window replacement and roof repairs are scheduled for completion on or near July 2nd, with roofing installation to follow. Completion of the window replacement is ahead of schedule with Loven Construction providing the contracting services, and Progressive Roofing and Twin Peaks Glass serving as subcontractors.



Parks & Recreation Staff are researching opportunities through the Federal Land and Water Conservation Fund (LWCF). The grant program provides matching grants to local governments for the acquisition and development of public outdoor areas and recreation facilities. Past Flagstaff projects funded with LWCF grants include playgrounds and outdoor lighting at Thorpe Park, and the development of parks and amenities at Bushmaster, Foxglenn, Ponderosa and Continental Parks.

The Mayor’s Monarch Pledge pollinator space was installed at City Hall including signage provided by our partners in Community Investment. The existing planter was cleaned out, new drip lines installed, and staff were able to salvage a few existing pollinator plants on top of planting 90 new plants including milkweed. Emry Pensinger led the way on this project and continues to identify new spaces (see picture).

Individual picnic tables not associated with group ramadas in park grounds were opened by staff this week. The tables that are underneath the ramada locations remain closed while the City is aligned with Phase 2 of the Re-entry Plan.



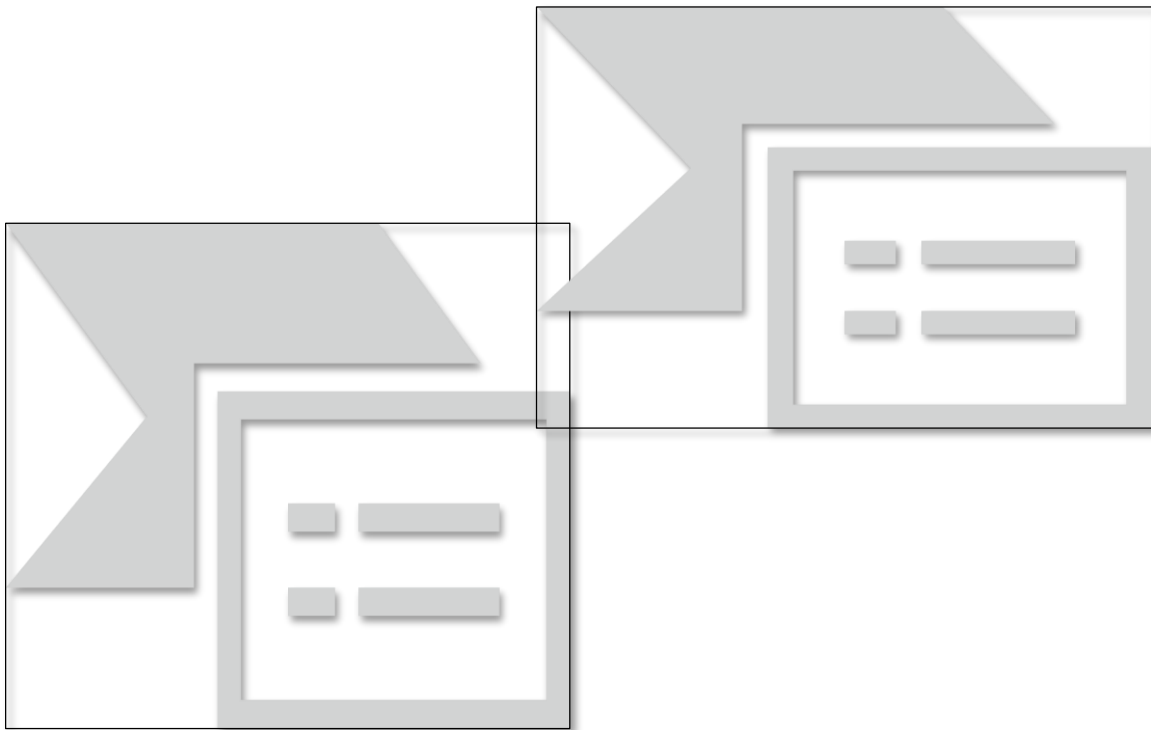
Blitz Testing for COVID-19

With the recent surge of COVID cases statewide, the County’s blitz testing has been inundated, with daily numbers at times reaching over 400 persons. Coupled with the call-back services and contact tracing, the County is significantly short-staffed for what is likely to be a continued high volume in these services. City staff is currently evaluating possible ways to lend human resources to the County to help meet these needs. Stay tuned on this.

Sustainability

City Hall EV charging stations update:

- Construction has been completed! The stations are available for use for a brief initial testing period.
- During the final walkthrough shortly after the station was turned on, a visitor from Phoenix came to use the stations, remarking he was excited to go downtown while charging for his trip home.



- Jillian Goulet, the Community Resilience VISTA, was awarded the GEMS National Service Volunteer of the Year Award by NAU's Civic Service Institute, recognizing volunteers across the entire City. You can watch the [entire award ceremony](#), or fast forward to Jillian's award – directly and virtually from Rita Cheng! – at the 37:00 mark.
- The Open Space Program would like to welcome Sylvia Struss as the new NAU AmeriCorps Open Space VISTA (Volunteer in Service to America), for the 2020-2021 program year.
- In anticipation of the Climate Emergency discussion at Council, staff overhauled the greenhouse gas [emissions webpage](#), audited and modified the 2018 emissions inventory – our annual measurement of community greenhouse gas emissions, and published the new [2016 & 2018 Emissions Report](#).
- Energy Rebates Program awarded an additional \$1,350 to residents. To date, \$28,874 has been distributed in FY19-20 (82% of the budget).
- Staff finalized the City permit allowing the Arboretum to treat City property for invasive plants as part of the Arboretum Plant Grant, in which Open Space is a key partner. This work is valued at \$80,000.

- The Flagstaff Trail Initiative (FTI), in which the City is a key partner, was awarded a \$2,000 grant from REI that Flagstaff Open Space assisted with. This \$2,000 will go towards coordination efforts as well as supplies for FTI etiquette campaign.
- Staff submitted an application to the Southwest Intervention Fund to partially fund a cultural survey for the McMillan Mesa Natural Area. The survey is a requirement for the rezoning process.

Misc. Updates

The City will host its second Alliance Meeting of the year and our next meeting will on Friday, July 10th.

I attended a webinar update by Northern Arizona Healthcare this week, which was quite informative. The hospital is doing OK with its patient load and is well prepared for any increased demands that may come about through the COVID surge that we are now experiencing statewide. Related, I also attended the NAU Town Hall this past week. Fall semester will start two weeks early and end early at Thanksgiving. The University is taking huge strides to respect CDC guidelines as well as the Governor’s Executive Order regarding crowd size. The Mayor and I attended the quarterly meeting with President Cheng and Joshua Maher on July 2nd.

With respect to the Pension Financing, we are ready to provide the Preliminary Offer of the Certificates of Participation. The City received excellent ratings from both bond companies (Fitch and S&P).

We have met onsite at the Wildwood RV Park and discussed the pending improvements to address stormwater infrastructure. A neighborhood meeting will be had on July 9th to better inform the residents there of what will be happening both prior to monsoon season and subsequently. The Mayor attended and her input was greatly appreciated. Much appreciation is extended to Community Development, Stormwater (Water Services) and Deputy Dille for their assistance in seeing this project moving. It has been a good partnership with Vintage. Stay tuned.



Manager’s Budget Message

This document, still being prepared at this time, will be provided to Council prior to the July 7th meeting. It will be called out for discussion. Thank you.

Council, you will be on a well-deserved recess. Enjoy it! Rest assured that the City will be in good hands during your break. Onward and upward.

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Shannon Anderson, Deputy City Manager
Date: 07/02/2020
Meeting Date: 07/07/2020



TITLE

Discussion of Re-Entry Plan and Monitoring Criteria

STAFF RECOMMENDED ACTION:

Staff discussion with City Council on the Re-Entry Plan monitoring criteria and updated explanations from the CDC.

EXECUTIVE SUMMARY:

The CDC published the CDC Activities and Initiative Supporting the COVID-19 Response and the President's Plan for Opening America Up Again. In this document the CDC provides helpful explanations on downward trajectory and the criteria for a rebound. This is information that can be applied when looking at the City's monitoring criteria of a downward trajectory of the number of cases, hospitalizations and deaths over four weeks, or more, and the data provided by Coconino County Health and Human Services Department.

INFORMATION:

The CDC Activities and Initiative Supporting the COVID-19 Response and the President's Plan for Opening America Up Again can be found online at <https://www.cdc.gov/coronavirus/2019-ncov/downloads/php/CDC-Activities-Initiatives-for-COVID-19-Response.pdf>. A copy is also attached to this staff summary.

The data from the Coconino County Health and Human Services Department can be found on their website at <https://www.coconino.az.gov/2376/Dashboard-Data>. The Weekly Report provides data on the number of weekly cases for the Flagstaff area and the number of hospitalizations and deaths for Coconino County. The most recent report dated July 1, 2020 is attached to this staff summary.

The City's Re-Entry Plan was updated following the conversation with City Council on June 30, 2020. The updated document is attached to this staff summary and will be added to the City's website under COVID-19.

Attachments:

[Presentation](#)
[CDC Activities and Initiatives Supporting the COVID-19 Response and the President's Plan for Opening America Up Again](#)
[CCHHS Weekly Report dated July 1, 2020](#)
[City of Flagstaff Re-Entry Plan](#)

Re-Entry Plan & Monitoring Criteria





Agenda



- CDC Guidance from CDC Activities and Initiatives Supporting the COVID-19 Response and the President's Plan for Opening America Up Again
- Coconino County Health and Human Services Department (CCHHSD) Weekly Report
- Applying CDC explanations to City of Flagstaff Monitoring Criteria and CCHHSD data

CDC Guidance





CDC Guidance

CDC Activities and Initiatives Supporting the COVID-19 Response and the President's Plan for Opening America Up Again

- Downward trajectory is when fewer cases are reported at the end of the 14 days compared with the number at the beginning of the period
- A “grace period” of 5 days may be applied during a 14-day downward trajectory
- If 5 days of consecutive increase occur, then the criteria for a “rebound” has been met

CCHHS Weekly Report



CCHHS Weekly Report

- Weekly Number of COVID-19 cases by geographic area
- Weekly Hospital Admission of confirmed cases among Coconino County Residents
- Weekly COVID-19 deaths among Coconino County Residents

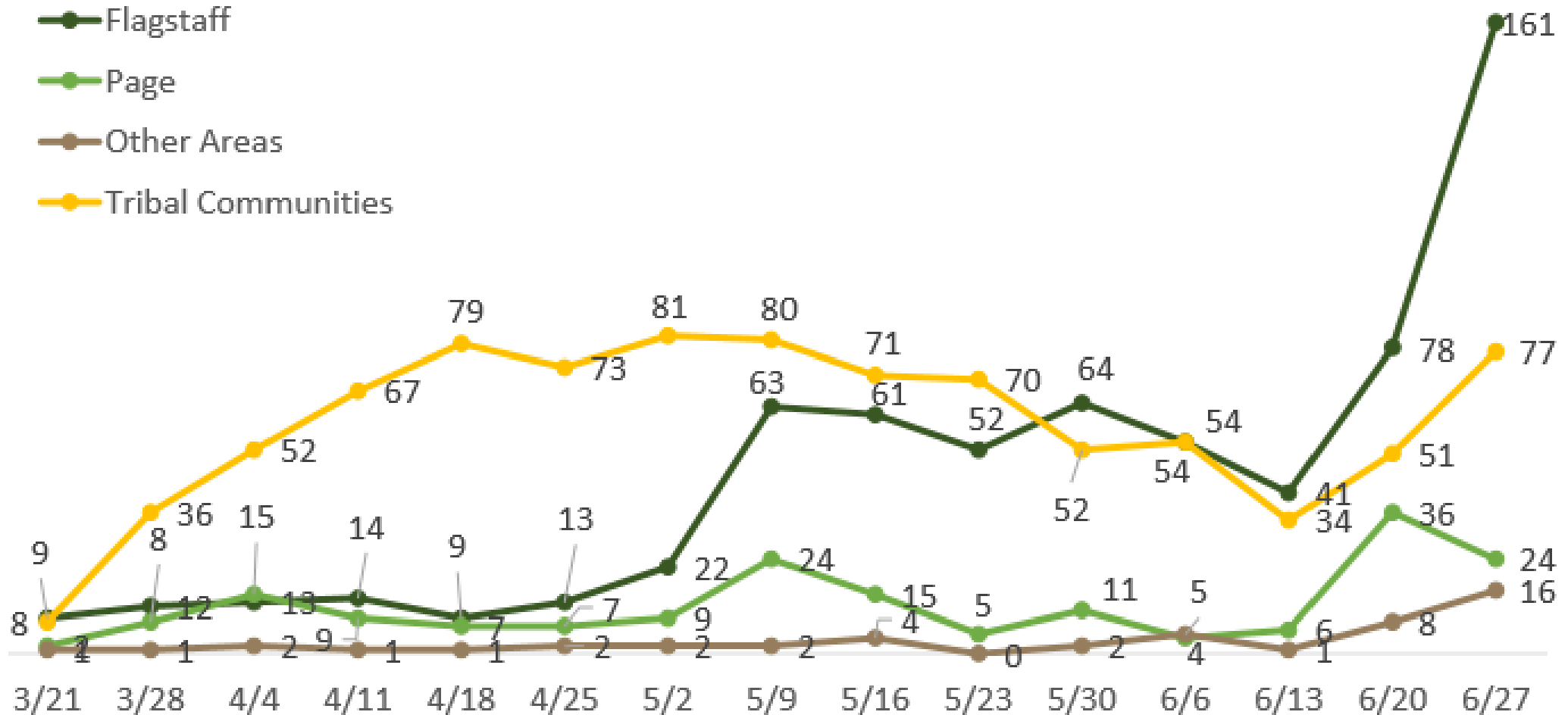




CCHHS Weekly Report



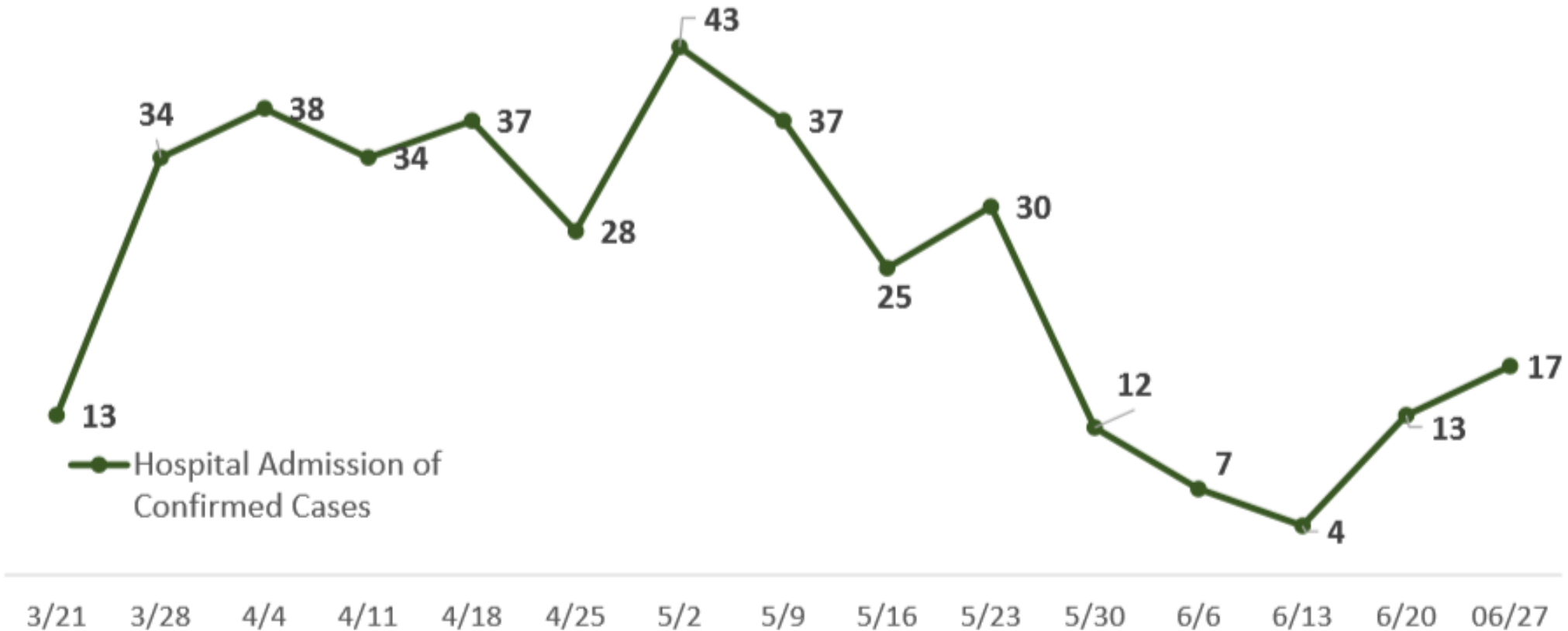
Weekly Number of COVID-19 cases by geographic area





CCHHS Weekly Report

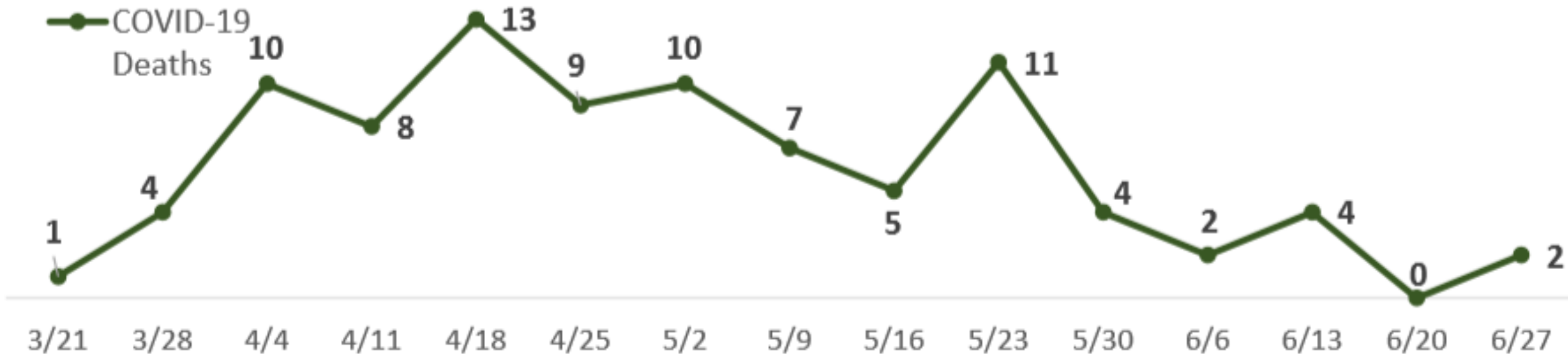
Weekly Hospital Admission of confirmed cases among Coconino County Residents





CCHHS Weekly Report

Weekly COVID-19 deaths among Coconino County Residents



Application to Monitoring Criteria & Data





Monitoring Criteria

Downward trajectory of the number of cases, hospitalizations and deaths over four or more weeks. During this same timeframe, the community members, business owners and visiting public have demonstrated the ability to follow CDC guidelines such as physical distancing, wearing masks when in close spaces and personal hygiene to help prevent serious illness and death. Healthcare facilities must have capacity to care for those who are seriously ill and the ability to provide testing, monitoring and contact tracing.



Downward Trajectory

- CDC Guidance: when fewer cases are reported at the end of the 14 days compared with the number at the beginning of the period
- City of Flagstaff: when fewer cases are reported at the end of the four or more weeks compared with the number at the beginning of the period



Grace Period



- CDC Guidance: a “grace period” of 5 days may be applied during a 14-day downward trajectory
- City of Flagstaff: a “grace period” of two weeks may be applied during a four week downward trajectory

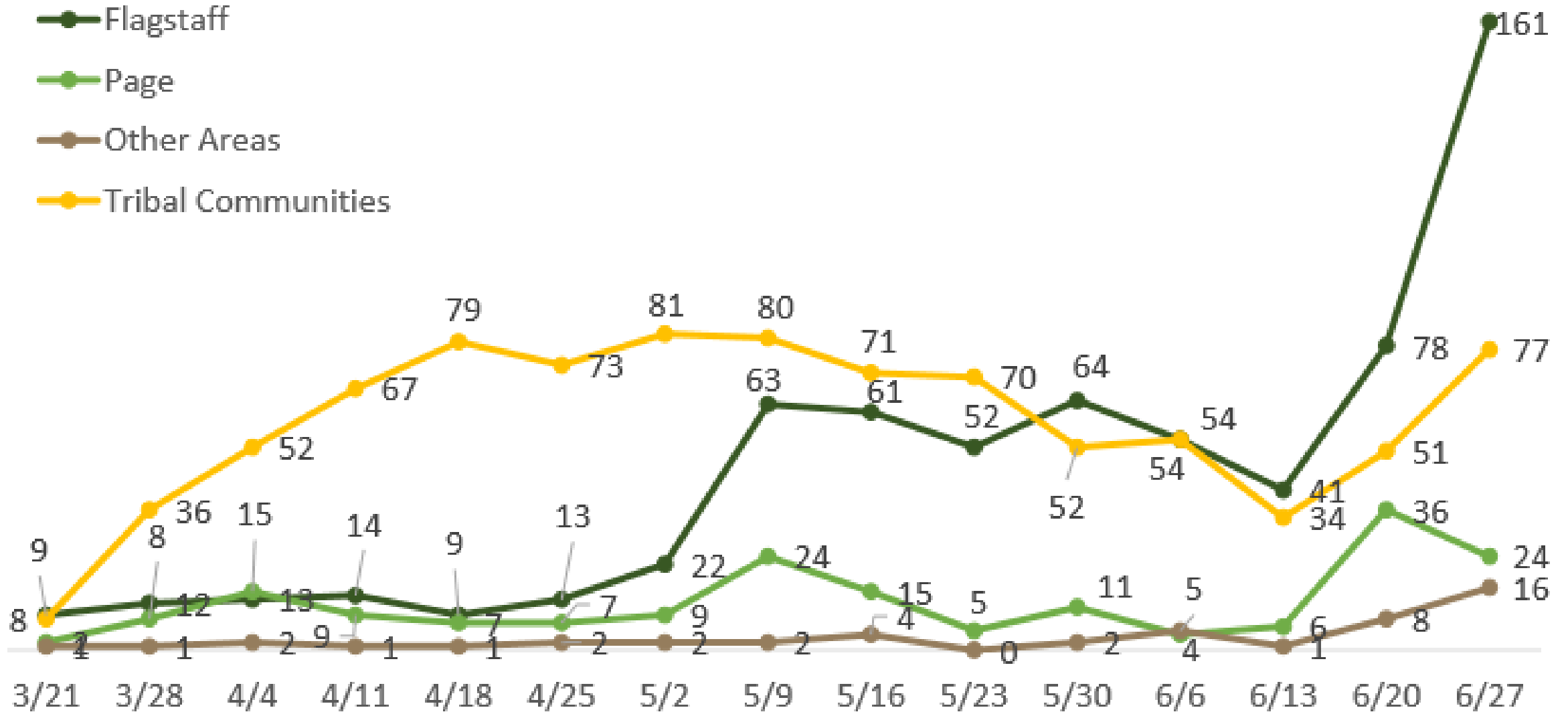


Rebound Criteria

- CDC Guidance: If 5 days of consecutive increase occur, then the criteria for a “rebound” has been met and is no longer in a downward trajectory
- City of Flagstaff: if two weeks of consecutive increase occur, then the criteria for a “rebound” has been met and is no longer in a downward trajectory



Application Example



Council Discussion

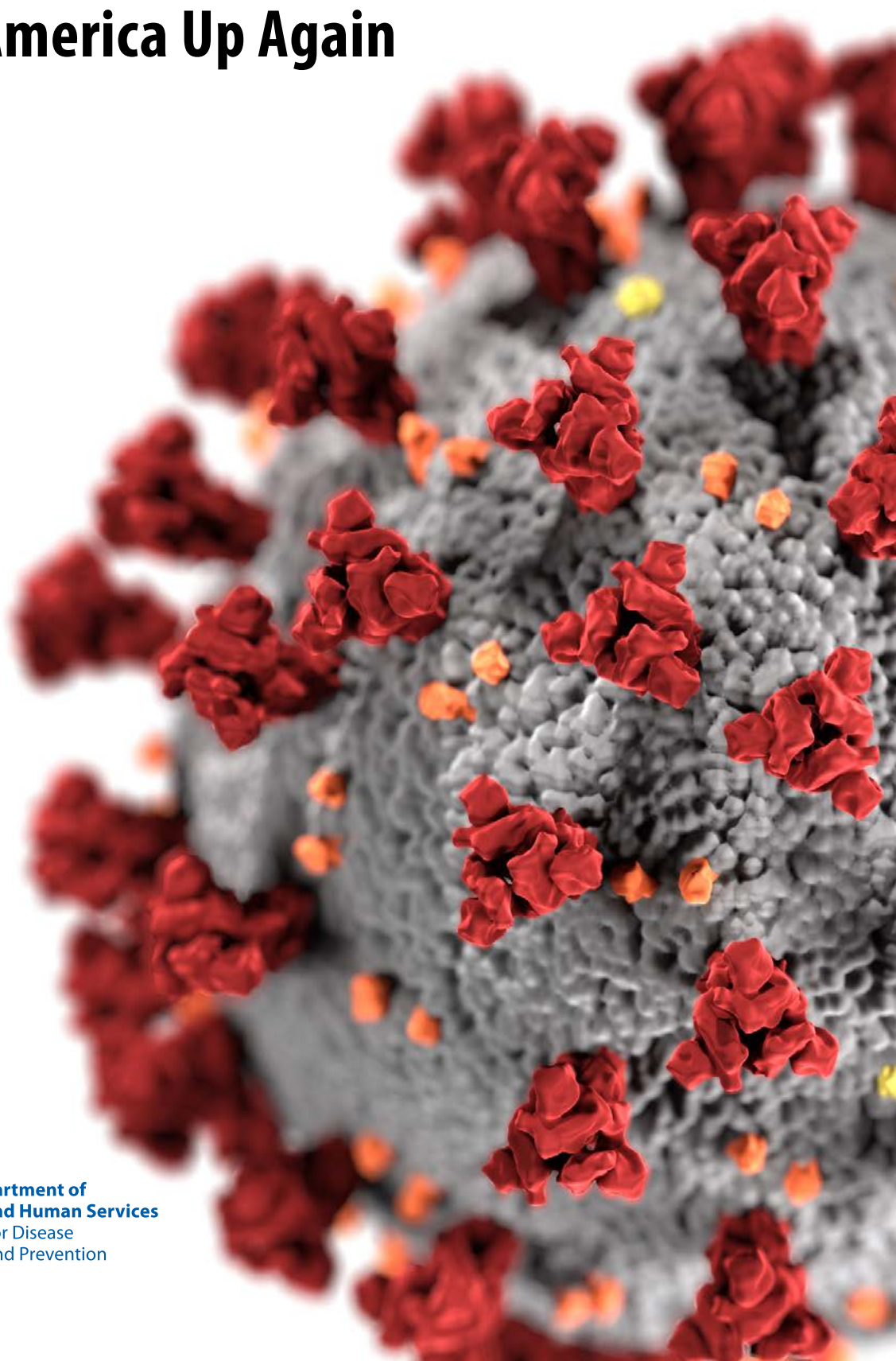


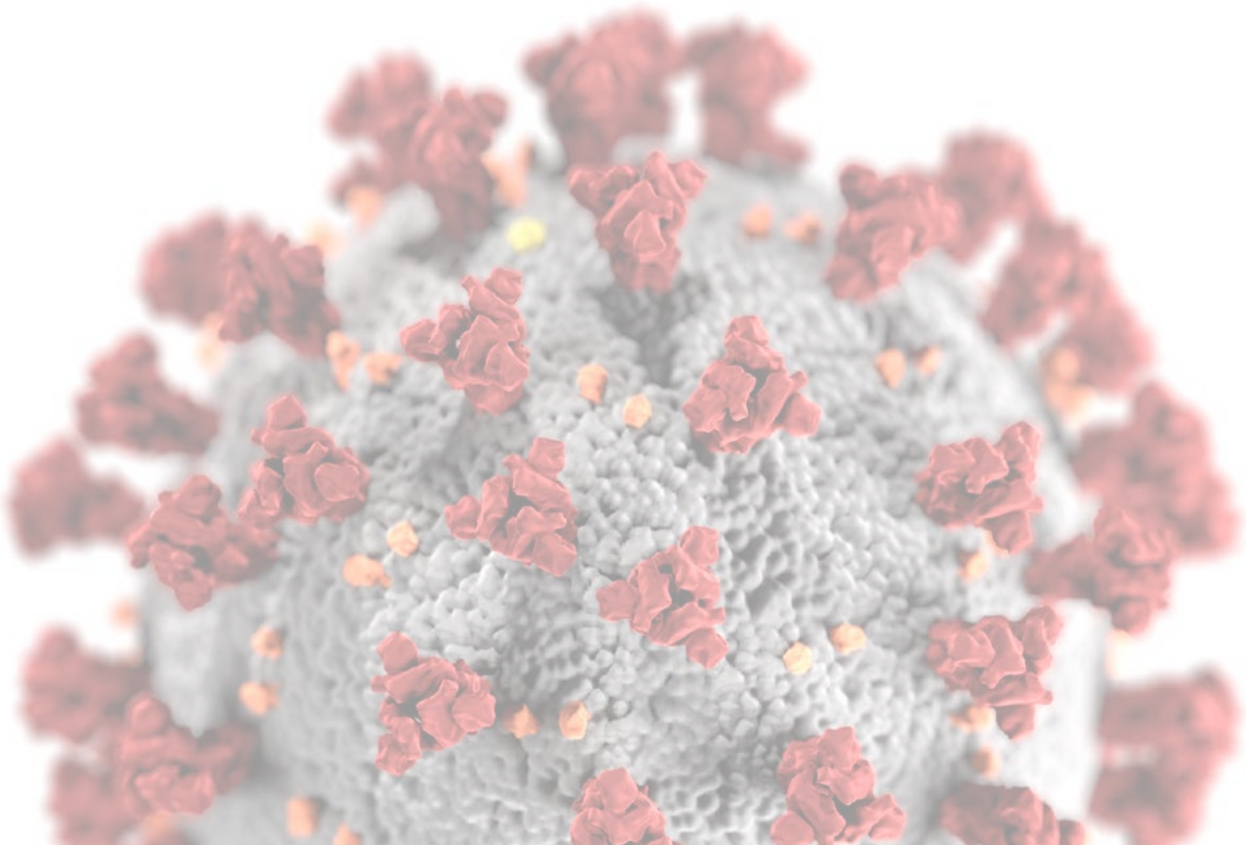
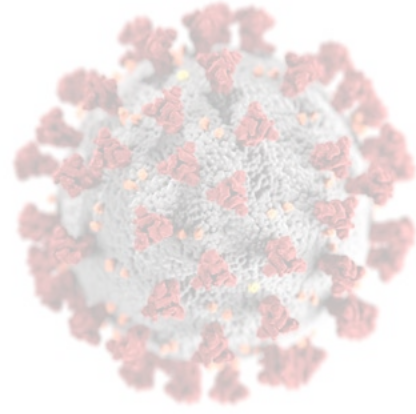
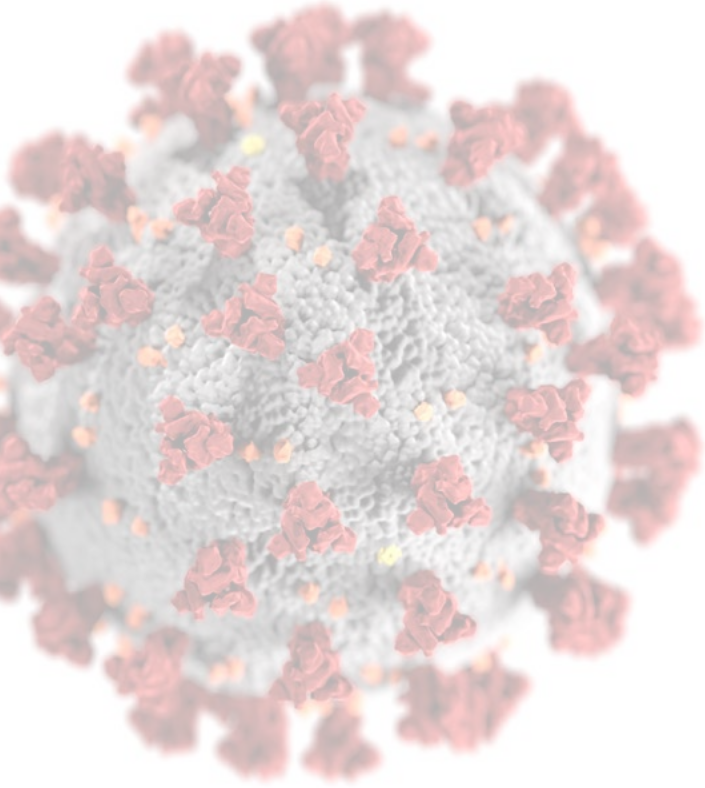
CDC Activities and Initiatives Supporting the COVID-19 Response and the President's Plan for Opening America Up Again

May 2020



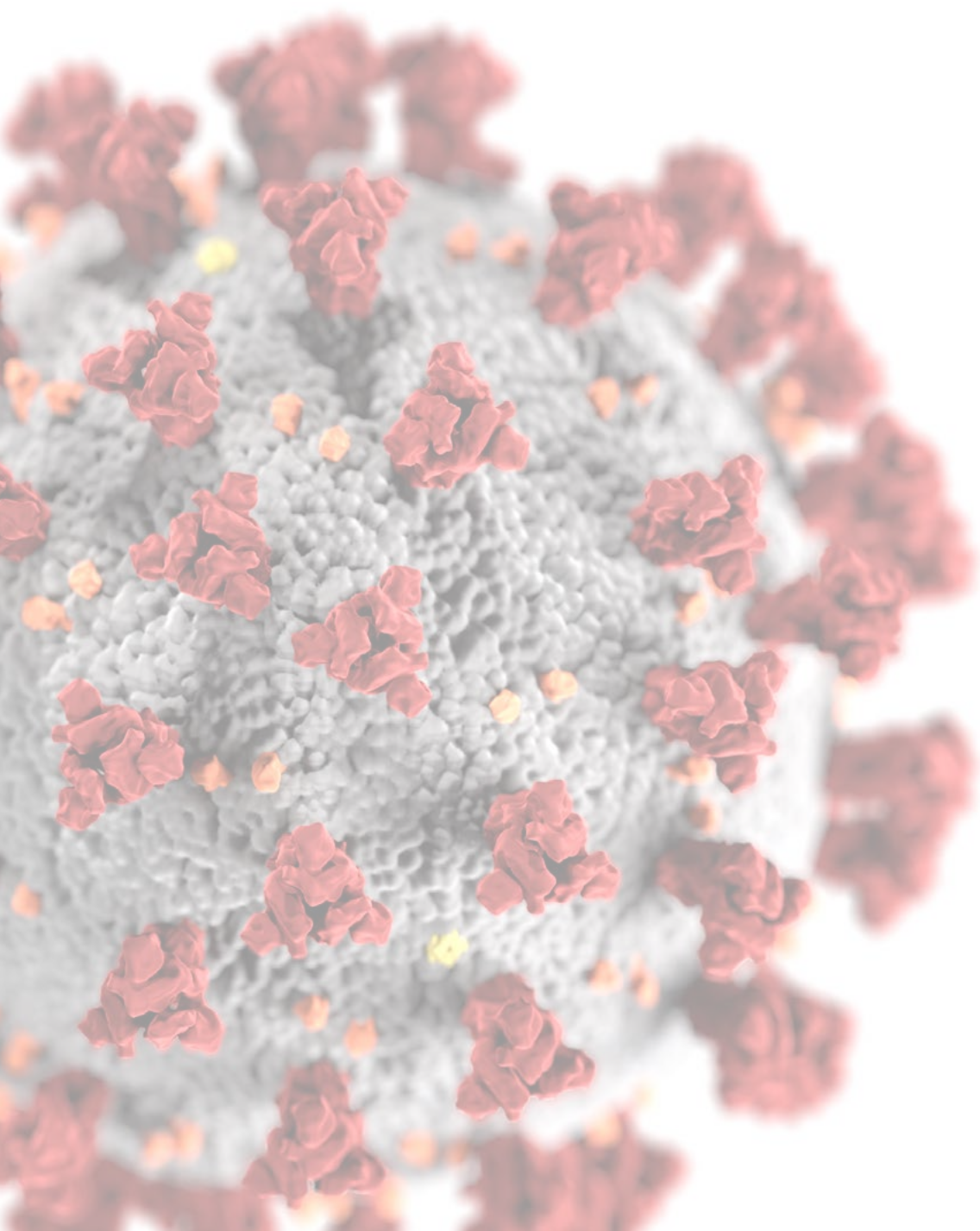
**U.S. Department of
Health and Human Services**
Centers for Disease
Control and Prevention





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This document briefly summarizes CDC's initiatives, activities, and tools in support of the Whole-of-Government response to COVID-19.

Overview of CDC's Surveillance and Control Goals and Activities

The principal objectives of COVID-19 surveillance are to monitor the spread and intensity of the pandemic, to enable contact tracing to slow transmission, and to identify disease clusters requiring special intervention. Secondary objectives include understanding the severity and spectrum of disease, identifying risk factors for and methods of preventing infection, and producing data essential for forecasting. In addition to tracking the disease itself, monitoring of healthcare capacity and essential supplies through the National Healthcare Safety Network (NHSN) is critical to ensure adequacy of care.

Because no single system can capture all parameters of the pandemic, CDC has implemented multiple, complementary surveillance systems ([Appendix A](#)). Key systems are case-based reporting through the National Notifiable Diseases Surveillance System (NNDSS), laboratory-based surveillance, syndromic-surveillance data reported through the National Syndromic Surveillance Program (NSSP), and data on healthcare system capacity reported through the NHSN ([Appendix B](#)). Additional systems, such as COVID-Net, provide rich, publicly available information for meeting secondary objectives. CDC continues to explore emerging and experimental surveillance platforms with a critical eye toward proven utility.

Control of the epidemic requires action at the individual, community, and population levels. CDC has provided state, tribal, local, and territorial health departments with extensive detailed [guidance on contact tracing, infection control](#), and a wide range of other prevention and control topics. Recent models suggest that asymptomatic and pre-symptomatic transmission and delays in case recognition can greatly reduce the effectiveness of contact tracing. To enhance the speed and thus effectiveness of contact tracing, CDC is exploring technologic methods for instantaneous voluntary notification of contacts of confirmed cases.

At the community level, recent events have shown the devastating effects that outbreaks can have among vulnerable populations, especially those in congregate settings such as nursing homes, prisons, and homeless shelters. Similarly, outbreaks in food production plants and other critical industries are crippling communities financially and threatening national food security. Rapid identification and response to these events is a CDC priority that can mitigate the immediate impact and provide critical insights needed to prevent future outbreaks in similar settings. CDC has developed extensive tools to assist states, counties, facilities, and industries in responding to and preventing these events ([Appendix C](#)).

Laboratory testing of asymptomatic individuals is an evolving consideration as more is learned about the role of asymptomatic and subclinical infections in transmission SARS-COV-2. Emerging evidence suggests that asymptomatic infections may play an important role in the epidemiology of the disease. However, it is important to define the circumstances where testing asymptomatic persons is likely to be helpful in controlling the COVID-19 pandemic. Interim guidance about laboratory test usage for asymptomatic populations and for serologic testing and serologic surveillance is provided in [Appendix D](#).

Surveillance and hospitalization indicators can aid public health and government officials in their decisions when to reopen communities. The disease occurrence and hospital gating indicators in the Opening Up America Again guideline provide states and communities insight into the trajectory of the COVID-19 pandemic in their jurisdiction. These indicators are part of the broad assessment jurisdictions should undertake when deciding when and how to adjust community mitigation strategies for COVID-19 ([Appendix E](#)).

As businesses and other organizations gradually open after the COVID-19-related slowdown, they will need to consider a variety of measures for keeping people safe. These considerations include practices for scaling up operations, safety actions (e.g., cleaning and disinfection, social distancing), monitoring possible reemergence of illness, and maintaining health operations. Interim guidance for helping establishments with these steps is provided in [Appendix F](#).

Widespread community mitigation combined with ongoing containment activities represents both an effective intervention for limiting the spread of COVID-19 and a serious threat to the economic well-being of the country and the world.

CRITICAL INITIATIVES AND ACTIVITIES

A. Expanding Testing and Advising Testing Practices

Extensive, rapid, and widely available COVID-19 testing is essential. CDC is working within the “All-of-Government and All-of-America Approach” to increase testing capacity and availability to improve case detection and contact tracing through all phases of the US plan to Opening Up America Again. As the supply and nature of tests expand, testing criteria have been broadened to include a wider range of people and situations.

Prioritizing Patients for Testing: Current recommendations for testing: <https://www.cdc.gov/coronavirus/2019-nCoV/hcp/clinical-criteria.html>

Focusing Testing Efforts: CDC is working across the US government to support diverse efforts to increase testing in multiple settings to support diagnosis, surveillance, and outbreak control:

- **Testing for Diagnosis and Clinical Management:** CDC is working with federal government partners to support hospitals, healthcare systems, clinics, and public health departments to ensure the capability to diagnose COVID-19 infections with a turnaround time needed for appropriate clinical care and public health decision-making. CDC is:
 - » Working with federal government partners to provide a wide range of technical assistance resources to each state to help them develop a state-specific testing plan that meets their unique needs.
 - » Equipping state public health laboratories with sufficient quantities of devices, reagents, and testing supplies in the International Reagent Resource (IRR).
 - » Working with the White House Coronavirus Task Force to enhance the national supply of reagents and testing supplies so that the commercial market is able to supply state efforts. This supply should be sufficient to achieve a rate of less than 10% positive tests for COVID-19 among symptomatic, asymptomatic, and pre-symptomatic individuals.
- **Testing for Surveillance and Outbreak Control:** Identify newly emergent cases or clusters of COVID-19 among symptomatic and asymptomatic individuals who are prioritized by public health officials and clinicians, and improve reporting of COVID-19 cases to public health systems. CDC is:
 - » Utilizing established, nationwide surveillance systems to identify any areas of potential COVID-19 outbreaks, including use of CDC’s Influenza-Like Illness Network and the National Syndromic Surveillance Program.
 - » Enabling public health systems at state, local, territorial, and tribal levels to develop a robust system to identify COVID-19 infections, particularly among vulnerable populations such as residents of nursing homes, people of racial and ethnic minority groups (e.g., African Americans, American Indians, Alaska Natives) at higher risk of disease, and those in areas of high social vulnerability, closed settings, and congregate housing.
 - » Supporting existing case-based surveillance efforts for identifying infections through routine testing of persons in clinical encounters.
 - » Enhancing case investigation and contact tracing efforts through increased public health staff and rapid testing capability.
 - » Working with point-of-care diagnostic test manufacturers and state health departments to improve reporting of results from rapid, point-of-care devices
 - » Evaluating various serologic assays for use in surveillance and for potential use for returning to work.

Defining Usage: CDC is working with state, local, and other partners to define the circumstances where testing of asymptomatic persons is likely to be helpful in controlling the pandemic, as well as the best application of surveillance serologic testing.

- Emerging evidence suggests that asymptomatic infections play an important role in the epidemiology of SAR-CoV-2 infections. Testing for asymptomatic infection should focus (1) on persons with an increased likelihood of infection and (2) on settings with particularly vulnerable populations.
- CDC is working to identify indications for serologic testing. Broadly, the purpose of serologic test falls into two categories: serologic surveillance of populations and serologic testing of individuals to determine if they have had a prior infection. This current CDC COVID-19 test is not currently designed for individual use (i.e., to test people who want to know if they have been previously infected with SARS-CoV-2). Serologic surveillance has the potential to provide important insights into the transmission dynamics of disease, as well as a more complete picture of total burden of COVID-19 infections in a community or among first responders and front-line health providers. More information is needed to determine how the results of serologic testing correlate with possible immunity.
- See [Appendix D](#) and <https://www.cdc.gov/coronavirus/2019-ncov/lab/serology-testing.html> for additional details on testing strategies, testing of asymptomatic infections, and serologic testing.

Augmenting Existing Infrastructure and Technology to Improve Data Flow and Reporting:

CDC is supporting the improvement of current data infrastructure, and the development and integration of digital/technology solutions to augment state and community-wide sites to ensure timely and transparent communication to all citizens inclusive of daily new cases, hospitalizations, use of intensive care units (ICU), and mortality by county and or zip code. To ensure geographic relevant information is continuously available to state and local governments and the public in those communities, this should also include laboratory and potential immunization data systems. Activities include:

- Working with state and local officials and web development groups to develop and support interactive web-based platforms that allow open and transparent data visibility to all communities, such as the Florida Public Health COVID-19 [website](#).
- Working with manufacturers for point-of-care diagnostic tests, commercial laboratories, state and local health departments, testing locations (providers, hospitals, pharmacies), and public health partners (Association of Public Health Laboratories [APHL], Council of state and Territorial Epidemiologists [CSTE]) to improve data quality, integration, and electronic reporting.
- Developing, integrating, and testing the ability for laboratories to securely share data with digital platforms selected by public health, including platforms that may be used for testing, or to support state and local contract tracing.
- Exploring digital solutions to share laboratory results with patients directly and sharing tested best practices with state and local partners. This could also extend to immunization record access.
- Developing recommendations for minimum requirements of platforms to integrate, store, and manage personal laboratory information on digital platforms (what states should consider before investing or having additional standards for platforms handling these data).

B. Phased Plan and Indicators for Reopening America

The plan for reopening America outlines a three-phased approach for reducing community mitigation measures while protecting vulnerable populations. The phased approach can be implemented statewide or community-by-community at governors' discretion. The guidelines propose the use of six "gating" indicators to assess when to move through from one mitigation phase to another.

Table 1. Gating Criteria and Phase-specific Thresholds

Gating Criteria	Threshold for entering Phase 1	Threshold for entering Phase 2	Threshold for entering Phase 3
Decreases in newly identified COVID-19 cases	Downward trajectory (or near-zero incidence) of documented cases over a 14-day period	Downward trajectory (or near-zero incidence) of documented cases for at least 14 days <i>after entering Phase 1</i>	Downward trajectory (or near-zero incidence) of documented cases for at least 14 days <i>after entering Phase 2</i>
Decreases in emergency department (ED) and/or outpatient visits for COVID-like illness (CLI)	Downward trajectory (or near-zero incidence) of CLI syndromic cases reported over a 14-day period	Downward trajectory (or near-zero incidence) of CLI syndromic cases reported for at least 14 days <i>after entering Phase 1</i>	Downward trajectory (or near-zero incidence) of CLI syndromic cases reported for at least an additional 14 days <i>after entering Phase 2</i>
Decreases in ED and/or outpatient visits for influenza-like illness (ILI)	Downward trajectory (or near-zero incidence) of ILI reported over a 14-day period	Downward trajectory (or near-zero incidence) of ILI reported for at least 14 days <i>after entering Phase 1</i>	Downward trajectory (or near-zero incidence) of ILI reported for at least an additional 14 days <i>after entering Phase 2</i>
Decreases in percentage of SARS-CoV-2 tests positive	Downward trajectory (or near-zero percent positive) of positive tests as a percentage of total tests over a 14-day period (flat or increasing volume of tests)	Downward trajectory (or near-zero percent positive) of positive tests as a percentage of total tests for 14 days <i>after entering Phase 1</i> (flat or increasing volume of tests)	Downward trajectory (or near-zero percent positive) of positive tests as a percentage of total tests for at least 14 days <i>after entering Phase 2</i> (flat or increasing volume of tests)
Treat all patients without crisis care	Jurisdiction inpatient & ICU beds <80% full Staff shortage in last week = no PPE supplies adequate for >4 days	Jurisdiction inpatient & ICU beds <75% full Staff shortage in last week = no PPE supplies adequate for >4 days	Jurisdiction inpatient & ICU beds <70% full Staff shortage in last week = no PPE supplies adequate for >15 days
Robust testing program	Test availability such that percentage of positive tests is ≤20% for 14 days Median time from test order to result is ≤4 days	Test availability such that percentage of positive tests is ≤15% for 14 days Median time from test order to result is ≤3 days	Test availability such that the percentage of positive tests is ≤10% for 14 days Median time from test order to result is ≤2 days

Decisions to move between phases should also consider the public health capacity of the jurisdiction based on the criteria listed below. Other epidemiologic data sources available locally can be used to corroborate trends seen in core epidemiologic gating criteria. Special consideration should be given to infections identified in populations and settings such as healthcare personnel, patients in healthcare facilities (e.g., nursing homes, dialysis centers, long-term care facilities), and residents of congregate living settings (e.g., prisons, youth homes, shelters), underserved populations, and people of racial and ethnic minority groups (e.g., African Americans, American Indians, Alaska Natives) at higher risk of disease. Incidence and trajectory (increasing versus decreasing) of COVID-19 illnesses in the surrounding region should also be considered.

Table 2. Assessing Capacity for Case Identification, Follow Up, and Containment

Category	Considerations for Assessing Capacity for Case Identification, Follow Up, and Containment
SARS-CoV-2 testing in jurisdiction	Testing is available as indicated for clinical, public health, and infection prevention needs.
Identification of new COVID-19 cases	All new COVID-19 cases in the jurisdiction can be rapidly identified through active surveillance, including proactive monitoring for asymptomatic cases through surveillance monitoring.
Interviewing new COVID-19 cases	Initial interviews can be conducted for nearly all new COVID-19 cases within one day of health department notification.
Contact tracing	Follow up (isolation, self-monitoring, and rapid testing of selected contacts) can be initiated for nearly all identified contacts of newly identified cases.
Incidence relative to local public health resources	Public health capacity is sufficient to fully perform contact tracing and investigate outbreaks based on local incidence and resources available.

While some communities will progress sequentially through the reopening phases, there is the possibility of recrudescence in some areas. Given the potential for a rebound in the number of cases or level of community transmission, a low threshold for reinstating more stringent mitigation standards will be essential. The decision to reinstate community mitigation strategies will undoubtedly be very difficult and will require careful thought to define an evidence-based monitoring strategy and specific guidance for these decisions.

Technical Support for States

As part of the “Whole-of-Government” public health effort, CDC is providing states and other jurisdictions with technical assistance regarding testing, surveillance data collection and reporting, contact tracing, infection control, and outbreak investigation. Implementation of these activities is supported by the Paycheck Protection Program and Health Care Enhancement Act, which includes \$11 billion to be awarded, within 30 days, directly to states, localities, territories, tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes to develop, purchase, administer, process, and analyze COVID-19 tests, conduct surveillance, trace contacts, and related activities. Listed below are additional strategies CDC is using to strengthen the capacity of state, tribal, local, and territorial (STLT) health departments to fight against COVID-19. This technical assistance is essential to ready the nation to re-open and minimize future COVID-19 outbreaks in jurisdictions across the country.

Contact Tracing

Contact tracing, a core disease control measure used by local and state health department personnel for decades, is a key strategy for preventing further spread of infectious diseases, including COVID-19. Contact tracing is part of the process of supporting affected individuals and warning contacts of exposure in order to stop chains of transmission. CDC is ramping up America's capacity to perform contact tracing. As part of this effort, CDC has developed multiple training tools for communities to train the newest frontline workers in public health. CDC will train newly identified contact tracers on how to quickly locate and talk with the affected individuals, assist with isolation issues, and work with affected individuals to identify people with whom the affected individuals have been in close contact. Identification of contacts will allow further outreach by public health to identify individuals who need to self-isolate.

Table 3. CDC Priorities and Strategies to Support STLT Health Departments

Priorities	Strategies
<p>Contact tracing guidance and training https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing/index.html</p>	<p>Provide CDC guidance on case investigation and contact tracing to STLT health departments</p> <p>Address key issues such as staffing and roles, when to initiate an investigation, steps to the investigation, confidentiality and consent, self-isolation, quarantine, and necessary support services (housing, food, medicine); data management; digital contact tracing tools and technology; and evaluation and monitoring</p> <ul style="list-style-type: none"> • Work with states to develop a comprehensive proactive plan for the identification of asymptomatic case in areas of high vulnerability and/ or high rates of co-morbidities
<p>Address surge staffing needs https://www.cdc.gov/coronavirus/2019-ncov/php/open-america/response-corps.html</p>	<p>Use a multi-pronged approach to enhance and complement the efforts of STLT health department staff through innovative hiring mechanisms designed to address the surge staffing needs of STLT health departments.</p> <p>Provide access to a variety of mechanism to complement local efforts to increase capacity.</p> <ul style="list-style-type: none"> • Realign existing CDC field staff • Deploy CDC teams to address outbreaks in special settings • Partner with CDC Foundation and other organizations to place surge staff for STLT health departments across the nation • Partner with other federal agencies (e.g., AmeriCorps) to offer staffing options with states • Facilitate access to a variety of contact tracing and case investigation training products and tools for a diverse and evolving public health workforce

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Priorities	Strategies
Innovative technologies	Support implementation of innovative methods and technologies at the STLT levels to help inform and guide the national response. <ul style="list-style-type: none"> • Develop guidance for assisting states and locals in evaluating tools, refining guidance, and identifying gaps in contact tracing workflow • Leverage partnerships to facilitate information sharing among our state and local partners regarding digital contact tracing tools • Share the landscape of digital tools, including those for contact tracing, case management, workforce management, and proximity tracking

Conclusion

As part of the Whole-of-Government Response, CDC has developed and is continually evaluating and improving the comprehensive surveillance program to generate essential data for tracking the pandemic and guiding the overall response to COVID-19. In addition, CDC is working with federal, state, and local partners to improve testing and to advise and support communities during the phased reopening of America.

Appendix A: Surveillance for COVID-19

The goals of US surveillance are to produce timely and accurate information at national, state, local and community levels to inform decisions on public measures for implementing and adjusting disease reduction strategies, to guide clinical decisions, to educate the public and key stakeholders, and to provide data for estimating and forecasting disease burden.

Surveillance Objectives

- To identify both symptomatic and asymptomatic/presymptomatic cases and track contacts to slow transmission of COVID-19 in the United States
- To monitor spread and intensity of COVID-19 disease in the United States
- To understand disease severity and spectrum of illness
- To understand risk factors for severe disease and transmission
- To monitor for virus changes
- To estimate disease burden
- To produce data for forecasting spread and impact
- To identify when thresholds have been met to adjust community mitigation measures

Approach

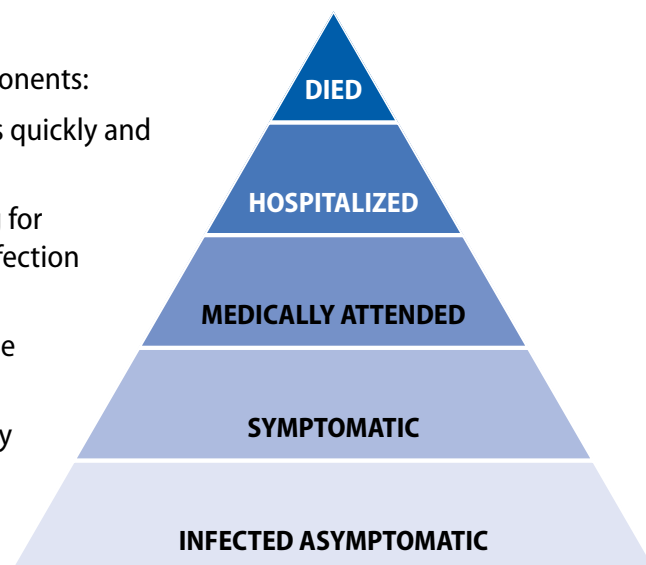
Using multiple surveillance systems and epidemiology networks, CDC in collaboration with state, local, and academic partners, monitors the progression and impact of COVID-19 spread in the United States. The combination of data from the different systems is used to generate an ongoing picture of virus spread and produce data to address the key questions for directing and refining the US response. Surveillance data are used for:

- *Situational awareness*—Timely monitoring of the spread and intensity of COVID-19 disease in the United States. Surveillance systems allow for efficient targeting of public health measures, developing timely communications, and preparing health systems for increasing numbers of ill people. Data from these systems will be updated daily or weekly to create an ongoing, accurate understanding of impacted regions, affected populations, trends over time, and viral characteristics.
- *Understanding impact and forecasting disease spread*—All surveillance systems will be employed to produce data to understand overall impact and epidemic characteristics to inform future use of public health and medical resources.
- *Characterizing COVID-19 infection across a spectrum of conditions include:*
 - » asymptomatic infections
 - » symptomatic infection
 - » medically attended outpatient and ambulatory visits
 - » hospitalizations
 - » deaths

Operational Plan

The plan is operationalized according to the following components:

- Increase laboratory testing and reporting to detect cases quickly and reliably for timely public health action
- Use robust syndromic surveillance, proactive monitoring for asymptomatic cases in settings with people at risk for infection or with known vulnerabilities
- Use laboratory reporting systems to monitor local disease trends to identify if thresholds (gates) have been met
- Corroborate trends and risk assessment with high-quality data from sentinel surveillance and systems
- Monitor disease and outbreaks in healthcare, institutional, workplace and group settings
- Use data for estimation of disease burden over time and to aid disease and transmission forecasts



Federal, State, and Local roles

The surveillance strategies rely on collaboration at federal, state, and local levels. The federal government will work with the states to establish the data platforms used by states and local jurisdictions to monitor transmission, public health, and health system capacity and provide technical assistance and coordination of information sharing and decision making across jurisdictions. These data platforms will be public facing to maximize transparency and maximize information to communities at the most granular level. Using the federal data systems, states can share data and information and communicate with residents' decisions under consideration and clear guidance on adhering to mitigation levels. In addition to implementing federal programs, states can also coordinate resource allocation within their regions and across communities and monitor indicators closely to make decisive adjustments to mitigation measures. Finally, local governments are responsible for feeding data and information into state and federal data systems and adjoining communities.

Components of the US COVID-19 surveillance plan

The surveillance program is built on a combination of existing influenza and viral respiratory diseases surveillance systems, syndromic surveillance systems, case reporting systems, proactive monitoring for asymptomatic cases in areas of demonstrated vulnerabilities, commercial laboratory reporting, ongoing research platforms employed for the COVID-19 response, and new systems. The systems are summarized in [Table 4](#) and a more fully described in [Appendix A](#).

Table 4. Surveillance Systems Used by Objective.

Surveillance data for decision-making uses multiple systems and epidemiology networks. These approaches use laboratory submitted specimens, electronically transmitted data, and other sources to generate an ongoing picture of disease spread, intensity, and severity, and produce data to address the key questions for directing and refining the US response.

Goal addressed	Outcome	Platform
Trends in disease spread and intensity	No. of cases, by location, trends, demographics, underlying diseases, outcomes	COVID-19 case-based surveillance
	No. of lab-positives; % positive, by age groups, location, over time	Public Health Laboratories (PHLs)
		National Respiratory and Enteric Virus Surveillance System (NREVSS)
		Commercial labs
	Outpatient, syndromic—%ILI, trends in ILI by region, age group, concordance and discordance between surveillance data	ILInet
National Syndromic Surveillance Program (NSSP)		
Outpatient—laboratory-confirmed, % positive, by location, by age group	Laboratory-confirmed outpatient (OP) surveillance	
	US Flu Vaccine Effectiveness (VE) network (acute respiratory illness)	
Severity/clinical spectrum	Hospitalizations rates, by age group, underlying condition	FluSurvnet—all ages
	Hospitalizations	New Vaccine Surveillance Network (NVSN)—pediatrics
Viral changes	Virus characterization, sequence changes	PHLs and CDC/DVD SPHERES
Risk factors for severe disease	Risk of severe disease given underlying illness, age	COVID-19 case-based surveillance
		US Flu VE network
		FluSurvnet—all ages
		NVSN—pediatrics
		Hospitalized Adult Influenza Vaccine Effectiveness Network (HAIVEN)
		Influenza ICU Vaccine Effectiveness Study
Disease burden	Overall number of persons affected by severity and age	All systems, plus additional special research studies
		Serologic surveys
Pandemic severity	Pandemic Influenza Severity Assessment (PISA)	Modeling based on epidemiological inputs

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Goal addressed	Outcome	Platform
Forecasting and modeling spread and impact	When will it peak, how many disease outcomes, how will it spread	Modelling work with broad coalition of modelers led by CDC, using data above
Transmissibility	Attack rates and risk factors for transmission	Field studies
		Flu Transmission Evaluation Study (FLuTES)
		Household Influenza Vaccine Effectiveness Study (HIVES)
Risk Factors for Severe disease	Risk of severe disease given underlying illness, age	Pandemic cohorts (community, households, healthcare workers, pregnant woman, long-term care facilities)
Disease Burden	Overall number of persons affected by severity and age	All systems, plus additional special research studies Serologic surveys
Pandemic Severity	PISA	Modeling based on Epi inputs
Forecasting and modeling spread and impact	When will it peak, how many disease outcomes, how will it spread	Modelling work with broad coalition of modelers led by CDC, using data above
Transmissibility	Attack rates and risk factors for transmission	Field studies
		FLuTES
		HIVE
		Pandemic cohorts (community, households, HCWs, pregnant woman, LTCFs)

Appendix B: Healthcare System Surveillance

Rationale and Objective

Measuring and reporting the impact of COVID-19 on the capacity of the US healthcare system—including both acute-care hospitals and long-term care facilities—is an essential public health function in the pandemic response and in plans for Opening Up America Again. To make critical decisions, all levels of government, including federal, regional, state, local, tribal, and territorial, and the healthcare system need detailed and timely information about the availability and shortages of key resources, including hospital beds, intensive care unit (ICU) beds, ventilators, personal protective equipment, and healthcare personnel shortages. Reporting needs to be comprehensive across all states.

Regional variations in disease burden place a premium on supporting a surveillance system that can provide standardized data that are timely, easy to interpret, and readily accessible for multiple end users at all geographic levels. Among the main objectives for a national healthcare surveillance system in the current crisis are providing timely and readily available metrics with which to monitor the pandemic's trajectory and progress toward Opening Up America Again. The key surveillance metrics available from NHSN are reported counts and a panel of additional summary statistics on hospitalized COVID-19 patients, hospital bed capacity, intensive care unit bed capacity, ventilatory capacity, supplies of personal protective equipment, and staffing shortages. These metrics, produced daily, serve as indicators that can drive decisions and actions at the national, state, county, tribal, territorial, and healthcare facility levels but needs to be expanded to be inclusive of all hospitals.

Key System

Implementation of several key surveillance metrics for monitoring the impact of the pandemic on the healthcare system are available through the existing Centers for Disease Control and Prevention's (CDC) National Healthcare Safety Network (NHSN). NHSN's role as a shared platform for healthcare-associated condition surveillance provides a powerful and unique foundation for COVID-19 surveillance.

CDC is already efficiently leveraging NHSN—which was launched in 2005 and now is the nation's most widely used healthcare-associated condition tracking system—to support the nation's COVID-19 response. NHSN provides a well-established technical infrastructure, readily extensible platform, and a strong set of partnerships with healthcare facilities, state and local health departments, the Centers for Medicare and Medicaid Services (CMS), and electronic health record system (EHRs) companies, and other healthcare information technology suppliers. This system will need to continue improving to ensure 100% reporting of all cases and outcomes.

The US healthcare system relies on NHSN to track healthcare-associated conditions, improve patient safety, fulfill mandatory federal and state reporting requirements, and ultimately eliminate healthcare-associated conditions. NHSN serves as the operating system for hospital-associated infection reporting through legislation established by 36 states, Washington, D.C., and Philadelphia, PA. NHSN will need to be expanded to all states and all hospitals to provide a comprehensive analysis of COVID-19. CMS uses NHSN reporting to enable healthcare facilities to fulfill CMS requirements for submitting healthcare outcome data that are used in CMS's public reporting and incentive payment programs. Currently, over 25,000 healthcare facilities, including almost every hospital in the nation, more than 7,500 dialysis facilities, and over 3,000 nursing homes participate in NHSN. To be effective, this system must be nationwide and be comprehensive in reporting. Personnel in these facilities have extensive experience submitting data to NHSN, adhering to the system's surveillance protocols, and using their own data and national benchmarks provided by NHSN for local prevention and control purposes. NHSN's collaborations with EHR companies, infection surveillance system providers, and the Health Level Seven (HL7) data standards organizations enable healthcare facilities to submit data electronically to NHSN by using HL7 data exchange specifications.

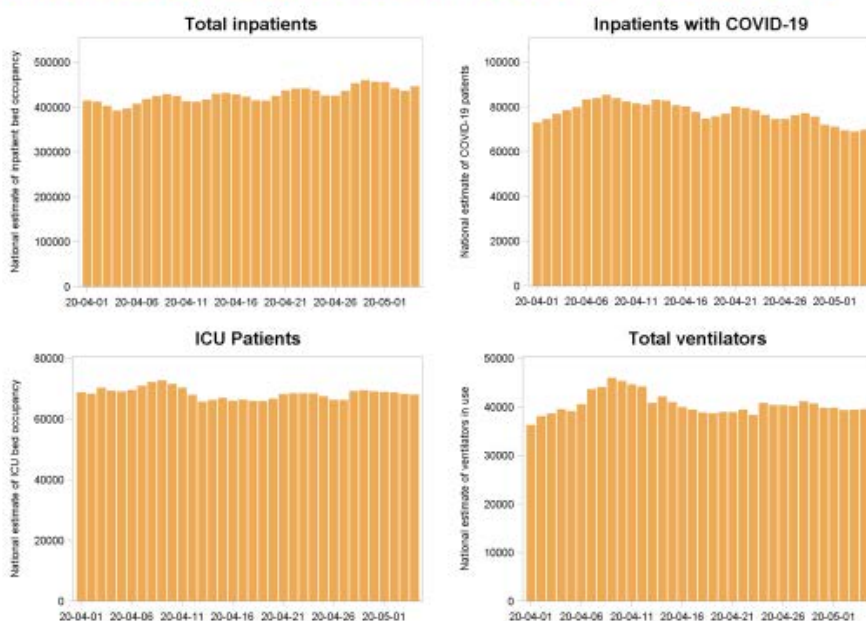
On March 27, 2020, CDC launched the NHSN COVID-19 Patient Impact and Hospital Capacity Module (<https://www.cdc.gov/nhsn/covid19/report-patient-impact.html>), and as of April 24, 2020, over 56% of acute care hospitals and over 53% of critical access hospitals have reported COVID-19 surveillance metrics. This level of participation needs to continue to improve until reporting is at the 95–100% range. Additionally, as of April 28, 2020, all ~15,000 nursing homes will be required to report COVID-19 cases and deaths, as well as staffing and personal protective equipment supply metrics, to NHSN (<https://www.cdc.gov/nhsn/ltc/covid19/index.html>) per a new [CMS Interim Final Rule](#). The adaptation of NHSN to the immediate needs of the emergency response is a clear example of how CDC is retooling, modernizing, and updating its existing national surveillance capabilities to confront the pandemic.

Data as of May 5, 2020 at 5:30 AM



National Estimates by Day, NHSN (Apr 1st-May 2nd)

- National estimates based on NHSN for April
- Estimates use weighting for non-response and multiple imputation for missing data
- Total inpatients increased, while the share of total inpatients with COVID-19 continues to trend down
- Total ventilator use is steady



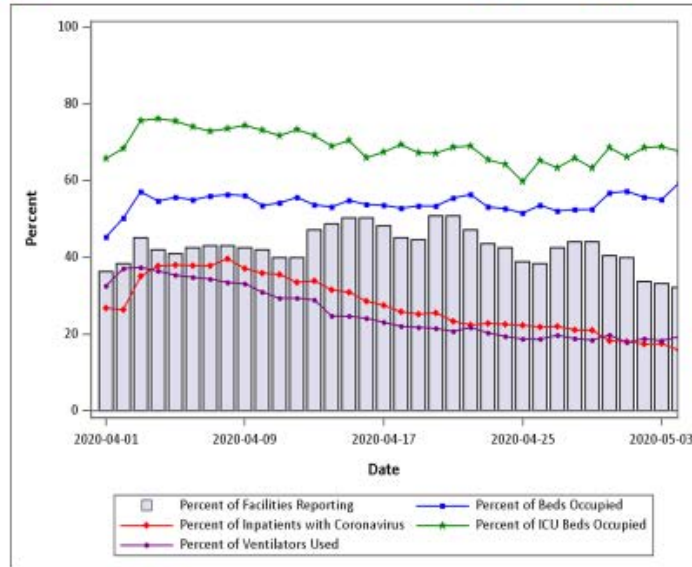
During the COVID-19 pandemic, data on key metrics are submitted daily to NHSN, where the data are analyzed daily and presented out to the key components at all levels of the public health response. NHSN COVID-19 data are an integrally important asset in the US government response. The NHSN data are provisioned for use in secure access systems maintained by the White House Coronavirus Task Force, the National Response Coordination Center (NRCC), CDC, FEMA, ASPR, and CMS. In addition, all state health departments, several local health departments, and many HHS ASPR and FEMA Regional Offices receive data from NHSN and rely upon it for regional and state emergency response decisions.

NHSN uses COVID-19 data to develop and report national and state-wide estimates that serve as indicators of stress on the healthcare system. Figures below show examples of national trend-data as well as an example of a state trend.

Data as of May 5, 2020 at 5:30 AM



NHSN Daily Crude Percent Occupancy, Louisiana



Appendix C: Guidance on Infection Control and Contact Tracing

General CDC Guidance Hub <https://www.cdc.gov/coronavirus/2019-ncov/communication/guidance-list.html?Sort=Date%3A%3Adesc>

Infection Prevention Control

- **What CDC is doing for infection control**
 - » <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control.html>
- **Standard CDC guidance on infection control in healthcare settings**
 - » Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 (COVID-19) in Healthcare Settings: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html>
- **Best practices currently in use by states and private sector**
- **Link to virtual training**
 - » Training for Healthcare Professionals (including clinical care and infection control, PPE, nonpharmaceutical interventions, emergency preparedness and response, and additional topics): <https://www.cdc.gov/coronavirus/2019-ncov/hcp/training.html>
 - » Preparing Nursing Homes and Assisted Living Facilities for COVID-19 (CDC webinar): <https://www.youtube.com/watch?v=p1FiVfx5O78>
- **Focus areas/congregate settings:**
 - » Long-term care facilities
 - › Preparing for COVID-19: Long-term Care Facilities, Nursing Homes: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html>
 - » Assisted living facilities
 - › <https://www.cdc.gov/coronavirus/2019-ncov/hcp/assisted-living.html>
 - » Dialysis facilities
 - › <https://www.cdc.gov/coronavirus/2019-ncov/hcp/dialysis.html>
 - » Dental facilities
 - › <https://www.cdc.gov/coronavirus/2019-ncov/hcp/dental-settings.html>
 - » Ambulatory care facilities
 - › <https://www.cdc.gov/coronavirus/2019-ncov/hcp/ambulatory-care-settings.html>
 - » Pharmacies
 - › <https://www.cdc.gov/coronavirus/2019-ncov/healthcare-resources/pharmacies.html>
 - » Emergency Medical Services (EMS)
 - › <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-for-ems.html>
 - » Food processing facilities
 - › Meat and Poultry Processing Workers and Employers: Interim Guidance from CDC and the Occupational Safety and Health Administration (OSHA)
 - › <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/meat-poultry-processing-workers-employers.html>

- » Correctional facilities
 - › Resources for Correctional and Detention Facilities: <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>.
- » Businesses
 - › Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19): <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>
 - › Prepare your Small Business and Employees for the Effects of COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-small-business.html>
- **Other IPC tools/Resources:**
 - » IPC FAQs: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-faq.html>
 - » Using PPE, including donning & doffing resources: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/using-ppe.html>
 - » Healthcare preparedness tools: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/preparedness-checklists.html>
 - » Strategies to mitigate staffing shortages: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/mitigating-staff-shortages.html>
 - » Key strategies to prepare LTCFs: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care-strategies.html>
 - › LTCF Letter to residents, family members and visitors: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/healthcare-facilities/Long-Term-Care-letter.pdf>
 - » Cleaning and disinfecting school and community facilities: <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>
- **Cleaning and disinfecting non-emergency transport vehicles:** <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/disinfecting-transport-vehicles.html>
- **External partners tools/resources**
 - » **Centers for Medicare & Medicaid—COVID partner toolkit—**<https://www.cms.gov/outreach-education/partner-resources/coronavirus-covid-19-partner-toolkit>
 - » **American College of Emergency Physicians—Field guide—**<https://www.acep.org/corona/covid-19-field-guide/cover-page/>
 - » **American Academy of Pediatrics—Guidance for Telehealth Payer Policy in Response to Covid-19** <https://services.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/aap-guidance-telehealth-payer-policy-in-response-to-covid-19/>
 - » **Society for Critical Care Medicine—COVID-19 Resource Center—Includes literature and training** <https://www.sccm.org/COVID19RapidResources/Home>
 - » **Society for Healthcare Epidemiology of America**
 - › COVID-19 Resource Page: <http://shea-online.org/index.php/practice-resources/priority-topics/emerging-pathogens/novel-coronavirus-2019-2019-ncov-resources>
 - › Hospital epidemiology training—<https://learningce.shea-online.org/content/sheacdc-outbreak-response-training-program-ortp#group-tabs-node-course-default1/index.php>
 - › Rapid Response Program podcast and webinar series <https://learningce.shea-online.org/content/novel-coronavirus-covid-19>

- » **Association for Professionals in Infection Control and Epidemiology**
 - › COVID-19 Page: <https://apic.org/covid19/>
 - › LTC text chapters: <https://apic.org/resources/apic-text/apic-text-chapter-collection-long-term-care/>
- » **American Medical Association, Resource Center for Physicians**—<https://www.ama-assn.org/delivering-care/public-health/covid-19-2019-novel-coronavirus-resource-center-physicians>
- » **American Nurses Association Resource Center**—https://www.nursingworld.org/practice-policy/work-environment/health-safety/disaster-preparedness/coronavirus/?utm_campaign=261605+COVID-19+MKT&utm_source=hero&utm_medium=digitalad&utm_content=covidresourcepage
- » **American Dental Association**—COVID-19 Center—https://success.ada.org/en/practice-management/patients/infectious-diseases-2019-novel-coronavirus?utm_source=cpsorg&utm_medium=covid-nav&utm_content=nav-covid-19-center&utm_campaign=covid-19
- » **Argentum (senior living)**—Toolkit—<https://www.argentum.org/coronavirustoolkit/>
- **Critical infrastructure workers**
 - » Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>
 - » Transportation and Delivery Workers:
 - › <https://www.cdc.gov/coronavirus/2019-ncov/community/transportation/index.html>
 - » Airport, Airline Workers
 - › What Airline Customer Service Representatives and Gate Agents Need to Know about COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/airport-customer-factsheet.html>
 - › What Airport Baggage and Cargo Handlers Need to Know about COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/airport-baggage-cargo-handlers.html>
 - › What Airport Custodial Staff Need to Know about COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/airport-custodial-staff.html>
 - › What Airport Passenger Assistance Workers Need to Know about COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/airport-passenger-assistance-workers.html>
 - › What Aircraft Maintenance Workers Need to Know about COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/aircraft-maintenance-workers.html>
 - » Other transit workers:
 - › What Bus Transit Operators Need to Know About COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/bus-transit-operator.html>
 - › What Rail Transit Operators Need to Know About COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/rail-transit-operator.html>
 - › What Transit Maintenance Workers Need to Know About COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/transit-maintenance-worker.html>
 - › What Transit Station Workers Need to Know About COVID-19: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/transit-station-workers.html>
 - » Occupational Safety and Health Administration resources
 - › Control and Prevention: <https://www.osha.gov/SLTC/covid-19/controlprevention.html>
 - » Guidance on Preparing Workplaces for COVID-19: <https://www.osha.gov/Publications/OSHA3990.pdf>

- **Return to work**
 - » Criteria for Return to Work for Healthcare Personnel with Confirmed or Suspected COVID-19 (Interim Guidance): <https://www.cdc.gov/coronavirus/2019-ncov/hcp/return-to-work.html>
- **PPE reuse guidance**
 - » Strategies to Optimize the Supply of PPE and Equipment (including eye protection, isolation gowns, facemasks, N95 respirators, elastomeric respirators, and ventilators): <https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/index.html>
 - » Decontamination and Reuse of Filtering Facepiece Respirators: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/decontamination-reuse-respirators.html>
 - » Personal Protective Equipment (PPE) Burn Rate Calculator: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/burn-calculator.html>
- **Sustainable Isolation**
 - » Interim Infection Control Guidance for Public Health Personnel Evaluating Persons Under Investigation (PUIs) and Asymptomatic Close Contacts of Confirmed Cases at Their Home or Non-Home Residential Settings at <https://www.cdc.gov/coronavirus/2019-ncov/php/guidance-evaluating-pui.html>
 - » Public Health Guidance for Potential COVID-19 Exposure Associated with International Travel or Cruise Travel at <https://www.cdc.gov/coronavirus/2019-ncov/php/risk-assessment.html>
 - » Public Health Recommendations for Community-Related Exposure at <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>
 - » Links to programs to support people in isolation: <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/index.html>
 - » Links to housing support for people without safe places for isolation: <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>
 - » Links to federal programs- unemployment etc.
 - » www.coronavirus.gov
 - » <https://www.coronavirus.gov/smallbusiness/>
 - » <https://www.irs.gov/coronavirus-tax-relief-and-economic-impact-payments>
 - » <https://www.usa.gov/unemployment>
- **Call center for clinical inquiries 24/7 (770-488-7100)**
 - » <https://www.cdc.gov/cdc-info/ask-cdc.html>
- **Others**
 - » NIH COVID-19 Treatment Guidelines: <https://www.covid19treatmentguidelines.nih.gov/overview/>
 - » Therapeutic options: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/therapeutic-options.html>
 - » Infectious Diseases Society of America Guidelines: <https://www.idsociety.org/practice-guideline/covid-19-guideline-treatment-and-management/>
 - » Information for Pediatric Healthcare Providers: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/pediatric-hcp.html>
 - » Considerations for Inpatient Obstetric Healthcare Settings: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/inpatient-obstetric-healthcare-guidance.html>
 - » Interim Guidance for Implementing Home Care of People Not Requiring Hospitalization for Coronavirus Disease 2019 (COVID-19): <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-home-care.html>

Contact Tracing

- **Contact Tracing Overview:** <https://www.cdc.gov/coronavirus/2019-ncov/php/open-america/contact-tracing.html>
- **Principles of Contact Tracing: Part of a Multipronged Approach to Fight the COVID-19 Pandemic:** <https://www.cdc.gov/coronavirus/2019-ncov/php/principles-contact-tracing.html> (also see PDF booklet: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/php/principles-contact-tracing-booklet.pdf>)
- **Sample Contact Tracing Training Plan:** <https://www.cdc.gov/coronavirus/2019-ncov/downloads/php/contact-tracing-training-plan.pdf>
- **Digital Contact Tracing Tools for COVID-19:** <https://www.cdc.gov/coronavirus/2019-ncov/downloads/digital-contact-tracing.pdf>
- **Preliminary Criteria for the Evaluation of Digital Contact Tracing Tools for COVID-19:** <https://www.cdc.gov/coronavirus/2019-ncov/downloads/php/prelim-eval-criteria-digital-contact-tracing.pdf>
- **External partners tools/resources**
 - » **Association of State and Territorial Health Officials:** Making Contact: A Training for COVID-19 Contact Tracers Introductory Online Course: <https://learn.astho.org/p/ContactTracer>
 - » **Johns Hopkins Bloomberg School of Public Health Center for Health Security:** Review of Mobile Application Technology to Enhance Contact Tracing Capacity for COVID-19 <https://www.centerforhealthsecurity.org/resources/COVID-19/COVID-19-fact-sheets/200408-contact-tracing-factsheet.pdf>
 - » **National Association of County & City Health Officials:** Building COVID-19 Contact Tracing Capacity in Health Departments to Support Reopening American Society Safely: <https://www.naccho.org/uploads/full-width-images/Contact-Tracing-Statement-4-16-2020.pdf>

Appendix D: Guidance on Test Usage (Asymptomatic Populations and Serology)

Information on testing prioritization can be found here: <https://www.cdc.gov/coronavirus/2019-nCoV/hcp/clinical-criteria.html>

Testing asymptomatic populations

Testing of asymptomatic individuals is a growing consideration as the role of asymptomatic and subclinical infections in transmission becomes more apparent. Emerging evidence suggests that asymptomatic infections may play an important role in the epidemiology of the disease. Nevertheless, it is important to define the circumstances where testing asymptomatic persons is likely to be helpful in controlling the COVID-19 pandemic. Effective testing programs will focus on (1) persons with an increased likelihood of infection and (2) settings with particularly vulnerable populations, including but not limited to the following:

- Contacts of known (symptomatic or asymptomatic) cases. This may include testing of contacts going back one to two weeks before the onset of symptoms, particularly contacts who work with vulnerable populations.
- Residents and staff of long-term care facilities. Periodic testing and sentinel surveillance in these settings may serve to detect outbreaks early in this setting, where devastating outbreaks are known to occur and to be associated with high rates of asymptomatic infection. CDC is updating guidance for surveillance in these settings <https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html>.
- Other healthcare facility workers and first responders. Healthcare facilities may consider testing staff periodically, starting with staff in high traffic, high risk areas such as emergency departments.

Serologic testing

Serologic testing currently has little role in the diagnosis of acute disease but is already playing an important role in the response to the pandemic. The uses of serologic testing fall into two broad categories: serologic surveillance of populations and serologic testing of individuals for proof-of-prior infection.

Serologic surveillance

<https://www.cdc.gov/coronavirus/2019-ncov/covid-data/serology-surveillance/index.html>

Serologic surveillance has the potential to provide a more complete picture of how much infection has occurred already in the United States. Case-based surveillance for anything with a wide spectrum of severity will always miss many cases, and it is increasingly clear that a substantial proportion of SARS-CoV-2 infections are asymptomatic. To the degree that SARS-CoV-2 infection results in measurable antibodies, serologic testing will pick up any infection.

The purposes of serologic surveillance are the following:

- To provide a more complete estimate of the incidence of infection.
- To determine the proportion of the population that was previously infected.
- To better understand transmission.
- To evaluate the impact of community mitigation measures.

CDC has published its COVID-19 Serology Surveillance Strategy at <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/serology-surveillance/index.html>

External serosurveys

- CDC will support state, tribal, local, and territorial health authorities to plan and implement serosurveys in their populations with known prior exposure. Serial antibody tests, initial and confirmatory, will be used in all field studies to ensure enhanced positive predictive values.

Serologic testing of individuals for proof-of-prior infection (immunity)

<https://www.cdc.gov/coronavirus/2019-ncov/testing/serology-overview.html>

While the lay public often mistakenly refers to this as “serologic surveillance”, it is fundamentally different and is at its core a clinical activity designed to guide decisions about specific individuals by determining whether or not they are already immune to the infection. Serologic testing may play a role in a back-to-work strategy provided it can be shown that serologic testing can reliably infer immunity. This immunity may not need to be absolute: protection against severe infection may be enough even if immunity against reinfection isn’t reliable or durable.

While there appears to be considerable public optimism that serologic testing will allow return to work without the need for PPE or other precautions, there are many unknowns at this early date that limit implementation of serology for this purpose:

- The correlates of immunity to SARS-CoV-2 are not known and there are few or no data to confirm that antibodies detected in serologic tests correlate with such immunity. Studies in the US military during the 1970s showed that reinfection with endemic coronaviruses occurred in the presence of low levels of antibodies. Nonetheless, most experts feel immunity from infection is likely at least in the short term.
- The performance characteristics of serologic assays are not yet known, although there is much work ongoing to define those characteristics. Typically, a well-performing single step serologic assay may be expected to have a specificity of 95% (sensitivity is a secondary concern here, although also important), which is likely not enough for this purpose, given the potential consequences of COVID-19. Combining two different tests will be critical for improving performance and should be part of any strategy to utilize serologic testing for “immunity” determinations.
- The current seroprevalence is likely to be highly variable. In New York City, for example, with one of the highest incidence rates in the country, a recent survey among customers of retail outlets found a seroprevalence of 22%. Preliminary data at CDC from remainder clinical specimens in the New York City area found about half that rate; in Western Washington, the preliminary rate was closer to 5%. This has two implications:
- At best, the use of serologic testing for a back-to-work strategy would likely benefit fewer than 10% of the population currently.
- In the setting of a relatively low seroprevalence, any serologic test would have to have excellent performance characteristics. If a test with 95% specificity were used in a population with a true seroprevalence of 5%, almost half all “positives” would be false-positive and not immune and therefore must include 2 serial tests to confirm all positive results.
- There is a need for high-level consensus on the role of serologic testing in a back-to-work policy. The stakes are high for such a policy, so that in addition to the scientific data, there is also a need to have political consensus on this issue. Consensus is also needed on a plan for how to provide documentation of that immunity, be it through federal- or state-based immunity registries, digital proof-of-immunity, or physical documentation such as “immunity certificates”.

Despite these limitations, continued interest in the use of serologic testing in a back-to-work policy is likely. In the meantime, CDC is doing the following:

- Working with NIH/NCI, FDA, and ASPR on evaluating the first panel of 25 serologic assays. More testing will quickly follow these tests.
- Designing studies to track healthcare workers long term to monitor for evidence of reinfection.
- Tracking seroprevalence nationally, as described above.

Appendix E: Assessing Surveillance and Hospital Gating Indicators

This document is for use by public health and government officials to aid their decisions when to reopen communities. It describes four indicators specific to disease occurrence and hospital readiness, which form part of the “gating criteria” described in the Opening Up America Again guidelines.

Background and Summary

On April 16, 2020, the White House released the Opening Up America Again guideline (<https://www.whitehouse.gov/openingamerica/>), which outlines a three-phased approach to relaxing community mitigation measures currently in place to limit transmission of the SARS-CoV-2 virus. The purpose of the guideline is to outline a path to re-opening the economy while mitigating the risk of resurgence in COVID-19 illnesses and protecting vulnerable populations. The phased approach can be implemented on a statewide basis or community-by-community at governors' discretion. The guideline proposes the use of three categories of “gating” indicators (based on symptoms, based on cases, and for hospitals) to assess when to move through three community mitigation phases (Phase One, Phase Two, and Phase Three). Two gating indicators are in each category and include:

- *Indicators based on symptoms:*
 1. Downward trajectory of influenza-like illnesses (ILI syndrome) reported within a 14-day period

AND

 2. Downward trajectory of COVID-like syndromic cases (i.e., COVID-like illness or CLI syndrome) reported within a 14-day period
- *Indicators based on cases:*
 3. Downward trajectory of documented COVID-19 cases within a 14-day period

OR

 4. Downward trajectory of positive tests as a percent of total tests within a 14-day period (concurrent with a flat or increasing volume of tests)
- *Indicators for hospital readiness:*
 5. Capacity to treat all patients without utilization of crisis care standards

AND

 6. Robust testing program in place for at-risk healthcare workers, including antibody testing

The [Table](#) at the end of the section summarizes all six indicators and the measures to support planning for transitioning through community mitigation phases. Indicators 1 through 4 rely on public health surveillance data to determine the trajectory of COVID-19 transmission within a jurisdiction. This document describes the measurement and interpretation of these four disease occurrence gating indicators. This document also highlights other disease occurrence measures that may be important for state or local jurisdictions to use when adjusting the intensity of community mitigation measures. Indicators 5 and 6 utilize hospital readiness measures to inform decision-making processes about readiness to move through mitigation phases. In addition to these indicators, CDC and CMS work collaboratively to provide guidance for reopening America. Further information on reopening of clinical facilities is available at <https://www.cms.gov/files/document/covid-flexibility-reopen-essential-non-covid-services.pdf>.

Disease Occurrence Gating Indicators

The following subsections provide further detail for each of the disease occurrence gating indicators outlined in the Opening Up America Again guideline, including a description and rationale, potential data sources, how to assess decreases (and moving through the three mitigation phases), how to assess increases (i.e., “rebound”), and interpreting each measure’s strengths and limitations. Numerous data sources and surveillance systems exist at the local, state, and federal levels that can be used to measure and evaluate these indicators. Local and state officials should use the best data available, regardless of source, when assessing the trajectory of COVID-19 illnesses. Variability will exist from jurisdiction to jurisdiction in the quality, completeness, and timeliness of these data sources, and sufficient data may not be available for all jurisdictions to evaluate all four of the disease occurrence gating criteria. In situations where all the gating indicators cannot be assessed, additional data sources available locally may assist in determining the trajectory of COVID-19 activity in the jurisdiction.

Downward trajectory of ILI reported within a 14-day period

- **Description/Rationale:** ILI is a syndromic surveillance categorization applied to emergency department (ED) and outpatient visit symptom and diagnostic code data. This measure is intended to identify areas that are experiencing sustained decreases in outpatient clinic or ED visits in people with ILI. ILI is defined as fever with cough and/or a sore throat. COVID-19 may present with symptoms similar to ILI, so the U.S. Outpatient Influenza-like Illness Surveillance Network (ILINet) and the National Syndromic Surveillance Program (NSSP) can be used to track COVID-19 trends, especially when paired with SARS-CoV-2 and other respiratory pathogen testing data.
- **Data Sources:** Outpatient care facilities and hospital EDs selected by state and/or local health departments for participation in the Outpatient Influenza-Like Illness Network (ILINet) report to CDC either directly or through their health department via a web-based reporting system. In addition, electronic data, including data from CDC’s NSSP can be uploaded to ILINet. These data are stored in a shared database for use by CDC and state/local public health officials. States and jurisdictions may collect syndromic surveillance data on ILI locally that is not submitted to ILINet but could be used in interpreting the ILI gating indicator. ILINet data is available publicly at the state-level at <https://www.cdc.gov/flu/weekly/fluviewinteractive.htm>.
- **Assessing Decreases:**
 - » To pass the criteria of a 14-day downward trajectory in ILI syndromic cases, a locality must either have experienced 14 days of decreasing cases or 14 days of minimal ILI activity. To determine a downward trajectory, the visits data are assessed using a smoothed curve to account for periodic fluctuations in ILI. To calculate this curve, CDC applies a cubic spline, or “smoothed curve”, a statistical method that smooths out day-to-day variability in the data. The slope of this curve is used to assess declining incidence. Localities must have 14 days of consecutive downward slope, allowing for 2–3-day grace periods of increasing ILI to allow for irregularities. It is recommended that localities assess both the total counts of ILI visits and ILI visits as a percentage of total ED visits. Statistical coding used by CDC (using the R package) can be shared with state and local jurisdictions upon request.
 - » Normal variation in ILI ED and outpatient visits can affect the assessment of daily trends, especially in smaller geographies with low daily visits and by variations in healthcare seeking behavior associated with the day of the week, holidays, and current social distancing measures.
 - » ILI activity levels are traditionally calculated for jurisdictions based on the percent of outpatient visits due to ILI in a jurisdiction compared with the average percent of ILI visits that occur during weeks with little or no influenza virus circulation in that jurisdiction (i.e., non-influenza weeks), adjusted for the sites contributing data for the week. ILI activity values within two standard deviations of the non-influenza week mean are classified as a minimal level of ILI.

- » Given potential changes in healthcare seeking behaviors resulting from community mitigation measures that can significantly affect the denominator of ILI proportions, jurisdictions should analyze within-jurisdiction ILI trends using both the number (count) and proportion of visits to account for this potential bias.
- **Mitigation Phase Transitions:** All the gating indicators as well as other information available locally should be used by jurisdictions when choosing to move through the community mitigation phases. Below is a framework for specifically evaluating whether the ILI gating indicator is met with respect to these phase transitions.
 - » Transition into Phase One: achieve 14 consecutive days (or two weeks) of downward trajectory or maintaining minimal ILI activity level.
 - » Transition into Phase Two: achieve an additional 14 consecutive days (or two weeks) of improvement (downward trajectory or minimal ILI activity level) without experiencing a rebound (defined below).
 - » Transition into Phase Three: achieve another 14 consecutive days (or two weeks) of improvement (downward trajectory or minimal ILI activity level) without experiencing a rebound (defined below).
- **Identifying Rebound:**
 - » An increase in ILI visits or an increase in ILI activity levels over 5 consecutive days may indicate a potential rebound in COVID-19 activity.
- **Interpretation/Limitations:**
 - » ILI is a nonspecific syndromic measure and can be influenced by the circulation of numerous respiratory pathogens and should be interpreted in the context of virologic and other surveillance data. For example, ILI is expected to fluctuate in the fall and winter due to circulation of seasonal influenza.
 - » The purpose of ILI surveillance is to detect changes in outpatient visits for febrile respiratory illness. The percent of patient visits for ILI can be affected by changes in health care seeking behavior, so jurisdictions should look at numbers (counts) of ILI visits in addition to proportions.
 - » ILI frequency and activity levels within a jurisdiction are influenced by the mix of primary care practice types submitting data. These changes make direct comparisons of ILI from one jurisdiction to another invalid. Calculation of ILI activity levels allows for more appropriate comparison of ILI between jurisdictions.

Downward trajectory of COVID-like illness (CLI) reported within a 14-day period

- **Description/Rationale:** CLI is a syndromic surveillance categorization applied to ED visit symptom and diagnostic code data. This measure is intended to identify areas that are experiencing sustained decreases in ED visits consistent with the presenting symptoms of COVID-19 illness (fever and either cough, shortness of breath, or difficulty breathing) or with a coronavirus diagnostic code that fits CDC interim coding guidelines, and without a diagnostic code for influenza (<https://www.cdc.gov/nchs/data/icd/ICD-10-CM-Official-Coding-Guidance-Interim-Advice-coronavirus-feb-20-2020.pdf>). CLI can be used to track COVID-19 trends, especially when paired with SARS-CoV-2 and other respiratory pathogen testing data.
- **Data Sources:** Hospitals report ED visits in near real-time to state and/or local health departments and to NSSP. These data are stored within the BioSense Platform where they can be analyzed and exchanged by public health officials. States and jurisdictions may collect syndromic surveillance data on CLI locally that is not submitted to NSSP but could be useful for interpreting the CLI gating indicator.
- **Assessing Decreases:**
 - » To pass the criteria of a 14-day downward trajectory in CLI syndromic cases, a locality must either have experienced 14 days of decreasing cases or exhibit near pre-pandemic levels of CLI. To determine a downward trajectory, the visits data are assessed using a smoothed curve to account for periodic

fluctuations in CLI. To calculate this curve, CDC applies the cubic spline as with ILI and described above. The slope of this curve is used to assess declining incidence. Localities must have 14 days of consecutive downward slope, allowing for 2–3-day grace periods of increasing CLI to allow for irregularities. It is recommended that localities assess both the total counts of CLI visits and CLI visits as a percentage of total ED visits. Statistical coding used by CDC (using the R package) can be shared with state and local jurisdictions upon request.

- » Normal variation in CLI ED visits affects the assessment of daily trends, especially in smaller geographies with low daily visits and by variations in healthcare seeking behavior associated with the day of the week, holidays, and current social distancing measures.
- **Mitigation Phase Transitions:** All the gating indicators as well as other information available locally should be used by jurisdictions when choosing to move through the community mitigation phases. Below is a framework for specifically evaluating whether the CLI gating indicator is met with respect to these phase transitions.
 - » Transition into Phase One: achieve 14 consecutive days of improvement (downward trajectory or near pre-pandemic CLI ED visits).
 - » Transition into Phase Two: achieve an additional 14 consecutive days of improvement (downward trajectory or near pre-pandemic CLI ED visits) without experiencing a rebound (defined below).
 - » Transition into Phase Three: achieve another 14 consecutive days of improvement (downward trajectory or near pre-pandemic CLI ED visits) without experiencing a rebound (defined below).
- **Identifying Rebound:** Two primary methods can be used to help assess for a rebound in CLI ED visits.
 - » Within NSSP, daily statistical anomaly detection methods are automatically applied to time series trends, and anomalous increases are flagged for further epidemiologic investigation. Multiple consecutive days of anomalies may be an indicator of increases in COVID-19 activity and could be used to focus additional testing of patients.
 - » Regression methods (e.g., binomial regression) can be used to classify time series trends in the last 15 days to detect 5-day periods of significant increase in patients being seen with CLI and can also be used to focus additional investigations and/or confirmatory testing.
- **Interpretation/Limitations:**
 - » The purpose of syndromic surveillance is to find timely, more automated, indicators of a change in patterns of illness or health seeking behaviors in a community than is possible with case reporting. Syndromic data can initiate further confirmatory investigation. CLI is a non-specific syndromic measure and could be influenced by the circulation of other respiratory pathogens.
 - » The timeliest element of ED records is the patient chief complaint text describing their symptoms. The CLI syndrome is based in part on the patient's chief complaint at presentation to the ED, which may or may not actually be COVID-19, but also includes visits that were assigned a COVID-19 diagnosis code.
 - » The data quality and completeness of chief complaint text and diagnostic codes can vary by reporting hospital and can affect the assessment of trends over time.
 - » In general, syndromic categorizations emphasize timeliness and sensitivity over specificity. As such, the CLI gating indicator may exhibit changes earlier than other indicators but may also include visits for other illnesses that have similar symptoms as COVID-19 (e.g., infections with other respiratory viruses). Interpretation of CLI data should always be considered in conjunction with other data and the local context. Data that track the presence of other respiratory illnesses (e.g., respiratory syncytial virus and influenza) circulating within the community may help in assessing whether CLI is due to the virus that causes COVID-19 or other viruses.

Downward trajectory of documented (confirmed and probable) cases within a 14-day period

- **Description/Rationale:** On April 5, 2020, the Council of State and Territorial Epidemiologists (CSTE) issued an interim COVID-19 position statement making COVID-19 a nationally notifiable disease and establishing confirmed and probable case definitions (www.cste.org/resource/resmgr/2020ps/interim-20-id-01_covid-19.pdf). The case report gating indicator is intended to identify communities experiencing sustained decreases in the number of new cases occurring each day, an indication of decreases in disease transmission.
- **Data Sources:** Case report information for confirmed and probable cases collected by state and local jurisdictions and submitted to CDC; publicly available aggregated case count data (e.g., USAFacts: <https://usafacts.org/visualizations/coronavirus-covid-19-spread-map/>); US Census population estimates (used as denominator for incidence calculations)
- **Assessing criteria for reduction in number of cases:** To pass this criterion, a locality must either 1) have experienced 14 days of decreasing cases or 2) be in a low-incidence plateau. A locality that has a new outbreak or rebound cannot advance to the next phase unless they see another 14 days of decline.
- **Defining 14 days of decreasing cases:** To assess a downward trajectory, CDC uses a 3-day rolling average and applies a spline curve (described above). A period of 14 days of declining cases occurs when fewer cases are reported at the end of the 14 days compared with the number at the beginning of the period, using the 3-day rolling average fitted with the spline curve to define the number of cases. In addition, a “grace period” of 5 days may be applied during a downward trajectory, during which cases may increase for no more than 5 consecutive days. (If 5 days of consecutive increase occur, then the jurisdiction has met the criteria for rebound and is no longer in a downward trajectory.) Statistical coding used by CDC (using the R package) can be shared with state and local jurisdictions upon request.
- **Defining a low incidence plateau**
 - » A low-incidence plateau is defined as a very low number of new cases reported (below 10 cases per 100,000 population over 2 weeks) with only minimal change in daily cases.
 - » To qualify for this category, a locality must previously have seen elevated case counts.
- **Mitigation Phase Transitions:** All the gating indicators as well as other information available locally should be used by jurisdictions when choosing to move through the community mitigation phases. Below is a framework for specifically evaluating whether the case report gating indicator is met with respect to these phase transitions. Note that the Opening Up America Again guideline specifies that either the case report gating indicator or the percent positive gating indicator should be met.
 - » Transition into Phase One: achieve 14 consecutive days of improvement (downward trajectory or near-zero incidence).
 - » Transition into Phase Two: achieve an additional 14 consecutive days of improvement (downward trajectory or near-zero incidence) without experiencing a rebound (defined below).
 - » Transition into Phase Three: achieve another 14 consecutive days of improvement (downward trajectory or near-zero incidence) without experiencing a rebound (defined below).
- **Defining rebound**
 - » A rebound occurs when the smoothed, 3-day average of case counts exhibits an increase over a 5 consecutive day period, following a downward trajectory of 14 or more days, including any grace period applied.

- **Interpretation/Limitations:**

- » Case report data are a lagging indicator for assessing SARS-CoV-2 transmission in the community, as new cases are not identified until after the incubation period occurs, the ill person seeks testing or healthcare for their illness, and the information is reported to health officials.
- » The choice of the dates used (e.g., onset date, report date) is critical in the interpretation of observed trends. If available, onset date is preferred because it improves timeliness of trend interpretation. However, because date of report is more likely to be available than date of illness onset, it is more frequently the date used to calculate trends. Whatever date is used, the assessment must account for the fact that very recent cases will not have been reported. Excluding recent onset dates or report dates (e.g., in the last 3 days or last week if onset dates are used) from assessment of trends should be considered to ensure that incomplete reporting of recent cases does not give the false appearance of downward trajectory.
- » CDC analyses are typically based on the date of case report and not diagnosis or onset date because it is the most uniformly available date across jurisdictions. Preliminary analyses of national data show that there is typically an 8- to 10-day lag between the date of symptom onset and the date the case is reported to CDC, but this varies by jurisdiction.
- » A sustained downward trajectory demonstrates improvement in daily case incidence but does not necessarily equate to a low disease burden. Communities should consider local resource capacity (e.g., availability of public health staff to conduct contact tracing) when determining appropriate incidence thresholds for making phase transition decisions.

Downward trajectory of positive tests as a percent of total tests within a 14-day period with stable or increasing test volume

- **Description/Rationale:** Laboratory test percent positive can be used in combination with, or as an alternative to, observing a decline in new case reports. In circumstances where testing is adequate and testing practices are largely stable, percent positive may be a reliable indicator of COVID-19 activity.
- **Data Sources:** Positive and negative SARS-CoV-2 test results reported by laboratories to state health departments. Data from the Census Bureau's Population Estimates Program can be used to estimate state and county population denominators for per-capita test rates.
- **Assessing Decreases:**
 - » Percent positive is calculated as the number of positive tests divided by the total test results, with total test results defined as the sum of positive tests and negative tests, excluding records where the test was not performed because the specimen was not usable or the test was cancelled. The number of tests with indeterminate results has been small, so not including these in the denominator of total test results should not affect interpretation of the trends observed.
 - » A jurisdiction must see a 14-day downward trajectory in percent positive (or near-zero percent positive) with up to 2–3 consecutive days of increasing or stable percent positive allowed as a grace period if data are inconsistent, while total test volume is stable or increasing.
 - » Methods to assess decreases in laboratory test positivity are similar to those used to assess decreases in ILLI and CLI.
- **Mitigation Phase Transitions:** All the gating indicators as well as other information available locally should be used by jurisdictions when choosing to move through the community mitigation phases. Below is a framework for specifically evaluating whether the percent positive gating indicator is met with respect to these phase transitions. Note that in the Opening Up America Again guideline, the case report gating indicator or the percent positive gating indicator should be met.
 - » Transition into Phase One: achieve 14 or more consecutive days of decline in percent positive (or near-zero percent positive) while total test volume is stable or increasing.

- » Transition into Phase Two: achieve an additional 14 or more consecutive days of decline in percent positive (or near-zero percent positive) while total test volume is stable or increasing.
- » Transition into Phase Three: achieve an additional 14 or more consecutive days of decline in percent positive (or near-zero percent positive) while total test volume is stable or increasing.
- » If a near-zero plateau has been reached, can meet if plateau is maintained over 14 consecutive days (2–3-day grace period)
- **Identifying Rebound:** Multi-day increases in percent positivity with stable or increasing testing volume should be assessed along with case report and CLI data to identify rebounds.
- **Interpretation/Limitations:**
 - » The daily percent positive may fluctuate, particularly in areas with smaller populations. Total test volume may also vary by day of the week, based on the number of tests ordered or regular system maintenance at laboratories.
 - » The percent positive is driven by the number of people who are positive in a community and the number of people who are tested. Declines in percent positive may result from an expansion of testing to more people. Thus, it is important to track percent positive in combination with the number tested, whether measured as the total volume of all test results, or as total test results per capita. Percent positivity should only be used as an indicator of COVID-19 activity when per capita testing levels are stable over the time period being assessed.
 - » The percent positive may also be affected by a changing proportion of tests in people who are less likely to be infected, such as those who are asymptomatic or who have less severe symptoms. Few laboratories have fields indicating whether the person tested was asymptomatic or whether the patient was in an inpatient or outpatient setting at the time of testing. However, communities can stratify by data source to assess changes in the population tested over time, such as tracking the percent positive in hospital data separately from the percent positive in large commercial laboratories.
 - » The residence of the person tested may not be validated as thoroughly in laboratory data as in case data. Patient zip code may be based on insurance billing data, and thus less likely to be complete and correct when the person tested is uninsured or on another family member's plan.
 - » Provider zip code is generally accurate, when available. However, drive-up facilities might use a central zip code that does not reflect where the physical drive-up facility is located.

Joint interpretation of all four disease occurrence gating criteria

The four disease occurrence gating indicators should be interpreted collectively to reach a determination on the trajectory of COVID-19 activity within a jurisdiction, bearing in mind that the measures differ significantly in their lag, specificity, and sensitivity. Lab testing and syndromic data sources generally have less lag than COVID-19 case report data relative to when transmission occurred. SARS-CoV-2 testing and COVID-19 case reports are more specific measures of COVID-19 activity than the CLI syndrome, but all three are likely far more specific than the ILI syndrome. The CLI syndrome likely has superior sensitivity to the other measures, as it is more likely to capture people with COVID-19 that were not tested. While downward trajectory for a period of 14 days is used for each of the disease occurrence gating indicators in the Opening Up America Again guideline, state and local jurisdictions should use judgment based on their knowledge of local disease surveillance practices and infrastructure in determining whether longer time periods (e.g., 21 or 28 days) are needed before moving to different community mitigation phases.

Other Data Sources and Measures

The four disease occurrence gating indicators above provide insight into both the intensity and trajectory of the COVID-19 pandemic within jurisdictions. In addition, other epidemiologic data sources are available to local, state, and federal health officials and can be used to confirm trends observed in the disease occurrence gating indicators.

- **COVID-19 hospital admissions:** Depending on the overall COVID-19 incidence rate, the size of the jurisdiction, and the regional hospital referral patterns, hospitalizations for laboratory-confirmed COVID-19 can be an important measure to assess trajectory. Testing is likely more complete and less variable in hospitalized populations, providing more assurance that observed trends are not driven by testing practices. In addition to helping verify increases or decreases in the disease occurrence gating indicators, monitoring COVID-19 hospital admissions (and discharges) can help assess the burden on local healthcare capacity.
- **COVID-19 deaths:** Depending on the overall COVID-19 incidence rate and the size of the jurisdiction, deaths due to COVID-19 may occur in high enough numbers to reliably assess the trajectory of the outbreak in the jurisdiction. Although they represent a small proportion of all COVID-19 illnesses and significantly lag the core disease occurrence gating indicators, vital records are a universally collected data source and should be available for review in all jurisdictions. Further, observing declines in newly reported COVID-19 deaths almost certainly indicates that demands on the healthcare system are waning. Care should be taken to understand the extent and variability in SARS-CoV-2 testing for deceased individuals in the jurisdiction when using death as a source of data to understand the overall trajectory of COVID-19 illnesses in the jurisdiction. COVID-19 death data reported to CDC's National Center for Health Statistics are published weekly by state (<https://www.cdc.gov/nchs/nvss/vsrr/covid19/index.htm>).
- **Measures of trajectory:** The effective reproductive number (the average number of secondary cases from an infectious case in a particular population at a specific point in time) and doubling time (the time required for the number of cases to double) are epidemiologic measures that can be used to characterize the speed with which illnesses are spreading in an outbreak. Although these measures can be imprecise, especially when calculated within smaller populations, they provide alternative ways to analyze and characterize the trajectory of COVID-19 activity.

Implied in the Core State Preparedness Responsibilities in the *Opening Up America Again* guideline is the need for jurisdictions to have confidence in the epidemiologic data being used to make assessments about the magnitude and trajectory of COVID-19 illnesses. In order for most of the gating indicators to be reliably assessed, 1) rapid testing should be occurring as indicated for all clinical, public health, and infection prevention needs and 2) all new symptomatic COVID-19 cases in the jurisdiction should be able to be rapidly identified through active surveillance of laboratories and healthcare facilities. In the absence of widespread testing and robust active surveillance, jurisdictions should be cautious when adjusting mitigation strategies based on the disease occurrence gating indicators. Several measures, listed below, can be helpful in providing an indirect assessment of the completeness of case ascertainment in a jurisdiction.

- **COVID-19 case-fatality ratio:** Case-fatality is defined as the proportion of COVID-19 cases result in death. Although estimates of the percentage of symptomatic COVID-19 illnesses that result in death has varied widely, the overall percentage is likely lower than 1–2%. Although many factors contribute to disease severity, including the underlying health status of the population, jurisdictions that have very high COVID-19 case-fatality ratios (above 5–10%) may be under-ascertaining COVID-19 illnesses. This could indicate that case reporting is an unreliable measure of true COVID-19 activity. In this situation it may be useful to examine measures for CLI syndrome or COVID-19 hospital admissions as measures of disease activity.

- **High percent positive:** Although changes in percent positive is an indicator in the Opening Up America Again guideline, very high proportions of SARS-CoV-2 positivity (e.g., >25%) may be an indicator that testing levels are not adequate and that COVID-19 illnesses are being under-ascertained in the jurisdiction, as it suggests that only a limited number of people with a high likelihood of being infected with SARS-CoV-2 are able to be tested. In this situation it also may be useful to look at the CLI syndrome or at COVID-19 hospital admissions as measures of disease activity, since they are likely less susceptible to the influence of testing availability.
- **Per capita testing:** It is difficult to determine a widely applicable benchmark for a per capita level of SARS-CoV-2 testing that is sufficient to have confidence in the adequacy of COVID-19 case-ascertainment. However, jurisdictions can consider evaluating their per capita testing to assist in judging whether testing levels are adequate for effective COVID-19 surveillance.
- **Proportion of cases with an unknown source:** Improvements in case ascertainment and contact tracing should lead to a lower proportion of new cases with an unknown exposure to SARS-CoV-2. Jurisdictions can consider tracking the proportion of new COVID-19 cases without a documented exposure source (e.g., travel to a high-incidence region or country, exposure to someone with a confirmed case of COVID-19, attending and event or going to a setting with suspected SARS-CoV-2 transmission). Although difficult to achieve, jurisdictions that have fewer than 50% of new cases with an unknown exposure source likely have likely achieved high levels of case ascertainment, interviewing, and contact tracing.

Hospital Indicators

Capacity to treat all patients without crisis care

- **Description/Rationale:** Capacity indicators, including percentage of inpatients and ICU beds occupied and PPE supplies, help identify areas where additional healthcare capacity needs may exist now or in the future.
- **Data sources:** Data within HHS Protect, including from CDC's National Healthcare Safety Network (NHSN) (a healthcare infection associated tracking system), provide information on inpatient and ICU bed occupancy, staffing shortages, and PPE supplies.
- **Assessing indicator:** All three measures of treating patients without crisis care should be met before a jurisdiction moves to the next community mitigation phase.
- **Mitigation Phase Transitions:** All the gating indicators as well as other information available locally should be used by jurisdictions when choosing to move through the community mitigation phases. Below is a framework for specifically evaluating whether the hospital indicators are met with respect to these phase transitions.
 - » Transition into Phase One: Inpatient and ICU beds <80% full for 7 consecutive days AND no staff shortages for 7 consecutive days AND PPE supplies adequate and available for >4 days.
 - » Transition into Phase Two: Inpatient and ICU beds <75% full for 7 consecutive days AND no staff shortages for 7 consecutive days AND PPE supplies adequate and available for >4 days.
 - » Transition into Phase Three: Inpatient and ICU beds <70% full for 7 consecutive days AND no staff shortages for 7 consecutive days AND PPE supplies adequate and available for >15 days.
- **Interpretation/Limitations:**
 - » Hospitals within the same jurisdiction may be at different stages with regard to these measures. Public health officials should assess the status of the jurisdiction's hospital capacity overall and consider whether resources (e.g., clinical staff, PPE) could be re-allocated to address differential needs.

Robust testing program

- **Description/Rationale:**

- » The percentage of positive diagnostic tests for SARS-CoV-2 can be used as an indirect measure of agreement between testing demand and test availability. A target frequency of negative tests (e.g., 80% negative) must be established as an indicator of “adequate” availability of tests. This threshold can then be used to monitor for regional shortages and target distribution of testing resources to areas with greatest need.
- » Timeliness of results is another measure of laboratory testing capacity, and prompt results are essential for effective contact tracing.

- **Data sources:** Positive and negative SARS-CoV-2 test results reported by laboratories to state health departments. Median time between test order and results can be calculated from the reported laboratory data.

- **Assessing indicator:** Both criteria for a robust testing program should be met before a jurisdiction moves to the next community mitigation phase. The metric for percentage positive tests can be assessed as the percentage of positive of viral tests among all tests with a result for 14 consecutive days. An alternative would be to have daily percent positive below the phase transition threshold for 14 consecutive days.

- **Mitigation Phase Transitions:** All the gating indicators as well as other information available locally should be used by jurisdictions when choosing to move through the community mitigation phases. Below is a framework for specifically evaluating whether the indicators for a robust testing program are met with respect to these phase transitions.

- » Transition into Phase One: Percentage positive tests $\leq 20\%$ for 14 days AND median time from test order to result < 4 days.
- » Transition into Phase Two: Percentage positive tests $\leq 15\%$ for 14 days AND median time from test order to result < 3 days.
- » Transition into Phase Three: Percentage positive tests $\leq 10\%$ for 14 days AND median time from test order to result < 2 days.

- **Interpretation/Limitations:**

- » This indicator refers to tests for current infection (e.g., nucleic acid (PCR) or antigen tests). Serology (i.e., antibody) testing metrics should not be used for this indicator.
- » Lags in test reporting may lead to incomplete data for calculating percent positive tests for the most recent few days. Jurisdictions should calculate percent positive for the most recent 14 days with near-complete testing data.

Additional Considerations

Overall Incidence Level

The disease occurrence gating indicators all pertain to assessing the trajectory of COVID-19 activity, but do not specify that COVID-19 incidence should reach an absolute level to move through the mitigation phases. Jurisdictions should be cautious in pivoting from a general community mitigation approach back toward an identification and containment approach until incidence is low enough and resources adequate to 1) attempt an initial interview for nearly all new COVID-19 cases within one day of health department notification, 2) to rapidly isolate all newly identified COVID-19 cases, and 3) to initiate appropriate follow up (isolation, self-monitoring, and rapid testing of symptomatic contacts) for nearly all identified contacts of newly identified cases. Incidence should also be low enough that health departments can respond to large outbreaks (e.g., nursing home outbreaks)

that require substantial resources to investigate and control. Declines in incidence should also be enough for healthcare capacity to not only meet current demands, but to be able to comfortably surge in the event of an increase in cases (e.g., availability of acute care beds, critical care beds, ventilators, and adequate PPE).

Special Populations and Settings

Infections in high-risk settings and populations can disproportionately impact localized transmission and the ability of public health capacity to keep pace with follow up needs such as contact tracing and screening. Efforts should be taken to monitor infections in some specific populations and settings, including but not limited to healthcare personnel, patients in healthcare facilities (e.g., nursing homes, dialysis centers, long term care facilities), and residents of congregate living settings (e.g., prisons, youth homes, shelters). In addition, identification of illnesses at work places (e.g., meat and poultry processing facilities) or events with the potential for “explosive spread” (e.g., mass gatherings) may warrant adjustment of community mitigation measures in the absence of community-wide changes in the disease occurrence gating indicators.

Neighboring Jurisdictions

When making decisions about adjusting community mitigation measures, state and local jurisdictions also should coordinate with officials in neighboring areas to assess the burden and trajectory of COVID-19 illnesses in the surrounding region. Neighboring or nearby jurisdictions with significantly higher incidence or with increasing COVID-19 activity could reintroduce SARS-CoV-2 to a jurisdiction, jeopardizing improvements within the jurisdiction.

Measures of Mobility and Social Distancing

If available, it may be important to understand the knowledge, attitudes and behaviors of the community as it relates to the public health guidance provided within the local jurisdiction. Survey data and data on mobility can be useful in understanding if community members are aware of and following established social distancing and isolation guidelines and informing changes in the mitigation strategies used. Several publicly available data sources currently exist that generate measures of social distancing and mobility, frequently based on mobile phone location services or social media data.

Summary

The disease occurrence gating indicators in the *Opening Up America Again* guideline provide states and communities insight into the trajectory of the COVID-19 pandemic in their jurisdiction. The disease occurrence gating indicators should be evaluated collectively, considering their relative strengths and weaknesses, in the context of other epidemiologic data available for the jurisdiction. The hospital indicators are designed to help decision makers understand the health system’s ability to handle a potential surge in cases. These indicators are part of the broad assessment jurisdictions should undertake when deciding when and how to adjust community mitigation strategies for COVID-19.

Table 5. Gating Criteria Summary

Gating Criteria	Threshold for entering Phase 1	Threshold for entering Phase 2	Threshold for entering Phase 3
<p>Decreases in ED and/or outpatient visits for influenza-like illness (ILI)</p> <p>Decreases in ED and/or outpatient visits for COVID-like illness (CLI)</p>	<p>Downward trajectory of ILI/CLI (or minimal ILI activity or near pre-pandemic level of CLI ED visits) reported over a 14-day period</p> <ul style="list-style-type: none"> • Uses a 3-day average in a cubic smoothing spline • 14 consecutive days of decline required but can use a 2–3 day grace period if data are inconsistent • Look at both total visits for ILI/CLI and percentage of visits for ILI/CLI • 14th day must be lower than 1st day • If near pre-pandemic level of CLI ED visits has been reached, can meet if pre-pandemic level is maintained over 14 consecutive days (2–3 day grace period) 	<p>Downward trajectory of ILI/CLI (or minimal ILI activity or near pre-pandemic level of CLI ED visits) reported for at least 14 days after entering Phase 1 without experiencing a rebound</p> <ul style="list-style-type: none"> • Same criteria but for a second 14-day period • Rebound is determined if the trajectory increases in a 5-day period 	<p>Downward trajectory of ILI/CLI (or minimal ILI activity or near pre-pandemic level of CLI ED visits) reported for at least an additional 14 days after entering Phase 2 without experiencing a rebound</p> <ul style="list-style-type: none"> • Same criteria but for a second 14-day period • Rebound is determine if the trajectory increases in a 5-day period

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Gating Criteria	Threshold for entering Phase 1	Threshold for entering Phase 2	Threshold for entering Phase 3
Decreases in newly identified COVID-19 cases	<p>Downward trajectory (or near-zero incidence) of documented cases over a 14-day period</p> <ul style="list-style-type: none"> • Uses a 3-day average in a cubic smoothing spline • 14 consecutive days of decline required but can use up to a 5-day grace period if data are inconsistent • 14th day must be lower than 1st day • To be near-zero incidence, must have fewer than 10 cases per 100k population over 14 days) and must have previously had elevated cases 	<p>Downward trajectory (or near-zero incidence) of documented cases for at least 14 days after entering Phase 1</p> <ul style="list-style-type: none"> • Same criteria as Phase 1 for another 14 days • Rebound is defined as having 5 consecutive days of increase 	<p>Downward trajectory (or near-zero incidence) of documented cases for at least 14 days after entering Phase 2</p> <ul style="list-style-type: none"> • Same criteria as Phase 2 for another 14 days • Rebound is defined as having 5 consecutive days of increase
Decreases in newly identified COVID-19 cases	<p>Downward trajectory (or near-zero incidence) of documented cases over a 14-day period</p> <ul style="list-style-type: none"> • Uses a 3-day average in a cubic smoothing spline • 14 consecutive days of decline required but can use up to a 5-day grace period if data are inconsistent • 14th day must be lower than 1st day • To be near-zero incidence, must have fewer than 10 cases per 100k population over 14 days) and must have previously had elevated cases 	<p>Downward trajectory (or near-zero percent positive) of positive tests as a percent of total tests for 14 days after entering Phase 1 (flat or increasing volume of tests)</p> <ul style="list-style-type: none"> • Same criteria as Phase 1 for another 14 days • Rebound is defined as having multi-day increases in percent positivity with stable or increasing testing volume. • Look at positive results and cases when assessing for rebound 	<p>Downward trajectory (or near-zero percent positive) of positive tests as a percent of total tests for at least 14 days after entering Phase 2 (flat or increasing volume of tests)</p> <ul style="list-style-type: none"> • Same criteria as Phase 1 for another 14 days • Rebound is defined as having multi-day increases in percent positivity with stable or increasing testing volume. • Look at positive results and cases when assessing for rebound

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Gating Criteria	Threshold for entering Phase 1	Threshold for entering Phase 2	Threshold for entering Phase 3
Decreases in percentage of SARS-CoV-2 tests positive	<p>Downward trajectory (or near-zero percent positive) of positive tests as a percent of total tests over a 14-day period (flat or increasing volume of tests)</p> <ul style="list-style-type: none"> • Divide total positive results by total positive + negative • Remove incomplete and inconclusive results • 14 consecutive days of downward trend with up to 2–3 consecutive days of a grace period due to data inconsistency • 14th day must be lower than 1st day • If a near-zero plateau has been reached, can meet if plateau is maintained over 14 consecutive days (2–3 day grace period) • Test volume must remain the same or be increasing to use this criterion • Should include all test results from all labs 	<p>Downward trajectory (or near-zero percent positive) of positive tests as a percent of total tests for 14 days after entering Phase 1 (flat or increasing volume of tests)</p> <ul style="list-style-type: none"> • Same criteria as Phase 1 for another 14 days • Rebound is defined as having multi-day increases in percent positivity with stable or increasing testing volume. • Look at positive results and cases when assessing for rebound 	<p>Downward trajectory (or near-zero percent positive) of positive tests as a percent of total tests for at least 14 days after entering Phase 2 (flat or increasing volume of tests)</p> <ul style="list-style-type: none"> • Same criteria as Phase 1 for another 14 days • Rebound is defined as having multi-day increases in percent positivity with stable or increasing testing volume. • Look at positive results and cases when assessing for rebound
Treat all patients without crisis care	<p>Jurisdiction inpatient & ICU beds <80% full</p> <p>Staff shortage in last week = no</p> <p>PPE supplies adequate for >4 days</p>	<p>Jurisdiction inpatient & ICU beds <75% full</p> <p>Staff shortage in last week = no</p> <p>PPE supplies adequate for >4 days</p>	<p>Jurisdiction inpatient & ICU beds <70% full</p> <p>Staff shortage in last week = no</p> <p>PPE supplies adequate for >15 days</p>
Robust testing program	<p>Test availability such that % positive tests <20% for 14 days</p> <p>Median time from test order to result <4 days</p>	<p>Test availability such that % positive tests <15% for 14 days</p> <p>Median time from test order to result <3 days</p>	<p>Test availability such that % positive tests <10% for 14 days</p> <p>Median time from test order to result <2 days</p>

Appendix F: Setting Specific Guidance

CDC offers this interim guidance to assist establishments as they open. CDC will update this guidance as it learns more about COVID-19 and best practices to prevent its spread.

This guidance is meant to supplement the [decision tools](#) CDC released on May 14, 2020. It lists specific practices that employers may find helpful at particular stages of the COVID-19 outbreak. This guidance sets forth a menu of safety measures, from which establishments may choose those that make sense for them in the context of their operations and local community, as well as state and local regulations and directives.

INTERIM GUIDANCE FOR CHILD CARE PROGRAMS

The gradual scale up of activities towards pre-COVID-19 operating practices at childcare programs is crucial to helping parents and guardians return to work. Many states have closed schools for the academic year and, with summer quickly approaching, an increasing number of working parents may need to rely on these programs. CDC's [Interim Guidance for Administrators of US K-12 Schools and Child Care Programs](#) and supplemental [Guidance for Child Care Programs that Remain Open](#) provide recommendations for operating childcare programs in low, moderate, and significant mitigation communities. In communities that are deemed significant mitigation areas by state and local authorities, childcare programs should be closed. However, childcare programs can choose to remain open to serve children of [essential workers](#), such as [healthcare workers](#). All decisions about following these recommendations should be made locally, in collaboration with local health officials who can help determine levels of COVID-19 community transmission and the capacities of the local public health system and healthcare systems. CDC is releasing this interim guidance, laid out in a series of three steps, to inform a gradual scale up of operations. The scope and nature of community mitigation suggested decreases from Step 1 to Step 3. Some amount of community mitigation is necessary across all steps until a vaccine or therapeutic drug becomes widely available.

Scaling Up Operations

- **In all Steps:**
 - » Establish and maintain communication with local and State authorities to determine current mitigation levels in your community.
 - » **Protect** and support staff, children, and their family members who are at [higher risk](#) for severe illness.
 - » Provide staff from higher transmission areas (earlier Step areas) telework and other options as feasible to eliminate travel to childcare programs in lower transmission (later Step) areas and vice versa.
 - » Follow CDC's supplemental [Guidance for Child Care Programs that Remain Open](#).
 - » Encourage any other community groups or organizations that use the childcare facilities also follow this guidance.
- **Step 1:** Restrict to children of [essential workers](#).
- **Step 2:** Expand to all children with enhanced social distancing measures.
- **Step 3:** Remain open for all children with social distancing measures.

Safety Actions

Promote healthy hygiene practices (Steps 1–3)

- Teach and reinforce [washing hands](#) and covering coughs and sneezes among children and staff.
- Teach and reinforce use of [cloth face coverings](#) among all staff. Face coverings are most essential at times when social distancing is not possible. Staff should be frequently reminded not to touch the face covering and to [wash their hands](#) frequently. Information should be provided to all staff on [proper use, removal, and washing of cloth face coverings](#).
- Have adequate supplies to support healthy hygiene behaviors, including soap, hand sanitizer with at least 60 percent alcohol (for staff and older children who can safely use hand sanitizer), paper towels, and tissues.
- Post signs on how to [stop the spread](#) of COVID-19, [properly wash hands](#), [promote everyday protective measures](#), and [properly wear a face covering](#).

Intensify cleaning, disinfection, and ventilation (Steps 1–3)

- [Clean, sanitize, and disinfect](#) frequently touched surfaces (for example, playground equipment, door handles, sink handles, drinking fountains) multiple times per day and shared objects between use.
- Avoid use of items (for example, soft or plush toys) that are not easily cleaned, sanitized, or disinfected.
- Ensure [safe and correct application of disinfectants](#) and keep products away from children.
- Ensure that ventilation systems operate properly and increase circulation of outdoor air as much as possible such as by opening windows and doors. Do not open windows and doors if doing so poses a safety or health risk (for example, allowing pollens in or exacerbating asthma symptoms) to children using the facility.
- [Take steps](#) to ensure that all water systems and features (for example, drinking fountains or decorative fountains) are safe to use after a prolonged facility shutdown to minimize the risk of [Legionnaires' disease](#) and other diseases associated with water.

Promote social distancing

- **Steps 1 and 2**
 - » Ensure that classes include the same group of children each day and that the same childcare providers remain with the same group each day, if possible.
 - » Restrict mixing between groups.
 - » Cancel all field trips, inter-group events, and extracurricular activities (Step 1).
 - » Limit gatherings, events, and extracurricular activities to those that can maintain social distancing, support proper hand hygiene, and restrict attendance of those from higher transmission areas (Step 2; Note: restricting attendance from those in Step 1 areas).
 - » Restrict nonessential visitors, volunteers, and activities involving other groups at the same time.
 - » Space out seating and bedding (head-to-toe positioning) to 6 feet apart if possible.
 - » Close communal use spaces, such as game rooms or dining halls, if possible; if this is not possible, stagger use and [disinfect](#) in between uses.
 - » If a cafeteria or group dining room is typically used, serve meals in classrooms instead. Put each child's meal on a plate, to limit the use of shared serving utensils and ensure the safety of children with [food allergies](#).
 - » Stagger arrival and drop-off times or put in place other protocols to limit direct contact with parents as much as possible.

- **Step 3**

- » Consider keeping classes together to include the same group of children each day, and consider keeping the same childcare providers with the same group each day.
- » Allow minimal mixing between groups. Limit gatherings, events, and extracurricular activities to those that can maintain social distancing, support proper hand hygiene, and restrict attendance of those from higher transmission areas (Step 1 or 2 areas).
- » Continue to space out seating and bedding (head-to-toe positioning) to 6 feet apart, if possible.
- » Consider keeping communal use spaces closed, such as game rooms, playgrounds, or dining halls, if possible; if this is not possible, stagger use and disinfect in between uses.
- » Consider continuing to plate each child's meal, to limit the use of shared serving utensils and ensure the safety of children with food allergies.
- » Consider limiting nonessential visitors, volunteers, and activities involving other groups. Restrict attendance of those from higher transmission areas (Step 1 or 2 areas).
- » Consider staggering arrival and drop-off times or putting in place other protocols to limit close contact with parents or caregivers as much as possible.

- **Limit sharing** (Steps 1–3)

- » Keep each child's belongings separated and in individually labeled storage containers, cubbies, or areas and taken home each day and cleaned, if possible.
- » Ensure adequate supplies to minimize sharing of high-touch materials to the extent possible (art supplies, equipment etc. assigned to a single child) or limit use of supplies and equipment by one group of children at a time and clean and disinfect between use.
- » If food is offered at any event, have pre-packaged boxes or bags for each attendee instead of a buffet or family-style meal.
- » Avoid sharing of foods and utensils.
- » Avoid sharing electronic devices, toys, books, other games, and learning aids.
- » Prevent risk of transmitting COVID-19 by avoiding immediate contact (such as shaking or holding hands, hugging, or kissing).

- **Train all staff** (Steps 1–3)

- » Train all staff in the above safety actions. Consider conducting the training virtually, or, if in-person, ensure social distancing is maintained.

Monitoring and Preparing

Check for [signs and symptoms](#) (Steps 1–3)

- Screen children upon arrival, if possible. Establish routine, daily health checks on arrival, such as temperature screening of both staff and children. Options for daily health check screenings for children are provided in CDC's supplemental [Guidance for Child Care Programs that Remain Open](#) and in [CDC's General Business FAQs](#) for screening staff.
- Implement health checks (e.g. [temperature checks and symptom screening](#)) screenings safely and respectfully, and with measures in place to ensure confidentiality as well as in accordance with any applicable privacy laws or regulations. Confidentiality should be maintained.

- Employers and childcare directors may use examples of screening methods in CDC’s supplemental [Guidance for Child Care Programs that Remain Open](#) as a guide.
- Encourage staff to stay home if they are sick and encourage parents to keep sick children home.

Plan for when a staff member, child, or visitor becomes sick (Steps 1–3)

- Identify an area to separate anyone who exhibits COVID-like symptoms during hours of operation, and ensure that children are not left without adult supervision.
- Establish procedures for safely transporting anyone sick to their home or to a healthcare facility, as appropriate.
- Notify local health officials, staff, and families immediately of any possible case of COVID-19 while maintaining confidentiality consistent with the Americans with Disabilities Act (ADA) and other applicable federal and state privacy laws.
- Close off areas used by any sick person and do not use them until they have been cleaned. Wait 24 hours before you clean or disinfect to reduce risk to individuals cleaning. If it is not possible to wait 24 hours, wait as long as possible. Ensure safe and [correct application of disinfectants](#), and keep disinfectant products away from children
- Advise sick staff members or children not to return until they have met CDC [criteria to discontinue home isolation](#).
- Inform those who have had [close contact](#) to a person diagnosed with COVID-19 to stay home and self-monitor for symptoms, and to follow [CDC guidance](#) if symptoms develop. If a person does not have symptoms follow appropriate CDC guidance for [home isolation](#).

Maintain healthy operations (Steps 1–3)

- Implement flexible sick leave policies and practices, if feasible.
- Monitor absenteeism to identify any trends in employee or child absences due to illness. This might indicate spread of COVID-19 or other illness. Have a roster of trained back-up staff in order to maintain sufficient staffing levels.
- Designate a staff person to be responsible for responding to COVID-19 concerns. Employees should know who this person is and how to contact them.
- Create a communication system for staff and families for self-reporting of [symptoms and notification of exposures and closures](#).
- [Support coping and resilience](#) among employees and children.

Steps 1–3

- It is very important to check State and local health department notices daily about spread of COVID-19 in the area and adjust operations accordingly.
- Where a community is deemed a significant mitigation community, childcare programs should close, except for those caring for the children of essential workers, such as the children of health care workers.
- In the event a person diagnosed with COVID-19 is determined to have been in the building and poses a risk to the community, programs may consider closing for a few days for cleaning and disinfection.

INTERIM GUIDANCE FOR SCHOOLS AND DAY CAMPS

As communities consider a gradual scale up of activities towards pre-COVID-19 operating practices in centers for learning, such as K–12 schools and summer day camps, CDC offers the following recommendations to keep communities safe while resuming peer-to-peer learning and providing crucial support for parents and guardians returning to work. These recommendations depend on community monitoring to prevent COVID-19 from spreading. Communities with low levels of COVID-19 spread and those with confidence that the incidence of infection is genuinely low (e.g., communities that remain in low transmission or that have entered Step 2 or 3) may put in place the practices described below as part of a gradual scale up of operations. All decisions about following these recommendations should be made in collaboration with [local health officials](#) and other state and local authorities who can help assess the current level of mitigation needed based on levels of COVID-19 community transmission and the capacities of the local public health and healthcare systems, among other relevant factors. CDC is releasing this interim guidance, laid out in a series of three steps, to inform a gradual scale up of operations. The scope and nature of community mitigation suggested decreases from Step 1 to Step 3. Some amount of community mitigation is necessary across all steps until a vaccine or therapeutic drug becomes widely available.

Scaling Up Operations

- **In all Steps:**
 - » Establish and maintain communication with local and state authorities to determine current mitigation levels in your community.
 - » Protect and support staff and students who are at [higher risk for severe illness](#), such as providing options for telework and virtual learning.
 - » Follow CDC's [Guidance for Schools and Childcare Programs](#).
 - » Provide teachers and staff from higher transmission areas (earlier Step areas) telework and other options as feasible to eliminate travel to schools and camps in lower transmission (later Step) areas and vice versa.
 - » Encourage any other external community organizations that use the facilities also follow this guidance.
- **Step 1:** Schools that are currently closed, remain closed. E-learning or distance learning opportunities should be provided for all students. Support provision of student services such as school meal programs, as feasible. Camps should be restricted to children of essential workers and for children who live in the local geographic area only.
- **Step 2:** Remain open with enhanced social distancing measures and for children who live in the local geographic area only.
- **Step 3:** Remain open with distancing measures. Restrict attendance to those from limited transmission areas (other Step 3 areas) only.

Safety Actions

Promote [healthy hygiene practices](#) (Steps 1–3)

- Teach and reinforce [washing hands](#) and covering coughs and sneezes among children and staff.
- Teach and reinforce use of face coverings among all staff. Face coverings may be challenging for students (especially younger students) to wear in all-day settings such as school. Face coverings should be worn by staff and encouraged in students (particularly older students) if feasible and are most essential in times when

physical distancing is difficult. Information should be provided to staff and students on [proper use, removal, and washing of cloth face coverings](#). Face coverings are not recommended for babies or children under the age of 2, or for anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the covering without assistance. Cloth face coverings are meant to protect other people in case the wearer is unknowingly infected (many people carry COVID-19 but do not have symptoms). Cloth face coverings are not surgical masks, respirators, or personal protective equipment.

- Have adequate supplies to support healthy hygiene behaviors, including soap, hand sanitizer with at least 60 percent alcohol (for staff and older children who can safely use hand sanitizer), paper towels, tissues, and no-touch trash cans.
- Post signs on how to [stop the spread](#) of COVID-19, [properly wash hands](#), [promote everyday protective measures](#), and [properly wear a face covering](#).

Intensify cleaning, disinfection, and ventilation (Steps 1–3)

- [Clean and disinfect](#) frequently touched surfaces within the school and on school buses at least daily (for example, playground equipment, door handles, sink handles, drinking fountains) as well as shared objects (for example, toys, games, art supplies) between uses.
- To clean and disinfect school buses, see [guidance for bus transit operators](#).
- Ensure [safe and correct application](#) of disinfectants and keep products away from children.
- Ensure ventilation systems operate properly and increase circulation of outdoor air as much as possible such as by opening windows and doors. Do not open windows and doors if they pose a safety or health risk (e.g., allowing pollens in or exacerbating asthma symptoms) risk to children using the facility.
- [Take steps](#) to ensure that all water systems and features (for example, drinking fountains, decorative fountains) are safe to use after a prolonged facility shutdown to minimize the risk of [Legionnaires' disease](#) and other diseases associated with water.

Promote social distancing

- **Step 1 and 2**
 - » Ensure that student and staff groupings are as static as possible by having the same group of children stay with the same staff (all day for young children, and as much as possible for older children).
 - » Restrict mixing between groups.
 - » Cancel all field trips, inter-group events, and extracurricular activities (Step 1).
 - » Limit gatherings, events, and extracurricular activities to those that can maintain social distancing, support proper hand hygiene, and restrict attendance of those from higher transmission areas (Step 2; Note: restricting attendance from those in Step 1 areas).
 - » Restrict nonessential visitors, volunteers, and activities involving other groups at the same time.
 - » Space seating/desks to at least 6 feet apart.
 - » Turn desks to face in the same direction (rather than facing each other), or have students sit on only one side of tables, spaced apart.
 - » Close communal use spaces such as dining halls and playgrounds if possible; otherwise stagger use and [disinfect](#) in between use.
 - » If a cafeteria or group dining room is typically used, serve meals in classrooms instead. Serve individually plated meals and hold activities in separate classrooms and ensure the safety of children with [food allergies](#).

- » Stagger arrival and drop-off times or locations, or put in place other protocols to limit close contact with parents or caregivers as much as possible.
- » Create social distance between children on school buses (for example, seating children one child per seat, every other row) where possible.

- **Step 3**

- » Consider keeping classes together to include the same group of children each day, and consider keeping the same child care providers with the same group each day.
- » Allow minimal mixing between groups. Limit gatherings, events, and extracurricular activities to those that can maintain social distancing, support proper hand hygiene, and restrict attendance of those from higher transmission areas (Step 1 or 2 areas).
- » Continue to space out seating and bedding (head-to-toe positioning) to 6 feet apart, if possible.
- » Consider keeping communal use spaces closed, such as game rooms or dining halls, if possible; if this is not possible, stagger use and [disinfect](#) in between uses.
- » Consider continuing to plate each child's meal, to limit the use of shared serving utensils and ensure the safety of children with [food allergies](#).
- » Consider limiting nonessential visitors, volunteers, and activities involving other groups. Restrict attendance of those from higher transmission areas (Step 1 or 2 areas).
- » Consider staggering arrival and drop-off times or locations, or put in place other protocols to limit close contact with parents or caregivers as much as possible.

Limit sharing (Steps 1–3)

- Keep each child's belongings separated from others' and in individually labeled containers, cubbies, or areas and taken home each day and cleaned, if possible.
- Ensure adequate supplies to minimize sharing of high touch materials to the extent possible (art supplies, equipment etc. assigned to a single student/camper) or limit use of supplies and equipment by one group of children at a time and clean and disinfect between use.
- If food is offered at any event, have pre-packaged boxes or bags for each attendee instead of a buffet or family-style meal. Avoid sharing of foods and utensils.
- Avoid sharing electronic devices, toys, books, and other games or learning aids.

Train all staff (Steps 1–3)

- Train all teachers and staff in the above safety actions. Consider conducting the training virtually, or, if in-person, ensure that social distancing is maintained.

Check for [signs and symptoms](#) (Steps 1–3)

- If feasible, conduct daily health checks (e.g. temperature screening and/or [symptoms checking](#)) of staff and students safely, respectfully, as well as in accordance with any applicable privacy laws or regulations. Confidentiality should be maintained.
- School and camp administrators may use examples of screening methods in CDC's supplemental [Guidance for Child Care Programs that Remain Open](#) as a guide for screening children and CDC's [General Business FAQs](#) for screening staff.
- Encourage staff to stay home if they are sick and encourage parents to keep sick children home.

Plan for when a staff member, child, or visitor becomes sick (Steps 1–3)

- Work with school administrators, nurses, and other healthcare providers to identify an isolation room or area to separate anyone who exhibits COVID-like symptoms. School nurses and other healthcare providers should use [Standard and Transmission-Based Precautions](#) when caring for sick people. See: [What Healthcare Personnel Should Know About Caring for Patients with Confirmed or Possible COVID-19 Infection](#).
- Establish procedures for safely transporting anyone sick home or to a healthcare facility.
- Notify local health officials, staff, and families immediately of a possible case while maintaining confidentiality consistent with the [Americans with Disabilities Act](#) (ADA) and other applicable federal and state privacy laws.
- Close off areas used by a sick person and do not use before cleaning and disinfection. Wait 24 hours before you [clean and disinfect](#). If it is not possible to wait 24 hours is, wait as long as possible. [Ensure safe and correct application](#) of disinfectants and keep disinfectant products away from children.
- Advise sick staff members and children not to return until they have met CDC [criteria to discontinue home isolation](#).
- Inform those who have had [close contact](#) to a person diagnosed with COVID-19 to stay home and self-monitor for symptoms and to follow [CDC guidance](#) if symptoms develop. If a person does not have symptoms follow appropriate CDC guidance for [home isolation](#).

Maintain healthy operations (Steps 1–3)

- Implement flexible sick leave policies and practices, if feasible.
- Monitor staff absenteeism and have a roster of trained back-up staff.
- Monitor health clinic traffic. School nurses and other healthcare providers play an important role in monitoring health clinic traffic and the types of illnesses and symptoms among students.
- Designate a staff person to be responsible for responding to COVID-19 concerns. Employees should know who this person is and how to contact them.
- Create a communication system for staff and families for self-reporting of [symptoms and notification of exposures and closures](#).
- [Support coping and resilience](#) among employees and children.

Closing

Steps 1–3

- Check [state](#) and [local](#) health department notices daily about transmission in the area and adjust operations accordingly.
- In the event a person diagnosed with COVID-19 is determined to have been in the building and poses a risk to the community, programs may consider closing for a short time (1–2 days) for cleaning and disinfection.

INTERIM GUIDANCE FOR EMPLOYERS WITH WORKERS AT HIGH RISK

As workplaces consider a gradual scale up of activities towards pre-COVID-19 operating practices, it is particularly important to keep in mind that some workers are at [higher risk for severe illness](#) from COVID-19. These workers include individuals over age 65 and those with underlying medical conditions. Such underlying conditions include, but are not limited to, chronic lung disease, moderate to severe asthma, hypertension, severe heart conditions, weakened immunity, severe obesity, diabetes, liver disease, and chronic kidney disease that requires dialysis. Workers at higher risk for severe illness should be encouraged to self-identify, and employers should avoid making unnecessary medical inquiries. Employers should take particular care to reduce workers' risk of exposure to COVID-19, while making sure to be compliant with relevant Americans with Disabilities Act (ADA) and Age Discrimination in Employment Act (ADEA) regulations. First and foremost, this means following [CDC](#) and the [Occupational Safety and Health Administration](#) (OSHA) guidance for reducing workplace exposure for all employees. All decisions about following these recommendations should be made in collaboration with [local health officials](#) and other state and local authorities who can help assess the current level of mitigation needed based on levels of COVID-19 community transmission and the capacities of the local public health and healthcare systems. In addition, the guidance offered below applies to workplaces generally; specific industries may require more stringent safety precautions. Finally, there may be essential workplaces in which the recommended mitigation strategies are not feasible. CDC is releasing this interim guidance, laid out in a series of three steps, to inform a gradual scale up of operations. The scope and nature of community mitigation suggested decreases from Step 1 to Step 3. Some amount of community mitigation is necessary across all steps until a vaccine or therapeutic drug becomes widely available.

Scaling Up Operations

- **In all Steps:**
 - » Establish and maintain communication with local and state authorities to determine current mitigation levels in your community.
 - » Protect employees at [higher risk](#) for severe illness by supporting and encouraging options to telework.
 - » Consider offering [workers at higher risk](#) duties that minimize their contact with customers and other employees (e.g., restocking shelves rather than working as a cashier), if agreed to by the worker.
 - » Encourage any other entities sharing the same work space also follow this guidance.
 - » Provide employees from higher transmission areas (earlier Step areas) telework and other options as feasible to eliminate travel to workplaces in lower transmission (later Step) areas and vice versa.
- **Step 1:** Scale up only if business can ensure strict social distancing, proper cleaning and disinfecting requirements, and protection of their workers and customers; workers at [higher risk](#) for severe illness are recommended to shelter in place.
- **Step 2:** Scale up only if business can ensure moderate social distancing, proper cleaning and disinfecting requirements, and protection of their workers and customers; workers at [higher risk](#) for severe illness are recommended to shelter in place.
- **Step 3:** Scale up only if business can ensure limited social distancing, proper cleaning and disinfecting requirements, and protection of their workers and customers.

Safety Action

Promote [healthy hygiene practices](#) (Steps 1–3)

- Enforce [hand washing](#), covering coughs and sneezes, and using [cloth face coverings](#) when around others where feasible;
- however, certain industries may require face shields.
- Ensure that adequate supplies to support healthy hygiene behaviors, including soap, hand sanitizer with at least 60 percent alcohol, tissues, paper towels, and no-touch trash cans.
- Post signs on how to [stop the spread](#) of COVID-19 [properly wash hands](#), [promote everyday protective measures](#), and [properly wear a face covering](#).

Intensify [cleaning, disinfection, and ventilation](#) (Steps 1–3)

- [Clean and disinfect](#) frequently touched surfaces at least daily and shared objects between use.
- Avoid use or sharing of items that are not easily cleaned, sanitized, or disinfected.
- Ensure safe and correct application of disinfectants.
- Ensure that ventilation systems operate properly and increase circulation of outdoor air as much as possible such as by opening windows and doors. Do not open windows and doors if doing so poses a safety risk to individuals and employees using the workspace.
- Take steps to ensure that all water systems and features (for example, drinking fountains, decorative fountains) are safe to use after a prolonged facility shutdown to minimize the risk of [Legionnaires' disease](#) and other diseases associated with water.

Promote [social distancing](#) (Steps 1–3)

- Limit service to drive-throughs, curbside take out, or delivery options, if possible (Step 1).
- Consider installing physical barriers, such as sneeze guards and partitions, and changing workspace layouts to ensure all individuals remain at least 6 feet apart.
- Close communal spaces, such as break rooms, if possible (Step 1) or stagger use and clean and disinfect in between uses (Steps 2 & 3).
- Encourage telework for as many employees as possible.
- Consider rotating or staggering shifts to limit the number of employees in the workplace at the same time.
- Replace in-person meetings with video- or tele-conference calls whenever possible.
- Cancel all group events, gatherings, or meetings of more than 10 people (Step 1), of more than 50 people (Step 2), and any events where social distancing of at least 6 feet cannot be maintained between participants (all Steps).
- Restrict (Step 1) or consider limiting (Step 2) any nonessential visitors, volunteers, and activities involving external groups or organizations.
- Limit any sharing of foods, tools, equipment, or supplies.

Limit [travel and modify commuting practices](#) (Steps 1–3)

- Cancel all non-essential travel (Step 1) and consider resuming non-essential travel in accordance with state and local regulations and guidance (Steps 2 & 3).

- Ask employees who use public transportation to consider using teleworking to promote [social distancing](#).
- Train all managers and staff in the above safety actions. Consider conducting the training virtually, or if in-person, ensure that social distancing is maintained.

Monitoring and Preparing

Checking for [signs and symptoms](#) (Steps 1–3)

- Consider conducting routine, daily health checks (e.g., [temperature and symptom screening](#)) of all employees.
- If implementing health checks, conduct them safely and respectfully, and in accordance with any applicable privacy laws and regulations. Confidentiality should be respected. Employers may use examples of screening methods in [CDC’s General Business FAQs](#) as a guide.
- Encourage employees who are sick to stay at home.

Plan for when an employee becomes sick (Steps 1–3)

- Employees with symptoms (fever, cough, or shortness of breath) at work should immediately be separated and sent home.
- Establish procedures for safely transporting anyone sick to their home or to a healthcare facility.
- Notify local health officials, staff, and customers (if possible) immediately of a possible case while maintaining confidentiality consistent with the [Americans with Disabilities Act](#) (ADA) and other applicable federal and state privacy laws.
- Close off areas used by the sick person until after cleaning and disinfection. Wait 24 hours to [clean and disinfect](#). If it is not possible to wait 24 hours, wait as long as possible before cleaning and disinfecting. Ensure [safe and correct application](#) of disinfectants and keep disinfectant products away from children.
- Inform those who have had [close contact](#) to a person diagnosed with COVID-19 to stay home and self-monitor for symptoms, and to follow [CDC guidance](#) if symptoms develop. If a person does not have symptoms follow appropriate CDC guidance for [home isolation](#).
- Sick employees should not return to work until they have met CDC’s criteria to [discontinue home isolation](#).

Maintain healthy operations (Steps 1–3)

- Implement flexible sick leave and other flexible policies and practices, such as telework, if feasible.
- Monitor absenteeism of employees and create a roster of trained back-up staff.
- Designate a staff person to be responsible for responding to COVID-19 concerns. Employees should know who this person is and how to contact them.
- Create and test communication systems for employees for self-reporting and notification of exposures and closures.
- Support [coping and resilience](#) among employees.

Closing

Steps 1–3

- Check [state](#) and [local](#) health department notices daily about transmission in the area and adjust operations accordingly.
- Be prepared to consider closing for a few days if there is a case of COVID-19 in the workplace or for longer if cases increase in the local area.

INTERIM GUIDANCE FOR RESTAURANTS AND BARS

This guidance provides considerations for businesses in the food service industry (e.g., restaurants and bars) on ways to maintain healthy business operations and a safe and healthy work environment for employees, while reducing the risk of COVID-19 spread for both employees and customers. Employers should follow applicable [Occupational Safety and Health Administration](#) (OSHA) and [CDC guidance for businesses](#) to plan and respond to COVID-19. All decisions about implementing these recommendations should be made in collaboration with [local health officials](#) and other state and local authorities who can help assess the current level of mitigation needed based on levels of COVID-19 community transmission and the capacities of the local public health and healthcare systems. CDC is releasing this interim guidance, laid out in a series of three steps, to inform a gradual scale up of activities towards pre-COVID-19 operating practices. The scope and nature of community mitigation suggested decreases from Step 1 to Step 3. Some amount of community mitigation is necessary across all steps until a vaccine or therapeutic drug becomes widely available.

Scaling Up Operations

- **In all Steps:**
 - » Establish and maintain communication with local and state authorities to determine current mitigation levels in your community.
 - » Consider assigning [workers at high risk for severe illness](#) duties that minimize their contact with customers and other employees (e.g., managing inventory rather than working as a cashier, managing administrative needs through telework).
 - » Provide employees from higher transmission areas (earlier Step areas) telework and other options as feasible to eliminate travel to workplaces in lower transmission (later Step) areas and vice versa.
- **Step 1:** Bars remain closed and restaurant service should remain limited to drive-through, curbside take out, or delivery with strict social distancing.
- **Step 2:** Bars may open with limited capacity; restaurants may open dining rooms with limited seating capacity that allows for [social distancing](#).
- **Step 3:** Bars may open with increased standing room occupancy that allows for [social distancing](#); restaurants may operate while maintaining [social distancing](#).

Safety Actions

Promote [healthy hygiene practices](#) (Steps 1–3)

- Enforce [hand washing](#), covering coughs and sneezes, and use of a [cloth face coverings](#) by employees when near other employees and customers.
- Ensure adequate supplies to support healthy hygiene practices for both employees and customers including soap, hand sanitizer with at least 60 percent alcohol (on every table, if supplies allow), paper towels, and tissues.
- Post signs on how to [stop the spread](#) of COVID-19 [properly wash hands](#), [promote everyday protective measures](#), and [properly wear a face covering](#).

Intensify cleaning, disinfection, and ventilation (Steps 1–3)

- [Clean and disinfect](#) frequently touched surfaces (for example, door handles, workstations, cash registers) at least daily and shared objects (for example, payment terminals, tables, countertops/bars, receipt trays, condiment holders) between use. Use [products that meet EPA's criteria for use against SARS-CoV-2](#) and that

are appropriate for the surface. Prior to wiping the surface, allow the disinfectant to sit for the necessary contact time recommended by the manufacturer. Train staff on proper cleaning procedures to ensure safe and correct application of disinfectants.

- Make available individual disinfectant wipes in bathrooms.
- Wash, rinse, and sanitize food contact surfaces, food preparation surfaces, and beverage equipment after use.
- Avoid using or sharing items such as menus, condiments, and any other food. Instead, use disposable or digital menus, single serving condiments, and no-touch trash cans and doors.
- Use touchless payment options as much as possible, when available. Ask customers and employees to exchange cash or card payments by placing on a receipt tray or on the counter rather than by hand. Clean and disinfect any pens, counters, or hard surfaces between use or customer.
- Use disposable food service items (utensils, dishes). If disposable items are not feasible, ensure that all non-disposable food service items are handled with gloves and washed with dish soap and hot water or in a dishwasher. Employees should [wash their hands](#) after removing their gloves or after directly handling used food service items
- Use gloves when removing garbage bags or handling and disposing of trash and [wash hands afterwards](#)
- Avoid using food and beverage containers or utensils brought in by customers.
- Ensure that ventilation systems operate properly and increase circulation of outdoor air as much as possible such as by opening windows and doors. Do not open windows and doors if doing so poses a safety risk to employees, children, or customers.
- Take steps to ensure that all water systems and features (for example, drinking fountains, decorative fountains) are safe to use after a prolonged facility shutdown to minimize the risk of [Legionnaires' disease](#) and other diseases associated with water.

Promote social distancing

Step 1

- Limit service to drive-through, delivery, or curbside pick-up options only.
- Provide physical guides, such as tape on floors or sidewalks to ensure that customers remain at least 6 feet apart in lines or ask customers to wait in their cars or away from the establishment while waiting to pick up food. Post signs to inform customers of food pickup protocols.
- Consider installing physical barriers, such as sneeze guards and partitions at cash registers, or other food pickup areas where maintaining physical distance of 6 feet is difficult.
- Restrict the number of employees in shared spaces, including kitchens, break rooms, and offices to maintain at least a six-foot distance between people.
- Rotate or stagger shifts to limit the number of employees in the workplace at the same time.

Step 2

- Provide drive-through, delivery, or curbside pick-up options and prioritize outdoor seating as much as possible.
- Reduce occupancy and limit the size of parties dining in together to sizes that ensure that all customer parties remain at least 6 feet apart (e.g., all tables and bar stools 6 feet apart, marking tables/stools that are not for use) in order to protect staff and other guests.

- Provide physical guides, such as tape on floors or sidewalks and signage on walls to ensure that customers remain at least 6 feet apart in lines or waiting for seating.
- Ask customers to wait in their cars or away from the establishment while waiting to be seated. If possible, use phone app technology to alert patrons when their table is ready to avoid touching and use of “buzzers.”
- Consider options for dine-in customers to order ahead of time to limit the amount of time spent in the establishment.
- Avoid offering any self-serve food or drink options, such as buffets, salad bars, and drink stations.
- Install physical barriers, such as sneeze guards and partitions at cash registers, bars, host stands, and other areas where maintaining physical distance of 6 feet is difficult.
- Limit the number of employees in shared spaces, including kitchens, break rooms, and offices to maintain at least a six-foot distance between people.

Step 3

- Provide drive-through, delivery, or curbside pick-up options and prioritize outdoor seating as much as possible.
- Consider reducing occupancy and limiting the size of parties dining in together to sizes that ensure that all customer parties remain at least 6 feet apart (e.g., all tables and bar stools 6 feet apart, marking tables/stools that are not for use) in order to protect staff and other guests.
- Provide physical guides, such as tape on floors or sidewalks and signage on walls, to ensure that customers remain at least 6 feet apart in lines or waiting for seating.
- If possible, use phone app technology to alert patrons when their table is ready to avoid touching and use of “buzzers.”
- Consider options for dine-in customers to order ahead of time to limit the amount of time spent in the establishment.
- Avoid offering any self-serve food or drink options, such as buffets, salad bars, and drink stations.
- Install physical barriers, such as sneeze guards and partitions at cash registers, bars, host stands, and other areas where maintaining physical distance of 6 feet is difficult.

Train all staff (Steps 1–3)

- Train all employees in the above safety actions while maintaining [social distancing](#) and [use of face coverings](#) during training.

Monitoring and Preparing

Checking for [signs and symptoms](#) (Steps 1–3)

- Consider conducting daily health checks (e.g., temperature and symptom screening) of employees.
- If implementing health checks, conduct them safely and respectfully, and in accordance with any applicable privacy laws and regulations. Confidentiality should be respected. Employers may use examples of screening methods in CDC’s General Business FAQs as a guide.
- Encourage staff who are sick to stay at home.

Plan for when an employee becomes sick (Steps 1–3)

- Employees with [symptoms](#) of COVID-19 (fever, cough, or shortness of breath) at work should immediately be sent to their home.
- Inform those who have had [close contact](#) to a person diagnosed with COVID-19 to stay home and self-monitor for symptoms, and to follow [CDC guidance](#) if symptoms develop. If a person does not have symptoms follow appropriate CDC guidance for home isolation.
- Establish procedures for safely transporting anyone sick to their home or to a healthcare facility.
- Notify local health officials, staff, and customers (if possible) immediately of any possible case of COVID-19 while maintaining confidentiality consistent with the [Americans with Disabilities Act](#) (ADA) and other applicable federal and state privacy laws.
- Close off areas used by a sick person and do not re-enter them until after cleaning and disinfection. Wait 24 hours before cleaning and disinfecting. If it is not possible to wait 24 hours, wait as long as possible. Ensure [safe and correct application](#) of disinfectants and keep disinfectant products away from children.
- Advise sick staff members not to return until they have met CDC's criteria to [discontinue home isolation](#).

Maintain healthy operations (Steps 1–3)

- Implement flexible sick leave and other flexible policies and practices, such as telework, if feasible.
- Monitor absenteeism of employees and create a roster of trained back-up staff.
- Designate a staff person to be responsible for responding to COVID-19 concerns. Employees should know who this person is and how to contact them.
- Create and test communication systems for employees for self-reporting and notification of exposures and closures.
- Support [coping and resilience](#) among employees.

Closing

Steps 1–3

- Check [state](#) and [local](#) health department notices about transmission in the area daily and adjust operations accordingly.
- Be prepared to consider closing for a few days if there is a case of COVID-19 in the establishment and for longer if cases increase in the local area.

INTERIM GUIDANCE FOR MASS TRANSIT ADMINISTRATORS

Mass transit is critical for many Americans to commute to and from work and to access essential goods and services. This guidance provides considerations for mass transit administrators to maintain healthy business operations and a safe and healthy work environment for employees, while reducing the risk of COVID-19 spread for both employees and passengers. Administrators should follow applicable guidance from the [CDC](#) and [Occupational Safety and Health Administration](#) (OSHA) for reducing workplace exposure. All decisions about following these recommendations should be made in collaboration with [local health officials](#) and other state and local authorities who can help assess the current level of mitigation needed based on levels of COVID-19 community transmission and the capacities of the local public health and healthcare systems. CDC is releasing this interim guidance, laid out in a series of three steps, to inform a gradual scale up of activities towards pre-COVID-19 operating practices. The scope and nature of community mitigation suggested decreases from Step 1 to Step 3. Some amount of community mitigation is necessary across all steps until a vaccine or therapeutic drug becomes widely available.

Resuming Full Service

- **In all Steps:**
 - » Adjust routes between areas experiencing different levels of transmission (between areas in different Steps), to the extent possible.
 - » Provide employees from higher transmission areas (earlier Step areas) telework and other options as feasible to eliminate travel to workplaces in lower transmission (later Step) areas and vice versa.
 - » Establish and maintain communication with [state and local health officials](#) to determine current mitigation levels in the communities served. Decisions about how and when to resume full service should be based on these levels.
 - » Follow CDC's guidance on what [bus transit operators](#), [rail transit operators](#), [transit maintenance workers](#), and [transit station workers](#) need to know about COVID-19.
 - » Consider assigning workers at [high risk of severe illness](#) duties that minimize their contact with passengers and other employees
 - » Conduct worksite hazard assessments to identify COVID-19 prevention strategies, such as appropriate use of cloth face coverings or personal protective equipment (PPE), and follow the prevention strategies.
- **Step 1:** Restrict ridership to [essential critical infrastructure workers](#) in areas needing significant mitigation and maintain strict social distancing as much as possible.
- **Step 2:** Maintain [social distancing](#) between transit riders and employees as much as possible.
- **Step 3:** Encourage [social distancing](#) as much as possible.

Safety Actions

Promote [healthy hygiene practices](#) (Steps 1–3)

- Enforce [everyday preventive actions](#) such as [hand washing](#), covering coughs and sneezes, and use of a cloth face covering by employees when around others, as safety permits. Provide employees with appropriate personal protective equipment as necessary and as available. Communicate with the public about the importance of hygiene, covering coughs and sneezes, and using cloth face coverings while using mass transportations, including posting signs in transit stations and vehicles on how to [stop the spread](#) of COVID-19, [properly wash hands](#), [promote everyday protective measures](#), and [properly wear a face covering](#).

- Ensure adequate supplies to support healthy hygiene behaviors for transit operators, employees, and passengers in stations, including soap, hand sanitizer with at least 60 percent alcohol, paper towels, tissues, and no-touch trash cans.
- Post signs on how to stop the spread of COVID-19 properly wash hands, promote everyday protective measures, and properly wear a face covering.

Intensify [cleaning, disinfection, and ventilation](#) (Steps 1–3)

- [Clean and disinfect](#) frequently touched surfaces (for example, kiosks, digital interfaces such as touchscreens and fingerprint scanners, ticket machines, turnstiles, handrails, restroom surfaces, elevator buttons) at least daily or between use as feasible.
- [Clean and disinfect](#) the operator area between operator shifts.
- Use touchless payment and no-touch trash cans and doors as much as possible, when available. Ask customers and employees to exchange cash or credit cards by placing in a receipt tray or on the counter rather than by hand and wipe any pens, counters, or hard surfaces between each use or customer.
- Avoid using or sharing items that are not easily cleaned, sanitized, or disinfected, such as disposable transit maps.
- Ensure safe and correct application of disinfectants.
- Use gloves when removing garbage bags or handling and disposing of trash and [wash hands afterwards](#).
- Ensure that ventilation systems operate properly and increase circulation of outdoor air as much as possible such as by opening windows and doors. Do not open windows and doors if they pose a safety risk to passengers or employees, or other vulnerable individuals.
- Take steps to ensure that all water systems and features (for example, drinking fountains, decorative fountains) are safe to use after a prolonged facility shutdown to minimize the risk of [Legionnaires' disease](#) and other diseases associated with water.

Promote social distancing

Step 1 and Step 2

- Institute measures to physically separate or create distance of at least 6 feet between all occupants to the extent possible. This may include:
 - » Asking bus passengers to enter and exit the bus through rear doors, while allowing exceptions for persons with disabilities.
 - » Closing every other row of seats.
 - » Reducing maximum occupancy of buses and individual subway and train cars and increasing service on crowded routes as appropriate.
- Provide physical guides to ensure that customers remain at least 6 feet apart while on vehicles and at transit stations and stops. For example, floor decals, colored tape, or signs to indicate where passengers should not sit or stand can be used to guide passengers.
- Install physical barriers, such as sneeze guards and partitions at staffed kiosks and on transit vehicles to the extent practicable.
- Close communal spaces, such as break rooms, if possible; otherwise, stagger use and clean and disinfect in between uses.

Step 3

- Consider or continue instituting measures to physically separate or create distance between occupants.
- Provide physical guides to help customers maintain physical distance while on vehicles and at transit stations and stops. For example, floor decals, colored tape, or signs to indicate where passengers should not sit or stand can be used to guide passengers.
- Install or maintain physical barriers, such as sneeze guards and partitions at staffed kiosks and on transit vehicles to the extent practicable.

Train employees (Steps 1–3)

- Train all employees in the above safety actions while maintaining social distancing during training.

Monitoring and Preparing

Checking for [signs and symptoms](#) (Steps 1–3)

- Consider conducting daily health checks (e.g., temperature screening and/or [symptom checking](#)) of all employees.
- If implementing health checks, conduct them safely and respectfully, and in accordance with any applicable privacy laws and regulations. Confidentiality should be respected. Employers may use examples of screening methods in [CDC's General Business FAQs](#) as a guide.
- Encourage staff who are sick to stay at home.

Plan for when an employee becomes sick (Steps 1–3)

- Employees with [symptoms](#) of COVID-19 (fever, cough, or shortness of breath) at work should immediately be sent home.
- Inform those who have had [close contact](#) to a person diagnosed with COVID-19 to stay home and self-monitor for symptoms, and to follow [CDC guidance](#) if symptoms develop. If a person does not have symptoms follow appropriate CDC guidance for [home isolation](#).
- Establish procedures for safely transporting anyone sick to their home or to a healthcare facility.
- Notify local health officials, staff, and customers (if possible) immediately of any possible case of COVID-19 while maintaining confidentiality consistent with the [Americans with Disabilities Act](#) (ADA) and other applicable federal and state privacy laws.
- Close off areas used by a sick person and do not use until after cleaning and disinfection. Wait 24 hours before [cleaning and disinfecting](#). If 24 hours is not feasible, wait as long as possible. Ensure [safe and correct application of disinfectants](#) and keep disinfectant products away from children. Affected vehicles can be used immediately after cleaning and disinfection.
- Advise sick staff members not to return until they have met CDC's [criteria to discontinue home isolation](#).
- Implement [safety practices](#) for critical infrastructure workers who may have had exposure to a person with suspected or confirmed COVID-19.

Maintain healthy operations (Steps 1–3)

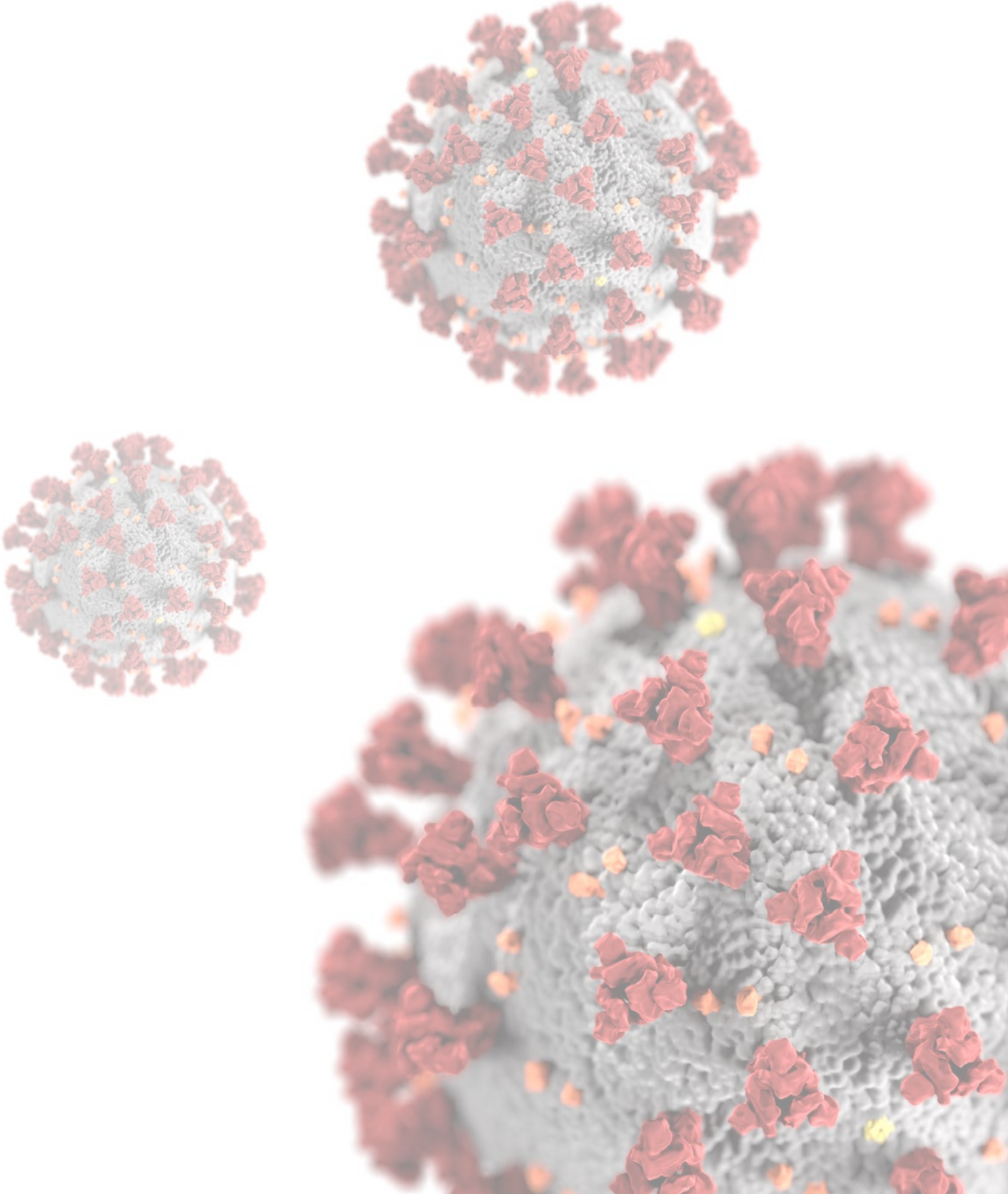
- Implement flexible sick leave and other flexible policies and practices, if feasible.
- Monitor absenteeism of employees and create a roster of trained back-up staff.

- Designate a staff person to be responsible for responding to COVID-19 concerns. Employees and customers should know who this person is and how to contact them.
- Create and test communication systems for employees and customers for self-reporting of symptoms and notification of exposures and closures.
- Support coping and resilience among employees.

Adjusting Service

Steps 1–3

- Coordinate with state and local health department officials about transmission in the area as frequently as possible and adjust operations accordingly.
- Be prepared to consider adjusting services as appropriate if the community mitigation level increases in the local area.
- Continue communication with staff and the public about decision-making.



cdc.gov/coronavirus



**U.S. Department of
Health and Human Services**
Centers for Disease
Control and Prevention

COVID-19 COCONINO COUNTY WEEKLY UPDATE

Morbidity and Mortality Weekly Report (MMWR)

Week 26 (6/21/2020 –6/27/2020)

COCONINO COUNTY
July 1, 2020

 **COCONINO**
COUNTY ARIZONA
Health & Human Services

Operations Update

MMWR Week 26 (6/21/2020-6/27/2020)

A total of 1,782 confirmed COVID-19 cases have been reported among Coconino County residents though week 26.

Specimen Collection

Coconino County response team sites have collected a total of **7,011** specimens

Locations Fort Tuthill: 5,086 CCHHS: 1,308 CCC: 212

Fredonia: 18 Grand Canyon: 6 Williams: 6 Other: 375

Investigations

- The investigation team is interviewing Coconino County Residents that test positive for COVID-19. They have completed **690** total investigations from MMWR week 12 through week 26.
- Information obtained during these interviews assist to identify the source of infection and contact tracing to determine potential exposures.

Monitoring

- The monitoring team contact confirmed cases/people exposed to confirmed cases to monitor for symptoms, identify needs, and provide assistance as requested.
- **Currently being monitored: 276 (As of 6/27/2020)**
- **Total individuals monitored to date: 1,031**

Surveillance

Confirmed Cases: 1,782	Probable Cases:	40	Probable Deaths: 4
Flagstaff: 665	Recovered Cases:	1,043	59% of cases
Page: 183	Deaths:	90	5% of cases
Other Areas: 48	Hospitalizations:	372	21% of cases
Tribal Communities: 886			

COVID-19 Situation Summary

Cases Reported Week 26 (June 21-June 27, 2020):

278
Confirmed
Cases

1,601
Negative
Cases

3
Probable
Cases

0
Deaths

17
Hospitalized

Cumulative Case Counts (March 15, 2020- June 27, 2020):

1,782
Confirmed
Cases

15,309
Negative
Cases

17,091
Total Cases
Resulted

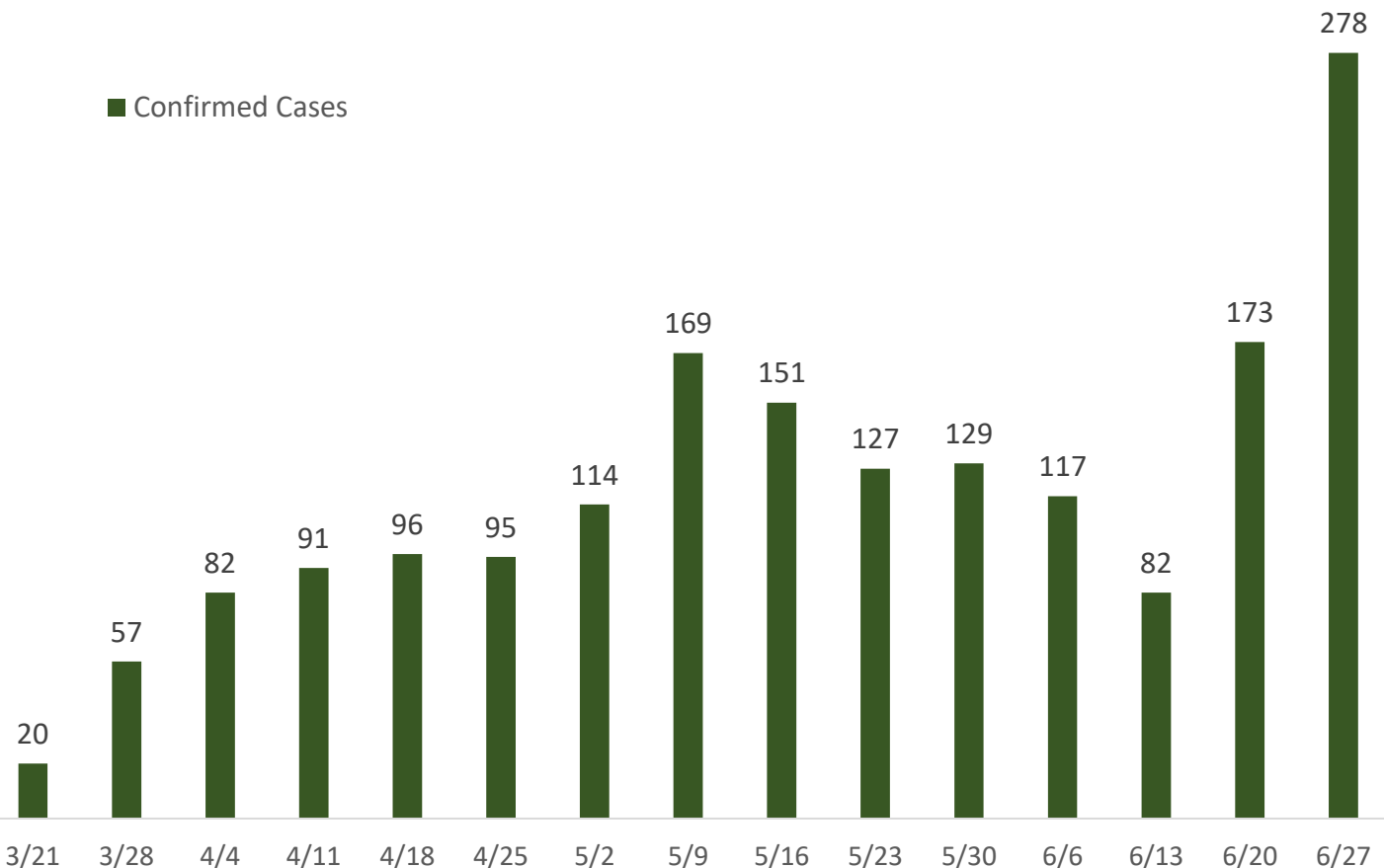
10%
Positivity
Yield

1,203.4 cases per 100,000 Coconino County Residents
vs.

1,101.9 cases per 100,000 Arizona Residents

Weekly Case Counts Among Coconino County Residents:

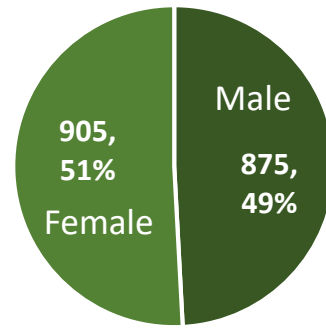
Confirmed Cases



COVID-19 Situation Summary*

Sex:

Sex	Confirmed Cases	Total Tests	Positivity Yield	Case Incidence per 100,000
Male	875	7,481	12%	1,198.6
Female	905	9,000	10%	1,200.7



Key Take Away

- Although females have a higher incidence of COVID-19, they had 20% more tests than male residents.
- Male residents have a slightly higher testing positivity yield as compared to female residents.

Age:

Age	Confirmed Cases	Total Tests	Positivity Yield	Testing Incidence per 100,000	Case Incidence per 100,000
<20 years	170	1,820	9%	4,215	393.7
20-44 years	858	7,376	12%	13,657	1,588.6
45-54 years	275	2,452	11%	15,739	1,765.1
55-64 years	250	2,454	10%	14,508	1,478.0
65+ years	229	2,426	9%	13,186	1,244.7

The median age of Coconino County COVID-19 cases is 38 years old



Key Take Away

- The highest positivity yield (12%) was observed among residents aged 20-44 years.
- The highest testing incidence was observed among residents aged 45-54 years (nearly 15% higher than that of 20-44 years).
- The highest incidence of COVID-19 was among residents aged 45-54 years (nearly 11% higher than that of 20-44 year-olds).

COVID-19 Situation Summary*

Location:

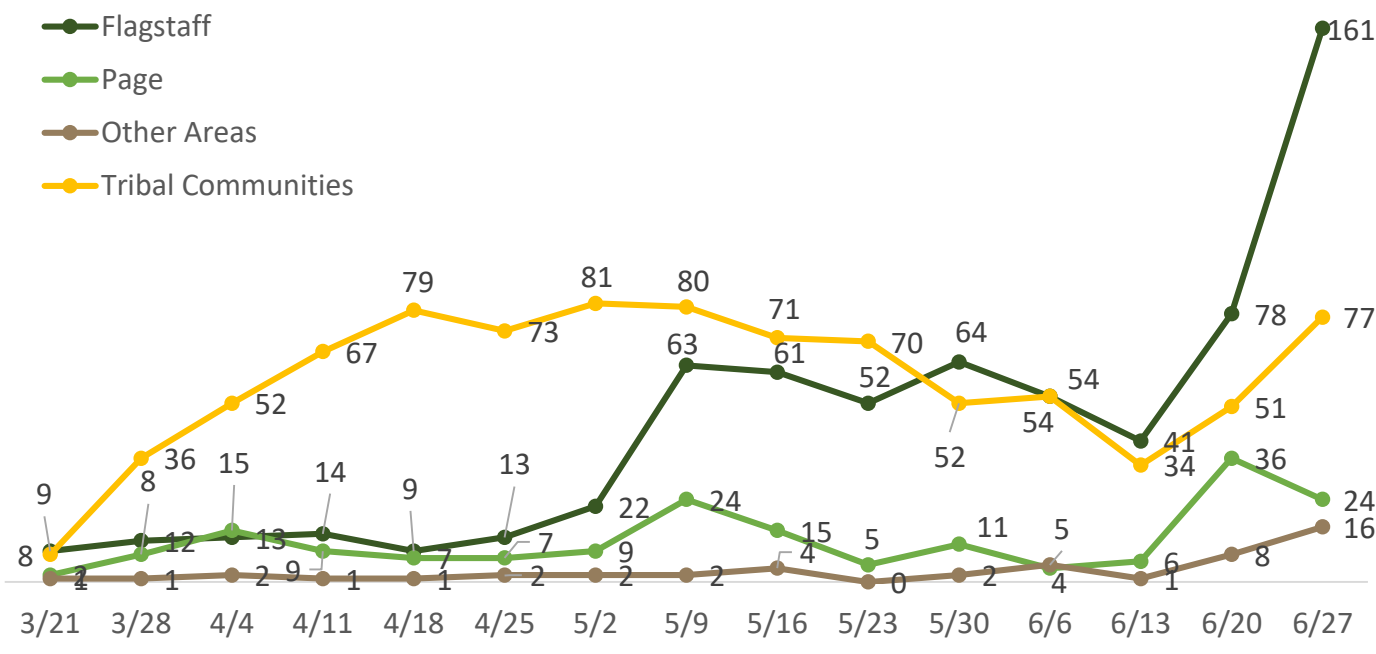
Location	Confirmed Cases	Total Tests	Positivity Yield	Testing Incidence per 100,000	Case Incidence per 100,000
Flagstaff	665	9,362	7%	12,184	865.5
Page	183	1,606	11%	20,712	2,360.1
Other Areas	48	895	5%	2,368	127.0
Tribal Communities	886	4,479	20%	17,239	3,410.1



Key Take Away

- The highest positivity yield and COVID-19 incidence was seen among tribal communities.
- The COVID-19 incidence rate in tribal communities was 4 times higher than the incidence rate observed in Flagstaff.
- The COVID-19 incidence rate in Page was 3 times higher than the incidence rate observed in Flagstaff.

COVID-19 Cases by Geographic Area



*Cases reported from 3/15/20-6/27/20

COVID-19 Situation Summary*

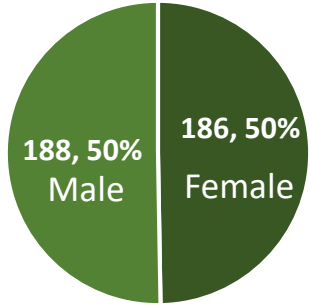
Hospitalizations

(not all hospitals are currently reporting hospitalization data to Coconino County):

Percentage of Cases
21%

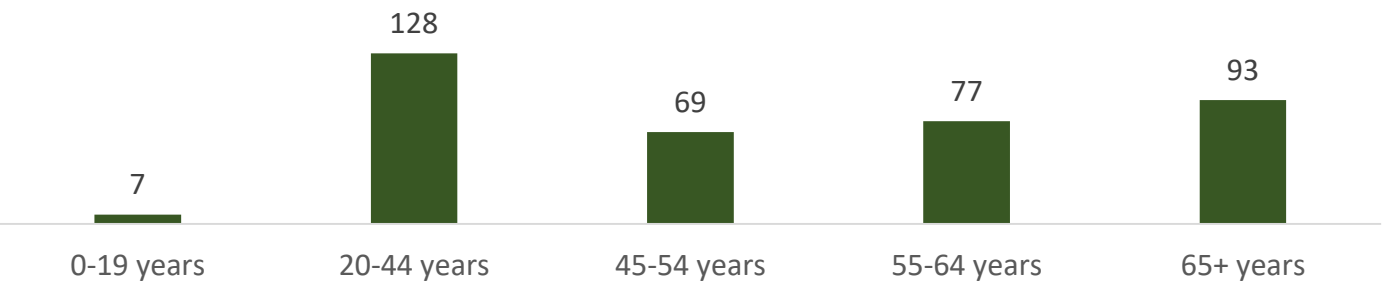
Hospitalized
374

Hospitalizations Per 100,000
252.1

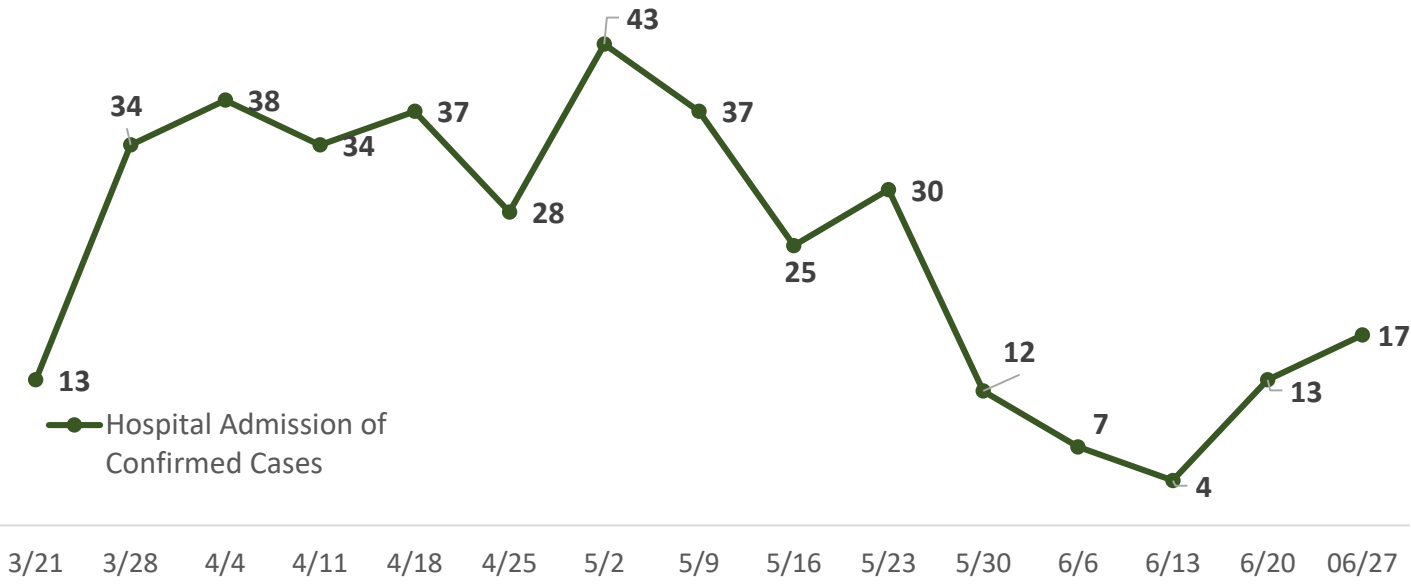


23% of hospitalized residents were in the ICU and 14% were intubated.

Hospitalized Coconino COVID-19 Patients by Age



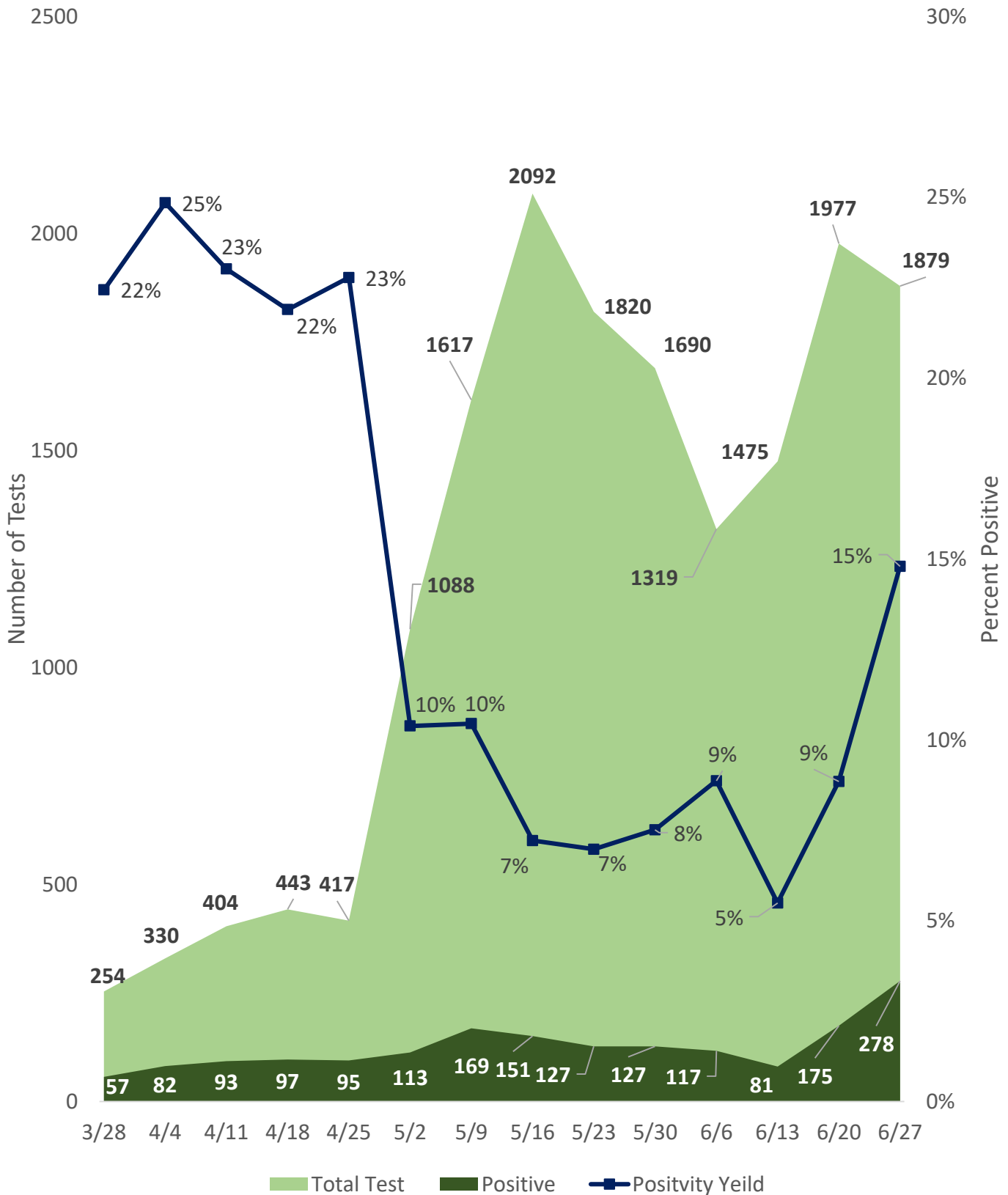
Weekly Case Counts Among Coconino County Residents:



*Cases reported from 3/15/20-6/27/20

COVID-19 Situation Summary*

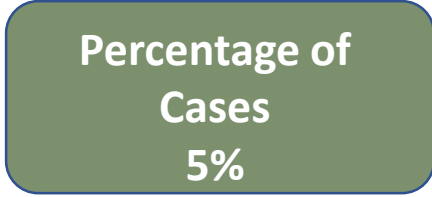
COVID-19 TESTING BY WEEK:



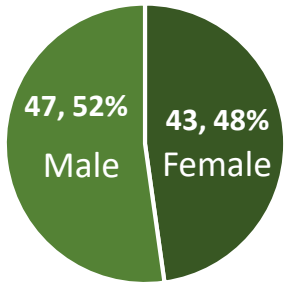
*Cases reported from 3/15/20-6/27/20

COVID-19 Situation Summary*

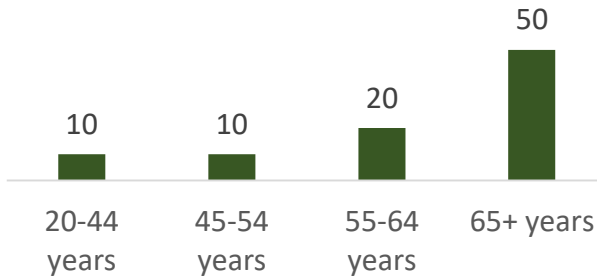
COVID-19 Related Deaths:



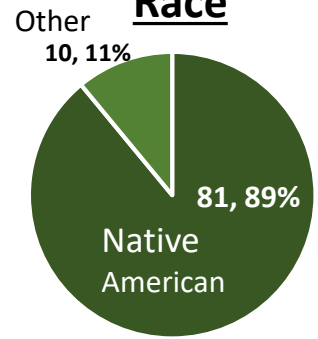
Sex



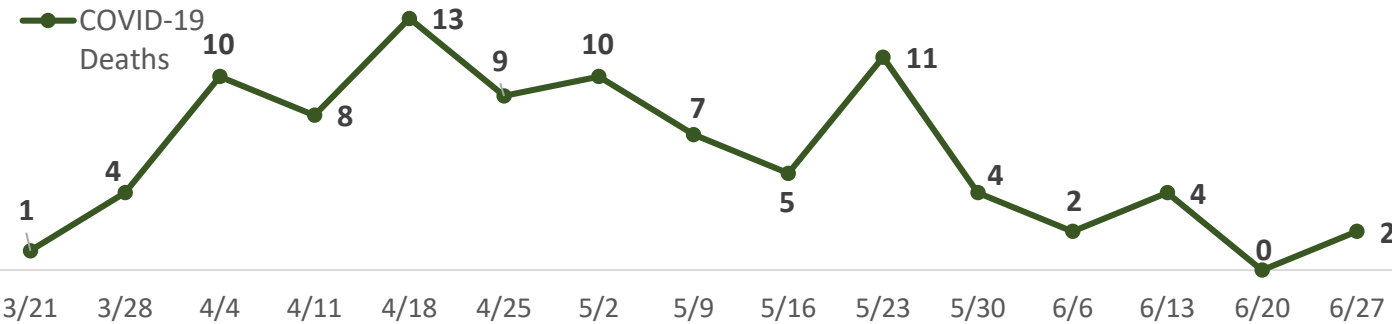
Coconino COVID-19 Deaths by Age



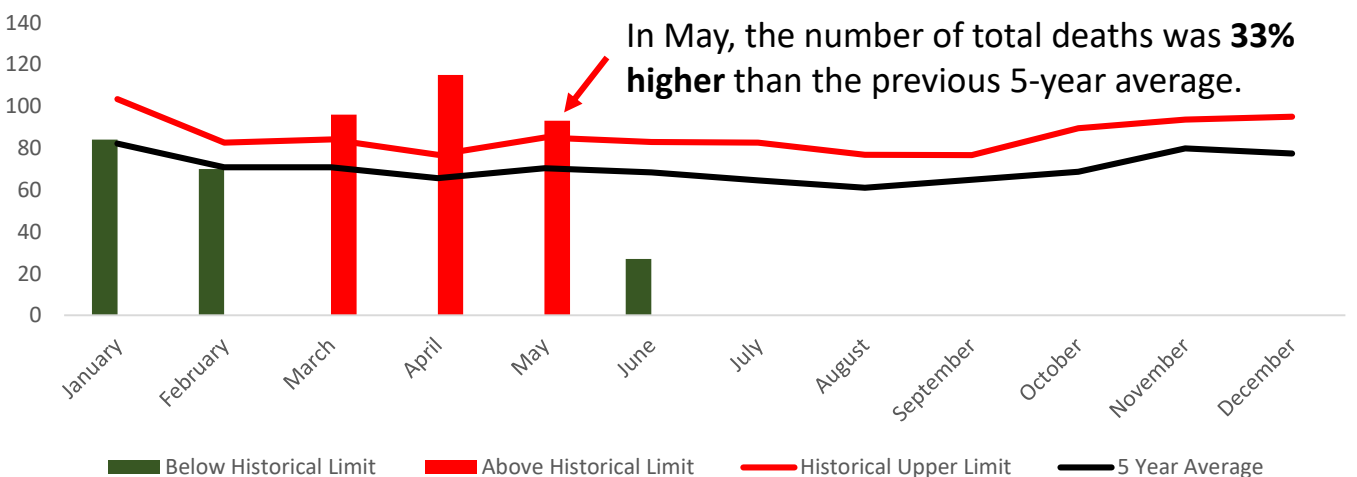
Race



Weekly COVID-19 Deaths Among Coconino County Residents:



2020 Coconino County Total Deaths



*Cases reported from 3/15/20-6/27/20

City of Flagstaff Re-Entry Plan



The City's Re-Entry Plan (Plan) is broken out into four phases. Each phase will be implemented incrementally, dependent upon circumstances and benchmarks as indicated. The Plan contains the following documents:

- General Guidance
- Monitoring Criteria
- CDC Guidelines
- Employee Safety Protocol and Resources
- Workplace Safety Checklist
- Exposure Procedures for Employees
- Specific City Facility Plans – Coming Soon

Any questions about this plan or COVID-19 related concerns should be directed to the Public Affairs Team at covidquestions@flagstaffaz.gov.

General Guidance

During Phase One, Phase Two, and Phase Three of this Plan, the CDC Guidelines, Employee Safety Protocol, Exposure Procedures for Employees, and Workplace Safety Checklist, as set forth below, shall apply. This Plan shall not apply to the Municipal Court operations, which will follow Administrative Orders as directed.

Phase One

City facilities will remain closed to in-person business with the continued effort to address customer service needs remotely. For business that needs to be done in person with the public, this will be done on an appointment basis adhering to CDC guidelines (see below).

Outdoor sport court amenities, park amenities and ramadas will be closed for public use. Playing fields located within City parks will remain open for public use, except in those cases when a special permit is required for use.

Essential services will be performed in-person and on-site as needed. These will include, by way of example, emergency services (police and fire), public works (facilities, streets, solid waste), utilities (water, wastewater), and building inspection.

Operations within the City organization will function remotely where possible. Staff meetings and meetings with the public will be conducted with utilization of remote meetings and remote correspondence. Human interaction will be minimized, with adherence to CDC guidelines and Employee Safety Protocol.

Special events and other permits for activities on City property will be limited and/or modified to minimize gatherings to 10 people or less. Special event permits on City property for gatherings of more than 10 people will be postponed.

City Council meetings may be reduced in number, and when scheduled, will be performed remotely. Recognitions and Proclamations may be deferred, and agenda items will focus upon time-sensitive matters. City Council meetings may be reduced in frequency and duration.

Intergovernmental meetings necessary to address COVID-19 response and information sharing will be performed remotely. Other intergovernmental meetings and community meetings may be suspended. Board and Commission meetings may be suspended, and when scheduled, will be performed remotely.

Travel for employees and City Officials will be suspended. City celebratory functions, events, and group gatherings will be suspended or held remotely using a virtual meeting platform.

Phase Two

Except as otherwise provided below, all restrictions in Phase One will still apply.

Outdoor sport court amenities will reopen, including tennis courts, skate parks, BMX park, dog parks, outdoor courts, play structures, swing sets, water fountains, and restrooms. Outdoor park amenities will include signage reminding visitors of the need to social distance and follow CDC guidelines, and to identify that usage is at the risk of each user. The park ramadas will remain closed at this time given the tendency to draw crowds.

The City Visitor's Center will open on a limited basis taking into consideration the visiting public's needs. The guidelines as outlined in the Visitor's Center specific plan below will be followed.

Staffing required to provide service and maintenance to the limited openings referenced above will be scheduled. The return of some furloughed employees may be considered to support these services.

Custodial and sanitation services will be enhanced with respect to these limited openings. The temporary installation of additional public restrooms may be considered for strategic locations in the downtown area.

Temporary use permits will be authorized based on the level of transmission as recorded by the Coconino County Health and Human Services in the following manner:

Level of Transmission	Event Information
Substantial	<ul style="list-style-type: none">No events permitted.
Minimal to Moderate	<ul style="list-style-type: none">Events with up to 50 people that provide for clear physical distancing.
None to Minimal	<ul style="list-style-type: none">Events with up to 250 people provide COVID precautions as identified in CDC and AZDHS guidelines (see below). Ability to limit groups of 10 or more from congregating.
None/Vaccine	<ul style="list-style-type: none">Return to pre-COVID conditions.

Phase Three

Except as otherwise provided below, all restrictions in Phase One and Phase Two will still apply.

Upon the Mayor's directive and following the monitoring guidelines as set forth below, Phase Three will be implemented. Most City facilities will open to public entry and begin limited public services. Hours of operation may be curtailed and building capacities for visitors and users may be limited.

Lobbies and public areas will incorporate queuing mechanisms with tape, signage and ground markings. Common seating areas will be closed to personnel and visitors to discourage congregating and interaction. Secured doors and accesses will remain closed.

Sanitizing liquids and/or wipes will be provided throughout City facilities and increased cleanings and sanitation will be performed. When possible, protective shields will be installed at customer service counters.

Some staff occupation of City facilities will occur, with emphasis being placed upon continued working from home by those who are able to perform their job duties remotely. Because each division's business needs and physical spaces are different, the number of employees transitioning back to in-office work, which may include alternative work schedules, will be determined on a division-by-division basis. The City will notify employees when to return to work and will attempt to provide at least two weeks advance notice. Employees who are concerned about returning to work should work with their Supervisor and Human Resources.

Indoor City recreational facilities, including the Aquaplex, recreation centers, and gyms, may continue to be closed. Please see the site specific plans coming soon for the phased re-entry of these facilities.

Special events and other permits for activities on City property will be limited and/or modified to minimize gatherings to 50 people or less. Special event permits on City property for gatherings of more than 50 people will be postponed. At its discretion, the City Council may allow for special events and permits up to 250 people with adherence to CDC guidelines. (Resources: Opening Up America Again <https://www.whitehouse.gov/openingamerica/> and CDC Guideline for Large Gatherings <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html>)

City Council meetings will occur weekly and will continue be performed remotely. Recognitions and Proclamations may be scheduled pursuant to guidance from the Mayor; agenda items and presentations will be regular in scope and consistent with the Working Calendar.

Intergovernmental meetings will continue to occur remotely. Board and Commission meetings will occur on a regular basis and be performed remotely.

Travel for employees and City Officials will avoid those jurisdictions that still have a moderate or significant transmission of COVID-19. Any work-related travel needed for critical infrastructure is exempt from these restrictions.

The public will be required to wear masks when entering City facilities per Section 10 Face Coverings of the Mayor's March 16th Proclamation. Meetings with public customers will continue to be performed remotely when applicable and in-person meetings will be minimized. City staff should remind the customer of the face coverings requirement when scheduling the meeting. If the customer does not have a mask, a mask may be provided to them by City staff. If the customer is not willing to wear a mask, a virtual meeting may be offered as an alternative. In no event shall a City employee be required to meet with a customer in-person if that customer refuses to wear a mask. The provisions herein shall not apply in all cases, including but not limited to, the provision of emergency response.

Phase Four

At the end of the pandemic situation, upon the Mayor's directive, Phase Four will be implemented.

In this phase most City facilities will return to pre-COVID-19 business hours and operations. This final phase will see the majority of City operations resume and the public will be permitted to re-enter open facilities.

The required use of PPE by City employees will be phased out in accordance with applicable CDC guidelines.

City Council, Intergovernmental and Board and Commission meetings will occur on the regular schedule. New protocols and provisions related to remote meetings and working from home may be explored on an ongoing basis in the pursuit of efficiency and productivity.

The City will continue to monitor conditions and take steps it deems necessary to mitigate the risk of COVID-19 exposure and spread within City facilities.

Monitoring Criteria

Downward trajectory of the number of cases, hospitalizations and deaths over four or more weeks. During this same timeframe, the community members, business owners and visiting public have demonstrated the ability to follow CDC guidelines such as physical distancing, wearing masks when in close spaces and personal hygiene to help prevent serious illness and death. Healthcare facilities must have capacity to care for those who are seriously ill and the ability to provide testing, monitoring and contact tracing.

CDC Guidelines

These guidelines should be used in the first three phases of the re-entry plan and should be posted in all City facilities in building entrances and employee areas.

How to Safely Wear and Take Off a Cloth Face Covering

Accessible: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/07y-cloth-face-coverings.html>

WEAR YOUR FACE COVERING CORRECTLY

- Wash your hands before putting on your face covering
- Put it over your nose and mouth and secure it under your chin
- Try to fit it snugly against the sides of your face
- Make sure you can breathe easily
- Do not place a mask on a child younger than 2





USE THE FACE COVERING TO PROTECT OTHERS

- Wear a face covering to protect others in case you're infected but don't have symptoms
- Keep the covering on your face the entire time you're in public
- Don't put the covering around your neck or up on your forehead
- Don't touch the face covering, and, if you do, clean your hands

FOLLOW EVERYDAY HEALTH HABITS

- Stay at least 6 feet away from others
- Avoid contact with people who are sick
- Wash your hands often, with soap and water, for at least 20 seconds each time
- Use hand sanitizer if soap and water are not available





TAKE OFF YOUR CLOTH FACE COVERING CAREFULLY, WHEN YOU'RE HOME

- Untie the strings behind your head or stretch the ear loops
- Handle only by the ear loops or ties
- Fold outside corners together
- Place covering in the washing machine
- Wash your hands with soap and water



Cloth face coverings are not surgical masks or N-95 respirators, both of which should be saved for health care workers and other medical first responders.

For instructions on making a cloth face covering, see: [cdc.gov/coronavirus](https://www.cdc.gov/coronavirus)

Stop the Spread of Germs

Help prevent the spread of respiratory diseases like COVID-19.



cdc.gov/coronavirus

1807-0000-11-001118-00

Employee Safety Protocols and Resources

Common Areas & Shared Devices

- As more employees are returning to work, we discourage staff from using vending machines, push button drinking fountains, breakrooms, and other shared devices such as refrigerators and microwaves. These devices are more difficult to keep clean and avoid the spread of germs to ensure they are safe for all. We are encouraging employees to pack in and pack out all necessary food and drink without using these devices during the first three phases of this plan.

Social distancing

- COVID-19 is a respiratory virus that is mainly spread through droplets created when a person who is infected coughs, sneezes, or talks. You can protect yourself by maintaining social distance (at least 6 feet) from others.
- Staff are encouraged to continue remote meetings or phone calls with co-workers and customers as much as possible.

Wearing a mask in all public places

- Wear a mask when you are in a public area, outside of your office, in a meeting with others, in a vehicle with others, and when in contact with the public. Employees do not have to wear a mask when working alone in their office or are able to be six feet or further from one another, working in a Fire station, driving alone in a City vehicle, or outside and adhering to social distancing guidelines. Employees who are unable to wear a mask, or whose essential job duties are impeded by the wearing of a mask, should speak to their supervisor and Human Resources about available accommodations.
- Have a different mask for each day of the week. After use, place in a brown paper bag for at least 24 hours (this will allow any contaminants to die off prior to wearing again the following week).
- The City is providing staff with surgical or N-95 type masks. N-95 type masks have a higher level of protection than surgical masks, which have a higher level of protection than cloth masks.
- If you choose to wear your own cloth mask (not supplied by the City), it should be washed or decontaminated after each use.
- Wash your hands before and after putting on or taking off a mask. Don't touch your eyes.

Wearing eye protection/ face shields

- Safety glasses are provided by the City and suggested to be worn whenever you are outside of your office or in a group/public setting.
- Safety glasses should be cleaned and disinfected daily or after individual use.
- Face Shields may be provided to employees who have frequent face to face contact with the public when a protective barrier is not available. The face shields are to be worn over your safety glasses and mask.

Wearing gloves

- Disposable nitrile gloves are provided by the City and should be worn if you often have physical hand contact with the public or others, handle money, or handle equipment from the public or others during work.
- Be aware that while wearing gloves, you should not touch personal objects (pens, keyboards, etc.) or equipment prior to doffing and washing your hands as the virus could be on your gloves.
- Gloves are not recommended by the CDC if you are not in contact with the public. If you are not in contact with the public, the preferred method is washing or sanitizing your hands often. Consider having a wipe or paper towel in your hand when opening or grabbing handles in lieu of wearing gloves.

Checking your temperature

- The employee is encouraged to check their temperature prior to arriving to work.
- Check your temperature if you feel any changes in your temperature or have cause for concern.
- Anyone with a temperature above 100 degrees should be sent home to self-assess.
- Please refer to the instruction sheet provided by the City to ensure you are taking your temperature accurately.

Practicing good personal hygiene

- Wash your hands often, especially after touching any frequently used item or surface like handrails, pens, or any handle.
- Use hand sanitizer if washing your hands is impractical.
- Avoid touching your face.
- Sneeze or cough with a mask on or into your elbow (if you are not wearing a mask).
- Assume everyone, including yourself, has the virus (symptomatic or not).

Disinfecting your area and equipment

- Wipe down any pens or equipment handled by others after each use.
- Disinfect your office space routinely throughout the day.
- Disinfect your keyboard, phone, coffee cup, desk, counter tops, mouse, door handle and switches before and after each day's use or as needed.
- Regularly clean personal or business cell phones based on the number of times they are being handled or used.
- Don't share laptops with others if possible.
- Wipe down your vehicle just like you would your office space.

Employee Training Resources

[Proper Handwashing to Prevent Germs](#)

[Donning and Doffing Gloves](#)

Workplace Safety Checklist

Safety measures might include:

- Implementing employee health screening procedures.
- Developing an exposure-response plan that addresses:
 - Isolation, containment and contact tracking procedures.
 - Stay-at-home requirements.
 - Exposure communications to affected staff.
- Providing personal protective equipment (PPE) such as:
 - Masks, gloves, face shields, etc.
 - Personal hand sanitizer.
- Detailing cleaning procedures and procuring ongoing supplies.
- Establishing physical distancing measures within the workplace:
 - Staggered shifts and lunch/rest breaks.
 - Rotating weeks in the office and working remotely.
 - Moving workstations to increase separation distance.
 - Implementing one-way traffic patterns throughout workplace.
- Restricting business travel:
 - Start with essential travel only and define what that is.
 - Follow government guidance to ease restrictions over time.
- Defining customer and/or visitor contact protocols such as:
 - Directing customer traffic through workplace.
 - Limiting the number of customers in any area at one time.
 - No handshake greetings, remain 6 feet apart.
 - Using video or telephone conferencing instead of in-person client meetings.
 - Providing contactless pickup and delivery of products.
- Understanding and complying with Occupational Safety and Health Administration (OSHA) record-keeping and reporting obligations:
 - Identify positions, if any, with the potential for occupational exposure to the coronavirus.
 - Review OSHA regulation 29 CFR § 1904 to determine work-relatedness of illnesses.

Exposure Procedures for Employees

When an employee reports exposure to COVID at work

- The employee will complete an Exposure Report Form and articulate how the exposure occurred at work (e.g., shook hands, spit on, in confined space together, etc.) and the Form will be sent to Risk Management.
- Risk Management will share information with HR.
- If the exposure was likely caused at work, then the City's response would depend on the extent of the exposure (e.g., not wearing PPE and they sneezed on me).
- Risk Management will evaluate the extent of the exposure to determine if testing or staying at home is appropriate. Employees may also choose to test regardless of exposure or suspected exposure.
- If the employee is recommended for testing based on extent of the exposure, the employee will be sent to the County Health Department for testing and will be reimbursed for any out-of-pocket expenses for testing.
- If it is suggested the employee remain home until testing is received based on the extent of the exposure, the employee will remain on Sick Industrial paid leave until the test results are received.

When an employee reports testing positive to COVID

- The employee will not report to work.
- The employee will contact Human Resources.
- Human Resources will notify the employee's supervisor.
- Human Resources will provide support to the Supervisor if a work group expresses concern about exposure given an employee report.
- The employee will work with their Supervisor, Risk Management and Human Resources prior to returning to work.
- The employee is eligible to use accrued leave during this time.
- If the employee has no leave available, the employee may request donated leave or leave without pay.

Site Specific Plans

The following site specific plans will be implemented in a multi-tiered approach pursuant to Phase 3 of the City’s Re-entry Plan. These plans will begin to be implemented only after the City moves into Phase 3. The site specific plans may be updated as necessary to respond to business needs and environmental conditions. Facilities may move back to previous tiers in order to increase mitigation efforts to maintain safety for all patrons and staff. Any updated information will be included on the City’s website under COVID-19.

Library Plans

DOWNTOWN LIBRARY

Tier 1	Seating and Study Areas	Computers	Youth Services	Library Services	Restrooms and Drinking Fountains
<p>The library will admit a group of 8 patrons and 1 family for 45 minutes.</p> <p>There is a 15-minute break between each group for cleaning.</p> <p>Patrons will need to show their library card upon entry, be wearing a mask and will be encouraged</p>	<p>These areas will remain closed during this tier.</p>	<p>Patrons make an appointment for computer use.</p> <p>Adult computers – 7 reservations per hour, one person per pod, one on each side of the long row of computers.</p> <p>“Family” reservations – one per day in Youth Services.</p> <p>Rotate use of computers and once all are</p>	<p>Children’s toys will not be available.</p>	<p>Library material stacks will remain closed during this tier.</p> <p>Curbside service will continue for the check-out of materials.</p> <p>Reference assistance is available via phone.</p> <p>Wi-Fi is available to individuals outside in the parking lot.</p>	<p>Restrooms and drinking fountains are available to those patrons admitted into the library.</p> <p>Cleaning will be enhanced from twice to four times per day.</p>

to use hand sanitizer.		used then all are cleaned and sanitized.		E-Resources are available via the website or mobile app.	
Tier 2	Seating and Study Areas	Computers	Youth Services	Library Services	Restrooms and Drinking Fountains
<p>The library will admit a group of 30 patrons to occupy the library at a time.</p> <p>Patrons will need to show their library card upon entry, be wearing a mask and will be encouraged to use hand sanitizer.</p>	Limited seating and study areas available following physical distancing CDC guidelines.	<p>Patrons make an appointment for computer use.</p> <p>Adult computers – 7 reservations per hour, one person per pod, one on each side of the long row of computers.</p> <p>“Family” reservations – one per day in Youth Services.</p> <p>Rotate use of computers and once all are used then all are cleaned and sanitized.</p> <p>There is a 15-minute break</p>	Children’s toys will not be available.	<p>Library material stacks are available, and the self-serve kiosk will be available to check-out materials.</p> <p>Curbside service will continue for the check-out of materials.</p> <p>Reference assistance is available via phone.</p> <p>Wi-Fi is available to individuals outside in the parking lot.</p> <p>E-Resources are available via the website or mobile app.</p>	<p>Restrooms and drinking fountains are available to those patrons admitted into the library.</p> <p>Cleaning will be enhanced from twice to four times per day. Regularly schedule cleanings of surfaces will happen throughout the day.</p>

		between each group for cleaning.			
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<u>Tier 3</u>	Seating and Study Areas	Computers	Youth Services	Library Services	Restrooms and Drinking Fountains
<p>The library will permit 50 patrons to occupy the library at a time.</p> <p>Patrons do not have to have a library card to enter the library.</p> <p>Patrons will be wearing a mask and are encouraged to use hand sanitizer.</p>	<p>Limited seating and study areas available following physical distancing CDC guidelines.</p>	<p>No appointments are necessary for use of computers.</p> <p>Computers will be limited to one hour per patron per day. Every other computer will be used to maintain physical distancing.</p> <p>Computers will be cleaned three times per day.</p>	<p>Children’s toys will not be available.</p>	<p>Library material stacks are available.</p> <p>Circulation Desk, Reference Desk and Youth Services Desk are open.</p> <p>The self-serve kiosk will continue to be available to check out materials.</p> <p>Curbside service will continue for the check-out of materials.</p> <p>Wi-Fi is available to individuals</p>	<p>Restrooms and drinking fountains are available to those patrons admitted into the library.</p> <p>Cleaning will be enhanced from twice to four times per day.</p>

				outside in the parking lot. E-Resources are available via the website or mobile app.	
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EAST SIDE LIBRARY

<u>Tier 1</u>	Seating and Study Areas	Computers	Youth Services	Library Services	Restrooms and Drinking Fountains
<p>The library will admit a group of 4 patrons and 1 family for 45 minutes.</p> <p>There is a 15-minute break between each group for cleaning.</p> <p>Patrons will need to show their library card upon entry, be wearing a mask and will be encouraged to use hand sanitizer.</p>	<p>These areas will remain closed during this tier.</p>	<p>Patrons make an appointment for computer use.</p> <p>Adult computers – 4 reservations per hour, one person per pod, one on each side of the long row of computers.</p> <p>“Family” reservations – one per day in the Teen Room.</p> <p>Rotate use of computers and once all are used then all</p>	<p>Children’s toys will not be available.</p>	<p>Library material stacks will remain closed during this tier.</p> <p>Curbside service will continue for the check-out of materials.</p> <p>Reference assistance is available via phone.</p> <p>Wi-Fi is available to individuals outside in the parking lot.</p> <p>E-Resources are available</p>	<p>Restrooms and drinking fountains are available to those patrons admitted into the library.</p> <p>Cleaning will be enhanced from twice to four times per day.</p>

		are cleaned and sanitized.		via the website or mobile app.	
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<u>Tier 2</u>	Seating and Study Areas	Computers	Youth Services	Library Services	Restrooms and Drinking Fountains
<p>The library will admit a group of 15 patrons to occupy the library at a time.</p> <p>Patrons will need to show their library card upon entry, be wearing a mask and will be encouraged to use hand sanitizer.</p>	<p>Limited seating and study areas available following physical distancing CDC guidelines.</p>	<p>Patrons make an appointment for computer use.</p> <p>Adult computers – 4 reservations per hour, one person per pod, one on each side of the long row of computers.</p> <p>“Family” reservations – one per day in the Teen Room.</p> <p>Rotate use of computers and once all are used then all are cleaned and sanitized.</p>	<p>Children’s toys will not be available.</p>	<p>Library material stacks are available, and the self-serve kiosk will be available to check out materials.</p> <p>Curbside service will continue for the check-out of materials.</p> <p>Reference assistance is available via phone.</p> <p>Wi-Fi is available to individuals outside in the parking lot.</p> <p>E-Resources are available</p>	<p>Restrooms and drinking fountains are available to those patrons admitted into the library.</p> <p>Cleaning will be enhanced from twice to four times per day. Regularly schedule cleanings of surfaces will happen throughout the day.</p>

		There is a 15-minute break between each group for cleaning.		via the website or mobile app.	
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Tier 3	Seating and Study Areas	Computers	Youth Services	Library Services	Restrooms and Drinking Fountains
<p>The library will permit 25 patrons to occupy the library at a time.</p> <p>Patrons do not have to have a library card to enter the library.</p> <p>Patrons will be wearing a mask and are encouraged to use hand sanitizer.</p>	<p>Limited seating and study areas available following physical distancing CDC guidelines.</p>	<p>No appointments are necessary for use of computers.</p> <p>Computers will be limited to one hour per patron per day. Every other computer will be used to maintain physical distancing.</p> <p>Computers will be cleaned three times per day.</p>	<p>Children’s toys will not be available.</p>	<p>Library material stacks are available.</p> <p>Circulation Desk and Reference Desk are open.</p> <p>The self-serve kiosk will continue to be available to check out materials.</p> <p>Curbside service will continue for the check-out of materials.</p> <p>Wi-Fi is available to individuals outside in the parking lot.</p>	<p>Restrooms and drinking fountains are available to those patrons admitted into the library.</p> <p>Cleaning will be enhanced from twice to four times per day. Regularly schedule cleanings of surfaces will happen throughout the day.</p>

				E-Resources are available via the website or mobile app.	
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Recreation Facility Plans

HAL JENSEN RECREATION CENTER

<u>Tier 1</u>	Front Counter & Lobby	Computer Room	Game Room	Gym	Weight Room	Racquetball Courts	Restrooms	Upstairs
Facility operates at reduced hours. No morning weight room hours and no Saturday hours. Summer hours reduced to 12pm – 7pm.	<p>Patrons check-in with front desk staff and staff signs them in and orients them to any new procedures and guidelines.</p> <p>Minimum equipment checkout time will be 20 minutes. Staff fills out the Equipment Checkout sheet.</p> <p>Balls, pool, air hockey, ping pong, and foosball equipment checked out for single person or</p>	<p>25-minute time slots for use.</p> <p>Three people maximum during any time slot.</p> <p>Monitors, keyboards, mouse, desk, and chairs sanitized after each use by staff.</p> <p>Computers are to be rotated between time slots.</p>	<p>Only allow every other piece of equipment to be used.</p> <p>Rotate the equipment midway through opening hours.</p> <p>Staff to sanitize equipment once it is rotated out.</p>	<p>Limit the number of people in the gym to 8 people (4 people on each half of the court).</p> <p>Non-contact activities only. Patrons are to follow physical distancing guidelines and remain a minimum of six feet apart.</p> <p>No sharing of balls or equipment.</p>	<p>Maximum capacity set at 8 people.</p> <p>Patrons are to follow physical distancing guidelines and remain a minimum of six feet apart.</p> <p>Patrons are to wipe down equipment before and after each use.</p> <p>No spotters allowed</p> <p>Staff wipes all high touch surfaces every two hours.</p>	<p>Single person or same household use only.</p>	<p>Sanitize sinks, counters, toilets, urinals, stalls, etc. hourly.</p> <p>Staff to wear gloves and mask while cleaning. PPE to be disposed of after use.</p> <p>Encourage patrons to follow CDC handwashing protocols.</p>	Area to remain closed.

same household use only.								
No board games checked out at this time.								
Patrons encouraged to bring their own balls.								
Equipment sanitized after each use.								

<u>Tier 2</u>	Front Counter & Lobby	Computer Room	Game Room	Gym	Weight Room	Racquetball Courts	Restrooms	Upstairs
Facility increases operating summer hours to 10am – 7pm. The facility remains closed on Saturdays.	Patrons sign in themselves utilizing “Clean / Dirty” pen system. Minimum equipment checkout remains at 20 minutes. Patrons sign out equipment themselves. Equipment is checked out for shared use. However,	Remains the same as in Tier 1.	All equipment open for use. Establish a maximum capacity for the game room in accordance to the current CDC physical distancing guidelines.	Small group games permitted. For basketball, no more than 3-on-3 half court or 4-on-4 full court will be permitted. Physical contact should be minimized.	Establish a maximum capacity for the weight room in accordance to the current CDC physical distancing guidelines. Patrons are to wipe down equipment before and after each use. Staff sanitizes all high touch	Equipment is checked out for shared use. However, physical contact should remain minimal.	Remains the same as in Tier 1.	Contracted instructors can resume classes with appropriate physical distancing measures in place. Facility rentals are not available at this time.

	<p>physical contact should remain minimal.</p> <p>Board games can be checked out.</p> <p>Equipment sanitized after each use.</p>				<p>areas at the end of each night.</p>			
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SILER HOMES ACTIVITY CENTER

<u>Tier 1</u>	Front Counter & Lobby	Ping Pong Room	Game Room	Outdoor Space	Restrooms
<p>Facility operates at reduced hours by remaining closed on Saturdays and Sundays. Summer hours are 1pm – 7pm.</p>	<p>Patrons check-in with front desk staff and staff signs them in and orients them to any new procedures and guidelines.</p> <p>Minimum equipment checkout time is 20 minutes. Staff fills out the Equipment Checkout sheet.</p> <p>Balls for single person or same household use only.</p> <p>No board games checked out at this time.</p> <p>Patrons encouraged to bring their own balls.</p>	<p>25-minute time slots for use.</p> <p>Two people maximum during any time slot.</p> <p>Equipment sanitized after each use by staff.</p>	<p>Staff runs organized activities.</p> <p>No sharing of equipment.</p> <p>Physical distancing guidelines adhered to.</p>	<p>Staff organizes non-contact activities only. Patrons are to follow physical distancing guidelines and remain a minimum of six feet apart.</p> <p>No sharing of balls or equipment.</p>	<p>Sanitize sinks, counters, toilets, urinals, stalls, etc. hourly.</p> <p>Staff to wear gloves and mask while cleaning. PPE to be disposed of after use.</p> <p>Encourage patrons to follow CDC handwashing protocols.</p>

	Equipment sanitized after each use.				
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<u>Tier 2</u>	Front Counter & Lobby	Ping Pong Room	Game Room	Outdoor Space	Restrooms
Facility increases operating summer hours by adding partial Saturday hours from 12pm – 4pm.	<p>Patrons sign in themselves utilizing “Clean / Dirty” pen system.</p> <p>Minimum equipment checkout remains at 20 minutes. Patrons sign out equipment themselves.</p> <p>Equipment is checked out for shared use. However, physical contact should remain minimal.</p> <p>Board games can be checked out.</p> <p>Equipment sanitized after each use.</p>	Remains the same as in Tier 1.	<p>All equipment open for use.</p> <p>Establish a maximum capacity for the game room in accordance to the current CDC physical distancing guidelines.</p>	<p>Small group games permitted.</p> <p>Physical contact should be minimized.</p>	Remains the same as in Tier 1.

JAY LIVELY ACTIVITY CENTER

<u>Tier 1</u>	Ice	Private Facility Rental	Locker Room	Bleachers	Vending Machine	Drinking Fountain	Restrooms
<p>Facility is open to limited occupancy of not more than 20 people.</p> <p>Protective guards and markings on the floor for physical distancing</p>	<p>No Public Skate at this time.</p> <p>Adult Skate and Stick & Puck Session are available.</p> <p>Half an hour in between to</p>	<p>Limited to not more than 20 participants.</p> <p>No birthday party reservations.</p> <p>This area will remain locked.</p>	Remain closed in this Tier.	Remain closed in this Tier.	Covered and unavailable.	Signage will be posted as not available unless using a bottle and no-touch system.	Limited to 2 people at a time and every other bathroom stall will be closed.

added at cashier and skate rental counters.	clean and disinfect.	Half an hour in between to clean and disinfect.					
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<u>Tier 2</u>	Ice	Private Facility Rental	Locker Room	Bleachers	Vending Machine	Drinking Fountain	Restrooms
Facility is open to limited occupancy of not more than 40 people.	No Public Skate at this time. Adult Skate and Stick & Puck Session are available. Half an hour in between to clean and disinfect.	Limited to not more than 40 participants. No birthday party reservations. This area will remain locked. Half an hour in between to clean and disinfect.	Open and limited to 10 participants at a time. Shower/bathroom area will be limited to 2 participants.	Available and marked for physical distancing. Small bleachers will remain closed.	Available for use and staff will be disinfecting frequently.	Signage will be posted as available with increased disinfecting schedules.	Limited to 4 people at a time and every other bathroom stall will be closed.

<u>Tier 3</u>	Ice	Private Facility Rental	Locker Room	Bleachers	Vending Machine	Drinking Fountain	Restrooms
Facility is open to limited occupancy of not more than 75 people or group size recommended by CDC.	Limited public skate to not more than 75 people. Staff will monitor entrances and exits. Adult Skate, Stick & Puck Session and Open Hockey	Limited to not more than 75 participants. No birthday party reservations. This area will remain locked. Fifteen minutes in between to	Open and limited to 20 participants at a time. Shower/bathroom area will be limited to 4 participants.	Available and marked for physical distancing. Small bleachers will remain closed.	Available for use and staff will be disinfecting frequently.	Signage will be posted as available with increased disinfecting schedules.	No limitations and all stalls will be open for use.

	Session are available. Fifteen minutes in between to clean and disinfect.	clean and disinfect.					
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<u>Tier 4</u>	Ice	Private Facility Rental	Locker Room	Bleachers	Vending Machine	Drinking Fountain	Restrooms
Facility is open to limited occupancy of not more than 600 people or group size recommended by CDC.	Limited public skate to not more than 400 people. Staff will monitor entrances and exits. Schedule will return to pre-COVID operations. No restrictions for Adult Skate, Stick & Puck Session and Open Hockey Session. Fifteen minutes in between to clean and disinfect.	Return to pre-COVID operations. Birthday party reservations will become available although may be limited for capacity. Fifteen minutes in between to clean and disinfect.	No restrictions.	Available and marked for physical distancing. Small bleachers will be available.	No restrictions.	No restrictions.	No restrictions.

JOE C. MONTOYA COMMUNITY AND SENIOR CENTER

Limited opening plan	Lobby	Activity Rooms	Weight Room	Meal Program	Drinking Fountain	Restrooms
<p>7:00 a.m. – 1:00 p.m.</p> <p>One staff greeting customers, pointing out posted rules for entry and establishing patron’s purpose for being there.</p> <p>One staff at the front counter providing excellent customer service and supervising the lobby and front of facility including restrooms.</p> <p>Rules and guidelines posted throughout facility.</p> <p>Patrons may enter through front door only. They may exit through either door.</p>	<p>One public access computer shall remain available for use in 30-minute increments. After each user, staff shall clean and sanitize computer and workspace for next patron’s use.</p> <p>T.V. area, library and hanging out in the lobby will be curtailed during this Tier.</p>	<p>Limited to not more than six participants.</p> <p>Strict distancing will be maintained.</p> <p>Instructor will clean tables and chairs used during activity or class. Staff will clean and sanitize room between user groups.</p>	<p>One staff supervising the weight room ensuring that distancing is maintained, and that equipment is being cleaned and sanitized between users.</p> <p>Available by appointment only. 45-minute timeslots starting at the top of every hour. Patrons will be required to distance themselves from each other while working out, 6-person max. Patrons will be asked to wipe down anything they touch.</p>	<p>Remains closed until further notice.</p> <p>Drive through lunch pickup is available.</p>	<p>Only a bottle filling station will be available for use.</p>	<p>Limited to two people at a time. Only one sink and handicap stall shall be available for use.</p> <p>A cleaning log will be clearly displayed showing staff initialed hourly cleanings.</p>

ATHLETICS – ADULT SOFTBALL

Limited opening plan	Players	Spectators	Equipment	Dug Out	Bleachers	Field	Drinking Fountain	Restrooms
<p>MONDAY – FRIDAY, 6:00 – 10:30 P.M.</p> <p>SATURDAY, NO LEAGUES OFFERED</p> <p>SUNDAY, 5:00 – 9:30 P.M.</p> <p>Signage should be posted in high visible areas throughout the facility about social distancing and washing hands.</p> <p>Staff training on Social Distancing and Extensive Cleaning procedures need to take place prior to opening.</p> <p>Staff should be able to articulate our cleaning and disinfecting procedures, social distancing measures, and any other procedures that we are doing</p>	<p>No players should arrive for play if they are sick or have been potentially exposed to COVID-19.</p> <p>No tournaments will be scheduled at this time.</p>	<p>Will be required to bring their own seating and adhere to physical distancing protocols.</p>	<p>Furnish two new game balls per game, one for each team. Require teams to provide their own back up balls when the game ball goes out of play. This will keep ball contacts to one team.</p> <p>The team in the field brings the game ball on the field with them and the fielding team is the only ones to make contact with that ball. Umpires shall not touch the game balls.</p> <p>Game balls are placed in a bin after each game. Staff collects balls from the bin</p>	<p>Limit of three people in the dugout at one time. Everyone else is to be outside of the dugout and physically distanced at six or more feet.</p>	<p>Spectator bleachers could be reserved for teams to sit and provide markings for adequate distancing.</p> <p>Establish a cleaning schedule for the bleachers</p>	<p>Touchless sanitizer station will be available at each field.</p> <p>Normal positioning in softball meets the social distancing recommendation. Once a player reaches base safely, the fielder shall remain at least 6 feet from the base runner.</p> <p>Umpires will position themselves six feet away from the batter and catcher while maintaining an appropriate angle to make calls on balls and strikes as well as illegal pitches.</p>	<p>Remains closed.</p>	<p>Restrooms will be open.</p> <p>Restrooms will be thoroughly cleaned and disinfected each day prior to the facility opening.</p>

to keep the public safe			at the end of the night and disinfects them prior to ending their shift.					
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Tiered plans for other Athletics programs are as follows:

Tier 1	Softball	Volleyball	Hockey (dependent on Jay Lively reopening Tier)	Basketball	Field Allocations
<p>Outdoor league play can begin as well as beginner’s hockey.</p> <p>Bleachers, dugouts, and restrooms to be sanitized daily.</p> <p>Registration for Fall adult leagues can begin.</p> <p>Facility request to FUSD input along with COVID-19 reopening plans.</p>	<p>Game play begins. Each team furnished their own game ball and two backup balls. All game balls returned at the end of each game to be sanitized. NO sharing of game balls between teams. Officials do not touch balls.</p> <p>Limit of three people in the dugout at one time. Spectator bleachers reserved for players. Six feet markers on bleachers to promote Social Distancing.</p> <p>Umpire will position themselves six feet away from the batter and catcher while maintain proper angles to make calls.</p> <p>No hand slaps (“High Fives”) after games. Sportsmanship should be displayed in a touchless manner.</p> <p>Sharing of sports equipment heavily discouraged.</p>	<p>Registration for Fall Adult Volleyball begins.</p>	<p>Adult Beginner Hockey begins. Dryland sessions recommend at the start of each session.</p> <p>Individual drills with appropriate Social Distancing for the first two sessions when on ice.</p> <p>Small sided on ice non-contact games permitted during weeks three and four. Group size should be limited to 4vs4 on each half of the ice. Limited contact full scrimmage games to be considered also.</p> <p>Sharing of sports equipment heavily discouraged.</p>	<p>N/A during this Tier.</p>	<p>Local user groups permitted field use.</p> <p>User groups must submit their Return to Play Guidelines including their Social Distancing protocols.</p> <p>Outdoor sports camps permitted with a maximum capacity of 30 participants per field.</p> <p>Tournaments not permitted at this time.</p>

	<p>Concessions allowed with appropriate safety measures in place.</p> <p>Spectators discouraged from attending games. Must bring their own seating if they do attend.</p>		<p>Bench area and equipment sanitized after each session.</p> <p>Registration for Winter Adult Coed Hockey begins.</p>		
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<u>Tier 2</u>	Softball	Volleyball	Hockey (dependent on Jay Lively reopening Tier)	Basketball	Field Allocations
Indoor league play can begin.	Tier 1 protocols remain in effect until the end of the softball season.	<p>Game play begins.</p> <p>Doubleheaders scheduled with no game breaks in order to not exceed mass gathering limits.</p> <p>Teams will not switch sides after each set.</p> <p>Clean game ball for each match. Balls sanitized after each match.</p> <p>No hand slaps (“High Fives”) after games. Sportsmanship should be displayed in a touchless manner.</p>	<p>Game play begins.</p> <p>Face mask or face shields are required per Section 10 of the March 16th Mayor’s Proclamation.</p> <p>Each team assigned a locker room. Social Distancing markers are placed on locker room benches.</p> <p>Sharing of sports equipment heavily discouraged.</p> <p>Bench area and equipment sanitize after each session.</p>	Registration for 1 st Session Adult Basketball begins.	<p>Tournaments permitted.</p> <p>All CDC guidelines and recommendations should be followed by tournaments for players, coaches, and spectators.</p> <p>Tournament directors required to submit their Return to Play Guidelines including their physical distancing protocols.</p>

		Spectators discouraged from attending games. Must bring their own seating if they do attend.			
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AQUAPLEX

Tier 1	Front Desk	Lobby Area & Vending Machine Area	Gymnasium	Fitness Floor	Aerobic Room	Community Room & Party Room	Pool, Hot Tub & Slides	Restrooms, Cabanas & Locker Rooms
<p>10:00 a.m. – 6:00 p.m.</p> <p>During this Tier, the Aquaplex may open to members only at least in the beginning. Open areas of the facility will have limited use with a potential reservation process if needed. Entire facility will close for cleaning after each hour of use for 30 minutes.</p> <p>The Kids Club and Game Area will remain closed during this Tier.</p> <p>There will be symptom screening and hand washing</p>	<p>Protective barrier is added to desk. Floor decals will be added to indicate physical distancing while in line.</p> <p>Customers will be prompted to swipe their own debit/credit card.</p> <p>Customers will enter using closest turn style and exit using furthest turn style.</p> <p>Guests will bring own lock.</p>	<p>Both areas will remain closed during this Tier.</p> <p>Water fountain will be closed. Patrons are encouraged to bring water with them.</p>	<p>Team activities will be suspended during this Tier.</p> <p>Single player use is permitted, and players must remain 6 feet apart.</p> <p>Gym rentals will be suspended during this Tier.</p> <p>Equipment will be disinfected before/after each use.</p> <p>Water bottle fill station will be available.</p>	<p>Patrons will check in at desk to receive new protocols.</p> <p>Limited occupancy. Reservations may be necessary depending on capacity.</p> <p>One piece of equipment will be closed to permit 6 feet between each piece of equipment. This will rotate each week/month.</p> <p>Equipment must be wiped down</p>	<p>Limited occupancy.</p> <p>Require wipe downs of equipment before and after each use.</p> <p>The climbing wall will remain closed during this Tier.</p>	<p>Both will remain closed during this Tier.</p>	<p>All will remain closed during this Tier.</p>	<p>Lobby restrooms will be cleaned and disinfected at the top of every hour.</p> <p>Cabanas and Locker Rooms will remain closed during this Tier.</p>

<p>for staff at the beginning of each shift.</p> <p>When staff are cleaning and disinfecting, they will wear masks and gloves.</p>	<p>Games will not be available.</p> <p>Guests will apply their own wristband.</p> <p>There will be no courtesy guest phone available.</p> <p>Staff will clean and disinfect this area every hour and at each shift change.</p>			<p>before and after use.</p> <p>Shared equipment like mats, foam rollers, stretch bands, etc. will not be available for use. Patrons will be encouraged to bring their own.</p> <p>Water bottle fill station will be available.</p> <p>Restrooms will be open and cleaned once per 30 min closure.</p>				
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Tier 2	Front Desk	Lobby Area & Vending Machine Area	Gymnasium	Fitness Floor	Aerobic Room & Climbing Wall	Community Room & Party Room	Pool, Hot Tub & Slides	Restrooms, Cabanas & Locker Rooms
<p>7:00 a.m. – 7:00 p.m.</p> <p>The Aquaplex will be open to the public.</p> <p>The Kids Club and Game Area will remain closed during this Tier.</p>	Same as Tier 1.	Same as Tier 1.	Same as Tier 1.	Same as Tier 1.	<p>The climbing wall will open during this Tier with limited occupancy.</p> <p>Require wipe downs of equipment before and</p>	<p>The Party Room will remain closed during this Tier.</p> <p>Capacity will be limited to A&B combined to No table &</p>	<p>Slides will remain closed during this Tier.</p> <p>Adult Fitness programming only at this time.</p>	<p>Cabanas and locker rooms will open during this Tier.</p> <p>Restrooms, cabanas and locker rooms will be cleaned and</p>

<p>When staff are cleaning and disinfecting, they will wear masks and gloves.</p>					<p>after each use.</p> <p>6 feet physical distancing will be required of all guests.</p>	<p>chair set up (Standing Room ONLY) = 100 guests; Theatre Style = 70 guests; Banquet Style = 40 guests; Classroom Style = 30 guests; U-Shaped Style = 30 guests.</p> <p>Capacity will be limited to single use in A or B to No table & chair set up (Standing Room ONLY) = 50 guests; Theatre Style = 35 guests; Banquet Style = 20 guests; Classroom Style = 15 guests; U-Shaped Style = 15 guests.</p> <p>Guests will remove personal items, decorations and food at</p>	<p>Hours of operation 7:00 to 10:00 a.m. & 4:00 to 6:45 p.m.</p> <p>Lap lanes will be available for one guest per lane.</p> <p>Pool capacity will be not more than 10 patrons. Hot Tub capacity is limited to not more than 3 patrons.</p> <p>6 feet physical distancing will be required of all guests.</p> <p>Staff will clean and disinfect handrails every hour.</p>	<p>disinfected at the top of every hour.</p>
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						the end of the event. One to one and half hours in between reservations for staff to clean and disinfect the area.		
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<u>Tier 3</u>	Front Desk	Lobby Area & Vending Machine Area	Gymnasium	Fitness Floor	Aerobic Room & Climbing Wall	Community Room & Party Room	Pool, Hot Tub & Slides	Restrooms, Cabanas & Locker Rooms
<p>6:00 a.m. – 8:00 p.m.</p> <p>The Kids Club and Game Area will remain closed during this Tier.</p> <p>When staff are cleaning and disinfecting, they will wear masks and gloves.</p>	Same as Tier 1.	<p>Vending Machine area will open during this Tier.</p> <p>Tables, soft chairs and couches will be separated by 6 feet. The number of chairs at each table will be reduced from 4 to 2.</p> <p>Staff will clean both areas at the top of every hour and again between</p>	<p>Team activities will start to be reintroduced.</p> <p>Single player use is encouraged, and players must remain 6 feet apart.</p> <p>Gym rentals will be limited.</p>	<p>Patrons will check in at desk to receive new protocols.</p> <p>Limited occupancy.</p>	Same as Tier 2.	<p>Party Room will be limited to 18 guests.</p> <p>Capacity will be limited to A&B combined to No table & chair set up (Standing Room ONLY) = 100 guests; Theatre Style = 70 guests; Banquet Style = 40 guests; Classroom Style = 30 guests; U-Shaped Style = 30 guests.</p>	<p>Slides and open swim will open for limited hours.</p> <p>Private swim lessoned will be offered.</p> <p>Hours of operation 6:00 to 10:00 a.m. & 3:00 to 7:45 p.m.</p> <p>Lap lanes will be available for one guest per lane.</p>	<p>Cabanas and locker rooms will be open and will be cleaned and disinfected at the top of every hour.</p>

		guest use when possible.				<p>Capacity will be limited to single use in A or B to No table & chair set up (Standing Room ONLY) = 50 guests; Theatre Style = 35 guests; Banquet Style = 20 guests; Classroom Style = 15 guests; U-Shaped Style = 15 guests.</p> <p>Guests will remove personal items, decorations and food at the end of the event.</p> <p>Time between rentals will allow staff to clean.</p>	<p>Pool capacity will be not more than 125 patrons. Hot Tub capacity is limited to not more than 6 patrons.</p> <p>6 feet physical distancing will be required of all guests.</p> <p>Staff will clean and disinfect handrails and other frequently touched surfaces every hour.</p>	
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