FINAL AGENDA

REGULAR COUNCIL MEETING
TUESDAY
OCTOBER 6, 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

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. 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: Parks and Recreation Commission.

STAFF RECOMMENDED ACTION:

Make three appointments to terms expiring August 2023.

6. 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 Contract:** Proprietary source purchase of T-Floc B41 Chemical for Water Treatment from Thatcher Company of Arizona in an amount not to exceed $200,000 annually.

STAFF RECOMMENDED ACTION:

Approve the proprietary source purchase of T-Floc B-41 Chemical for Water Treatment from Thatcher Company of Arizona, Inc. at a unit price of $0.398 per pound, in an amount not to exceed $200,000 (two hundred thousand dollars) annually.

B. **Consideration and Approval of a Cooperative Purchase Contract:** To replace a 24 year old wildand fire engine through the cooperative purchase for a new one in the amount of $181,635.

STAFF RECOMMENDED ACTION:

Approve the purchase of a Type VI Wildland Engine from SNF, Inc. (dba BFX Fire Apparatus) in the amount of $181,635 through cooperative purchase contract #GS-30F-0025V with the U.S. General Services Administration (GSA).

C. **Consideration and Approval of Construction Contract** with Boart Longyear Company in the amount of $1,858,419. for the services of drilling well #2 at Fort Tuthill.

STAFF RECOMMENDED ACTION:

1. Approve the construction contract with Boart Longyear Company in the amount of $1,858,419, and a contract time period of 365 calendar days; and
2. Authorize the City Manager to execute the necessary documents.

7. ROUTINE ITEMS

A. **Consideration and Approval of Memorandum of Understanding and Consideration and Adoption of Ordinance No. 2020-24:** A Memorandum of Understanding with Coconino County for members of the Coconino County Indigenous Peoples Advisory Council to serve as ex-officio members of the City of Flagstaff Indigenous Commission and an ordinance of the City Council of the City of Flagstaff Arizona, amending the Flagstaff City Code, Title 2, Boards and Commissions, by adding a new Chapter 2-26, creating an Indigenous Commission

STAFF RECOMMENDED ACTION:

1) Approve the Memorandum of Understanding
2) Read Ordinance No. 2020-24 by title only for the final time
3) City Clerk reads Ordinance No. 2020-24 by title only (if approved above)
4) Adopt Ordinance No. 2020-24

8. REGULAR AGENDA

A. **Consideration and Adoption of Resolution No. 2020-58:** A resolution approving an Intergovernmental Agreement between the City of Flagstaff and University of Arizona for water education through Arizona Project Wet.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2020-58 by title only
2) City Clerk reads Resolution No. 2020-58 by title only (if approved above)
3) Adopt Resolution No. 2020-58

B. **Consideration and Approval of Grant Application and Acceptance Upon Award:** U.S. Department of Justice, 2020 Edward Byrne Memorial Justice Assistance Grant in the amount of $20,751.00.

STAFF RECOMMENDED ACTION:

Approve the U.S. Department of Justice, 2020 Edward Byrne Memorial Justice Assistance Grant (JAG) application to the Flagstaff Police Department for grant funds in the amount of $20,751.00.

C. **Consideration and Adoption of Resolution No. 2020-55:** A resolution approving an Intergovernmental Agreement (IGA) Grant Application between the City of Flagstaff and Coconino County, regarding joint application for grant funding from the Department of Justice, Fiscal Year 2020 Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2020-55 by title only
2) City Clerk reads Resolution No. 2020-55 by title only (if approved above)
3) Adopt Resolution No. 2020-55

D. **Consideration and Adoption of Resolution No. 2020-56:** A resolution of the Flagstaff City Council, approving the Flagstaff Alliance for the Second Century Intergovernmental Agreement between the Northern Arizona University, City of Flagstaff, Coconino County, Community College District, Flagstaff Unified School District, and Northern Arizona Intergovernmental Public Transportation Authority

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2020-56 by title only
2) City Clerk reads Resolution No. 2020-56 by title only (if approved above)
3) Adopt Resolution No. 2020-56

9. DISCUSSION ITEMS

A. Case No. PZ-19-00125 Updates to Zoning Code 2020 - High Occupancy Housing Specific Plan

10. COUNCIL LIAISON REPORTS

11. FUTURE AGENDA ITEM REQUESTS

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

A. **Future Agenda Item Request (F.A.I.R.):** A request by Councilmember Whelan to place on a future agenda a discussion about the current process for all Reclaim Water agreements/contracts and their renewals and discussion to change that process so that all agreements and their renewals become before the Water Commission and Council for approval.

12. CITY MANAGER REPORT

A. City Manager Report

13. COVID-19 UPDATES

A. COVID-19 and Re-Entry Updates

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

15. 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

5. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Fobar, Deputy City Clerk
Date:	09/30/2020
Meeting Date:	10/06/2020

TITLE:

Consideration of Appointments: Parks and Recreation Commission.

STAFF RECOMMENDED ACTION:

Make three appointments to terms expiring August 2023.

Executive Summary:

The Parks and Recreation Commission consists of seven (7) citizen members. The Parks and Recreation Commission makes recommendations to the Council regarding City parks and recreational programs, the annual budget and capital improvements for the Parks and Recreation Divisions. There are currently three available seats. 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 six applications on file for consideration by the Council, they are as follows:

John Brinkmann (new applicant)
Richard Conway (new applicant)
Austin Kerr (new applicant)
Greg Kleiner (new applicant)
Ryan Martin (current commissioner)
Tod Morris (new applicant)

John Brinkmann currently serves on the Board of Adjustment, but would resign his seat on the Board if appointed to the Parks and Recreation Commission. In an effort to reduce exposure to personal information the commission roster, applicant roster and applications will be submitted to the City Council separately.

COUNCIL APPOINTMENT ASSIGNMENT: Councilmember Salas, Councilmember McCarthy, and Mayor Evans

Financial Impact:

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

Policy Impact:

None

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

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

Has There Been Previous Council Decision on This:

None

Options and Alternatives:

1) Appoint three Commissioners: By appointing three members at this time, the commission will be at full membership and able to continue 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 openings by Board members and by City staff have occurred, informing others of these vacancies through word of mouth.

Attachments: Parks and Recreation Commission Authority

CHAPTER 2-03
PARKS AND RECREATION COMMISSION

SECTIONS:

2-03-001-0001 COMMISSION CREATED; MEMBERS:
2-03-001-0002 TERMS; VACANCIES; COMPENSATION:
2-03-001-0003 ORGANIZATION AND RULES:
2-03-001-0004 POWERS AND DUTIES:

2-03-001-0001 COMMISSION CREATED; MEMBERS:

There is hereby created a Parks and Recreation Commission for the City, consisting of seven (7) members appointed by the City Council. (Ord. No. 2007-11, Amended 02/06/2007; Ord. 2014-28, Amended, 11/18/2014)

2-03-001-0002 TERMS; VACANCIES; COMPENSATION:

Terms of the appointed members shall be for three (3) years.

The Council shall fill vacancies for the unexpired term of any of the members of the Commission and no member of the Commission shall receive compensation for services thereon. (Ord. 1475, 2-3-87)

2-03-001-0003 ORGANIZATION AND RULES:

Upon the taking effect of this Chapter, and when appointed, the members shall meet and organize and elect a Chairman to serve for one year with a new Chairman being elected each succeeding year. The Commission may adopt by-laws, procedures and standards for the operation of the Commission not inconsistent with the provisions of this Chapter. A quorum shall consist of four (4) voting members. The Commission shall meet not less than four (4) times each year.

(Ord. No. 2007-11, Amended 02/06/2007)

2-03-001-0004 POWERS AND DUTIES:

A. The duties of the Commission shall be to advise the Council, through periodic written reports to the Council, recommending policy direction on City lands, structures and facilities that are set aside or should be set aside or dedicated to recreational purposes, including but not limited to parks, swimming pools, playgrounds, playing and sports fields and golf courses. The scope of the activities of the Commission shall also include but not be limited to advising and recommending policy direction in activities involving recreational and cultural pursuits of the elderly and the young and to otherwise employ in constructive and wholesome manner leisure time of the citizens.

B. The City Council may consider the advice and recommendation of the Commission and thereafter give direction through the City Manager to implement the recreational program as they see fit.

C. The Commission shall review and make recommendation on the annual budget of the Parks Section and Recreation Section prior to the submittal thereof to the City Manager.

D. With respect to the parks and recreation portion of the Bed, Board and Booze Tax allocated under Chapter 3-06, Hospitality Industry Tax Revenues, the Commission shall make recommendations to the Council concerning the annual budgetary allocation of the parks and recreation portion of this tax, to include but not be limited to:

1. Developing parks and recreation facilities, and programs as needed to benefit the community and its visitors.

2. Funding for the Flagstaff urban trails system development and maintenance.

3. Developing, acquiring and distributing material to promote parks and recreation.

4. Retaining of appropriate staff to implement approved programs.

E. For purposes of subsection (D) of this section, "parks and recreation" means the development and management of public parks, recreational facilities, and programs which are available to the residents and visitors including funding the Flagstaff urban trail system. (Same meaning as set forth in Section 3-06-001-0001.) (Ord. 865, 12-12-72; Ord. 1335, 10-16-84; Ord. 2015-22, Amended, 01/05/2016)

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Brian Huntzinger, Water Production Manager

Co-Submitter: Mark Richardson

Date: 09/30/2020

Meeting Date: 10/06/2020

TITLE:

Consideration and Approval of Contract: Proprietary source purchase of T-Floc B41 Chemical for Water Treatment from Thatcher Company of Arizona in an amount not to exceed $200,000 annually.

STAFF RECOMMENDED ACTION:

Approve the proprietary source purchase of T-Floc B-41 Chemical for Water Treatment from Thatcher Company of Arizona, Inc. at a unit price of $0.398 per pound, in an amount not to exceed $200,000 (two hundred thousand dollars) annually.

Executive Summary:

Chemicals represent a large investment in the effective operation of the city's potable water treatment plants. Chemical coagulants are used to remove impurities in surface water from Upper Lake Mary in the production of potable drinking water. These chemicals are critical to the treatment of water in order to comply with water quality regulations and ensure the public's safety. In 2016 the Lake Mary Water Treatment Plant conducted trials with various coagulants to determine the best treatment. Based on the study, T-Floc B41 was selected and has been in use at the Lake Mary Water Treatment Plants since the end of 2016.

Financial Impact:

This chemical purchase is budgeted annually in the Water Services Fund in account 202-08-301-1011-0-4362, with a total FY 2020-21 budget of $308,200 for all water treatment chemicals.

Policy Impact:

None

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

- Safe & Healthy Community: Foster a safe, secure, and healthy community.
- Sustainable, Innovative Infrastructure: Deliver outstanding services to residents through a healthy , well maintained infrastructure system.

Regional Plan

- Goal WR.1: Maintain a sustainable water budget incorporating regional hydrology,

ecosystem needs, and social and economic well-being.

- Goal WR.2: Manage a coordinated system of water, wastewater, and reclaimed water utility service facilities and resources at the City level and identify funding to pay for new resources.
    - Policy WR2.1: Develop and adopt an integrated water master plan that addresses water resources, water production and its distribution, wastewater collection and its treatment, and reclaimed water treatment and its distribution.
    - Policy WR2.2: Maintain and develop facilities to provide reliable, safe, and cost effective water, wastewater, and reclaimed water services.
- Goal WR.3: Satisfy current and future human water demands and the needs of the natural environment through sustainable and renewable water resources and strategic conservation measure.
- Goal WR.6: Protect, preserve, and improve the quality of surface water, groundwater, and reclaimed water in the region.

Has There Been Previous Council Decision on This:

Yes, Council approved previous purchasing contracts of T-Floc B-41 with Thatcher Company of Arizona, Inc. on November 15, 2016, and September 18, 2018, meetings.

Options and Alternatives:

1. Approve of the proprietary source purchase of T-Floc B41 from Thatcher Company of Arizona, Inc.; or
2. Do not approve the proprietary source purchase, which would require the Lake Mary Water Treatment Plant to re-evaluate the treatment process and potentially convert back to one based on aluminum sulfate as a primary coagulant.

Background/History:

Chemicals represent a large investment in the effective operation of potable water treatment plants. Flagstaff Water Services, Water Production Section uses the following chemicals for these specific purposes:

- Chlorine dioxide is used for disinfection and oxidation of raw/untreated surface water; while minimized disinfection by-product formation.
- Chlorine is used for disinfection of treated surface and ground water and maintaining residual disinfection levels in the distribution system.
- Coagulants such as T-Floc B41 or aluminum sulfate and cationic polymer are used for removal of suspended impurities.
- Sodium hydroxide or caustic soda is used to balance the pH of treated water.

The treatment chemical/coagulant T-Floc B-41 is used in place of aluminum sulfate which helps reduce the use of caustic soda and cationic polymer. Over the last decade, compared to traditional coagulants such as aluminum sulfate, poly aluminum chlorohydrates, such as T-Floc B-41, have been found to work more effectively in low alkalinity waters such as is found in Upper Lake Mary and require less pH adjustment both for raw and treated/finished water.

Attachments: Proprietary Procurement Justification
B-41 Pricing
Thatcher Letter

CITY OF FLAGSTAFF
Purchasing Section

Special Procurement Justification (check applicable box below)

Divisions/Sections Requesting Sole Source, Proprietary or Emergency Procurement Must Complete This Form

_____**Sole Source Procurement Justification**
__X__**Proprietary Procurement Justification**
_____**Emergency Procurement Justification**

TO: Purchasing Section Buyer

PREPARER: Brian Huntzinger

DIVISION/SECTION:
Flagstaff Water Services/
Water Production

DATE SUBMITTED: 08/25/2020

Is this a sole source procurement? "Sole Source" is defined as a product or service available from only one known source. *Please answer the 4 questions below and attach all documentation and sign.*

Is this a proprietary procurement? A proprietary specification restricts the acceptable product(s) or service(s) to one manufacturer or vendor. A common example would be specification by brand name which excludes consideration of approved "equals". Although all sole source specifications are proprietary, all proprietary specifications are not necessarily sole source. Proprietary items may be available from several distributors. If available, please attach a list of proprietary suppliers which might assist in expediting this procurement. *Please answer the 4 questions below and attach all documentation and sign.*

Is this an emergency procurement? "Emergency" *is a threat to public health, welfare, or safety. Emergency procurements shall be made with such competition as is practicable under the circumstances. Please answer the 3 questions below and attach all documentation and sign.*
City Policy is to maximize competition in the procurement process. Exceptions to competition (sole source/propriety procurement/emergency) must be fully justified, documented, and pre-approved. The following is a list of questions which will substantiate a Sole Source, Proprietary or Emergency Procurement. It will help expedite processing if you provide thorough and sufficient detail when answering each of these questions. Please use additional sheets and attach all additional information to this form if necessary.

Sole Source/Proprietary Justification

1. Briefly, what is the scope of the project in which this product or service will be used.

Thatcher's T-Floc B-41 is being used as part of the potable drinking water treatment strategy developed in 2016. This coagulant is used to help remove particulates, sediments and contaminants in the raw water.

2. Who is the identified vendor and why is this the only product or service that can meet the City's requirements? Uniqueness? Compatibility? Integral component? Availability? Delivery Date? If purchase qualifies as proprietary and there are multiple Distributors, why is this the only Distributor who can satisfy the City's purchasing request?

In 2016, Thatcher Company of Arizona was one of four companies selected to submit chemical coagulants to treat the raw water from Upper Lake Mary as part of the potable drinking water treatment strategy. B-41 was selected as the best performing chemical coagulant with the best overall life cycle cost. This polymer is only available through Thatcher Company.

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

Thatcher Company of Arizona blends the proprietary coagulant to meet our needs. At one time only the City of Flagstaff and one other Water Treatment plant in Arizona used this chemical. This compound is only distributed by Thatcher Company.

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

T-Floc B-41 was compared to three other treatment strategies that also looked at the overall costs of the product and the total cost of the treatment strategy. B-41 required a lower dosage to achieve optimum performance compared to the other treatment strategies. Since 2016, B-41 has been performing at or above expectations. Its use along with chlorine dioxide as a raw water oxidant has allowed the water production section to make great use of abundant surface waters in Upper Lake Mary over the last couple years and produce more surface water than any of the last eight years, or since 2011.

This justification is valid through 3 Years **(TO BE DETERMINED BY BUYER).**
(Maximum 3 years)

8/28/20
Authorized Signature Date

Brian Huntzinger
Printed Name Title
Water Production Manager

Purchasing Section Buyer's Signature Date
Emily Markel Sr. Procurement Specialist
Printed Name Title

Patrick Brown
Digitally signed by Patrick Brown
DN: cn=Patrick Brown, o=City of Flagstaff, ou=Purchasing Section, email=pbrown@flagstaffaz.gov, c=US
Date: 2020.08.28 11:33:41 -07'00'
Purchasing Director Signature Date

THATCHER COMPANY

1905 Fortune Road, Salt Lake City, UT 84104

Phone (801) 972-4587
Fax (801) 972-4606

August 17, 2020

FLAGSTAFF CITY, CITY of
Brian Huntzinger
Water Production Manager
Flagstaff, AZ 86005

Dear Brian,

Please find below your future price schedule for T-Floc B41 from Thatcher Company. If you have any questions, feel free to contact me any time at the number listed below. Thank you for your business.

Sincerely,

Jeff Zidek
Account Manager
Email: jeffzt@tchem.com
Phone: (801) 972-4587
Fax: (801) 972-4606

Product Description	Product Code	Packaging	Min. Qty.	Price	Trailer washout fee
T-Floc B41	2802410	Bulk	46,000 lbs	$0.398/lb	$250/delivery

Notes Listed Here
Terms: Net 30 days from date of shipment.
Freight Terms: FOB Flagstaff, AZ

Pricing is effective November 16, 2020 – November 15, 2021

However, with justification; CHANGE OF PRICE AND TERMS: Except as specified herein Seller may adjust the price, or revise the transportation terms, terms of payment, or minimum requirement per shipment at any time providing Seller gives Buyer not less than fifteen days prior written notice before the date the change takes effect. Buyer's failure to object to the change in writing received by Seller prior to the effective date of the change shall be considered acceptance of such adjustment. If Buyer shall give Seller written notice of objection to any such price adjustment prior to the effective date thereof, Seller may elect to continue to supply Buyer at the last prevailing contract price, or if Seller is unwilling to do so, then Seller shall be released from its obligation to make and Buyer from its obligation to take shipments until such time as the parties shall agree upon a contract price or until the last prevailing contract price is reestablished by Seller.

Please confirm your prices when placing your order.

THATCHER COMPANY OF ARIZONA, INC.
6321 South Rainbow Road, Buckeye, AZ 85326
Phone (623) 691-6499
Fax (623) 691-6502

CHEM

August 13, 2020

FLAGSTAFF CITY, CITY of
Brian Huntzinger
Water Production Manager
Flagstaff, AZ 86005

Dear Mr. Huntzinger:

This is a formal document verifying that the Thatcher Company product/formulation T-Floc B-41 is a proprietary coagulant that has been developed by Thatcher Company researchers. Thatcher Company, Inc., is the sole producer and distributor of T-Floc B-41.

There are no other like item(s) or product(s) available for purchase that would serve the same purpose of function. We do not know of any other company that offers this particularly unique blend of coagulation chemistries.

Thank you for your business.

Cordially,

Craig N. Thatcher
President

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Mark Wilson, Deputy Fire Chief
Co-Submitter:	Emily Markel
Date:	09/30/2020
Meeting Date:	10/06/2020

TITLE:

Consideration and Approval of a Cooperative Purchase Contract: To replace a 24 year old wildand fire engine through the cooperative purchase for a new one in the amount of $181,635.

STAFF RECOMMENDED ACTION:

Approve the purchase of a Type VI Wildland Engine from SNF, Inc. (dba BFX Fire Apparatus) in the amount of $181,635 through cooperative purchase contract #GS-30F-0025V with the U.S. General Services Administration (GSA).

Executive Summary:

This is part of the council approved Flagstaff Fire Department (FFD) apparatus replacement plan. FFD are replacing the oldest unit in our wildland fleet (1996 = 24 yrs. old) with a new engine that will match other existing units. The older model being replaced is no longer dependable due to age of the unit, the pump's pressure capacity cannot push out the proper gallons per minute for the hose and is a single cab configuration which is not capable of carrying the whole crew to a working wildfire incident. This new model is a specific build for FFD that is through a sole source with BFX Fire Apparatus. By using the BFX Fire Apparatus specifications FFD will now have all four Type VI engines built under the same specifications for training, repairs and general familiarity by crews.

Financial Impact:

This funding was approved by the FLEET committee, Budget Team, City Manager and City Council as part of the current fiscal year budget. The approved amount was not-to-exceed $190,000 in General Fund, Fire Division in account 001-03-051-0203-2-4401 and this purchase stays within that budget. The remaining funds will be used to purchase outdated radios and equipment to get the unit fully operational. Budgeted for and approved in the FY 2020-21 council adopted budget and was part of the FLEET committee's annual cost allocation.

Policy Impact:

N/A

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Provide public safety with the resources, staff, and training to respond to community needs.

Regional Plan

Goal PF.3. Provide high-quality emergency response and public safety services including law enforcement, fire, medical, and ambulance transport service.

Goal E&C.6. Protect, restore and improve ecosystem health and maintain native plant and animal community diversity across all land ownerships in the Flagstaff region.

Has There Been Previous Council Decision on This:

Replacement was approved as part of the current adopted fiscal year budget process.

Options and Alternatives:

- Approve the replacement purchase of the Type 6 Wildland Engine; or
- Disapprove the replacement purchase of the Type 6 Wildland Engine

Background/History:

The replacement of this Type 6 wildfire engine takes a 24 year old unit out of service that is not suited for bringing current 3-4 person crews and the necessary equipment to the scene of a working wildfire incident. This unit will be placed out of the FFD central station #2 (Ponderosa Pkwy) that will be the primary unit for all Sunnyside, upper Greenlaw, parts of Mount Elden, Cedar Hill and is the primary back up unit to Districts 1,3,4 and 5. This is a primary wildfire response engine, but also can be used for inclement weather events and areas with limited access.

The procurement was done through a cooperative using the contract #GS-30F-0025V with the U.S. General Services Administration to access better pricing through the contractor SNF, Inc. (dba BFX Fire Apparatus).

Key Considerations:

This unit is 24 years old and has a pump that has limited capacity based on modern water distribution needs. The single cab is not capable of safely brining more than two (2) members and gear to a working incident due to size and FFD crews are a minimum of three (3).

Expanded Financial Considerations:

This unit is one that will be available for wildfire callout at the State and Federal level when the Flagstaff community is not in high wildfire danger. These assignments off district bring in additional funding for the City and Department.

Community Benefits and Considerations:

Wildfire continues to be the highest identified threat to the Flagstaff community and purchasing the Type VI Wildland Engine allows for a continuation of the community protection and the surrounding regions.

Community Involvement:

N/A

Expanded Options and Alternatives:

N/A

Attachments: COF Coop BFX GSA Contract
New v. Old Pics
Spec Sheet
E-126 Line Item Cost Sheet
BFX Contract

COOPERATIVE PURCHASE CONTRACT
Contract No. 2021-33

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 SNF, Inc. dba BFX Fire Apparatus, a State of Texas Corporation, ("Contractor").

RECITALS:

A. Contractor has Contract #GS-30F-0025V with the U.S. General Services Administration ("GSA") 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) and/or Scope of Work submitted by the City in accordance with the Agency Contract. General description of materials and or services being purchased:

Flagstaff Fire Department Type 6 Wildland Light Engine

2. Specific Requirements of City: Contractor shall comply with all specific purchase and delivery requirements and/or options of City, as specified in the Purchase Order(s) submitted to Contractor or ***Exhibit A*** attached hereto and incorporated by reference.

3. Payment: Payment to the Contractor for the materials and or services provided not to exceed **one hundred eighty-one thousand six hundred and thirty-five dollars ($181,635.00) including other fees and taxes**; made in accordance with the price list and terms set forth in the Agency Contract.

4. Terms and Conditions of Agency Contract Apply: All provisions of the Agency Contract documents, including any amendments, are incorporated in and shall apply to this Contract as though fully set forth herein. The Agency Contract documents are set forth in ***Exhibit B*** attached hereto and incorporated by reference. Contractor is responsible for promptly notifying City in writing of any changes to the Agency Contract.

5. Certificates of Insurance: All insurance provisions of the Agency Contract shall apply, including any requirement to name the City as an additional insured. Prior to commencing performance under this Contract, Contractor shall furnish City with a copy of the current Certificate of Insurance required by the Agency Contract.

6. Term: This Cooperative Purchase Contract shall commence upon execution by the parties and shall continue until expiration or termination of the underlying Agency Contract, unless sooner terminated by City in writing.

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

CONTRACTOR:

By:_____

Title:_____

CITY OF FLAGSTAFF

By:_____

Title:_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney's Office

EXHIBIT A
SPECIFIC REQUIREMENTS OF CITY

BFX Fire Apparatus Quote #11195-0001 (attached)

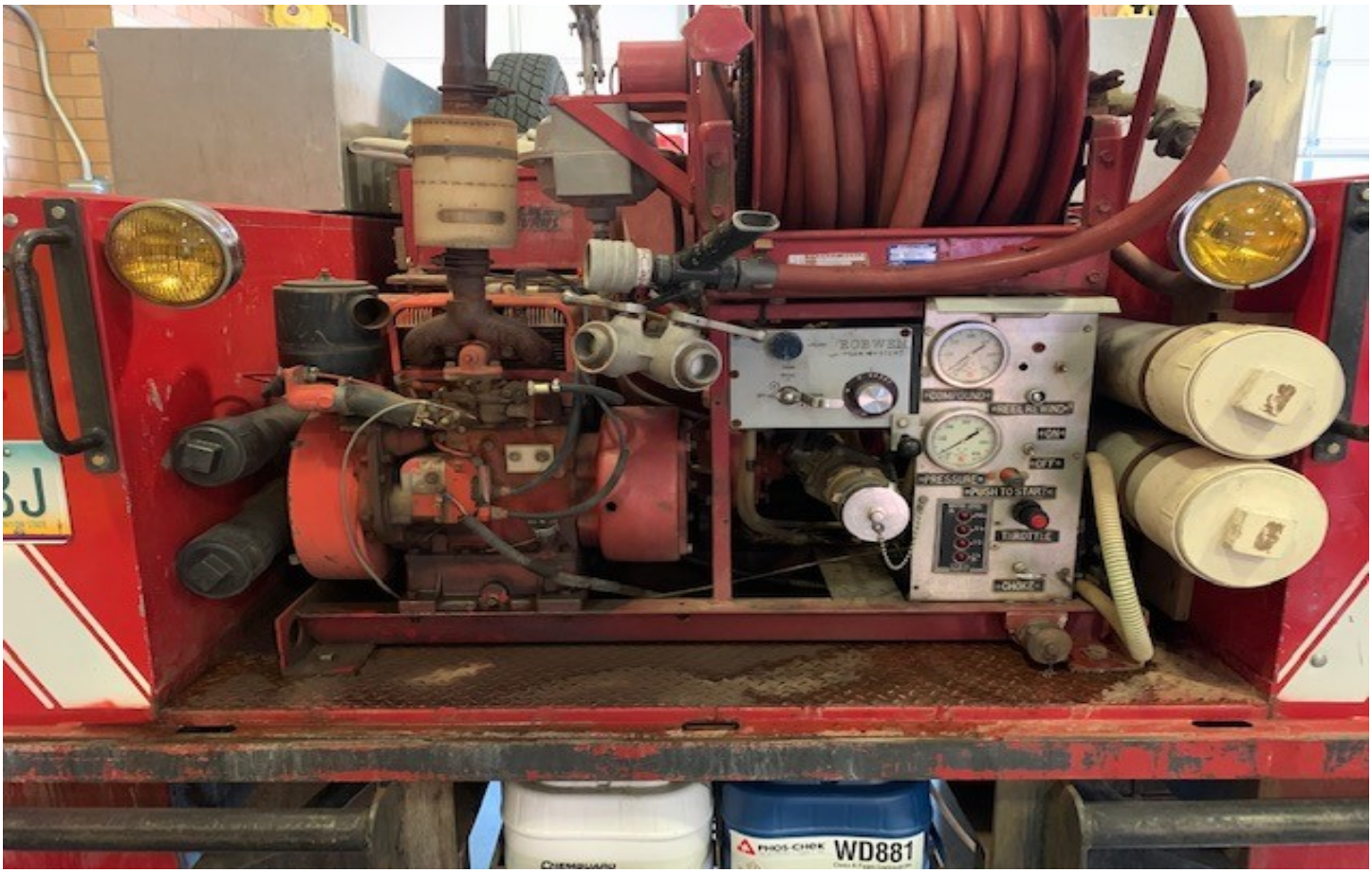
EXHIBIT B
AGENCY CONTRACT

U.S. Government Services Administration Contract Clause Document for Solicitation Number FFAH-C2-990235-B/Refresh Number 23/Contract Number GS-30F-0025V, 643U. (Attached)

FLAGSTAFF
FIRE DEPARTMENT
RAM

SUPER DUTY

FLAGSTAFF
FIRE DEPARTMENT


ROBWEN
PUSH TO START
THROTTLE
CHOKE
WD881

Flagstaff Fire Department
Type 6 Wildland Light Engine

== Type 6 Wildland Light Engine ==

Type 6 Wildland Light Engine Configuration

The apparatus shall be a light brush apparatus on a light duty chassis. The apparatus body shall be designed to withstand the rigors of off-road use and Wildland fire fighting. Specific details of the apparatus shall be as described below.

General Craftsmanship Requirements

The installation of hardware parts such as hinges, catches, handles, or knobs shall be accomplished to avoid damaging the hardware or the mounting surface. After fabrication, all parts shall be cleaned of the following: smudges, loose, spattered, or excess welding, metal chips or filings, or any other foreign material that may detract from the intended operation, function, or appearance of the apparatus or its equipment. This shall include particles which could loosen or become dislodged during the normal expected life of the equipment. Whenever possible, this cleaning shall take place before parts are assembled.

Threaded parts or devices shall show no evidence of cross-threading, mutilation, or detrimental burrs. All screw type and rivet fasteners shall be tight to allow no relative movement between attached parts. No bolts or screws shall be tightened more than the SAE torque standard established for the grade, screw, and thread type.

Use of dissimilar metals shall be avoided whenever possible. If dissimilar metal contact is unavoidable, a nonabsorbent closed cell neoprene insulator tape shall be placed between the metals. Caulking may be used in addition to the tape to provide addition protection. Wherever dissimilar metal contact occurs, measures shall be taken to avoid moisture from collecting in the contact areas. Wherever dissimilar metal contact occurs each surface shall be properly primed and painted, even if tape and other protectants are used. Wherever dissimilar metal contact occurs, fastener quantity shall be limited, and washers, gaskets, sleeves made of compatible material shall be used. Corrosion inhibiting materials (i.e. pastes, compound) shall be applied to all screws or bolts that are inserted into dissimilar metals.

All welds shall be free of defects such as cracks, porosity, undercuts, voids, and gaps. There shall be no weld burn through. Fillets shall be uniform and smooth. There shall be no damage to adjacent parts resulting from the welding.

Wiring shall be protected from tears, abrasions, cuts, etc. from loose items within compartment spaces, and from items present in the operating environment outside of the compartments. Special care shall be taken to conceal wiring and tucked away to keep from hanging low, prevent catching on brush, rocks, and various other items present in the off-road environment.

Guards, shields, or other protection shall be provided where necessary in order to protect personnel from injury from hot, moving or rotating parts during non-maintenance operations; to protect fragile equipment from becoming damaged when operation off road, and to protect from sharp edges or corners.

Components shall be located for ease of inspection, routine maintenance, or removal. Drains, oil and fuel filters, filler plugs, grease fittings, air and water lines etc. shall be located so that they are readily accessible and do not require special tools

for servicing. Lube extensions, oil drain, fill extensions, or special tools required for minor chassis maintenance shall be provided by the contractor for each apparatus manufactured.

Securing of air, water, fuel and/or electrical lines, looms or harnesses shall not utilize stick-on/adhesive backed fasteners; insulated metal clamps or clips shall be used. Nothing shall be permitted to hang loose from apparatus.

Carrying Capacity

The chassis components and suspension shall be capable of withstanding the stresses of use in the road-less environment at full Gross Vehicle Weight Rating (GVWR) and Gross Axle Weight Rating (GAWR). The GAWR and GVWR of the chassis shall not be exceeded when loaded to its in-service weight. NFPA 1906 current edition shall apply to define in-service weight.

Minimum Capacities:

A. Vehicle shall carry five (5) personnel including the driver
B. Water tank capacity of a minimum 300 U.S. gallons
C. Foam cell capacity of a maximum 12 U.S. gallons
D. The allowance for miscellaneous equipment shall be a minimum of 2000 pounds

Noise Exposure Test

The apparatus, or each apparatus if multiple or ordered, shall be tested under the procedures defined in 49 CFR 393.94, "Vehicular interior noise levels test procedure," except that the test shall be performed with the vehicle traveling at a steady speed of 65 mph (105 km/hr.) on level, paved, smooth-surface road. The test shall be conducted from any seat location and the maximum noise level shall be 90 dBA without any warning devices in operation. Documentation shall be included in the apparatus delivery binder illustrating the results of the test to show proof of either a failure or meeting the required standard.

Training

An intensive training session, in the correct procedures, usage, and maintenance of the apparatus, shall be conducted at Flagstaff Fire Department. The training shall be conducted by BFX Fire trained personnel.

Pre-Work Conference

A pre-work conference shall be held prior to construction to review contract specification, materials requirements, delivery schedule, and payment procedures. The conference, which may be accomplished by conference call, shall include the department representative(s) and BFX Fire Apparatus representative(s), including the primary engineer working on this project. The date and time of the meeting, or conference call, will be scheduled by the department representative(s) in consultation with BFX Fire Apparatus and any/all other needed parties.

Delivery Preparations

Prior to delivery of the completed vehicle, all fluid levels shall be checked on the chassis, i.e. oil, coolant, grease levels, etc. The completed vehicle shall be weighed, and road tested, batteries fully charged, and all RAM OEM safety recalls shall be rectified. The vehicle shall be presented in a clean state.

Weather-Tight Testing

The apparatus body shall be water tested prior to the customer's inspection and only shall be deemed as "PASSING" if the compartment interiors remain dry after simulating rain for 2 minutes. The same equipment used for BFX Fire Apparatus' internal testing shall be made available to the customer to perform their own test.

Documentation

Upon delivery, a completed vehicle sticker/label shall be attached to the completed apparatus in the cab on the driver's side of the vehicle. The label shall follow the National Traffic and Motor Vehicle Safety Act, Section 114 and Federal Code of Regulations, Title 49. The apparatus shall be accompanied with a single container with the following items. The containers shall be organized and contain an inventory list of the items within the container affixed to the exterior of the container lid. Two (2) electronic files (USB DRIVE) and one (1) hard copy of each item on the list shall be supplied.

A. All applicable items listed in The National Fire Protection Association (NFPA) 1906 Standard for Wildland Fire Apparatus current edition, *General Requirements*/*Data Required of the Contractor.*
B. Record of construction details
C. Copy of warranty outlining coverage on the vehicle and apparatus
D. Certificate of Origin for chassis
E. Detailed engineering as built drawings for the following views:
    a. Driver side
    b. Passenger side
    c. Top
    d. Rear
    e. Apparatus body frame and mounting details
F. Complete wiring diagrams; understandable by the field user
G. Two (2) additional completed vehicle stickers/labels
H. Service Protocol and Warranty document
I. Certified weight slip(s) showing the completed vehicle weights with all fixed and portable equipment installed, all tanks full, and all personnel seating positions occupied with 250 pounds. The weight slip shall include tare weight, front axle weight and rear axle weights. Weight documents shall be provided from a certified scale.

Delivery

Delivery of the finished apparatus shall occur 300 days from the receipt of order.

Delivery Location

The completed apparatus shall be transported via flatbed trailer to Flagstaff, Arizona.

Warranty Policies

The warranty period for the apparatus shall commence at the time of acceptance of the apparatus.
Chassis Original Equipment Manufacturer (OEM)

Vehicle shall retain the OEM chassis warranty which shall in no way be diminished or voided by the final manufacturer. If at any time the OEM chassis warranty is voided the final manufacturer shall be responsible for repairs.

BFX Fire Apparatus shall be responsible for contacting the chassis dealer and start the chassis warranty period from the date of acceptance.

General Warranty

BFX Fire Apparatus shall warrant all services performed under this contract shall, at the time of acceptance, be free from defects in workmanship and materials and conform to the requirements of this contract for a minimum period of twelve (12) months.

Design Warranty

BFX Fire Apparatus shall warrant the design of the apparatus and all components constructed and/or designed by the contractor to be free from malfunctions due to improper design, manufacturing defects, defects in manufacturer supplied materials, or factory workmanship for a period of ten (10) years.

Corrosion Warranty

The apparatus, under normal use and with normal maintenance, shall remain free from corrosion for a period of ten (10) years from the date that the apparatus is first placed in service. A body shall be considered to have "corrosion defects" if it is found by the Government to have perforation caused by corrosion under normal use and with normal maintenance.

Other/Add On Item Warranty

All warranties provided by major component and equipment manufacturers shall be found in the apparatus manual(s). Additionally, BFX Fire Apparatus shall facilitate warranty repairs with add on equipment manufactures whenever deemed necessary.

Payment Terms

The apparatus shall be paid for in full at the time of acceptance of the apparatus. Acceptance shall be made only after specifications have been verified for compliance and any/all deficiencies have been corrected. The payment shall be made by electronic funds transfer, preferred method, or by check.

Chassis

The completed apparatus shall be mounted on a new RAM 5500 Tradesman Series 4x4 chassis with four (4) full doors.

Gross Vehicle Weight Rating

The Gross Vehicle Weight Rating (GVWR) shall be 19,500-pounds.

Dual Rear Wheels on Chassis

The chassis shall be equipped with dual rear wheels. Mud flaps shall be installed on the apparatus body aft of the rear wheels.

Wheelbase

The wheelbase shall be no greater than approximately 173.40-inches.

Cab-to-Axle

The cab-to-axle measurement shall be approximately 60.00-inches.

Motor

Power to drive the apparatus shall be supplied by a 6.7L Cummins Turbo Diesel engine. The engine shall be rated for 750 ft-lbs. of torque and 325 horsepower at 2400 RPM. The engine shall be equipped with a variable geometry turbo (VGT) with an integrated exhaust brake.

Motor Air Intake and Filtration

The chassis shall be equipped with a heavy-duty air cleaner.

Options on the Motor

The following items shall be equipped by the Original Equipment Manufacturer, aftermarket alternatives will not be accepted.

- Motor shall be equipped with dual alternators totaling 440 amps
- Motor shall be equipped with an OEM engine block heater and winter front grille cover (Cold Weather Group)

Battery

Two (2), 78 Amp, 12-volt maintenance free batteries totaling 730 cold cranking amps.

Exhaust System

The exhaust shall be mounted to OEM standards; it shall be equipped with a single, horizontally frame mounted exhaust system with impact protection and shall terminate to direct exhaust away from the apparatus aft of the rear wheels.

Exhaust/Motor Brake

The chassis motor shall be equipped with a manual push-button engine exhaust brake.

Manual DPF Regeneration

The RAM chassis cab shall have the Manual DPF Regeneration (XNR) feature which allows the end user to press and hold the Diesel Particulate Filter (DPF) button to manually clear the diesel particulate filter.

High Idle, Engine Speed Control

The chassis cab shall have an OEM feature allowing the end user to put the motor into a "high idle" setting by engaging the cruise control and using the "+" and "-" buttons to raise/lower the engine RPMs.

Transmission

The chassis shall be equipped with an AISIN heavy duty six (6) speed automatic transmission.

Transfer Case

The chassis shall be equipped with an electric-shift-on-fly transfer case.

Suspension/Axles

The chassis shall be equipped with a live front axle with a capacity (rating at the ground) of 7,250-pounds. The front springs shall be coil and have respective weight ratings based on the package(s) specified with the chassis.

The rear axle shall have a capacity (rating at the ground) of 13,500-pounds. The rear springs shall be single-stage leaf springs that are constantly rated for the main chassis weight and auxiliary applications.

Aftermarket Suspension Alteration

The chassis' rear springs shall be re-arched, or additional springs added, to level the rear of the vehicle under a simulated full capacity load.

Wheels and Tires

The chassis shall be equipped with factory **steel** 19.5-inch wheels and 225/70R19.5 Continental max traction tires. A full size matched spare tire with rim, 6-ton hydraulic jack, and **aftermarket** lug wrench shall be supplied with the completed apparatus.

Fuel Tank

The chassis shall be equipped a single fuel tank with a capacity of 52-gallons.

Cab

The cab shall be configured with a four (4) full sized door crew cab.

Interior

All interior upholstery/hardware including seating, dashboard, floor coverings, steering wheel, dash components, sun visors and all trim and door panels shall be OEM supplied vinyl and color coordinated.

- Instrument panel mounted auxiliary switches

Exterior

The following OEM supplied exterior hardware shall be included:

- Black grille
- Black wheel flares
- Halogen Quad headlamps
- Roof clearance lights
- Solar tinted glass
- Fixed rear window
- Black door handles
- Variable intermittent windshield wipers

Mirrors

The mirrors shall be the OEM manual telescoping trailer tow mirrors with power, heated glass, heated convex spotter mirrors, integrated clearance lights and turn signals.

Seating

All seating positions shall have **RED** OEM certified seat belts.

- **Front** - OEM supplied 40/20/40 **vinyl** split bench with center portion removed for console
- **Rear** - OEM supplied **vinyl** folding bench seat

Cab Door Locks and Windows

Chassis shall be equipped with OEM supplied power windows and door locks.

Window Tinting

The front-driver / passenger side windows shall be tinted. The rear and rear-driver / passenger side windows shall have a darker tint. This shall be an aftermarket window tint.

Steering Wheel

The chassis shall have a tilt steering for maximum comfort and ease of operation by multiple drivers.

Intermittent Wipers

Vehicle shall be equipped with by intermittent wipers with integrated washer.

Cruise Control

The chassis shall be equipped with cruise control.

Air Conditioning and Heating

The chassis shall be equipped with OEM air conditioning and heating.

Stereo

The chassis shall have an OEM factory installed electronic AM/FM radio with auxiliary input port but shall be replaced with an aftermarket Kenwood DNX696S navigation receiver. The Kenwood receiver shall have a DVD/CD player with a 6.80-inch touchscreen and AM/FM tuner, built-in Bluetooth for hands free calling, built-in HD radio tuner, compatible with Apple/Android audio, built-in Garmin navigation system, and shall support an optional rearview camera.

Daytime Running Lamps

The chassis shall be equipped with daytime running lights.

Back Up Camera/ Monitoring System

An Alliance Wireless Technology (AWTI) heavy duty weatherproof back-up monitoring system including camera and monitor; installation shall strictly follow manufactures recommendation and comply with all state and federal laws. All components of the system shall come with a minimum one (1) year warranty.

The Camera shall be equipped with the minimum following features:

- The camera/monitoring system components shall be designed for use in the harsh conditions regularly encountered in the Wildland environment.
- Flush mounting on the rear of the apparatus in a well-protected location to prevent it from getting damaged from off-road driving, extreme temperatures, undesirable environmental conditions (mud, dust, smoke, etc.), kicking, stepping, washing or any conditions that may be encountered in the Wildland fire arena.
- The camera shall automatically activate when the chassis transmission is placed in reverse.
- The camera shall be equipped with the ability to manually activate to act as a monitoring system regardless of the transmission condition.
- Minimum 120 Degree lens angle
- Minimum 510x492 pixels
- Minimum 15-foot night vision distance
- Aluminum alloy shell material
- Aviation cable with Weatherproof connection

The Monitor shall be equipped with the minimum following features/provisions:

- Ability to add up to three (3) additional cameras in the future.
- Ability to monitor up to (4) cameras at one time
- Minimum five-inch Color LCD monitor located inside the cab, exact mounting location shall be approved by the COR prior to installation.

Max Tow Package

Chassis shall be equipped with an OEM Max Tow Package that provides the chassis with a 4.88 axle ratio, transmission software calibration for maximum efficiency when towing, and underbody thermal protection. The chassis shall also be equipped with an OEM trailer brake controller.

Steps / Nerf Bars

Black nerf style tubular running boards shall be provided on each side of the chassis cab below the doors.

Center Console

The cab shall be equipped with an angled front, form-fitted control console located between the front driver's and officer's seats. This console shall be sized to accommodate the installation of a switch panel for the control of the emergency and general illumination lighting, siren controller, traffic advisor control head, and customer-mounted radios. The switch panel shall consist of an eight (8) switch multiplex module with lighted switches. The switch module shall have back lighted identification plates on a non-glare panel surface. The switch panel shall be illuminated whenever the master switch is in the “ON” position. Panel light brightness shall dim automatically via the multiplexing system when the chassis headlights are turned "ON". The cab console shall be fabricated from steel, and powder coated with a black finish.

The following controls and switches shall be positioned from forward to aft on the center console as follows:

- One (1) LED blue/white flexible map light
- Two (2) faceplate for customer specified radios
- Three (3) microphone clip brackets
- One (1) switch panel with eight (8) switches
- One (1) electronic siren controller
- One (1) traffic advisor control head
- One (1) FRC mini-water level indicator
- Four (4) cup holders
- Two (2) 12-volt aftermarket power outlets
- Four (4) 12-volt USB outlets
- One (1) 6.00-inch storage compartment
- One (1) 2.50-inch discharge pressure gauge with a dial face that replicates the 4.00-inch discharge pressure gauge described elsewhere in this specification

The specific console layout shall be discussed/determined during the pre-work conference and a drawing of the layout shall be provided to the end user for approval.

12-Volt Power Sources

The cab shall have four (4) additional 12-volt power sources provide on the center console for recharging cell phones, or other similar battery-operated devices. Two (2) of the power sources shall be dual 2.1A USB style ports and two (2) shall be plunger style, flush mounted in the center console and shall have rubber cabs. The power sources shall be wired so they will be "active" when the BODY MASTER switch is in the ON position.

Wiring for Radio(s) Installation

The chassis cab interior shall be wired with two (2) wiring bundles for connecting department mobile radios.

The bundles shall be separate from each other and terminate in a Deutsch brand connector. The antenna wires shall remain separate from the connector. A pigtail shall be included for each bundle for connecting the department radio into the wiring harness. Each bundle including antenna wires shall be labeled RADIO 1 or RADIO 2. In addition, the individual wires in each pigtail shall be labeled (Battery Power, Ground, PA Input, etc.). The pig tails and antenna wires shall be a minimum of 3-feet or as long as required for installation of the radios.

All connections shall be made to the battery. Blade style fuse holders, using the same size fuses as the chassis, shall be installed in the pigtails for the constant power, but no fuses shall be installed.

The location for the radio installation and radio wiring bundles shall be determined in conjunction with the NFEP, overhead shall not be acceptable.

Wiring bundle for RADIO 1 shall consist of:

Harness side connector: DT06-08SA
Pigtail side connector: DT04-08PA

- One (1) Red 10-gauge constant power to the battery. This shall split into two (2) 14-gauge wires going into the cavities 1 and 2 on the connector.
- One (1) Red with Black Stripe 12-gauge connected to the chassis ignition, supplying power when either the vehicle ignition is in the "Auxiliary" or "Run" position. This shall split into two (2) 14-gauge wires going into the cavities 3 and 4 on the connector.
- One (1) Black 10-gauge ground wired direct to the battery. This shall split into two (2) 14-gauge wires going into the cavities 7 and 8 on the connector.
- One (1) set of 18-gauge wires connected to the radio audio input for the PA system consisting of two (2) Light Blue wires going into the cavities 5 and 6 on the connector. If polarity is needed with the audio input for PA System, the positive shall be solid (cavity 5) and the negative shall have a White Stripe (cavity 6)
- One (1) antenna lead which shall be labeled coiled and secured near the RADIO 1 connector

Wiring bundle for RADIO 2 shall consist of:

Harness side connector: DTHD Series
Pigtail side connector: DTHD Series

- One (1) Red 8-gauge constant power to the battery. This shall terminate into a DTHD06-1-85 connector
- One (1) Red with White Stripe 12-gauge connected to the chassis ignition, supplying power when either the vehicle ignition is in the "Auxiliary" or "Run" position. This shall terminate into a DTHD06-1-125 connector
- One (1) Black 8-gauge ground wired direct to the battery. This shall terminate into a DTHD04-1-8P connector
- One (1) antenna lead which shall be labeled coiled and secured near the RADIO 2 connector

Radio Model(s): _____

Antenna Leads and Bases

Two (2) antenna mounts with coaxial cable shall be supplied and installed a minimum of 18.00-inches apart and centered on the chassis cab roof. The components shall consist of a brass ¾-inch New Motorola (NMO) style Antenna Mount and Double Shielded Coaxial Cable soldiered to the base. The coaxial cable shall terminate in the cab console and have a minimum of 4 feet of additional cable. The cable shall be routed from the chassis/cab headliner to the console in a concealed manner. All cables shall be labeled as to where they are installed on the roof. A protective rain cap shall be installed on each NMO antenna mount. Each cap shall be labeled as to the respective pre-wired set by placing a "RADIO 1" or "RADIO 2" on the rain cap itself.

Map Light

A Federal Signal LED flexible map light with switch shall be installed on the passenger side of the center console. The map light shall be selectable between blue and white light.

Cell Phone Signal Booster Kit

One (1) weBoost Drive 4G-M cell phone signal booster shall be installed within the interior of the chassis cab. The external antenna shall be centered on the chassis cab roof and the internal antenna shall be mounted within the driver's side front seat. The booster shall be installed within the floor mounted center console. The booster shall be installed in the chassis cab per the manufacturer's recommendation.

Ember Separator Screens

The chassis engine air intakes shall be equipped with an ember separator screen fabricated from stainless-steel screen. The screen shall be fabricated in a manner that allows it to be easily removable without the use of tools for cleaning/inspection and provide complete protection from embers from entering the filter area of the air filter box.

The chassis cab air intake shall be equipped with an ember separator fabricated from stainless-steel screen.

The auxiliary pump engine air intake shall be equipped with an ember separator fabricated from stainless-steel screen.

A warning label, stating: **"This apparatus is equipped with an air filter ember protection screen; routine inspection is required."** shall be provided and installed in the apparatus cab interior. This label shall be located so that it is visible from the driver's seating position.

Backup Alarm

One (1) Federal Signal solid state back up alarm shall be provided at the rear of the apparatus, protected from impact and debris. The back-up alarm shall be wired to the reverse circuit of the transmission and shall provide an audible alarm to the rear of the apparatus when reverse gear is selected. The alarm shall have a volume range of **87 to 107** decibels while in operation but shall continuously adjust the output to provide 5 dBa over ambient noise levels.

Skid Plates/Impact Protection

The chassis shall be equipped with impact protection/skid plates in the following locations:

- Lower radiator skid plate
- Engine/Oil pan skid plate
- Water/Fuel separator

The design shall allow for regular maintenance and checks of common items (oil drain, oil filter, differential fluids, grease fitting, fuel water separator, etc.) without major disassembly. These guards and shields shall be designed to prevent trapping common grasses and other small debris which may ignite. Reasonable component protection shall be provided as manufacturer deems necessary for operations in extreme environments and conditions for easily damaged electrical

components, drive line, cooling system, and/or suspension components. Intent of the shielding is to assist in the protection of the undercarriage components from impact during road less operations and to assist in the survivability of the apparatus. Skid plates and impact protection shall be capable of supporting the weight of the apparatus without complete failure, a degree of distortion is allowed. All exterior surfaces of the skid plates/impact protection shall be coated with a minimum 1-2 mm flat **black** powder coated finish.

Front Bumper / Brush Guard

The chassis shall be equipped with a custom heavy-duty plate style front bumper/grill guard. The front bumper/grill guard shall meet the requirements of NFPA 1906 current edition. The front bumper/grill guard shall be designed so that it does not affect the chassis manufacturer's warranty. The front bumper/grill guard shall be designed so that it does not negatively affect the chassis approach angle. The front bumper/grill guard shall be equipped with provisions for winch mounting. The front bumper/grill guard shall be equipped with two (2) integrated external tow eyes. The weight of the front bumper/grill guard shall not exceed 175 pounds. All exterior surfaces of the entire grill guard assembly shall be coated with a minimum 1-2 mm flat black powder coated finish. The front bumper shall contain a license plate mounting position with holes or a bracket for mounting.

Rear Bumper Construction

The rear bumper shall be a minimum of 3.00-inches tall by 8.00-inches deep and extend across the entire width of the apparatus body. The bumper shall be fabricated from heavy-duty steel tubing and shall be powder coated black. The top of the bumper shall be a 4F stainless-steel CNC punched and perforated non-skid resistant surface. The bumper shall be designed to protect the apparatus body.

Tow Point(s)

Two (2) front tow eyes designed for the attachment of tow straps using a clevis shall be provided to free a stuck or disabled vehicle. Each tow eye shall be mounted to the chassis frame and rated for load of 50-percent of the GVWR pulling at 0-degrees and 70-percent of the front axle GAWR for a 45-degree pull cone angle, and a combined rating of 100-percent of the GVWR and 140-percent of the front axle GAWR.

Two (2) rear tow eyes designed for the attachment of tow straps using a clevis shall be provided to free a stuck or disabled vehicle. Each tow eye shall be mounted to the chassis frame and rated for load of 50-percent of the GVWR pulling at 0-degrees and 70-percent of the rear axle GAWR for a 45-degree pull cone angle, and a combined rating of 100-percent of the GVWR and 140-percent of the rear axle GAWR.

The rear tow points shall extend through the rear panel just above the rear bumper and shall not interfere with the bumper during the normal twisting of the apparatus.

All tow eyes shall be large enough to attach a threaded clevis but shall not be large enough to pass a tow strap through.

Winch and Winch Accessories

One (1) Warn electrically operated 16,500-pound shall be installed within the heavy-duty front bumper described elsewhere in this specification. The winch shall feature 80-feet of 3/8-inch Spydura Pro synthetic rope, an 18,000-pound capacity EPIC hook, and remote control/switch. The ground (-) for the winch is routed and secured to the ground (-) on the chassis' battery. The positive (+)/power for the winch is routed and secured to the positive (+)/power side of one (1) of the 150-amp circuit breakers underneath the chassis' hood. For the winch to "power up" the end user will need to plug the winch remote into the winch otherwise, the winch is not drawing any amperage.

Winch Accessories

One (1) tow strap and two (2) threaded clevis fasteners rated at a minimum of 40,000 lbs. shall be supplied with the completed apparatus. The tow strap shall be a minimum of 30 feet in length and shall be one (1) piece.

Apparatus Frame Construction

The apparatus body and compartments shall be supported with a frame of channel or tubular aluminum members. The frame shall extend under the wheel well areas at the front and rear and shall be attached to the compartments. The cross-members in the support system shall be spaced so that there is no more than ¼-inch of vertical deflection per 256 square inches when 250 pounds is evenly distributed over 40 square inches. All tubular aluminum shall have a minimum wall thickness of 3/16-inch and any channel shall be a minimum of ¼-inch thick. The frame shall be constructed to become an integral portion of the apparatus body.

The channel or tubular aluminum deck and compartment support frames shall be strong enough to support 5000 pounds in the bed area and 1000 pounds of equipment in each side compartment (the actual load capability of the completed apparatus may be limited by the GVWR).

Flexible Mounting

A spring-loaded body mounting system shall be used to mount the body to the chassis. This system shall be designed to allow independent movement between the body frame and the chassis frame protecting the module from the stresses and twisting rendered by the flexing of the chassis frame. As such, the body frame shall not rest on the chassis frame at any point. The mounts shall be pre-engineered for their intended use.

All the mounting hardware (nuts, bolts, washers) required for complete body installation shall be Grade 8 for sizes ½-inch and smaller, and Grade 5 for sizes larger than ½-inch. All nuts shall be self-locking style. All mounting brackets shall be powder coated black.

The body front shall be mounted utilizing fluorescent powder coated pre-engineering springs. The center mount shall consist of an 18-inch-long Delrin spacer mounted mid-length allowing the body frame to rest in a neutral position under full load. The rear body mounts shall be affixed via solid mounts to the chassis frame.

Apparatus Body Construction

The installation of hardware parts such as hinges, catches, handles, or knobs shall be accomplished to avoid damaging the hardware or the mounting surface. After fabrication, all parts shall be cleaned of the following: smudges; loose, spattered, or excess welding; metal chips or fillings; or any other foreign material which might detract from the intended operation, function, or appearance of the apparatus or its equipment. This would include any particles which could loosen or become dislodged during the normal expected life of the equipment. Whenever possible, this cleaning shall take place before the parts are assembled.

Threaded parts or devices shall show no evidence of cross-threading, mutilation, or detrimental burrs. All screw type and rivet fasteners shall be tight to allow no relative movement between the attached parts. All bolts and screws shall not be tightened more than the SAE torque standard established for the grade, screw, and thread type.

The entire body shall be removable in its entirety without the disassembly of any compartments, flooring, or other structural components.

The body shall be designed to be approximately as wide as the outside wheel track on the rear axle. This will allow the apparatus to maneuver more easily in off-road environments. The body shall be approximately 98-inches-wide from side to side at the rear of the apparatus.

The top of the apparatus shall have a nonskid surface across the entire area. The non-skid shall be consistent along the tops of the body and be free of any dirt, grease, or foreign material. There surface directly under the independent body modules shall be a smooth gel coated finish to allow for a better seal between the bottom of the independent body modules and top of the body. Additionally, the top of the apparatus body shall support, without distortion, a walking person weighing up to 300 lbs.

The entire apparatus body shall be an independent structure fabricated from bonded and molded fiber reinforced composite panels and compartments. The resin shall be thermoset and shall not be subject to distortion or loss of structural integrity at temperatures at minimum of 350° Fahrenheit (176 Celsius). This shall provide a strong, lightweight, corrosion free structure that will withstand extremely high temperatures.

All fiberglass used in the construction of the body shall be grade “E” or “S,” and the resin to glass ratio shall be a 30/70 ratio average or higher. The glass reinforced polyester shall not be less than 3/16-inch thick at any point on the body. Additionally, all coring materials shall have a minimum covering of 1/8-inch thick glass and resin on either side. All coring for bulkheads, partitions, floors, compartments, and doors shall be either PVC-based, rigid, closed cell structural foam, or composite material. Wood is not acceptable. The apparatus manufacturer shall determine the proper thickness and foam density for each application.

The fiber composite body shall allow for up to 30° flex off-center without causing body fatigue or component failure.

Wheel Well Area

The inside of each wheel well shall be lined with three (3) separate pieces of minimum 18-gauge stainless steel sheet material to protect the underside of the entire body wheel well area. Each sheet shall be attached with stainless steel screws or bolted with self-locking nuts. The use of rivets shall not be acceptable.

Compartment Door Construction

All compartment doors shall be integral in design and recessed into the apparatus body sides, sized to provide easy access to all interior areas of the compartment. All doors shall be consistent in fit and finish with the apparatus body. All doors shall be weatherproof and maintain contact with all points of the weather stripping. Weather stripping shall be bulb type, attached to the opening flange of the compartment opening. The interior surface of the compartment door shall be a white gel coat surface of a quality and uniformity equal to that of the exterior surface of the apparatus body. The compartment doors shall be cored with industrial grade closed cell PVC foam, or composite material, of the correct thickness.

Door Hinges and Retainers

Door Hinges

Doors shall be equipped with stainless steel hinges and hardware. Hinge pins shall be non-removable. All side compartment doors shall open to a 90-degree angle without hindering operations of other compartment doors. Doors shall not interfere or contact the body or any other open doors. Rubber bumpers and/or stainless-steel shields shall be in place to prevent damage wherever the potential exist for doors to meet other apparatus components.

Retainers

All vertically hinged, outward-opening compartment doors shall be provided with an over center door check to hold the door in the desired position. The door check shall be attached to the top of the door and fastened to a stainless-steel plate bolted into the body and door. The passenger side front compartment shall utilize a gas shock as the door opening device. This is used due to the full-length shelf pertaining to the hard-suction hose compartment. All vertically hinged, outward opening compartment doors shall be capable of being closed with one hand, allowing a free hand to hold equipment or supplies.

Each horizontally hinged door shall be equipped with add-a-link style (removable) retainers and small rubber bumpers installed on the body fenders to allow full 180-degree opening for improved access into the compartment. A piece of black heat shrink shall be utilized over the crimp. **Any/all measures shall be taken to reinforce the mounting/fastening locations of the retainers to allow the end user to use the door as a "work bench" supporting a minimum of a 50-pound load.**

All horizontally hinged, overhead lift-up, outward opening compartment doors shall be provided with two (2) extending, gas cylinder type hold open devices, one (1) mounted vertically on each side of the compartment door opening. The pressure rating of the gas cylinders shall be carefully matched to the size and weight of the compartment door and shall hold the compartment door securely open to a greater than 90° angle without additional support. The gas cylinder hold openers shall dampen the upward movement of the compartment door while opening and shall permit the closing of the compartment door without the need to release any type of manual locking devices. All horizontally hinged, overhead lift-up compartment doors shall be capable of being closed with one hand, allowing a free hand to hold equipment or supplies.

Door Latches

Unless were noted, all compartment door latch assemblies shall be installed with threaded fasteners, shall not be welded, and shall be easily removable for servicing or replacement. All door latch assemblies shall be of a flush-mount, "D-Handle" design, with all external components fabricated from polished stainless steel. All latches shall be of a two-step slam-type design, with a single-point latching operation. Matching striker bolts shall be utilized with all latch assemblies. All striker bolts shall have slotted mounting holes and shall be attached with bolts to captive steel plates in the body structure for strength and ease of adjustment. The strikers shall be installed on a level axis and shall not be crooked. Welded striker bolts or plates shall not be acceptable.

All hardware shall be corrosion resistant and suitable for its intended use. All nuts and bolts shall be stainless steel. Stainless steel nuts shall be the self-locking type. Each **1250** lock cylinder shall be configured so that in the vertical position it is "UNLOCKED" and in the horizontal position it is "LOCKED". A minimum of ten (10) **1250** keys shall be provided with the apparatus upon delivery.

Composite Adjustable Shelf Channels

Vertically mounted composite shelving tracks shall be provided and installed in all enclosed body compartments, except passenger's side lower rear compartment, for the current or future installation of infinitely adjustable shelving, slide out trays or equipment brackets. The composite tracks shall allow for the shelves to be adjustable every 2.00-inches vertically utilizing nylon reinforced composite shelving standards with embedded stainless lock nuts.

Shelving Construction and Layout

Each shelf shall be one-piece pultruded fiberglass with nylon reinforced composite end caps and provision for dividers on 2.00-inch centers. Shelves shall be designed to maximize usable space within the compartment, prevent items from sliding off, and be adjustable. Shelves shall be capable of supporting a minimum 250 pounds unsecured load without being damaged or permanently distorted.

Street Side Front:
- Two (2) adjustable shelves

Street Side Center:
- One (1) adjustable shelf

Street Side Rear:
- One (1) adjustable shelf

Curb Side Front:
- Two (2) adjustable shelves

Curb Side Center:
- One (1) adjustable shelf

Curb Side Rear:
- Open

Shelf Dividers and Retention Clips

One (1) package of shelf dividers and retention clips shall be provided for each shelf described in this specification.

Compartment Lighting

Each compartment shall have three (3) LED light strips. The LEDs and electronics shall be enclosed in a 5/8-inch diameter Lexan tube that is sealed at both ends with rubber caps to create a waterproof environment and be suitable for mounting in a wet location. The tube shall rotate to adjust the beam direction as required. The lighting shall be secured with molded nylon

mounting clips. The lighting in all compartments shall start at the bottom of the compartment and extend up the sides and across the top to provide lighting around the perimeter of the compartment. Placement of the light strips shall be such that they are protected from being impacted by compartment contents or during removal/placement of equipment. The purpose of the LED strip lighting is to provide even lighting throughout the compartment while minimizing shadows and dark zones caused by shelving or equipment stored in the compartment.

Each side apparatus body compartment shall have a magnetic door switch installed to activate the compartment lighting and "DO NOT MOVE APPARATUS" light in the cab when any door is opened. To have the compartment lighting illuminate, the "BODY MASTER" switch shall be in the "ON" position, the "CMPT LTS" switch activated on the SPS panel, and the compartment door open.

Compartment Venting

Venting shall aid in air circulation and reduce fumes caused by fuel storage. When placed in doors, these round vents shall compliment fit and finish of the body and not impede door function.

- The driver's side center compartment shall be vented at the upper door face and at the compartment lower rear wall.
- The driver's side aft compartment shall be vented at the door face and compartment rear wall
- Integrated chainsaw compartment in the water tank

A permanent and compliant red/white placard noting fuel storage shall be in plain view and permanently affixed to the exterior surface of each door.

A permanent warning label shall be affixed to the exterior surface of the passenger side rear compartment. The label shall read "DANGER: Do Not Store Flammable Liquid or Combustible Material in this Compartment". See placard below.

Storage Compartments

Side compartments with flush doors shall be provided on both the driver and passenger sides for storage of equipment such as long handled hand tools, power tools, hoses, fittings, fuel, camping gear, and other supplies. Compartment interiors shall be completely open except for latch and shelving hardware; obstructions caused by body framework, lighting mounts, or other structural features shall not be accepted. The clear inside depth for each compartment shall be no less than 19.00-inches behind the closed-door excluding latch hardware.

Each storage compartment shall be sealed to prevent the entry of water, dust or other foreign matter during operations, there shall be no compartment venting holes except those specified for fuel storage. To prevent water entry, compartment openings shall be equipped with rubber weather stripping door seals. Hardware attachments to any portion of a storage compartment shall be completely sealed with weatherproof silicon. Compartment seams shall be completely sealed with weatherproof silicon.

Compartments shall be able to successfully pass a weatherproof test. To pass, the interior of the compartment shall remain dry after water from a typical garden hose has been applied to the exterior of each compartment top and side door area for 2 minutes.

Each compartment shall be equipped with commercially available replaceable pop-out style drain plugs for drainage in the event of moisture entering the compartment. The drain plugs shall be positioned in locations that are least prone to damage. The drain plugs shall be sealing type to prevent dirt and debris from entering the compartment; plugs shall be removable from the inside only.

The bottom of each compartment shall be equipped with 3/4-inch thick Dri-Dek black floor matting. The matting shall provide a solid surface with even support that does not allow bending or folding. The matting shall be cut to fit the exact dimension of the compartment. The matting shall be removable without the use of tools. The matting shall provide maximum drainage and traction and feature fungus, mold, and chemical resistance.

Driver's Side Compartments

The driver's side lower module of the apparatus body shall have approximate overall dimensions as specified. It shall consist of three (3) compartments, each with specified approximate clear depth behind the door when the door is shut. Each compartment shall have a “flow through” vent provided to supply air flow and minimize moisture unless designated as fuel storage.

Lower module dimension:	106.00-inches wide x 20.50-inches deep
Clear Depth:	19.50-inches

One (1) rescue style compartment shall be provided forward of the rear wheels, with approximate inside dimensions as specified. The door shall be vertically hinged and shall have approximate clear door opening as specified.

Compartment dimension:	33.00-inches wide x 39.00-inches high x 20.50-inches deep
Clear door opening:	26.50-inches wide x 32.00-inches high

One (1) compartment shall be provided center above the rear wheels, with approximate inside dimensions as specified. The door shall be a horizontally hinged, drop-down door, and have an approximate clear door opening as specified.

Compartment dimension:	44.00-inches wide x 22.00-inches high x 20.50-inches deep
Clear door opening:	42.00-inches wide x 15.00-inches high

One (1) compartment shall be provided aft of the rear wheels, with approximate inside dimensions as specified. The door shall be vertically hinged and shall have an approximate clear door opening as specified.

Compartment dimension:	28.00-inches wide x 39.00-inches high x 20.50-inches deep
Clear door opening:	20.00-inches wide x 32.00-inches high

The driver's side independent upper module of the apparatus body shall have approximate overall dimensions as specified. The module shall be constructed from 3/16-inch aluminum tread plate and the fit and trim of the upper module shall be integral with the lower compartments in both aesthetics and function. All hinges, fasteners, latches, and other hardware shall be stainless steel. The lid/cover shall be held shut by two (2) lockable stainless latches, hasp style and shall be held "open" by two (2) gas shocks. The lid/cover shall be hinged on the outboard side of the box. The lid/cover of the box shall have an approved NFPA 1906 compliant walking surface affixed to it. This module shall be designed for the storage of a minimum five (5) 1.50-inch x 50-foot rolled standard fire hose sections, two (2) 200-foot progressive hose packs with additional 24.00-inch empty space for additional equipment or hose or long handled tools (i.e. rakes, shovels, etc.). The module shall be equipped with a drain to allow moisture out but prevent moisture from entering. The module shall be wired to the "DO NOT MOVE APPARATUS" light located on the center console and a 48.00-inch LED compartment light shall be installed in a protected location. The floor of the module shall be equipped with black Dri-Dek compartment matting that shall provide a solid surface and allow drainage.

Upper module dimension:	80.50-inches wide x 15.50-inches high (inside dimension) x 20.50-inches deep

Passenger's Side Compartments

The passenger's side lower module of the apparatus body shall have approximate overall dimensions as specified. It shall consist of three (3) compartments, each with specified approximate clear depth behind the door when the door is shut. Each compartment shall have a "flow through" vent provided to supply air flow and minimize moisture unless designated as fuel storage.

Lower module dimension:	106.00-inches wide x 20.50-inches deep
Clear Depth:	19.50-inches

One (1) rescue style compartment shall be provided forward of the rear wheels, with approximate inside dimensions as specified. The door shall be vertically hinged and shall have approximate clear door opening as specified.

Compartment dimension:	33.00-inches wide x 39.00-inches high x 20.50-inches deep
Clear door opening:	26.50-inches wide x 32.00-inches high

One (1) compartment shall be provided center above the rear wheels, with approximate inside dimensions as specified. The compartment shall be accessible from two (2) sides. The passenger's side door shall be a horizontally hinged, drop-down door, and have an approximate clear door opening as specified. The rear door shall be a horizontally hinged, drop-down door, and have an approximate clear door opening as specified.

Compartment dimension:	72.00-inches wide x 22.00-inches high x 20.50-inches deep

Passenger side door opening:	67.00-inches wide x 15.00-inches high
Rear door opening:	12.00-inches wide x 9.50-inches high

One (1) compartment shall be provided aft of the rear wheels, below the upper horizontal compartment, with approximate inside dimensions as specified. The door shall be vertically hinged and shall have an approximate clear door opening as specified.

Compartment dimension:	28.00-inches wide x 16.50-inches high x 20.50-inches deep
Clear door opening:	20.00-inches wide x 11.50-inches high

The passenger's side independent upper module of the apparatus body shall have approximate overall dimensions as specified. The module shall be constructed from 3/16-inch aluminum tread plate and the fit and trim of the upper module shall be integral with the lower compartments in both aesthetics and function. All hinges, fasteners, latches, and other hardware shall be stainless steel. The lid/cover shall be held shut by two (2) lockable stainless latches, hasp style and shall be held "open" by two (2) gas shocks. The lid/cover shall be hinged on the outboard side of the box. The lid/cover of the box shall have an approved NFPA 1906 compliant walking surface affixed to it. A drop-down door shall be provided at the rear of the independent module for deployment of the pre-connected discharges. The door shall have a chrome plated lockable thumb latch and keyed to match the lower compartments. The module shall be plumbed for two (2) pre-connected discharges, described under the "DISCHARGE LOCATIONS" section, and shall be divided into three (3) sections by placing aluminum dividers on Unistrut channel to allow for adjustments. The shall be a 3.00-inch wide section, on the inboard side of the module, for storage of 1.50-inch hose to be used as the "ENGINE PROTECTION" discharge and a 6.00-inch section, aft the engine protection section, for storage of 200 feet of 1.50-inch hose to be used as a "PRE-CONNECT" discharge. Aft the pre-connect discharge shall be a 10.00-inch section for storage of 200 feet of 2.50-inch hose. The module shall be equipped with a drain to allow moisture out but prevent moisture from entering. The module shall be wired to the "DO NOT MOVE APPARATUS" light located on the center console and a 48.00-inch LED compartment light shall be installed in a protected location. The floor of the module shall be equipped with black Dri-Dek compartment matting that shall provide a solid surface and allow drainage.

Upper module dimension:	80.50-inche wide x 15.50-inches high (inside dimension) x 20.50-inches deep

Suction Hose Compartment / Access

A horizontally hinged, drop-down door shall be located at the upper rear facing portion of the passenger side pack. The door shall be positioned as high as possible and shall have a small rubber bumper placed on the outside of the door to prevent contact with the apparatus. Three (3) square aluminum tubes shall be mounted as high as possible and transect the passenger side front compartment and passenger side long horizontal compartment. The tubes shall be mounted in a manner that allows each suction hose to be easily remove or stored with the foot valve and strainer attached.

Rear Cab Protection

There shall be a permanently mounted aluminum square tube cab window guard mounted at the front of the body directly behind the cab. The purpose of the guard is to protect the rear cab area and rear window, add structural integrity of the apparatus body, and provide mounting points for the apparatus' light bar. The guard shall contain a means of concealing

and protecting the wiring required to supply power to the lights. The mounting point of the apparatus light bar shall extend approximately 2 inches above the roof height of the cab and **shall be removable**. The guard shall be constructed in a manner that allows for clear vision into and out of the cab area using an aluminum mesh window screen. The window screen shall be an integral part of the guard with the tube being slotted for installation of the screen. The window screen shall be welded to the tube to prevent vibration. This design shall protect the user from possible snagging of clothing or equipment on rough edges. There shall be drain holes in the bottom of the tubes to allow for water to exit. The cab shield assembly shall be powder coated black.

Stainless-Steel Railing Package

A stainless-steel railing system shall be installed on the top of driver and passenger side compartments. The purpose for the railing is to prevent any equipment stored on top of the vehicle from sliding off as well as providing tie-down points for equipment. The rails shall be 1.25-inch diameter tubing. The railing shall be capable of supporting up to 300 pounds without distortion and shall be secured to the side packs in such a manner that using them as grab handles/rails shall not tear the uprights out of the side packs. The rails shall start at the cab guard, travel along the outer edges of each side pack and terminate at the front of the independent modules.

Hose Reel Roller Assemblies

Two (2) polished aluminum roller assemblies shall be provided, one (1) on each side of the independent module and located approximately 2.00-inches inboard from the leading edge. The rollers shall be designed to allow hose from the center mounted hose reel to be unloaded to either side of the vehicle without snagging equipment on the apparatus. The distance between the rollers shall not exceed the width of the hose reel.

Wheel Chocks

Two (2) wheel chocks shall be provided with the completed apparatus, one (1) each side. The chocks shall be yellow in color and shall be mounted horizontally in a quick release mounting bracket on the outboard corners on the top of the side packs.

Rear License Plate Mount / Light

One (1) clear LED light shall be provided at the rear of the body on the driver's side to illuminate the license plate. Two (2) mounting bolts, washers, and nylon locking nuts shall be properly spaced to accommodate the hole pattern of a Federal Government license plate.

Apparatus Body Trim

The vertical surface at the **front** of the body shall be covered with a minimum 1/8-inch-thick polished aluminum tread plate for appearance, wear, and enhanced visibility at night. The tread plate shall be designed so that joints are minimized and shall cover the entire vertical surface area.

The vertical surface at the **rear** of the body shall be covered with a minimum 1/8-inch-thick smooth aluminum for application of the department's specified chevron graphics. The aluminum panel shall be designed so that joints are minimized and shall cover the entire vertical surface area.

Scuff guards shall be provided and installed on the bottom horizontal edges of the body, both forward and aft of the rear wheel well openings. The scuff guards shall be fabricated from 1/8-inch polished aluminum tread plate.

Steps and Grab Handles

Fold Down Steps

Two (2) NFPA-compliant fold down steps shall be provided and installed at the rear of the apparatus on the driver's side of the body. The steps shall be fabricated from heavy duty cast aluminum with spring assisted folded hinges. The top of the steps shall be an integral diamond point skid resistant surface that allows water to flow off the step without ice formation in cold weather use.

Grab Handle(s)

One (1) NFPA-compliant chrome-plated grab handle shall be provided and located at the rear of the body on the driver's side, one (1) mounted vertically on the rear-facing surface of the upper compartment, left of the control panel parallel to the outboard edge of the body, and two (2) 24.00-inch long handles mounted horizontally on top of each of the upper compartments, parallel to the outboard edges of the body.

One (1) warning plate shall be affixed to the rear of the apparatus body in a conspicuous location. The warning plate shall read "**WARNING: DO NOT RIDE ON REAR STEP WHILE VEHICLE IS IN MOTION. DEATH OR SERIOUS INJURY MAY RESULT.**"

Nozzle Cups / Hose Clamps

Two (2) Ziamatic Corporation durable neoprene rubber cups shall be shipped loose with the completed apparatus. Two (2) Performance Advantage Company Handlelok "hose clamps" shall be shipped loose with the completed apparatus. The rubber cups and hose clamps shall be accompanied by pieces of aluminum Unistrut, and mounting hardware, to allow the end user to mount the components later.

Front Bumper Hose Clamp

One (1) Ziamatic Corporation, VM-7, tool holder shall be provided with the completed apparatus and installed on the passenger side of the heavy-duty front bumper / brush guard.

Air Compressor

A Viair Corporation ultra-duty air compressor system shall be installed in the passenger front compartment forward of the rear wheels. One (1) quick disconnect air outlet shall be installed on the operator's panel and one (1) quick disconnect air

outlet shall be installed near the air compressor in the specified compartment. The compressor shall have an "ON/OFF" switch, tire inflation gun with 200 PSI gauge and 30' coiled hose.

A 2.5-gallon air storage tank shall be supplied. The tank will be located under the chassis cab and protected for off road use.

General Wiring Specification

A single Original Equipment Manufacturer (OEM) battery system shall be installed to operate both the chassis and package electrical system. A single 800-amp intermittent / 175-amp continuous Cole Hersee on/off switch shall be supplied and mounted to the driver's side of the center console in an accessible location. This switch labeled "BODY MASTER ON". When in the "OFF" position, all electrical power to the apparatus fire package shall be off. The battery shall be installed in an accessible location.

The apparatus electrical system shall remain independent of the OEM system unless there is authorization from the OEM chassis manufacturer.

The apparatus body, modules of the apparatus body (i.e. pump house) and chassis shall be individually wired as independent modules and connected as a completed unit at the final assembly via waterproof electrical connectors located in the electrical compartment. The intent of this is to be able to remove portions of the completed apparatus for major service and repair without requiring the electrical system to be cut. Seals shall be provided on each individual wire and the assembly. All GXL/SXL wiring for the apparatus body shall be within a temperature resistant harness rated at a minimum of 280-degrees. All wires in each harness shall be color and function coded. Wiring shall be run along structural rails and tied in a neat and orderly manner. Wiring passing through compartments shall be protected from tears, abrasions, and cuts caused by loose items moving in the compartment space. Wiring shall comply with OEM / component manufacturers recommendations and standards.

The completed body shall be grounded to the chassis with a minimum "0" gauge wire with crimped and soldered lugs. The lug shall be bolted to the chassis after the removal of all paints, rust, etc. Additionally, a minimum 3/4-inches braided ground strap shall be furnished between the body and chassis. The ground strap shall have soldered tabs on each end and attached to the chassis as above except that stainless steel star washers shall be used between the ground strap tab and bolt. After attachment, all ground connection points shall be sprayed (soaked) with non-hardening battery terminal sealer. A ground strap shall also be installed from the pump engine to the apparatus body.

All wire shall be protected from tears, abrasions, cuts, etc. from loose items within compartment spaces, and from items present in the operating environment outside of the compartments. Special care shall be taken to conceal wiring to prevent catching on brush, rocks, and various other items present in the off-road environment.

Electrical Components and Ratings

Electrical Components

All electrical components such as solenoids, speakers, motors, etc. shall be environmentally rated to a minimum of IP67 and shall be MIL-STD 810 compliant for temperature, humidity, vibration, altitude, shock, sand and dust, immersion, contamination by fluids, humidity and solar radiation.

Wire Grade

GXL or SXL Grade Rated from 60-260 F.

Connections Terminations

Connections shall be environmentally sealed to prevent corrosion.

Loom and Ties

All wire loom and wire ties shall be rated to a minimum of 260 F.

Indicator / Warning Light(s)

The following indicator lights are described in greater detail elsewhere in this specification:

- Battery On: There shall be a green LED indicator light visible to the driver which illuminates when the master body switch is activated. The light shall be labeled "BODY MASTER ON". The LED light shall be mounted below the OEM dash on the driver's side, in a position that will help reduce glare within the cab during night operations; this light may be programmed to dim when the headlights are "ON".
- Door Ajar "DO NOT MOVE APPARATUS": Red LED indicator light shall be provided in the cab and shall flash automatically when the ignition switch is "ON" and a lighted compartment door is "OPEN" or a chassis cab door is "OPEN".
- Pump Running: Amber LED indicator light shall be provided
- Low Voltage Alarm: Red LED indicator light shall be provided in the cab. The light shall flash when the apparatus 12-volt electrical system voltage drops below 11.9-volts. The LED light shall be mounted in a position that will help reduce glare within the cab during night operations.

"Do Not Move Apparatus" Warning

There shall be an audible alarm that sounds a tone when the door ajar light is flashing, and the parking brake is released.

Light Bar

The front and front side zones shall be covered by one (1) Whelen Justice series 56.00-inch-long LED light bar mounted on the cab guard approximately 2.00-inches above the cab roof to provide good visibility to the front and sides of the vehicle. The light bar shall have approximate dimensions of 56.00-inches-long, 2.25-inches high without mounting feet, and 12.00-inches wide. The LEDs shall be red/white/red. The white section of the light bar shall be wired so that it turns off when the parking brake is set, to meet the NFPA requirements for blocking mode. The light bar wiring shall incorporate a quick

disconnect feature to allow for the removal/replacement of the light bar in the event the OEM cab must be removed for repairs.

Lower Zone A Warning Lights

Two (2) Whelen ION-T Series red LED light head shall be mounted with the OEM chassis front grille, forward facing. Each light head shall have a clear lens and be mounted in a chrome flange. The light heads shall be controlled with the "EMR LIGHTS" switch located on the SPS panel in the chassis cab.

Forward Zone B/D Warning Lights

One (1) Whelen ION-T Series red LED light head shall be mounted on each side of the chassis within the front fender, side facing. Each light head shall have a clear lens and be mounted in a chrome flange. The light heads shall be controlled with the "EMR LIGHTS" switch located on the SPS panel in the chassis cab.

Aft Zone B/D Warning Lights

One (1) Whelen ION-T Series red LED light head shall be mounted on each side of the apparatus body within the apparatus body fender. The wiring for the light heads shall be routed in a manner that protects it from foreign debris during off-road driving conditions. Each light head shall have a clear lens and be mounted in a chrome flange. The light heads shall be controlled with the "EMR LIGHTS" switch located on the SPS panel in the chassis cab.

Lower Zone C Warning Lights

Two (2) Whelen 700 Series amber LED light heads shall be provided on the lower rear of the apparatus, rear facing, and one (1) each side. The lights shall be in the top position of a four-position bezel at the rear of the body with the DOT lights. The lights shall be programmed in a triple flash mode. The light heads shall be controlled with the "EMR LIGHTS" switch located on the SPS panel in the chassis cab.

Traffic Advisor

One (1) Whelen model TA Series directional light bar shall be provided at the rear of the apparatus body, mounted to the crossover platform frame with a weatherproof electrical quick disconnect feature. The control head shall be mounted in the cab console and shall offer control of the flash pattern for the traffic directing signal as well as two (2) light intensity settings. The control head shall indicate the current directing signal in use. The directional light bar shall have eight (8) LED lights in rectangular aluminum housing.

Electronic Siren

One (1) Whelen 100/200-watt full function siren amplifier with microphone shall be provided. The control head shall be mounted in the floor mounted console in a location readily accessible to the driver/operator.

Speaker

One (1) Federal Signal 100-watt speaker shall be mounted behind the heavy-duty front bumper/brush guard. The speaker shall be wired to the electronic siren control head and a customer specified mobile radio.

DOT / Clearance Lights

Clearance lights shall be provided and mounted on the vehicle in compliance with FMVSS. Each light shall be LED and sealed from the environment. All lights shall be easily replaceable in the event of failure or damage. Each light shall be constructed from high impact-resistant plastic to prevent damage from gravel and other debris.

Taillight Assembly

One (1) four taillight assembly shall be mounted on each side of the rear panel, two (2) assemblies total, as low as possible without affecting the functionality of the rear bumper and bumper skin. Each assembly shall consist of a Whelen 700 Series red LED stop/tail light, a Whelen 700 Series amber LED arrow turn signal light, a Whelen 700 Series emergency flasher described elsewhere in this specification, and a Whelen 700 Series back up light described elsewhere in this specification. Each light shall be approximately 7.00-inches wide by 3.00-inches tall. All four (4) lights shall be mounted together in a polished aluminum four light surface mount vertical bezel.

Taillight Assembly Layout:
Red Emergency LED Flasher
Red LED Stop/Taillight
Amber LED Arrow Turn Signal
Back Up Light

Push-Up LED Work Lights

Two (2) Whelen Pioneer Plus™ push-up shall be provided at the front of the apparatus body. The 168 watts +12v DC Pioneer light head(s) shall incorporate a Super-LED® dual flood light installed in a die-cast white powder coated aluminum housing. The PFP2 configuration shall consist of 60 white Super-LEDs with a clear optic collimator/metalized reflector assembly and a clear non-optic polycarbonate lens. Each Pioneer flood light shall have 16,000 usable lumens.

The lens/reflector assembly shall utilize a liquid injected molded silicone gasket to be resistant to water, moisture, dust, and other environmental conditions. The hard-coated lens shall provide extended life/luster protection against UV and chemical stresses. The PFP2 shall be vibration resistant. The Pioneer™ PC boards shall be conformal coated for additional protection. Two breathable membrane patches shall be installed to the bottom of the housing to maintain a consistent internal pressure. The PFP2 shall have extended LED operation with low current consumption and low operating temperature.

Each PFP2 shall be furnished with a 20’ 4/C 16GA input cable. The Pioneer shall have the ability to flash as a secondary warning light in the “Clearing Right of Way” mode when installed with an external flasher, model number PFLASH, purchased separately. The Pioneer light shall be SAE 1113-42 compliant and Class 5 testing for EMI. The PFP2 is covered by a five-year factory warranty. Mounting options are purchased separately.

- Voltage: +12v DC
- Size: H=4.125”, W=14.00”, D=2.50”
- Amp Draw: Spotlight = 13 Amps
- Lens Color: Clear

Perimeter Lights

Ten (10) 4.00-inch clear LED lights shall be provided around the vehicle's perimeter. The lights shall be activated when either the “PERIMETER LIGHTS” switch is activated on the center console, when a cab door is "OPEN", or when the vehicle is placed in “BLOCKING MODE”. The vehicle is in "BLOCKING MODE" when the vehicle transmission is in “PARK” with the parking brake set and the emergency master switch turned "ON" with the forward-facing takedown lights "OFF". The perimeter lighting “OFF” delay shall be synchronized with the chassis exterior courtesy lighting delay.

The perimeter lights shall be in the following areas and each mounted in a high-density rubber grommet:

- Two (2) 4.00-inch round lights shall be installed under the apparatus front bumper in a protected location
- Two (2) 4.00-inch round lights installed on the forward-facing panel of the apparatus body, one (1) on each side below the hose reel nozzle mounting brackets.
- Four (4) 4.00-inch round lights installed in the four (4) vertically hinged compartments of the apparatus body, one (1) in each compartment. The lights shall be house within an aluminum enclosure to provide sufficient protection from components within the compartment and leave it accessible enough to repair/replace if needed.
- Two (2) 4.00-inch round lights installed on the underside of the rear bumper and recessed to provide sufficient protection from foreign debris.

Multiplexed Electrical System

The electrical system shall be equipped with a Class 1 ES-Key multiplex solid state management system. The system shall have capabilities of performing load management functions, system monitoring and reporting, system data recording, remote diagnostics, and be fully programmable. The system shall be programmed to discontinue functions, by priority, when the apparatus 12-volt electrical system voltage drops below 11.9-volts.

Universal System Manager II

The Universal System Manager II "USM II" shall be installed within the center console. In the ES-Key network, the USM II shall be responsible for arbitrating the network variables to each module, monitoring faults and diagnostics and controlling electrical load management functions.

Remote Diagnostics Capabilities

Remote diagnostic shall be accomplished by using a supplied USB 2.0 "A" male to "A" male cable. One (1) end of the cable will connect directly to the Class 1 ES-Key Universal System Manager II and one (1) end will connect to a laptop computer. The remote diagnostic feature(s) will be done through Class 1's ES-Key Live software.

SPS Switch Panel and Programming

All accessory and emergency lighting shall be controlled by a master electrical control module mounted in a location within the cab that is easily accessible by driver and operator. The module shall consist of a multiplex smart programmable switch (SPS) module of eight (8)) lighted switches. The module shall have back lighted identification plates on a non-glare panel face illuminated when the master switch is "ON". The bundle of wires visible through the front glass shall be loomed to present a neat and professional appearance.

The function and layout of the eight (8) lighted switches are as follows:

Switch 1	Switch 2	Switch 3	Switch 4
Switch 5	Switch 6	Switch 7	Switch 8

Switch 1: EMR LIGHTS:
- Description: Activates all emergency or hazard lights
- Function: Switch is press on press off
- Indicator: Indicator light is solid when on
- Requires Body Master to be "ON": No

Switch 2: UNUSED
- Description:
- Function:
- Indicator:
- Requires Body Master to be "ON":

Switch 3: PERIMETER LIGHTS:
- Description: Activates /Deactivates the perimeter lights on the front bumper, apparatus body, and rear bumper
- Function: Switch is press on press off
- Indicator: Indicator light is solid when on
- Requires Body Master to be "ON": Yes

Switch 4: COMPARTMENT LIGHT MASTER:
- Description: Activates/Deactivates strip lighting in compartments.
- Function: Switch is press on press off
- Indicator: Indicator light is solid when on
- Requires Body Master to be "ON": Yes

Switch 5: DS FLOOD:
- Description: Activates/Deactivates the left-side LED push-up light
- Function: Switch is press on press off
- Indicator: Indicator light is solid when on
- Requires Body Master to be "ON": Yes

Switch 6: REAR FLOOD:
- Description: Activates/Deactivates the rear panel flood (backup) lights

- Function: Switch is press on press off
- Indicator: Indicator light is solid when on
- Requires Body Master to be "ON": Yes

Switch 7: PS FLOOD:

- Description: Activates/Deactivates the right-side LED push-up light
- Function: Switch is press on press off
- Indicator: Indicator light is solid when on
- Requires Body Master to be "ON": Yes

Switch 8: HOSE REEL:

- Description: Activates the hose reel rewind
- Function: Switch is momentary
- Indicator: Indicator is solid when pressed
- Requires Body Master to be "ON": Yes
- Switch shall be RED in color

NFPA 1906 Electrical Testing

Electrical system tests shall be performed in accordance with NFPA 1906 current edition. Al the time of delivery, all documentation outlined in NFPA 1906 current edition shall be provided.

Battery Charger with Sure Eject Feature

A Blue Sea System P12 25-amp battery charger shall be installed in the chassis cab and wired to the OEM battery system and Sure Eject. The battery charger shall be a four stage, three output, dry mount design, for use in harsh environments and enclosed in a rugged, finned aluminum case. The battery charger shall have the following features:

- PreFloat™ stage prevents over charging
- Power factor corrected for efficient use of AC
- Intuitive diagnostic screens
- User defined charge profiles and customizable settings
- Provides charging for up to three battery banks
- Large, bright display
- Charge Coordination with Blue Sea Systems Automatic Charging Relays (ACR) controls ACR state ensuring proper float stage for each battery
- Battery Temperature Compensation - adjusts charge voltage based on battery temperature
- AC over and under voltage shut down and automatic restart
- Over and under battery temperature protection - charger will not operate if battery temperature rises above or falls below a set value
- DC over voltage and reverse polarity protection
- Surge and short circuit protection

A Blue Sea Systems Sure Eject shall be installed forward of the rear wheels in the driver side apparatus body fender. The

automatic AC disconnect ejects power cords upon ignition to prevent damage. The motor driven design ensures consistent ejections for years of operation and the ejection piston is self-recessing with no cocking required. The keyed plug design shall allow for easy one-handed insertion in hard to reach places and an AC power indicating LED shall alert the end user if the system is charging successfully.

The EV Battery Charger display provides two (2) options to monitor the OEM battery banks. It can display a graphical representation of voltage for 1 to 3 battery banks with or without connection to a P12 battery charger. When connected to a P12 battery charger it can display the charger's summary screen, displaying voltage, current charging stage, and faults from the charger. The display shall be mounted adjacent to the Sure Eject in the driver side apparatus body fender.

Apparatus Paint and Finish

The chassis cab shall be painted by the Original Equipment Manufacturer and the apparatus body shall be a painted finish to match the OEM chassis paint color.

OEM Chassis Color: **Flame Red (PR4)**

Paint and Finish General

The finished apparatus and chassis shall be presented in as new condition; any dents, scratches, rust spots, or blemishes of any kind on the apparatus will not be accepted. All exposed ferrous metal surfaces that are not plated or stainless steel shall be cleaned and prepared and shall be painted or coated. The paint or coating, including primer, shall be applied in accordance with the paint or coating manufacturers' recommendations. The paint shall be applied by individuals who have been certified by the paint manufacturer.

Apparatus Body Exterior

All exterior body, metal, smooth surfaces are to be sanded, cleaned, etched, and primed, according to the paint manufacturer. The highest quality, state of the art, low V.O.C. acrylic urethane finishing system shall be utilized. The finish coat shall be applied in multiple coats to ensure proper paint coverage with a high gloss finish. The paint shall be warranted by the paint manufacturer.

The outer finish of a fiberglass composite body shall be painted one (1) color to match the ordered chassis paint color exactly.

Apparatus Body Interior

Surfaces shall be properly prepared and painted with Zolatone in a marble color.

Other Metal Item Finish

All aluminum and stainless steel shall remain unpainted unless specified otherwise. Metal parts that are painted shall be gloss black acrylic automotive grade enamel.

Powder Coating Standard

Items that are specified to be powder coated shall have a minimum 1-2 mm flat black powder coated finish.

Anti-Slip Surface

Horizontal walking surfaces specified to have an anti-slip coating shall meet or exceed OSHA and NFPA 1906 (current edition) requirements. Coating shall be durable and last the life of the apparatus.

Striping and Graphics

Body General

All stripes are per NFPA standards and ASTM D 4965, “Standard Specifications for Retro-reflective sheeting for Traffic Control" unless otherwise specified. Finish of the striping and emblems shall be void of air pockets, and other blemishes, and edges shall be smooth.

Sides

A reflective stripe shall be affixed to the perimeter of the apparatus. Striping on the engine sides shall cover at least 50-percent of the cab and body length, following the natural contour of the equipment.

Reflective DOT Red and White Striping for Doors

A 1.00-inch to 2.00-inch white and red reflective stripe shall be installed on the vertically hinged interior compartment door face near the edge(s). Red reflective stripe(s) shall be installed on the bottom edge of the chassis cab doors. The reflective striping shall meet and/or exceed the current edition of NFPA 1906.

Specific Department Striping

Final approval shall be obtained prior to installation based upon a drawing or rendered photograph showing exact placement, color, and configuration.

Placards and Labels

All required signs, plates and labels shall be permanent in nature and securely attached and shall meet the requirements of NFPA 1906 current edition, and UL 969, *Standard for Marking and Labeling System*.

All signs, plates and labels shall be similar in appearance, style, and design. The following signs, plates and labels shall be installed on the apparatus:

All applicable signs, plates and labels listed in NFPA 1906 current edition.

Fluids Placard

The contractor will affix a permanent placard in the driver's compartment specifying the correct type of the following fluids used in the vehicle:

- Engine Oil
- Engine Coolant
- Chassis Transmission Fluid
- Power Steering Fluid
- Front Drive Axle Lubrication Fluid
- Rear Drive Axle Lubrication Fluid
- Transfer Case Lubrication Fluid
- Pump Transmission Lubrication Fluid, if applicable
- Auxiliary Engine Oil
- Auxiliary Engine Coolant
- Foam System Lubricant
- *Any other information deemed necessary by the contractor or its subcontractors to prolong the life of the equipment*

Dimension Placard

The contractor shall affix a permanent placard in the driver's compartment specifying the empty/dry vehicle dimensions after constructions. The placard shall include the following minimum information:

- Overall Length
- Overall Height, the highest point on the vehicle excluding antennas when empty
- Overall Width
- Empty Weight

Air Intake

The chassis engine air intake (air-box) cover shall be equipped with a Warning label/placard (approved by the department prior to installation) that depicts the following information:

WARNING! Prior to removing cover:
1. Remove Ignition Key
2. Disconnect Mass Air Flow Sensor
3. Reassemble completely prior to Starting

DO NOT CLEAN FILTER WITH COMPRESSED AIR!

Pump Operation Placard

A permanent placard shall be mounted on the driver side rear panel of the apparatus body, as high as possible and within easy view from the operator's panel, that describes the necessary steps to start the pump and pump water of out the water tank to the discharge(s).

Winterization Placard

A permanent placard shall be mounted on the inboard side of the operator's panel, as high as possible and within easy view from the operator's panel, that describes the necessary steps to properly winterize the plumbing to prevent freeze damage.

Pump Test Placard

A permanent placard shall be mounted on the inboard side of the operator's panel, as high as possible and within easy view from the operator's panel, that provides the end user with the gallons per minute (GPM) at 150 pounds per square inch (PSI) and gallons per minute (GPM) at 250 pounds per square inch (PSI) of the pump.
Seating Capacity

The completed apparatus shall be designed to have a fully enclosed seat with an approved seat belt for each occupant. The term "fully enclosed" shall mean four sides, a top and a bottom, with an appropriate door for easy entrance to and exit from the seating position.

A warning label, listing the seating capacity of the completed apparatus, shall be provided in the apparatus cab interior. This label shall be located so that it is visible from all seating positions.

This apparatus shall have a seating capacity of two (2) personnel in front, and three (3) personnel in the rear for a total seating capacity of five (5).

Seating

The center portion of the 40/20/40 split bench seat shall be removed to accommodate the installation of the center console.

Seat Belt Warning

A warning label, stating: **"DANGER- Personnel Must Be Seated and Seat Belts Must Be Fastened While Vehicle Is in Motion or DEATH OR SERIOUS INJURY MAY RESULT"** shall be provided in the apparatus cab interior. This label shall be located so that it is visible from all seating positions.

Final Stage Manufacturer Vehicle Certification

A Final Stage Manufacturer vehicle certification label shall be provided and installed in the apparatus cab driver's door jamb.

Noise Hazard Warning

A warning label, stating: **"WARNING: Noise Hazards Occur During Siren Operation"**, shall be provided and installed in the apparatus cab interior. This label shall be located so that it is visible from all seating positions.

Pump Motor

The pump shall be driven by a 24.8 horsepower Kubota model D902, four-cycle, water cooled diesel engine that shall be equipped with the following provisions. The pump engine shall be fixed mounted on the water tank.

- Fuel Supply - The engine shall be piped to the chassis fuel system with provisions to prevent fuel drain-back to the tank when the engine is shutdown. The pickup tube shall be located 1.00-inch from the bottom of the tank to leave sufficient fuel in the tank for movement of the vehicle.

- Fuel Prime - A fuel pump shall be provided to assist in fuel delivery to the diesel engine from the chassis tank.

- Lubrication - Pressure feed with spin-on filter.

- Pump Controls and Starter - Controls for the pumping system shall be integrated into a single system that contains monitoring and protection features, and shall be configured with high current key switch, hour meter, voltmeter, oil pressure gauge, temperature gauge, throttle and spare openings for additional 2.00-inch diameter gauges.

- The starter and associated 12-volt, 40-amp alternator shall be hardwired to the chassis electrical system and controlled from the operator's panel. An amber LED light shall be in the cab that indicates when the pump is running.

- Exhaust - A USFS qualified spark arrestor shall be provided on the engine exhaust system. The exhaust shall be positioned to provide clear access to the air filter without the use of tools. The exhaust shall be routed away from the panel operator position and terminate behind the booster hose reel.

- Air Intake - An air cleaner is to be provided with easy access to remove the element. **An ember screen shall be provided on the inlet to the air cleaner.**

- Shielding - There shall be custom fabricated polished aluminum tread plate safety shield(s) to prevent damage or injury if the potential exists for loose clothing, hands, or foreign objects to enter the cooling fan area, belts, or any other moving parts of the auxiliary pump. A warning plate shall be permanently affixed to the top of the pump engine cover that shall read "**WARNING: NOT A STEP**".

- Maintenance - All serviceable items such as air filters, oil filters, drains, and fuel pumps shall be accessible for routine maintenance without requiring removal of any plumbing or major engine components such as complete removal of the exhaust system or air filter housing.

- Warranty - The auxiliary pump shall carry a minimum three (3) year warranty that covers labor charges from the date the pump is placed into service. The manufacturer of the diesel engine that drives the auxiliary pump shall warrant the product for a minimum of 24 months or 2000 hours.

Pump Gear Box

The Waterax BB-4 pump shall be built for maximum pressure and the gear box from the pump shall be configured as such with a gear ratio of 1.88:1.

Pump

Due to the unpredictability of water sources, the Waterax BB-4 shall have a pump body, diffusers, and impellers made of an anodized corrosive resistance aluminum. The impeller must be aluminum to match the pump body and diffusers to prevent galvanic corrosion from taking place between pump components. The pump shaft shall be stainless-steel supported by two maintenance free bearings and shall not be co-linear to the engine's drive shaft. A sealed roller bearing shall be located externally from the pump and a sintered bronze bushing shall be located within the pump cover. Both bearings must be maintenance free.

As installed on the apparatus, the pump shall be capable of delivering 50 gallons per minute minimum at 250 pounds per square inch output pressure from a 5-foot lift through 24 feet of 2.00-inch suction hose with a strainer and from the apparatus water tank or from an external draft source, i.e. fold-a-tank.

In addition, the pump manufacturer shall certify that the pump can deliver the following capacities as measured at the pump head and at net pump pressure from draft under test conditions listed:

Capacities:

- 106 gallons per minute at 150 pounds per square inch net pump pressure
- 103 gallons per minute at 250 pounds per square inch net pump pressure
- 65 gallons per minute at 350 pounds per square inch net pump pressure

The pump seal shall be a mechanical rotary seal, shall be externally pressurized and shall incorporate a blister-resistant carbon seal face, silicon carbide seat, and fully integrated drive bushing.

Testing and Certification

Upon completion, the apparatus shall undergo a complete pumping test that conforms to the requirements of NFPA Standard 1906 (latest edition) for the size and type of pump provided. The test shall consist of a continuous one-half hour test pumping at rated capacity and rated net pump pressure, a vacuum test of the primer system and plumbing, a tank discharge flow test, a pressure test of the apparatus piping and a water tank usable water volume test. The chassis engine and transmission, the pump and other components of the apparatus shall show no undue heating, leaks, or other defect. The results of the test shall be documented to establish the performance of the apparatus and to further ensure that the unit

shall perform satisfactorily when placed into service. The test results shall be certified in writing, with the certification provided to the purchaser for their records at the time of delivery of the completed apparatus.

Waterous Aquis 1.5 Foam System

The apparatus shall be equipped with an electronic, fully automatic, variable speed, direct injection, discharge side foam proportioning system. The system shall be capable of handling Class A foam concentrate. The foam proportioning operation shall be based on direct measurement of water flows and remain consistent within the specified flows and pressures. The system shall be equipped with a control module suitable for installation on the pump panel. Incorporated within the motor driver shall be a microprocessor that receives input from the system flow meter, while also monitoring foam concentrate pump output, comparing values to ensure that the operator preset proportional amount of foam concentrate is injected into the discharge side of the fire pump. A paddlewheel-type flow meter shall be installed in the discharge system specified to be "foam capable." A brass wye strainer with a removable/cleanable screen shall be installed in the foam pump supply line.

An Operator Interface Terminal (OIT) digital operation shall be available to be incorporated into the Aquis 1.5 proportioner. This OIT digital panel shall allow for push button control of Class A concentrate in infinite increments from .1% to 1%, calibration of water flow rate, adjustable units of measure, simulated water flow, optional lockout. The OIT panel shall have a warning of low foam concentration supply that flashes and displays a steady "low concentrate" warning when the concentrate tank runs low. It will also flash a "no concentrate" warning when the concentrate tank is empty and a warning of an electronic malfunction that flashes an "error" warning with associated error code. The OIT panel shall operate in manual mode as a back-up and a separate plate panel with operation instructions is furnished.

A 12-volt electric motor driven positive displacement plunger pump shall be provided. The pump capacity shall be 1.0 GPM at 200 psi with a maximum operating pressure up to 400 psi. The system will draw a maximum of 30 amps @ 12 VDC. The motor shall be controlled by the microprocessor mounted to the base of the pump. It shall receive signals from the control module and power the 1/3 hp (.25 KW) electric motor in a variable speed duty cycle to ensure that the correct proportion of concentrate is injected into the water stream. A full flow check valve shall be provided in the discharge piping to prevent foam contamination of fire pump and water tank. A 5-psi opening pressure check valve shall be provided in concentrate line.

Components of the complete foam proportioning system as described above shall include:

- Operator control module
- Paddlewheel flow meter
- Pump and electric motor/motor driver
- Wiring harnesses
- Low level tank switch
- Foam tank
- Foam injection check valve
- Main waterway check valve
- Brass Wye strainer

An installation and operation manual shall be provided for the unit, along with a one-year limited warranty by the manufacturer. The system shall be installed and calibrated. The system design shall have passed environmental testing which simulates heavy use on off-road mobile apparatus. Testing shall have been conducted in accordance with SAE standards.

All water discharges shall be supplied with foam solution except the pump to tank and freshwater discharge. No foam shall be allowed to enter the water tank.

Plumbing General

All plumbing shall be stainless-steel with high pressure flexible hose where appropriate. Sweeping elbows and tees shall be used to improve flow. Victaulic couplings shall be used where appropriate to allow easier disassembly for maintenance. The stainless welds shall be cleaned and polished. Deck mounting of plumbing components shall be maximized to the greatest extent possible to eliminate hanging fixtures and minimize component shifting, loosening, etc.

Intake Locations

All suction side plumbing shall be 2.50-inch in diameter unless otherwise noted.

One 2.50-inch tank-to-pump line, with an inline valve, shall be installed between the water tank outlet and the pump inlet. The valve shall be controlled by a T-handle and easily accessible from the rear of the apparatus.

One (1) 2.50-inch diameter rear suction shall be provided. The suction shall be directed towards the rear of the unit and shall be easily accessible from the rear of the apparatus. It shall have a fire service valve with a 2.50-inch NH flange, a polished chrome rocker lug cap, and jacketed stainless-steel aircraft cable retainer.

Discharge Locations

All main discharge plumbing shall be 2.00-inch and reduced to 1.50-inch at the valves.

One (1) 1.50-inch pump-to-tank, or tank fill, labeled "NO. 2 PUMP TO TANK, shall be supplied. The line shall have a fire service valve. The valve shall be accessible from the operator's position and controlled by a direct actuation handle. A check valve shall be positioned in the refill line beyond the valve and adjacent to the tank.

One (1) 1.50-inch discharge, labeled "NO. 3 DISCHARGE", shall be supplied. The discharge shall be directed towards the rear of the unit. The discharge shall have a fire service valve locally controlled by a direct actuation handle. The discharge shall terminate with a 1.50-inch male NH threads with a chrome rocker lug cap and jacketed stainless-steel aircraft cable retainer.

One (1) 1.50-inch discharge, labeled "NO. 19 WATER ONLY", shall be supplied. The plumbing design shall prevent the back flow of foam contaminated water into the "NO. 19 WATER ONLY" discharge. The discharge shall be directed towards the rear of the unit. The discharge shall have a fire service valve locally controlled by a direct actuation handle. The discharge shall terminate with a 1.50-inch male NH threads with a chrome rocker lug cap and jacketed stainless-steel aircraft cable retainer.

One (1) 1.50-inch discharge, labeled "NO. 5 ENGINE PROTECTION", shall be supplied. The discharge shall be plumbed to the passenger side independent module. The discharge shall have a fire service valve locally controlled by a direct actuation handle. The discharge shall terminate with a 1.50-inch male NH nipple in the independent module.

One (1) 1.50-inch discharge, labeled "PRE-CONNECT", shall be supplied. The discharge shall be plumbed to the passenger side independent module. The discharge shall have a fire service valve locally controlled by a direct actuation handle. The discharge shall terminate with a 1.50-inch male NH nipple in the independent module.

One (1) 1.00-inch central single hose reel control with valve shall be provided. The valve shall be easily accessible from the standing position at the rear of the apparatus. For additional details, see the hose reel section of this specification.

Valves

All **Elkhart Brass Unibody Series** drop-out discharge and inlet ball valves shall meet all NFPA 1906 current edition standards. All 1.00-inch and larger valves in this specification shall be brass, quarter turn, fire service valves. All valves shall be locally controlled. Valve handles shall be oriented to direction of flow, in line with plumbing when open. All knobs on all valve handles shall have Loctite in place to prevent them from coming loose during off-road operation.

All 1.00-inch and larger valves installed on the apparatus shall be supplied by the same manufacture unless specified otherwise.

All 1.00-inch and larger valves installed on the apparatus shall be warranted to be free from defects in materials and workmanship under normal use and service for a period of five years.

All valves smaller than 1.00inch shall be Apollo brass with a mechanism to hold them in the OPEN or CLOSED position.

Valve Labeling

Each valve shall be labeled as to its function immediately adjacent to the valve control. The valves shall be labeled in accordance with the US Forest Service valve numbering system in common use with off-road firefighting agencies. A placard with an identification key shall be affixed at the rear of the apparatus.

Hose Reel

The apparatus shall be equipped with one (1) center mounted Hannay polished aluminum super booster hose reel. The hose reel shall be mounted in the center between the top of the front driver's side compartment and the front passenger's side compartment, top of the tank. The hose reel shall be equipped with the following features:

- Hose reel frame and drum shall be fabricated of polished aluminum, with a sprocket being chrome plated to minimize maintenance
- The inlet connection shall be 1.00-inch
- The outlet connection shall be 1.00-inch **NH thread**

- Bottom feed, counterclockwise wind
- Open stainless-steel rollers with aluminum brackets, steel bushings, mounted high to the driver side and passenger side of the reel. The side rollers shall be approximately the width of the reel drum to allow full use of the drum to roll hose onto
- Hose capacity of a minimum of 150 feet of 1.00-inch hard line.
- A manual rewind port with removable handle, mounted vertically
- An adjustable brake
- 2/3 horsepower electric motor

The hose reel shall be controlled by a locally controlled valve at the rear of the apparatus. The connection between the valve and the reel shall be with high pressure 1.00-inch flexible hose. The reel shall have two (2) rewind switches installed, one (1) on each side of the apparatus body, in a location to allow a fire fighter to hold the booster hose while pushing the rewind button. These switches shall be marine style sealed momentary switches with a chrome button protector ring to aide in the prevention of accidental impact. A third switch shall be installed at the hose reel next to the 70-amp breaker. The switch shall be a momentary switch that is sealed from the environment. Additionally, there shall be a separate momentary switch on the master electrical control module for the driver to control the rewind of the reel while the apparatus is in pump-and-roll operations.

Booster Hose

Two (200) hundred feet of 3/4-inch Mercedes Textiles Boostlite booster hose shall be supplied an installed on the specified booster reel. Each section of hose shall be fifty (50) long and shall have 1.00-inch NH threaded aluminum pin hole couplings.

Primer

One (1) Hale Products positive displacement, oil less, rotary vane, electric motor-driven priming pump, conforming to the NFPA requirements, shall be provided and installed on the cross member, above the lower edge of the frame rails, aft of the cab body. The primer pump body shall be fabricated from heat-treated anodized aluminum for wear and corrosion resistance. The priming pump shall be capable of producing a minimum of 17.00-inches Hg of vacuum at 2000 feet above sea level.

The primer pump electric motor shall be of a 12 VDC totally enclosed design. The priming pump shall not require lubrication from an external source. The priming pump shall be operated by a single push-pull control valve mounted on the pump operator’s panel. The control valve shall be of all bronze construction and labeled "#6 Primer".

The primer shall be connected to the priming port provided on the top of the pump inlet.

Winterization / Emergency Priming Port

Operator's Panel Winterization Port

A brass 1/4-turn valve shall be provided at the operator's panel and fitted with a universal air quick coupling plug to allow for pressurization of the plumbing system for efficient winterization.

Auxiliary Priming Port

A 2.00-inch emergency priming port shall be located on the suction side of the manifold system, as close to the pump as possible, to allow the end user that ability to efficiently winterize the plumbing system or prime the plumbing system in the event of an external primer failure. The port shall have a chrome rocker lug cap and be attached to the manifold with a stainless-steel jacketed aircraft cable.

Strainer

The pump intake shall be equipped with a stainless-steel wye strainer with 3/16-inch mesh to filter out foreign material and keep debris from entering the pump. The strainer will be removable and have a screw-off cap to allow easy cleaning of the filter element in the field. The plumbing shall have two (2) Victaulic couplings between the strainer and the pump for ease of service on the pump.

Master Drain

The apparatus shall be equipped with a Trident Emergency Products master drain valve shall be plumbed to the pump, suction plumbing and discharge plumbing as required to fully drain the piping and pump to prevent damage from freezing. The drain valve and associated plumbing will be designed to withstand pressures of 600 pounds per square inch. The master drain shall be labeled "MASTER DRAIN".

Pump Cooler

A 3/8-inch pump cooling/by-pass line labeled "NO. 17 PUMP BYPASS" shall be plumbed from the discharge side of the pump to the water tank fill tower to help cool the pump when it is engaged, and water is not being discharged. This line shall be plumbed through a quarter-turn panel-mounted ball valve. The valve shall be labeled “OPEN” and “CLOSED” and a warning label shall be affixed near the valve that states “PUMP DAMAGE CAN OCCUR IF VALVE IS CLOSED”. The valve handle position shall be vertical when "OPEN" and horizontal when "CLOSED". A check valve shall be included in the line to facilitate priming.

Operator's Panel

One (1) OnScene Solutions 18.00-inch LED light strip shall be installed on the back of the pump operator's panel running vertically and serve as plumbing lights. The LEDs and electronics shall be enclosed in a 5/8-inch diameter Lexan tube that is sealed at both ends with rubber caps to create a waterproof environment and be suitable for mounting in a wet location. The LEDs shall be in a row one inch apart and have a beam angle of 120-degrees. The tube shall rotate to adjust the beam direction as required. The light shall fit in a 20.00-inch space and be secured with two (2) molded nylon mounting clips.

The operator panel lights shall be controlled by the same switch located and labeled on the operator's panel.

The operator's panel shall contain the following controls and gauges:

A. Discharge pressure gauge
B. Intake pressure gauge
C. Electronic water level indicator
D. Electronic foam level indicator
E. Panel light switch
F. Master drain handle
G. Gauge drain valve
H. Foam system controls
I. The pump primer control(s)
J. Throttle
K. Winterization air inlet
L. Low voltage indicator light and alarm
M. Horn activation switch/button, labeled "HORN"
N. LOFA panel with the following
    a. Tachometer
    b. Analog Hour meter (BFX Installed)
    c. Oil pressure gauge
    d. Water Temperature gauge
    e. Voltmeter
    f. Glow plug light
    g. Engine "ON/OFF/START" and glow plug switch/light
    h. Low water pressure override switch, labeled "PRESSURE OVERRIDE"

All gauges, controls, discharges, and suctions shall be labeled. All knobs on all valve handles shall have Loctite in place to prevent them from coming loose during off-road operation.

Discharge Pressure Gauge

One (1) 4.00-inch liquid filled pressure gauge shall be supplied for the pump discharge. It shall be marked in pounds per square inch (PSI) with an indicating range of 0 to 600 pounds per square inch (PSI). The gauge shall be located on the pump operator's panel. The gauge shall be equipped with a freeze protection diaphragm and shall be equipped with a drain cock (vent) at the gauge connection line drain.

One (1) 2.50-inch liquid filled pressure gauge shall be supplied for the pump discharge. It shall be marked in pounds per square inch (PSI) with an indicating range of 0 to 600 pounds per square inch (PSI). The gauge shall be located within the center console located inside the chassis cab. The gauge shall be equipped with a freeze protection diaphragm and shall be equipped with a drain cock (vent) at the gauge connection line drain.

Intake Pressure Gauge

One (1) McDaniel Controls 50/50 four (4) inch diameter -30-0- 300 PSI intake pressure gauge shall be provided on the operator's panel, located in a vertical pattern on the right side of the operator's panel below the discharge pressure gauge. The gauge shall be equipped with a drain cock (vent) at the gauge connection and shall be illuminated by the standard panel lighting.

Electronic Water Level Indicator(s)

One (1) Fire Research TankVision model WLA300-A00 tank indicator kit shall be installed. The kit shall include an electronic indicator module, a pressure sensor, and a 10' sensor cable. The indicator shall show the volume of water in the tank on nine (9) easy to see super bright LEDs. A wide view lens over the LEDs shall provide for a viewing angle of 180 degrees. The indicator case shall be waterproof, manufactured of aluminum, and have a distinctive blue label.

The program features shall be accessed from the front of the indicator module. The program shall support self-diagnostics capabilities, self-calibration, and a data link to connect remote indicators. Low water warnings shall include flashing LEDs at 1/4 tank, down chasing LEDs when the tank is almost empty, and an output for an audio alarm.

The indicator shall receive an input signal from an electronic pressure sensor. The sensor shall be mounted from the outside of the water tank near the bottom. No probe shall place on the interior of the tank. Wiring shall be weather resistant and have automotive type plug-in connectors.

One (1) Fire Research TankVision model WLA305-A00 miniature tank indicator shall be installed in the cab. The indicator shall show the volume of water in the tank on five (5) easy to see super bright LEDs. A wide view lens over the LEDs shall provide for a viewing angle of 180 degrees. The indicator case shall be manufactured of aluminum and have a distinctive blue label. The miniature tank indicator shall be dimmable.

The miniature indicator shall receive input information over a single wire from a Fire Research TankVision model WLA300-A00 tank primary indicator.

The indicator shall be calibrated at the time of inspection.

Electronic Foam Level indicator

One (1) Fire Research TankVision model WLA360-A00 tank indicator kit shall be installed. The kit shall include an electronic indicator module, a pressure sensor, a 10' sensor cable, and a tank vent. The indicator shall show the volume of Class A foam concentrate in the tank on nine (9) easy to see super bright LEDs. A wide view lens over the LEDs shall provide for a viewing angle of 180 degrees. The indicator case shall be waterproof, manufactured of aluminum, and have a distinctive green label.

The program features shall be accessed from the front of the indicator module. The program shall support self-diagnostics capabilities, self-calibration, and a data link to connect remote indicators. Low foam warnings shall include flashing LEDs at 1/4 tank, down chasing LEDs when the tank is almost empty, and an output for an audio alarm.

The indicator shall receive an input signal from an electronic pressure sensor. The sensor shall be mounted from the outside of the foam tank near the bottom. No probe shall place on the interior of the tank. The foam tank vent shall be installed on the

foam fill tower. Wiring shall be weather resistant and have automotive type plug-in connectors. **The location of the transducer shall be easily accessible.**

Test Gauge Connections

The plumbing system shall be provided with two (2) test ports on the pump panel exterior; one (1) plumbed to the intake side and one (1) plumbed to the discharge side of the water pump. These test ports shall be installed to provide a means for connecting certified test gauges when testing the pump's performance.

Pump Protection Shutdown System

The pumping system shall be protected from unnecessary damage using a Water Pressure switch, an Oil Pressure switch, and a High Temperature switch. The switches shall be integrated into a control panel that contains all of gauges and monitoring devices for the pumping system.

The water pressure switch shall be designed to kill the pump engine when water pressure drops below 15 pounds per square inch.

The oil pressure switch shall be designed to kill the pump engine when oil pressure drops below 10 pounds per square inch. A temporary override shall be a timed function of the control panel during start up procedures and shall not require a manual push button.

The high temperature switch shall be designed to kill the pump engine when engine temperature exceeds manufacturer's maximum operating temperature.

A toggled override switch located on the pump panel with cover shall be incorporated into the system for use during initial startup and drafting operations and shall override all shutdown systems when engaged (up position). The toggle switch shall have a red safety cover (missile switch cover) that will cover the switch and simultaneously disengage the system when in the down/armed position.

Pump Area Cover (Walk-Over) with Hinged Access

The apparatus shall be equipped with a removable plumbing area cover. All materials used in the construction and mounting of the cover shall be non-corrosive. The cover shall be fabricated of 3/16-inch aluminum CNC punched walking surface with aluminum 2.00-inch by 2.00-inch by 3/16-inch square tube support frame. The tube frame shall be fully removable for ease of pump system maintenance. The top of the cover shall be designed to provide a walkway access across the rear of the apparatus and provide shielding from the pump and plumbing manifold area. The cover shall open in the center, gull wing style, with stainless steel hinges on the outboard positions to allow easy access to the plumbing area without the use of tools. The cover shall be capable of supporting, without distortion, a walking person weighing up to 300 pounds. The walking surface shall comply with NFPA 1906. The hinged covers shall have hand railing on either side of the covers to aide in climbing and walking on top the vehicle. The cover shall be mounted and attached securely for travel in the off-road environment. There shall be a positive locking pins permanently attached, with stainless steel aircraft cable, to the structure to maintain closure.

Water Tank

The water tank shall be fabricated from ½-inch thick black protection series III copolymer polypropylene. The tank shall be designed to be completely independent of the body structure and compartments. All joints and seams shall be nitrogen-welded inside and out. All exposed edges on the tank and fill tower shall be rounded off to a ¼-inch radius.

The baffles shall be fabricated from ½-inch protection series III polypropylene and be designed for maximum airflow throughout the tank. The baffles shall be internally connected to the top, sides, end, and bottom. The tank shall have a manual fill tower with a basket strainer for both the water tank and foam tank. The lid shall be labeled "**WATER**".

The tank shall have a vent over-flow system that shall extend through the tank and exit under the vehicle, forward of the rear axle. The tank sump shall include provisions to prevent water swirl. There shall be piping inside the tank with a suction tube to the sump. The suction tube shall extend down through the anti-swirl plate and baffles. All fittings in the tank shall be heavy duty polypropylene or stainless steel. Tank inlets shall have flow detectors inside the tank.

A 1.50-inch quarter turn drain valve shall be located at the tank sump for drainage and labeled “TANK DRAIN”.

Clean Out Plug

The bottom of the tank sump shall be equipped with a 3.00-inch NPTF clean out fitting, equipped with a 3.00-inch NPTM PVC pipe plug.

Tank Capacity

The water tank shall have a usable capacity of 300 U.S. gallons.

Tank Placard

A professionally engraved placard shall be mounted in an easily viewable location that shall provide the following information:

A. Tank Manufacturer Name
B. Tank Manufacturer Phone Number
C. Tank Serial Number
D. Date Tank was Manufactured
E. Water Tank Capacity
F. Foam Tank Capacity
G. Max Fill Pressure
H. Max Fill Rate

Foam Tank

One (1) 12-gallon capacity foam concentrate storage tank shall be provided and plumbed to the on-board foam system. the tank shall be fabricated from polypropylene and shall be designed and fabricated as an integral part of the main water tank. The foam tank shall have a separate fill tower and shall be labeled "FOAM".

The foam tank shall have a translucent sight tube incorporated into the tank to indicate the foam level. The sight tube shall be labeled "FOAM LEVEL" and shall be visible from the operator's panel.

Spare Tire Storage

The tank assembly shall include an integrated lockable spare tire storage compartment with dimensions suitable to store the spare tire. The compartment shall be sweep out style to simplify cleaning and removal of gear/tools. All hardware for the compartment shall consist of stainless-steel parts. The compartment door shall utilize a stainless-steel D-Ring latch and shall be lockable using the same key number described elsewhere in this specification (1250).

Chainsaw Compartment

The tank assembly shall include an integrated lockable chainsaw compartment at the rear of the vehicle, below the operator's pump panel. The compartment shall have approximate inside dimensions of 14.00-inches high by 14.00-inches wide by 50.00-inches deep. The compartment interior shall require a means of protecting the poly construction from the teeth of the chain saw, which may cut the poly during placement, removal, and storage. There shall be a retention mechanism to secure the saw into place once the saw has been stowed. The compartment shall be vented on the driver side of the wall of the compartment. The compartment door shall utilize a stainless-steel D-Ring latch and shall be lockable using the same key number described elsewhere in this specification (1250). The door shall **seal** the compartment from all outside elements. The floor area of the compartment shall be equipped with a removable stainless-steel drip pan to house the power head of the saw. The drip pan shall be designed to help avoid damage to the bar/chain of the saw.

Integrated Top Storage

A storage compartment fabricated from 1/2-inch protection series III polypropylene shall be a component of the water tank assembly, located at the front of the apparatus. The storage compartment shall have approximate dimensions of 46.00-inches long by 16.00-inches wide by 25.00-inches deep. A drain shall be provided in the bottom of the compartment that vents through to the ground. The compartment shall have a polypropylene overlapping style lid with two (2) adjustable overlapping positive catch style lockable latches, one (1) per side. The storage compartment shall be adequately sealed to prevent water intrusion. The lid shall be equipped with two (2) extending, gas cylinder type hold open devices. The lid shall not contact the light bar when "OPEN".

Ice Chest Storage

A polypropylene ice chest storage assembly shall be provided and installed on the passenger side compartments, in front of the specified independent storage modules. The ice chest storage assembly shall have a locking mechanism to secure the ice chest when in transit and to deter theft. Minimum dimensions for the ice chest storage assembly shall be 30.50-inches long by 16.00-inches wide by 6.00-inches deep allowing for storage of a YETI Tundra 65 cooler or smaller. The space shall

be designed to allow the user to drain the ice chest without removing the chest from the storage space. The drain holes shall be provided in the lower corners of the sides of the storage assembly to allow for adequate drainage.

Hydrant Wrench Holder and Wrenches

One (1) three position captive latching type/hydrant/spanner wrench holder and hydrant wrenches shall be permanently mounted on the rear panel of the apparatus body, passenger's side, below the taillight assembly. The holder shall be mounted horizontally.

Hose Holder System

A hose holder system shall be fabricated and installed on the rear panel of the apparatus body. The system shall allow the end user to quickly attach/remove the system when desired.

Additional Equipment

The following components shall provide with the completed apparatus. These items shall be available for inspection at the final acceptance inspection. The loose equipment shall be presented in an identically organized fashion; small items shall be contained in a high durability reusable container for storage and transport.

Jack

12-ton hydraulic bottle jack

Lug Wrench

An aftermarket 4-way lug wrench / breaker bar shall be mounted in the spare tire compartment.

Keys

A minimum of two (2) complete key sets including: chassis ignition and door electronic key fobs and a minimum of four compartment keys.

Self-Adhesive Labels

The following list of self-adhesive labels shall be included in the loose equipment box:

- Two (2) “FIRST AID” labels approved
- Two (2) “FIRE EXTINGUISHER” labels
- Four (4) fuel storage compartment labels
- Two (2) additional Fluid Data labels
- Two (2) “Do not exceed MPH’ labels

All labels to be finalized during the pre-work conference.

Chassis Manuals

A minimum of one (1) printed chassis operator manual.

Component Manuals

One (1) set of operating manuals for major components such as pump, Kubota pump motor, hose reel, foam system, primer, and light bar, etc.

Vendor Training

Two (2) digital copies (USB Drives) of the manufacturer's engine training.

Calibration Magnet

A magnet and laminated directions for calibrating the foam and water level gauges.

Manual Hose Reel Crank

A manual hose reel crank to operate the hose reel equipped with the apparatus.

BFX Fire Apparatus

Flagstaff Fire Department
Mark Wilson
211 W Aspen Ave.
Flagstaff, AZ 86011
928.213.2506
mwilson@flagstaffaz.gov

Flagstaff Fire Department
Mark Wilson
211 W Aspen Ave.
Flagstaff, AZ 86011
928.213.2506
mwilson@flagstaffaz.gov

Quote No: 11195-0001

08/27/2020

PART NO	DESCRIPTION	
	== Type 6 Wildland Light Engine ==	
00-18-1100	Type 6 Wildland Light Engine Configuration	
00-00-1200	General Craftsmanship Requirements	
00-00-8950	Carrying Capacity	
00-00-8800	Noise Exposure Test	
61-00-0100	Training	
00-00-9600	Pre-Work Conference	
51-00-2000	Delivery Preparations	
00-00-9400	Weather-Tight Testing	
00-00-9950	Documentation	
00-00-9900	Delivery	
60-00-0100	Delivery Location	
00-00-2375	Warranty Policies	
00-00-5700	Payment Terms	
37-00-0600	Chassis	
37-14-0750	Gross Vehicle Weight Rating	
37-12-0100	Dual Rear Wheels on Chassis	
37-01-4400	Wheelbase	
37-01-4500	Cab-to-Axle	
37-04-0200	Motor	
37-01-4600	Battery	
37-01-4700	Exhaust System	
37-01-4725	Exhaust/Motor Brake	
37-08-1400	Manual DPF Regeneration	
37-08-1250	High Idle, Engine Speed Control	
37-06-0700	Transmission	
37-10-9200	Transfer Case	
37-01-4800	Suspension/Axles	
37-12-0200	Wheels and Tires	
37-07-0200	Fuel Tank	
37-01-0050	Cab	
37-14-1500	Mirrors	
37-08-5300	Seating	

PART NO	DESCRIPTION	
37-08-5500	Cab Door Locks and Windows	
37-14-1300	Window Tinting	
37-08-5100	Steering Wheel	
37-14-1550	Intermittent Wipers	
37-08-5150	Cruise Control	
37-08-5050	Air Conditioning and Heating	
37-08-5200	Stereo	
37-08-5400	Daytime Running Lamps	
22-02-4000	Back Up Camera/ Monitoring System	
37-14-0900	Max Tow Package	
37-22-0200	Steps / Nerf Bars	
00-19-0215	Center Console	
22-07-0750	12-Volt Power Sources	
00-19-0035	Wiring for Radio(s) Installation	
00-19-0030	Antenna Leads and Bases	
00-19-0020	Map Light	
25-04-9950	Cell Phone Signal Booster Kit	
00-19-0245	Ember Separator Screens	
00-19-0015	Backup Alarm	
37-50-0350	Skid Plates/Impact Protection	
00-19-0220	Front Bumper / Brush Guard	
00-19-0225	Rear Bumper Construction	
37-50-0055	Tow Point(s)	
34-28-0350	Winch and Winch Accessories	
00-19-0330	Apparatus Frame Construction	
00-19-0335	Flexible Mounting	
00-19-0315	Apparatus Body Construction	
00-19-0435	Wheel Well Area	
00-19-0375	Compartment Door Construction	
00-19-0380	Door Hinges and Retainers	
00-19-0382	Door Latches	
00-19-0386	Composite Adjustable Shelf Channels	
00-19-0400	Shelving Construction and Layout	
00-19-0825	Compartment Lighting	
00-19-0420	Compartment Venting	
00-19-0325	Storage Compartments	
00-19-0350	Driver's Side Compartments	
00-19-0360	Passenger's Side Compartments	
11-22-1360	Suction Hose Compartment / Access	
00-19-0440	Rear Cab Protection	
00-19-0437	Stainless-Steel Railing Package	
00-19-0445	Hose Reel Roller Assemblies	
00-19-1115	Wheel Chocks	
00-19-0811	Rear License Plate Mount / Light	
00-19-0340	Apparatus Body Trim	
00-19-0346	Steps and Grab Handles	
35-06-0800	Nozzle Cups / Hose Clamps	

PART NO	DESCRIPTION	
00-24-3500	Air Compressor	
22-05-0100	General Wiring Specification	
22-05-0150	Electrical Components and Ratings	
22-05-0950	Indicator / Warning Light(s)	
00-19-0210	"Do Not Move Apparatus" Warning	
00-19-0115	Light Bar	
00-19-0125	Lower Zone A Warning Lights	
00-19-0120	Forward Zone B/D Warning Lights	
24-06-2350	Aft Zone B/D Warning Lights	
00-19-0130	Lower Zone C Warning Lights	
00-19-0815	Traffic Advisor	
00-19-0105	Electronic Siren	
00-19-0110	Speaker	
00-19-0812	DOT / Clearance Lights	
00-19-0801	Taillight Assembly	
00-19-0820	Push-Up LED Work Lights	
00-19-0010	Perimeter Lights	
22-05-0250	Multiplexed Electrical System	
22-05-0500	Remote Diagnostics Capabilities	
00-19-0216	SPS Switch Panel and Programming	
00-19-0905	NFPA 1906 Electrical Testing	
22-02-0400	Battery Charger with Sure Eject Feature	
37-01-4200	Apparatus Paint and Finish	
00-19-1099	Striping and Graphics	
00-19-0504	Pump Motor	
00-19-0521	Pump Gear Box	
00-19-0514	Pump	
00-19-0585	Waterous Aquis 1.5 Foam System	
00-19-0513	Plumbing General	
00-19-0575	Intake Locations	
00-19-0574	Discharge Locations	
00-19-0560	Valves	
00-19-0425	Valve Labeling	
00-19-0580	Hose Reel	
35-08-1000	Booster Hose	
00-19-0572	Primer	
00-19-0523	Winterization / Emergency Priming Port	
00-19-0573	Strainer	
00-19-0518	Master Drain	
00-19-0550	Pump Cooler	
00-19-0510	Operator's Panel	
00-19-0540	Discharge Pressure Gauges	
00-19-0545	Intake Pressure Gauge	
00-19-0566	Electronic Water Level Indicator(s)	
35-00-6125	Electronic Foam Level indicator	
00-19-0522	Test Gauge Connections	
20-10-0200	Pump Protection Shutdown System	

PART NO	DESCRIPTION	
00-19-0430	Pump Area Cover (Walk-Over) with Hinged Access	
00-19-0705	Water Tank	
00-19-0706	Foam Tank	
00-19-0709	Spare Tire Storage	
00-19-0710	Chainsaw Compartment	
00-19-0707	Integrated Top Storage	
00-19-0708	Ice Chest Storage	
00-19-1120	Hydrant Wrench Holder and Wrenches	
00-19-1130	Hose Holder System	
00-19-1105	Additional Equipment	
	Total	**181,635.00**

Contract Clause Document

for

Solicitation Number : **FFAH-C2-990235-B**

Refresh Number : **23**

Contract Number : **GS-30F-0025V**

Created on June 14, 2018

TABLE OF CONTENTS

Contract Clauses

52.202-1 - DEFINITIONS (NOV 2013)..... 1
52.203-13 - CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (OCT 2015)..... 1
52.203-17 - CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014)..... 4
52.203-3 - GRATUITIES (APR 1984)..... 4
52.203-6 - RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) (ALTERNATE I -- OCT 1995)..... 5
52.204-10 - REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2016)..... 5
52.204-13 - SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (OCT 2016)..... 8
52.204-14 - SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016)..... 9
52.204-15 - SERVICE CONTRACT REPORTING REQUIREMENTS FOR INDEFINITE-DELIVERY CONTRACTS (JAN 2014)..... 10
52.204-18 - COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE (JUL 2016)..... 11
52.204-19 - INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)..... 12
52.204-21 - BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016)..... 12
52.204-4 - PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)..... 13
52.204-7 - SYSTEM FOR AWARD MANAGEMENT (OCT 2016)..... 14
52.208-4 - VEHICLE LEASE PAYMENTS (APR 1984)..... 15
52.208-5 - CONDITION OF LEASED VEHICLES (APR 1984)..... 15
52.208-6 - MARKING OF LEASED VEHICLES (APR 1984)..... 15
52.208-7 - TAGGING OF LEASED VEHICLES (MAY 1986)..... 16
52.209-10 - PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (NOV 2015)..... 16
52.209-6 - PROTECTING THE GOVERNMENTS INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)..... 16
52.209-9 - UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)..... 17
52.212-4 - CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (JAN 2017) (DEVIATION I - FEB 2007)..... 18
52.212-5 - CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS -- COMMERCIAL ITEMS (AUG 2012)..... 22
52.216-18 - ORDERING (OCT 1995) (DEVIATION II - FEB 2007)..... 26
52.216-22 - INDEFINITE QUANTITY (OCT 1995)..... 26
52.217-8 - OPTION TO EXTEND SERVICES (NOV 1999)..... 27
52.219-13 - NOTICE OF SET-ASIDE OF ORDERS (NOV 2011)..... 27
52.219-14 - LIMITATIONS ON SUBCONTRACTING (JAN 2017)..... 27
52.219-16 - LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)..... 28
52.219-27 - NOTICE OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (NOV 2011)..... 28
52.219-28 - POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)..... 30
52.219-29 - NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS CONCERNS (DEC 2015)..... 31
52.219-3 - NOTICE OF TOTAL HUBZONE SET-ASIDE OR SOLE SOURCE AWARD (NOV 2011)..... 32
52.219-30 - NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, WOMEN-OWNED SMALL BUSINESS CONCERNS ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM (DEC 2015)..... 34
52.219-6 - NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (NOV 2011)..... 36

52.219-8 - UTILIZATION OF SMALL BUSINESS CONCERNS (NOV 2016)..... 36
52.219-9 - SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2017) (ALTERNATE II - NOV 2016)38
52.222-1 - NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)..... 47
52.222-19 - CHILD LABOR - COOPERATION WITH AUTHORITIES AND REMEDIES (JAN 2018). 47
52.222-20 - CONTRACTS FOR MATERIALS, SUPPLIES, ARTICLES, AND EQUIPMENT EXCEEDING $15,000 (MAY 2014)..... 48
52.222-21 - PROHIBITION OF SEGREGATED FACILITIES (APR 2015)..... 48
52.222-26 - EQUAL OPPORTUNITY (SEP 2016)..... 49
52.222-3 - CONVICT LABOR (JUN 2003)..... 51
52.222-35 - EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)..... 52
52.222-36 - EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)..... 52
52.222-37 - EMPLOYMENT REPORTS ON VETERANS (FEB 2016)..... 53
52.222-40 - NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)..... 53
52.222-41 - SERVICE CONTRACT LABOR STANDARDS (MAY 2014)..... 55
52.222-49 - SERVICE CONTRACT LABOR STANDARDS â## PLACE OF PERFORMANCE UNKNOWN (MAY 2014)..... 60
52.222-51 - EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT--REQUIREMENTS (MAY 2014)..... 60
52.222-53 - EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR CERTAIN SERVICES--REQUIREMENTS (MAY 2014)..... 61
52.222-99 - ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS (JUL 2014) (DEVIATION I â## JUL 2014)..... 62
52.223-10 - WASTE REDUCTION PROGRAM (MAY 2011)..... 63
52.223-11 - OZONE-DEPLETING SUBSTANCES AND HIGH GLOBAL WARMING POTENTIAL HYDROFLUOROCARBONS (JUN 2016)..... 63
52.223-17 - AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)..... 64
52.223-18 - ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)..... 64
52.223-19 - COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011)..... 65
52.223-2 - AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (SEP 2013)..... 65
52.223-5 - POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011)..... 66
52.225-1 - BUY AMERICAN SUPPLIES (MAY 2014)..... 67
52.225-13 - RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)..... 68
52.225-5 - TRADE AGREEMENTS (OCT 2016)..... 68
52.228-5 - INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997)..... 70
52.229-1 - STATE AND LOCAL TAXES (APR 1984) (DEVIATION I - MAY 2003)..... 71
52.232-33 - PAYMENT BY ELECTRONIC FUNDS TRANSFER -- SYSTEM FOR AWARD MANAGEMENT (JUL 2013)..... 71
52.232-36 - PAYMENT BY THIRD PARTY (MAY 2014) (DEVIATION I - MAY 2003)..... 72
52.232-37 - MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999)..... 73
52.232-40 - PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)..... 74
52.233-1 - DISPUTES (MAY 2014)..... 74
52.233-3 - PROTEST AFTER AWARD (AUG 1996)..... 75
52.233-4 - APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)..... 76
52.237-3 - CONTINUITY OF SERVICES (JAN 1991) (DEVIATION I - MAY 2003)..... 76
52.239-1 - PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)..... 76
52.242-13 - BANKRUPTCY (JUL 1995)..... 77
52.242-15 - STOP-WORK ORDER (AUG 1989)..... 77
52.242-5 - PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (JAN 2017)..... 77
52.246-4 - INSPECTION OF SERVICES--FIXED-PRICE (AUG 1996) (DEVIATION I - MAY 2003)... 78
52.247-29 - F.O.B. ORIGIN (FEB 2006)..... 79
52.247-34 - F.O.B. DESTINATION (NOV 1991) (DEVIATION I - MAY 2003)..... 80
52.251-1 - GOVERNMENT SUPPLY SOURCES (APR 2012)..... 81
52.252-2 - CLAUSES INCORPORATED BY REFERENCE (FEB 1998)..... 81
552.203-71 - RESTRICTION ON ADVERTISING (SEP 1999)..... 84

552.211-75 - PRESERVATION, PACKAGING, AND PACKING (FEB 1996) (ALTERNATE I - MAY 2003)....84
552.211-77 - PACKING LIST (FEB 1996) (ALTERNATE I - MAY 2003)....84
552.211-92 - RADIO FREQUENCY IDENTIFICATION (RFID) USING PASSIVE TAGS (JAN 2010)..84
552.212-4 - CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (JAN 2017) (DEVIATION - FEB 2007) (DEVIATION - FEB 2018)....85
552.212-4 - CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (JAN 2017) (DEVIATION - FEB 2018) (ALTERNATE I - JAN 2017) (DEVIATION - FEB 2007)....92
552.212-71 - CONTRACT TERMS AND CONDITIONS APPLICABLE TO GSA ACQUISITION OF COMMERCIAL ITEMS (JUN 2016)....105
552.212-72 - CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO GSA ACQUISITION OF COMMERCIAL ITEMS (JUN 2015)....106
552.215-71 - EXAMINATION OF RECORDS BY GSA (MULTIPLE AWARD SCHEDULE) (JUL 2003)....106
552.215-73 - NOTICE (JUL 2016)....106
552.216-70 - ECONOMIC PRICE ADJUSTMENT - FSS MULTIPLE AWARD SCHEDULE CONTRACTS (SEP 1999) (ALTERNATE I - SEP 1999)....107
552.223-73 - PRESERVATION, PACKAGING, PACKING, MARKING AND LABELING OF HAZARDOUS MATERIALS (HAZMAT) FOR SHIPMENTS (JUN 2015)....108
552.229-70 - FEDERAL, STATE, AND LOCAL TAXES (APR 1984)....109
552.229-71 - FEDERAL EXCISE TAX--DC GOVERNMENT (SEP 1999)....109
552.232-23 - ASSIGNMENT OF CLAIMS (SEP 1999)....109
552.232-83 - CONTRACTOR'S BILLING RESPONSIBILITIES (MAY 2003)....109
552.238-71 - SUBMISSION AND DISTRIBUTION OF AUTHORIZED FSS SCHEDULE PRICELISTS (SEP 1999) (DEVIATION -- JUN 2016)....110
552.238-72 - IDENTIFICATION OF PRODUCTS THAT HAVE ENVIRONMENTAL ATTRIBUTES (SEP 2003)....110
552.238-73 - CANCELLATION (SEP 1999)....112
552.238-74 - INDUSTRIAL FUNDING FEE AND SALES REPORTING (MAY 2014)....112
552.238-75 - PRICE REDUCTIONS (JUL 2016)....114
552.238-77 - DEFINITION (FEDERAL SUPPLY SCHEDULES) - NON-FEDERAL ENTITY (JUL 2016)....115
552.238-78 - SCOPE OF CONTRACT (ELIGIBLE ORDERING ACTIVITIES) (JUL 2016)....115
552.238-79 - USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS BY NON-FEDERAL ENTITIES (JUL 2016)....116
552.238-81 - MODIFICATION (FEDERAL SUPPLY SCHEDULE) (APR 2014)....118
552.238-81 - MODIFICATION (FEDERAL SUPPLY SCHEDULE) (APR 2014) (ALTERNATE I - JUN 2016)....119
552.246-78 - INSPECTION AT DESTINATION (JUL 2009)....121
C-FSS-412 - CHARACTERISTICS OF ELECTRIC CURRENT (MAY 2000)....121
CI-FSS-056 - FEDERAL ACQUISITION REGULATION (FAR) PART 51 DEVIATION AUTHORITY (FEDERAL SUPPLY SCHEDULES) (JAN 2010)....121
D-FSS-471 - MARKING AND DOCUMENTATION REQUIREMENTS PER SHIPMENT (APR 1984)121
D-FSS-477 - TRANSSHIPMENTS (APR 1984)....122
G-FSS-900-C - CONTACT FOR CONTRACT ADMINISTRATION (JUL 2003)....122
I-FSS-106 - GUARANTEED MINIMUM (JUL 2003)....123
I-FSS-108 - CLAUSES FOR OVERSEAS COVERAGE (MAY 2000)....123
I-FSS-109 - ENGLISH LANGUAGE AND U.S. DOLLAR REQUIREMENTS (MAR 1998)....124
I-FSS-140-B - URGENT REQUIREMENTS (JAN 1994)....124
I-FSS-163 - OPTION TO EXTEND THE TERM OF THE CONTRACT (EVERGREEN) (APR 2000)..124
I-FSS-314 - FOREIGN TAXES AND DUTIES (DEC 1990)....124
I-FSS-40 - CONTRACTOR TEAM ARRANGEMENTS (JUL 2003)....125
I-FSS-50 - PERFORMANCE REPORTING REQUIREMENTS (FEB 1995)....125
I-FSS-594 - PARTS AND SERVICE (OCT 1988)....125
I-FSS-597 - GSA ADVANTAGE! (OCT 2014)....126
I-FSS-599 - ELECTRONIC COMMERCE - FACNET (FEB 2018)....126
I-FSS-60 - PERFORMANCE INCENTIVES (APR 2000)....128
I-FSS-600 - CONTRACT PRICE LISTS (OCT 2016)....128
I-FSS-639 - CONTRACT SALES CRITERIA (MAR 2002)....131

I-FSS-644 - DEALERS AND SUPPLIERS (OCT 1988).....131
I-FSS-646 - BLANKET PURCHASE AGREEMENTS (MAY 2000).....132
I-FSS-680 - DISSEMINATION OF INFORMATION BY CONTRACTOR (APR 1984)..... 132
I-FSS-965 - INTERPRETATION OF CONTRACT REQUIREMENTS (APR 1984).....132
I-FSS-969 - ECONOMIC PRICE ADJUSTMENT-FSS MULTIPLE AWARD SCHEDULE (OCT 2014)132

52.202-1 DEFINITIONS (NOV 2013)

When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless—

(a) The solicitation, or amended solicitation, provides a different definition;

(b) The contracting parties agree to a different definition;

(c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or

(d) The word or term is defined in FAR Part 31, for use in the cost principles and procedures

52.203-13 Contractor Code of Business Ethics and Conduct (OCT 2015)

(a) Definitions. As used in this clause –

Agent means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

Full cooperation –

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require –

(i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Contractor from –

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

Principal means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

Subcontractor means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) Code of business ethics and conduct.

(1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall –

(i) Have a written code of business ethics and conduct;

(ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Contractor shall –

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3) (i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed –

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked “confidential“ or “proprietary” by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR 2.101. The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's

principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system shall –

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including –

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontractor thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts.*

(1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of $5.5 million and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

52.203-3 GRATUITIES (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative—

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled—

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) (ALTERNATE I—OCT 1995)

(a) Except as provided in (b) below, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed the simplified acquisition threshold.

52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2016)

(a) *Definitions*. As used in this clause:

"Executive" means officers, managing partners, or any other employees in management positions.

"First-tier subcontract" means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

"Month of award" means the month in which a contract is signed by the Contracting Officer or the month in which a first-tier subcontract is signed by the Contractor.

"Total compensation" means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) *Salary and bonus.*

(2) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board's Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.

(3) *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

(5) *Above-market earnings on deferred compensation which is not tax-qualified.*

(6) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

(b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c) Nothing in this clause requires the disclosure of classified information.

(d) (1) Executive compensation of the prime contractor. As a part of its annual registration requirement in the System for Award Management (SAM) database (FAR provision 52.204-7), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if –

(i) In the Contractor's preceding fiscal year, the Contractor received –

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.).

(2) *First-tier subcontract information.* Unless otherwise directed by the contracting officer, or as provided in paragraph (g) of this clause, by the end of the month following the month of award of a first-tier subcontract with a value of $30,000 or more, the Contractor shall report the following information at http://www.fsrs.gov for that first-tier subcontract. (The Contractor shall follow the instructions at http://www.fsrs.gov to report the data.)

(i) Unique entity identifier for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of

the subcontract.

(vi) Subcontract number (the subcontract number assigned by the Contractor).

(vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(ix) The prime contract number, and order number if applicable.

(x) Awarding agency name and code.

(xi) Funding agency name and code.

(xii) Government contracting office code.

(xiii) Treasury account symbol (TAS) as reported in FPDS.

(xiv) The applicable North American Industry Classification System code (NAICS).

(3) *Executive compensation of the first-tier subcontractor*. Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract with a value of $30,000 or more, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for that first-tier subcontractor for the first-tier subcontractor's preceding completed fiscal year at http://www.fsrs.gov, if –

(i) In the subcontractor's preceding fiscal year, the subcontractor received –

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.)

(e) The Contractor shall not split or break down first-tier subcontract awards to a value less than $30,000 to avoid the reporting requirements in paragraph (d) of this clause.

(f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.

(g) (1) If the Contractor in the previous tax year had gross income, from all sources, under $300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under $300,000, the Contractor does not need to report awards for that subcontractor.

(h) The FSRS database at http://www.fsrs.gov will be prepopulated with some information from SAM and FPDS databases. If FPDS information is incorrect, the contractor should notify the contracting

officer. If the SAM database information is incorrect, the contractor is responsible for correcting this information.

52.204-13 SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (OCT 2016)

(a) *Definitions*. As used in this clause —

"Electronic Funds Transfer (EFT) indicator" means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management (SAM) records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

"Registered in the System for Award Management (SAM) database" means that —

(1) The Contractor has entered all mandatory information, including the unique entity identifier and the EFT indicator (if applicable), the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14), into the SAM database;

(2) The Contractor has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The Contractor will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record "Active".

"System for Award Management (SAM)" means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes. It includes—

(1) Data collected from prospective Federal awardees required for the conduct of business with the Government;

(2) Prospective contractor-submitted annual representations and certifications in accordance with FAR subpart 4.12; and

(3) Identification of those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

"Unique entity identifier" means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

(b) The Contractor is responsible for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis, from the date of initial registration or subsequent updates, its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(c) (1) (i) If a Contractor has legally changed its business name, *doing business* as name, or division name (whichever is shown on the contract), or has transferred the assets used in

performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to —

(A) Change the name in the SAM database;

(B) Comply with the requirements of subpart 42.12 of the FAR; and

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor shall provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (c)(1)(i) of this clause, or fails to perform the agreement at paragraph (c)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see FAR subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the ''Suspension of Payment'' paragraph of the EFT clause of this contract.

(3) The Contractor shall ensure that the unique entity identifier is maintained with the entity designated at www.sam.gov. for establishment of the unique entity identifier throughout the life of the contract. The Contractor shall communicate any change to the unique entity identifier to the Contracting Officer within 30 days after the change, so an appropriate modification can be issued to update the data on the contract. A change in the unique entity identifier does not necessarily require a novation be accomplished.

(d) Contractors may obtain additional information on registration and annual confirmation requirements at https://ww.acquisition.gov.

52.204-14 SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016)

(a) Definition.

First-tier subcontract means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

(b) The Contractor shall report, in accordance with paragraphs (c) and (d) of this clause, annually by October 31, for services performed under this contract during the preceding Government fiscal year (October 1–September 30).

(c) The Contractor shall report the following information:

(1) Contract number and, as applicable, order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the contract.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (f) of this clause.

(d) The information required in paragraph (c) of this clause shall be submitted via the internet at www.sam.gov. (See SAM User Guide). If the Contractor fails to submit the report in a timely manner, the contracting officer will exercise appropriate contractual remedies. In addition, the Contracting Officer will make the Contractor's failure to comply with the reporting requirements a part of the Contractor's performance information under FAR subpart 42.15.

(e) Agencies will review Contractor reported information for reasonableness and consistency with available contract information. In the event the agency believes that revisions to the Contractor reported information are warranted, the agency will notify the Contractor no later than November 15. By November 30, the Contractor shall revise the report, or document its rationale for the agency.

(f) (1) The Contractor shall require each first-tier subcontractor providing services under this contract, with subcontract(s) each valued at or above the thresholds set forth in 4.1703(a)(2), to provide the following detailed information to the Contractor in sufficient time to submit the report:

(i) Subcontract number (including subcontractor name and unique entity identifier); and

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

52.204-15 SERVICE CONTRACT REPORTING REQUIREMENTS FOR INDEFINITE-DELIVERY CONTRACTS (OCT 2016)

(a) Definition.

First-tier subcontract means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

(b) The Contractor shall report, in accordance with paragraphs (c) and (d) of this clause, annually by October 31, for services performed during the preceding Government fiscal year (October 1– September 30) under this contract for orders that exceed the thresholds established in 4.1703(a)(2).

(c) The Contractor shall report the following information:

(1) Contract number and order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the order.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (f) of this clause.

(d) The information required in paragraph (c) of this clause shall be submitted via the internet at www.sam.gov. (See SAM User Guide). If the Contractor fails to submit the report in a timely manner, the Contracting Officer will exercise appropriate contractual remedies. In addition, the Contracting Officer will make the Contractor's failure to comply with the reporting requirements a part of the Contractor's performance information under FAR subpart 42.15.

(e) Agencies will review Contractor reported information for reasonableness and consistency with available contract information. In the event the agency believes that revisions to the Contractor reported information are warranted, the agency will notify the Contractor no later than November 15. By November 30, the Contractor shall revise the report, or document its rationale for the agency.

(f) (1) The Contractor shall require each first-tier subcontractor providing services under this contract, with subcontract(s) each valued at or above the thresholds set forth in 4.1703(a)(2), to provide the following detailed information to the Contractor in sufficient time to submit the report:

(i) Subcontract number (including subcontractor name and unique entity identifier), and

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

52.204-18 COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE (JUL 2016) 4.1804(c)

(a) *Definition.* As used in this clause —

Commercial and Government Entity (CAGE) code means —

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

(b) Contractors shall ensure that the CAGE code is maintained throughout the life of the contract. For contractors registered in the System for Award Management (SAM), the DLA Commercial and Government Entity (CAGE) Branch shall only modify data received from SAM in the CAGE master file if the contractor initiates those changes via update of its SAM registration. Contractors undergoing a novation or change-of-name agreement shall notify the contracting officer in accordance with subpart 42.12. The contractor shall communicate any change to the CAGE code to the contracting officer within 30 days after the change, so that a modification can be issued to update the CAGE code on the contract.

(c) Contractors located in the United States or its outlying areas that are not registered in SAM shall submit written change requests to the DLA Commercial and Government Entity (CAGE) Branch. Requests for changes shall be provided at https://cage.dla.mil. Change requests to the CAGE master file are accepted from the entity identified by the code.

(d) Contractors located outside the United States and its outlying areas that are not registered in SAM shall contact the appropriate National Codification Bureau (points of contact available at http://www.nato.int/structur/AC/135/main/links/contacts.htm) or NSPA at https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx to request CAGE changes.

(e) Additional guidance for maintaining CAGE codes is available at https://cage.dla.mil.

52.204-19 INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)

The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016)

(a) *Definitions.* As used in this clause —

Covered contractor information system means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

Federal contract information means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public Web sites) or simple transactional information, such as necessary to process payments.

Information means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

Safeguarding means measures or controls that are prescribed to protect information systems.

(b) *Safeguarding requirements and procedures.*

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.

(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (*i.e.*, information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) *Other requirements.* This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)

(a) *Definitions*. As used in this clause—

Postconsumer fiber means—

(1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

(b) The Contractor is required to submit paper documents, such as offers, letters, or reports that are printed or copied double-sided on paper containing at least 30 percent postconsumer fiber, whenever practicable, when not using electronic commerce methods to submit information or data to the

Government.

52.204-7 SYSTEM FOR AWARD MANAGEMENT (OCT 2016)

(a) Definitions. As used in this provision —

"Electronic Funds Transfer (EFT) indicator" means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

"*Registered in the System for Award Management (SAM) database"* means that —

(1) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14) into the SAM database;

(2) The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record "Active".

"Unique entity identifier" means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

(b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in the SAM database.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

(1) Company legal business name.

(2) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(3) Company Physical Street Address, City, State, and Zip Code.

(4) Company Mailing Address, City, State and Zip Code (if separate from physical).

(5) Company telephone number.

(6) Date the company was started.

(7) Number of employees at your location.

(8) Chief executive officer/key manager.

(9) Line of business (industry).

(10) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) Offerors may obtain information on registration at https://www.acquisition.gov .

52.208-4 VEHICLE LEASE PAYMENTS (APR 1984)

(a) Upon the submission of proper invoices or vouchers, the Government shall pay rent for each vehicle at the rate(s) specified in this contract.

(b) Rent shall accrue from the beginning of this contract, or from the date each vehicle is delivered to the Government, whichever is later, and shall continue until the expiration of the contract term or the termination of this contract. However, rent shall accrue only for the period that each vehicle is in the possession of the Government.

(c) Rent shall not accrue for any vehicle that the Contracting Officer determines does not comply with the Condition of Leased Vehicles clause of this contract or otherwise does not comply with the requirements of this contract, until the vehicle is replaced or the defects are corrected.

(d) Rent shall not accrue for any vehicle during any period when the vehicle is unavailable or unusable as a result of the Contractor’s failure to render services for the operation and maintenance of the vehicle as prescribed by this contract.

(e) Rent stated in monthly terms shall be prorated on the basis of 1/30th of the monthly rate for each day the vehicle is in the Government’s possession. If this contract contains a mileage provision, the Government shall pay rent as provided in the Schedule.

52.208-5 Condition of Leased Vehicles (APR 1984)

Each vehicle furnished under this contract shall be of good quality and in safe operating condition, and shall comply with the Federal Motor Vehicle Safety Standards (49 CFR 571) and State safety regulations applicable to the vehicle. The Government shall accept or reject the vehicles promptly after receipt. If the Contracting Officer determines that any vehicle furnished is not in compliance with this contract, the Contracting Officer shall promptly inform the Contractor in writing. If the Contractor fails to replace the vehicle or correct the defects as required by the Contracting Officer, the Government may—

(a) By contract or otherwise, correct the defect or arrange for the lease of a similar vehicle and shall charge or set off against the Contractor any excess costs occasioned thereby; or

(b) Terminate the contract under the Default clause of this contract.

52.208-6 MARKING OF LEASED VEHICLES (APR 1984)

(a) The Government may place nonpermanent markings or decals, identifying the using agency, on each side, and on the front and rear bumpers, of any motor vehicle leased under this contract. The Government shall use markings or decals that are removable without damage to the vehicle.

(b) The Contractor may use placards for temporary identification of vehicles except that the placards may not contain any references to the Contractor that may be construed as advertising or endorsement by the Government of the Contractor.

52.208-7 TAGGING OF LEASED VEHICLES (MAY 1986)

While it is the intent that vehicles leased under this contract will operate on Federal tags, the Government reserves the right to utilize State tags if necessary to accomplish its mission. Should State tags be required, the Contractor shall furnish the Government documentation necessary to allow acquisition of such tags. Federal tags are the responsibility of the Government.

52.209-10 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (NOV 2014)

(a) *Definitions.* As used in this clause –

Inverted domestic corporation means a foreign incorporated entity that meets the definition of an inverted domestic corporation under 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

Subsidiary means an entity in which more than 50 percent of the entity is owned –

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

(b) If the contractor reorganizes as an inverted domestic corporation or becomes a subsidiary of an inverted domestic corporation at any time during the period of performance of this contract, the Government may be prohibited from paying for Contractor activities performed after the date when it becomes an inverted domestic corporation or subsidiary. The Government may seek any available remedies in the event the Contractor fails to perform in accordance with the terms and conditions of the contract as a result of Government action under this clause.

(c) Exceptions to this prohibition are located at 9.108-2.

(d) In the event the Contractor becomes either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation during contract performance, the Contractor shall give written notice to the Contracting Officer within five business days from the date of the inversion event.

52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)

(a) *Definition.* “Commercially available off-the-shelf (COTS)” item, as used in this clause –

(1) Means any item of supply (including construction material) that is –

(i) A commercial item (as defined in paragraph (1) of the definition in FAR 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

(b) The Government suspends or debars Contractors to protect the Government's interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of $35,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed $35,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the System for Award Management (SAM) Exclusions). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being listed with an exclusion in SAM.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(e) *Subcontracts.* Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that –

(1) Exceeds $35,000 in value; and

(2) Is not a subcontract for commercially available off-the-shelf items.

52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the System for Award Management database via https://www.acquisition.gov.

(b) As required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111–212), all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available. FAPIIS consists of two segments —

(1) The non-public segment, into which Government officials and the Contractor post information, which can only be viewed by —

(i) Government personnel and authorized users performing business on behalf of the Government; or

(ii) The Contractor, when viewing data on itself; and

(2) The publicly-available segment, to which all data in the non-public segment of FAPIIS is automatically transferred after a waiting period of 14 calendar days, except for —

(i) Past performance reviews required by subpart 42.15;

(ii) Information that was entered prior to April 15, 2011; or

(iii) Information that is withdrawn during the 14-calendar-day waiting period by the Government official who posted it in accordance with paragraph (c)(1) of this clause.

(c) The Contractor will receive notification when the Government posts new information to the Contractor's record.

(1) If the Contractor asserts in writing within 7 calendar days, to the Government official who posted the information, that some of the information posted to the nonpublic segment of FAPIIS is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must within 7 calendar days remove the posting from FAPIIS and resolve the issue in accordance with agency Freedom of Information procedures, prior to reposting the releasable information. The contractor must cite 52.209–9 and request removal within 7 calendar days of the posting to FAPIIS.

(2) The Contractor will also have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3) As required by section 3010 of Pub. L. 111–212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.

(d) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

52.212-4 CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS (JAN 2017) (DEVIATION FEB 2007)

(a) *Inspection/Acceptance*. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the ordering activity may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The ordering activity must exercise its postacceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment*. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the credit card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes*. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes*. This contract is subject 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions*. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the ordering activity in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice*.

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include —

(i) Nam e and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on an ordering activity bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer — System for Award Management, or 52.232-34, Payment by Electronic Funds

Transfer—Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the ordering activity waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity*. The Contractor shall indemnify the ordering activity and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment*.

(1) *Items accepted*. Payment shall be made for items accepted by the ordering activity that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The ordering activity will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer (EFT).* If the ordering activity makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the ordering activity has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(j) *Risk of loss*. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the ordering activity upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the ordering activity at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes*. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Ordering Activity's convenience*. The ordering activity reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the ordering activity using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the ordering activity any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause*. The ordering activity may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the ordering activity, upon request, with adequate assurances of future performance. In the event of termination for cause, the ordering activity shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the ordering activity for any and all rights and remedies provided by law. If it is determined that the ordering activity improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the ordering activity upon acceptance, regardless of when or where the ordering activity takes physical possession.

(o) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability*. Except as otherwise provided by an express warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances*. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts*. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) *Order of precedence*. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause; (3) the clause at 52.212-5; (4) addenda to this solicitation or contract, including any license agreements for computer software; (5) solicitation provisions if this is a solicitation; (6) other paragraphs of this clause; (7) the Standard Form 1449; (8) other documents, exhibits, and attachments; and (9) the specification.

(t) *System for Award Management (SAM).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the ordering activity's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of Subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through *https://www.acquisition.gov*.

(u) *Unauthorized Obligations*

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Incorporation by reference*. The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (AUG 2012)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

[ ] Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

Number	Title	Clause/Provision
52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (OCT 2015)	Clause
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) (ALTERNATE I -- OCT 1995)	Clause
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2016)	Clause
52.204-14	SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016)	Clause
52.204-15	SERVICE CONTRACT REPORTING REQUIREMENTS FOR INDEFINITE-DELIVERY CONTRACTS (JAN 2014)	Clause
52.209-6	PROTECTING THE GOVERNMENTS INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)	Clause
52.219-13	NOTICE OF SET-ASIDE OF ORDERS (NOV 2011)	Clause
52.219-14	LIMITATIONS ON SUBCONTRACTING (JAN 2017)	Clause
52.219-16	LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)	Clause
52.219-27	NOTICE OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (NOV 2011)	Clause
52.219-28	POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)	Clause
52.219-29	NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS CONCERNS (DEC 2015)	Clause
52.219-3	NOTICE OF TOTAL HUBZONE SET-ASIDE OR SOLE SOURCE AWARD (NOV 2011)	Clause
52.219-30	NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, WOMEN-OWNED SMALL BUSINESS CONCERNS ELIGIBLE UNDER THE	Clause

	WOMEN-OWNED SMALL BUSINESS PROGRAM (DEC 2015)	
52.219-6	NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (NOV 2011)	Clause
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (NOV 2016)	Clause
52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2017) (ALTERNATE II - NOV 2016)	Clause
52.222-19	CHILD LABOR - COOPERATION WITH AUTHORITIES AND REMEDIES (JAN 2018)	Clause
52.222-21	PROHIBITION OF SEGREGATED FACILITIES (APR 2015)	Clause
52.222-26	EQUAL OPPORTUNITY (SEP 2016)	Clause
52.222-3	CONVICT LABOR (JUN 2003)	Clause
52.222-35	EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)	Clause
52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)	Clause
52.222-37	EMPLOYMENT REPORTS ON VETERANS (FEB 2016)	Clause
52.222-40	NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)	Clause
52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)	Clause
52.225-1	BUY AMERICAN SUPPLIES (MAY 2014)	Clause
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)	Clause
52.225-5	TRADE AGREEMENTS (OCT 2016)	Clause
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER -- SYSTEM FOR AWARD MANAGEMENT (JUL 2013)	Clause
52.239-1	PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)	Clause

(2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78)

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

Number	Title	Clause/Provision

52.222-41	SERVICE CONTRACT LABOR STANDARDS (MAY 2014)	Clause
52.222-51	EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT--REQUIREMENTS (MAY 2014)	Clause
52.222-53	EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR CERTAIN SERVICES--REQUIREMENTS (MAY 2014)	Clause

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

Yes

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records–Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (e)(1) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause –

(i) 52.203–13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) 52.219–8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8

in lower tier subcontracts that offer subcontracting

(iii) [Reserved]

(iv) 52.222–26, Equal Opportunity (Mar 2007) (E.O. 11246).

(v) 52.222–35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

(vi) 52.222–36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

(vii) 52.222–40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222–40.

(viii) 52.222–41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

(ix) 52.222–50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

[X] Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222–51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

(xi) 52.222–53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (Feb 2009) (41 U.S.C. 351, et seq.).

(xii) 52.222-54, Employment Eligibility Verification (Jul 2012).

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xiv) 52.247–64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247–64.

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

52.216-18 ORDERING (OCT 1995) (DEVIATION II -- FEB 2007)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from Date of Award through Contract expiration date.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered “issued” when the ordering activity deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

52.216-22 INDEFINITE QUANTITY (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after the completion of customer order, including options, 60 months following the expiration of the basic contract ordering period. [*insert date*].

52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30.

52.219-13 NOTICE OF SET-ASIDE OF ORDERS (NOV 2011)

The Contracting Officer will give notice of the order or orders, if any, to be set aside for small business concerns identified in 19.000(a)(3) and the applicable small business program. This notice, and its restrictions, will apply only to the specific orders that have been set aside for any of the small business concerns identified in 19.000(a)(3).

52.219-14 LIMITATIONS ON SUBCONTRACTING (JAN 2017)

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) *Applicability*. This clause applies only to —

(1) Contracts that have been set aside or reserved for small business concerns or 8(a) participants;

(2) Part or parts of a multiple-award contract that have been set aside for small business concerns or 8(a) participants; and

(3) Orders set aside for small business or 8(a) participants under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for—

(1) Services (except construction). At least 50 percent of the cost of contract performance

incurred for personnel shall be expended for employees of the concern.

(2) Supplies (other than procurement from a nonmanufacturer of such supplies). The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(3) General construction. The concern will, perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.

(4) Construction by special trade contractors. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

52.219-16 LIQUIDATED DAMAGES—SUBCONTRACTING PLAN (JAN 1999)

(a) “Failure to make a good faith effort to comply with the subcontracting plan”, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled “Small Business Subcontracting Plan,” or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled “Small Business Subcontracting Plan,” the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

52.219-27 NOTICE OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (NOV 2011)

(a) *Definition.* “Service-disabled veteran-owned small business concern”—

(1) Means a small business concern —

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) “Service-disabled veteran” means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been set aside or reserved for service-disabled veteran-owned small business concerns;

(2) Part or parts of a multiple-award contract that have been set aside for service-disabled veteran-owned small business concerns; and

(3) Orders set aside for service-disabled veteran-owned small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) General.

(1) Offers are solicited only from service-disabled veteran-owned small business concerns. Offers received from concerns that are not service-disabled veteran-owned small business concerns shall not be considered.

(2) Any award resulting from this solicitation will be made to a service-disabled veteran-owned small business concern.

(d) *Agreement.* A service-disabled veteran-owned small business concern agrees that in the performance of the contract, in the case of a contract for —

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other service-disabled veteran-owned small business concerns;

(2) Supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other service-disabled veteran-owned small business concerns;

(3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern’s employees or the employees of other service-disabled veteran-owned small business concerns; or

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern’s employees or the employees of other service-disabled veteran-owned small business concerns.

(e) A joint venture may be considered a service-disabled veteran owned small business concern if —

(1) At least one member of the joint venture is a service-disabled veteran-owned small business concern, and makes the following representations: That it is a service-disabled veteran-owned small business concern, and that it is a small business concern under the North American Industry Classification Systems (NAICS) code assigned to the procurement;

(2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement; and

(3) The joint venture meets the requirements of paragraph 7 of the explanation of Affiliates in 19.101 of the Federal Acquisition Regulation.

(4) The joint venture meets the requirements of 13 CFR 125.15(b)

(f) Any service-disabled veteran-owned small business concern (nonmanufacturer) must meet the requirements in 19.102(f) of the Federal Acquisition Regulation to receive a benefit under this program.

52.219-28 POST–AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)

(a) *Definitions.* As used in this clause –

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is “not dominant in its field of operation” when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts –

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at http://www.sba.gov/content/table-small-business-size-standards.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the representation required by paragraph (b) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update. (f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it _____ is, _____ is not a small business concern under NAICS Code _____ assigned to contract number _____. [*Contractor to sign and date and insert authorized signer's name and title*].

_____ _____
Contractor Signature / Date

_____ _____
Authorized Signer's Name / Title

52.219-29 NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS CONCERNS (DEC 2015)

(a) *Definitions*. "Economically disadvantaged women-owned small business (EDWOSB) concern" means —

A small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business (WOSB) concern eligible under the WOSB Program.

"*WOSB Program Repository*" means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, EDWOSB concerns;

(2) Part or parts of a multiple-award contract that have been set aside for EDWOSB concerns; and

(3) Orders set aside for EDWOSB concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) General.

(1) Offers are solicited only from EDWOSB concerns. Offers received from concerns that are not EDWOSB concerns will not be considered.

(2) Any award resulting from this solicitation will be made to an EDWOSB concern.

(3) The contracting officer will ensure that the apparent successful offeror has provided all required documents to the WOSB Program Repository. The contract will not be awarded until all required documents are received.

(d) *Agreement.* An EDWOSB concern agrees that in the performance of the contract for —

(1) Services (except construction), the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees;

(2) Supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products (not including the costs of materials);

(3) General construction, the concern will perform at least 15 percent of the cost of the contract with its own employees (not including the costs of materials); and

(4) Construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract with its own employees (not including the cost of materials).

(e) *Joint Venture.* A joint venture may be considered an EDWOSB concern if —

(1) It meets the applicable size standard corresponding to the NAICS code assigned to the contract, unless an exception to affiliation applies pursuant to 13 CFR 121.103(h)(3);

(2) The EDWOSB participant of the joint venture is designated in System for Award Management as an EDWOSB concern;

(3) The parties to the joint venture have entered into a written joint venture agreement that contains provisions —

(i) Setting forth the purpose of the joint venture;

(ii) Designating an EDWOSB concern as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;

(iii) Stating that not less than 51 percent of the net profits earned by the joint venture will be distributed to the EDWOSB;

(iv) Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the EDWOSB contract; and

(v) Requiring the final original records be retained by the managing venturer upon completion of the EDWOSB contract performed by the joint venture.

(4) The joint venture performs the applicable percentage of work required in accordance with paragraph (d) above; and

(5) The procuring activity executes the contract in the name of the EDWOSB or joint venture.

(f) Nonmanufacturer. An EDWOSB concern that is a non-manufacturer, as defined in 13 CFR 121.406(b) or FAR 19.102(f), may submit an offer on an EDWOSB requirement with a NAICS code for supplies, if it meets the requirements under the non-manufacturer rule set forth in those regulations.

52.219-3 NOTICE OF HUBZONE SET-ASIDE OR SOLE SOURCE AWARD (NOV 2011)

(a) *Definitions.* See 13 CFR 125.6(e) for definitions of terms used in paragraph (c).

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, HUBZone small business concerns;

(2) Part or parts of a multiple-award contract that have been set aside for HUBZone small business concerns; and

(3) Orders set-aside for HUBZone small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) General.

(1) Offers are solicited only from HUBZone small business concerns. Offers received from concerns that are not HUBZone small business concerns will not be considered.

(2) Any award resulting from this solicitation will be made to a HUBZone small business concern.

(d) *Agreement*. A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for —

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;

(2) Supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;

(3) General construction.

(i) At least 15 percent of the cost of contract performance to be incurred for personnel will be spent on the HUBZone prime contractor’s employees;

(ii) At least 50 percent of the cost of the contract performance to be incurred for personnel will be spent on the HUBZone prime contractor’s employees or on a combination of the HUBZone prime contractor’s employees and employees of HUBZone small business concern subcontractors; and

(iii) No more than 50 percent of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns; or

(4) Construction by special trade contractors.

(i) At least 25 percent of the cost of contract performance to be incurred for personnel will be spent on the HUBZone prime contractor’s employees;

(ii) At least 50 percent of the cost of the contract performance to be incurred for personnel will be spent on the HUBZone prime contractor’s employees or on a combination of the HUBZone prime contractor’s employees and employees of HUBZone

small business concern subcontractors;

(iii) No more than 50 percent of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns.

(e) A HUBZone joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause will be performed by the aggregate of the HUBZone small business participants.

(f) (1) When the total value of the contract exceeds $25,000, a HUBZone small business concern nonmanufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business concern manufacturers.

(2) When the total value of the contract is equal to or less than $25,000, a HUBZone small business concern nonmanufacturer may provide end items manufactured by other than a HUBZone small business concern manufacturer provided the end items are produced or manufactured in the United States.

(3) Paragraphs (f)(1) and (f)(2) of this section do not apply in connection with construction or service contracts.

(g) *Notice*. The HUBZone small business offeror acknowledges that a prospective HUBZone awardee must be a HUBZone small business concern at the time of award of this contract. The HUBZone offeror shall provide the Contracting Officer a copy of the notice required by 13 CFR 126.501 if material changes occur before contract award that could affect its HUBZone eligibility. If the apparently successful HUBZone offeror is not a HUBZone small business concern at the time of award of this contract, the Contracting Officer will proceed to award to the next otherwise successful HUBZone small business concern or other offeror.

52.219-30 NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, WOMEN-OWNED SMALL BUSINESS CONCERNS ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM (DEC 2015)

(a) *Definitions*. "Women-owned small business (WOSB) concern eligible under the WOSB Program" (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

"WOSB Program Repository" means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, WOSB concerns eligible under the WOSB Program;

(2) Part or parts of a multiple-award contract that have been set aside for WOSB concerns eligible under the WOSB Program; and

(3) Orders set aside for WOSB concerns eligible under the WOSB Program, under multiple-award contracts as described in8.405-5 and 16.505(b)(2)(i)(F).

(c) *General.*

(1) Offers are solicited only from WOSB concerns eligible under the WOSB Program. Offers received from concerns that are not WOSB concerns eligible under the WOSB program shall not be considered.

(2) Any award resulting from this solicitation will be made to a WOSB concern eligible under the WOSB Program.

(3) The Contracting Officer will ensure that the apparent successful offeror has provided the required documents to the WOSB Program Repository. The contract shall not be awarded until all required documents are received.

(d) *Agreement.* A WOSB concern eligible under the WOSB Program agrees that in the performance of the contract for —

(1) Services (except construction), the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees;

(2) Supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products (not including the costs of materials);

(3) General construction, the concern will perform at least 15 percent of the cost of the contract with its own employees (not including the costs of materials); and

(4) Construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract with its own employees (not including cost of materials).

(e) *Joint Venture*. A joint venture may be considered a WOSB concern eligible under the WOSB Program if —

(1) It meets the applicable size standard corresponding to the NAICS code assigned to the contract, unless an exception to affiliation applies pursuant to 13 CFR 121.103(h)(3);

(2) The WOSB participant of the joint venture is designated in the System for Award Management as a WOSB concern eligible under the WOSB Program;

(3) The parties to the joint venture have entered into a written joint venture agreement that contains provisions —

(i) Setting forth the purpose of the joint venture;

(ii) Designating a WOSB concern eligible under the WOSB Program as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;

(iii) Stating that not less than 51 percent of the net profits earned by the joint venture will be distributed to the WOSB;

(iv) Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the WOSB contract; and

(v) Requiring the final original records be retained by the managing venturer upon completion of the WOSB contract performed by the joint venture.

(4) The joint venture must perform the applicable percentage of work required in accordance with paragraph (d) above; and

(5) The procuring activity executes the contract in the name of the WOSB concern eligible under the WOSB Program or joint venture.

(f) Nonmanufacturer. A WOSB concern eligible under the WOSB Program that is a non-manufacturer, as defined in 13 CFR 121.406(b) or FAR 19.102(f), may submit an offer on a WOSB requirement with a NAICS code for supplies, if it meets the requirements under the non-manufacturer rule set forth in those regulations.

52.219-6 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (NOV 2011)

(a) *Definition.*

"*Small business concern*," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been totally set aside or reserved for small business concerns; and

(2) Orders set aside for small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) General.

(1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to a small business concern.

(d) *Agreement.*

A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed $25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

Note: Regulation 52.219-6
Applicable only to SINs: 271 102 and 271 105

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (NOV 2016)

(a) *Definitions.* As used in this contract —

HUBZone small business concern means a small business concern, certified by the Small Business Administration, that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

Service-disabled veteran-owned small business concern —

(1) Means a small business concern —

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) *Service-disabled veteran* means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

Small business concern means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

Small disadvantaged business concern, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that —

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by —

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

Veteran-owned small business concern means a small business concern —

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

Women-owned small business concern means a small business concern —

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(b) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(c) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(d) (1) The Contractor may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.

(2) The Contractor may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

(i) The subcontractor is registered in SAM; and

(ii) The subcontractor represents that the size and socioeconomic status representations made in SAM are current, accurate and complete as of the date of the offer for the subcontract.

(3) The Contractor may not require the use of SAM for the purposes of representing size or socioeconomic status in connection with a subcontract.

(4) In accordance with 13 CFR 121.411, 124.1015, 125.29, 126.900, and 127.700, a contractor acting in good faith is not liable for misrepresentations made by its subcontractors regarding the subcontractor's size or socioeconomic status.

52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2017) (ATERNATE II – NOV 2016)

(a) This clause does not apply to small business concerns.

(b) *Definitions.* As used in this clause —

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

Commercial item means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

Commercial plan means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

Electronic Subcontracting Reporting System (eSRS) means the Government-wide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at http://www.esrs.gov.

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the

Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

Individual subcontracting plan means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

Master subcontracting plan means a subcontracting plan that contains all the required elements of an individual subcontracting plan, except goals, and may be incorporated into individual subcontracting plans, provided the master subcontracting plan has been approved.

Reduced payment means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

Subcontract means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

Total contract dollars means the final anticipated dollar value, including the dollar value of all options.

Untimely payment means a payment to a subcontractor that is more than 90 days past due under the terms and conditions of a subcontract for supplies and services for which the Government has paid the prime contractor.

(c) (1) Proposals submitted in response to this solicitation shall include a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the Offeror is submitting an individual subcontracting plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the Offeror ineligible for award of a contract.

(2) (i) The Contractor may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.

(ii) The Contractor may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

(A) The subcontractor is registered in SAM; and

(B) The subcontractor represents that the size and socioeconomic status representations made in SAM are current, accurate and complete as of the date of the offer for the subcontract.

(iii) The Contractor may not require the use of SAM for the purposes of representing size or socioeconomic status in connection with a subcontract.

(iv) In accordance with 13 CFR 121.411, 124.1015, 125.29, 126.900, and 127.700, a contractor acting in good faith is not liable for misrepresentations made by its subcontractors regarding the subcontractor's size or socioeconomic status.

(d) The Offeror's subcontracting plan shall include the following:

(1) Separate goals, expressed in terms of total dollars subcontracted, and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals shall also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626 —

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe; and

(ii) Where one or more subcontractors are in the subcontract tier between the prime Contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate Contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of —

(i) Total dollars planned to be subcontracted for an individual subcontracting plan; or the Offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to —

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, SAM, veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the Offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with —

(i) Small business concerns (including ANC and Indian tribes);

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns (including ANC and Indian tribes); and

(vi) Women-owned small business concerns.

(7) The name of the individual employed by the Offeror who will administer the Offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the Offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the Offeror will include the clause of this contract entitled ‘‘Utilization of Small Business Concerns’’ in all subcontracts that offer further subcontracting opportunities, and that the Offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of $700,000 ($1.5 million for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the Offeror will —

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the Offeror with the subcontracting plan;

(iii) After November 30, 2017, include subcontracting data for each order when reporting subcontracting achievements for indefinite-delivery, indefinite-quantity contracts intended for use by multiple agencies;

(iv) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at http://www.esrs.gov. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by SBA as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

(v) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

(vi) Provide its prime contract number, its unique entity identifier, and the email address of the Offeror’s official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and

(vii) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the email address of the subcontractor’s official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (*e.g.,* SAM), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone

small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than $150,000, indicating —

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and, if not, why not;

(F) Whether women-owned small business concerns were solicited and, if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact —

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, service-disabled veteran-owned, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through —

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(12) Assurances that the Offeror will make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that it used in preparing the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal. Responding to a request for a quote does not constitute use in preparing a bid or proposal. The Offeror used a small business concern in preparing the bid or proposal if —

(i) The Offeror identifies the small business concern as a subcontractor in the bid or proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the subcontract; or

(ii) The Offeror used the small business concern's pricing or cost information or technical expertise in preparing the bid or proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work if the Offeror is awarded the contract.

(13) Assurances that the Contractor will provide the Contracting Officer with a written explanation if the Contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in (d)(12) of this clause. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.

(14) Assurances that the Contractor will not prohibit a subcontractor from discussing with the Contracting Officer any material matter pertaining to payment to or utilization of a subcontractor.

(15) Assurances that the offeror will pay its small business subcontractors on time and in accordance with the terms and conditions of the underlying subcontract, and notify the contracting officer when the prime contractor makes either a reduced or an untimely payment to a small business subcontractor (see 52.242-5).

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern in accordance with 52.219–8(d)(2).

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, prior to award of the subcontract the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror and if the successful subcontract offeror is a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concern.

(7) Assign each subcontract the NAICS code and corresponding size standard that best describes the principal purpose of the subcontract.

(f) A master subcontracting plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the Offeror by this clause; provided —

(1) The master subcontracting plan has been approved;

(2) The Offeror ensures that the master subcontracting plan is updated as necessary and provides copies of the approved master subcontracting plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master subcontracting plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one subcontracting plan. When a contract modification exceeds the subcontracting plan threshold in 19.702(a), or an option is exercised, the goals of the existing subcontracting plan shall be amended to reflect any new subcontracting opportunities. When the goals in a subcontracting plan are amended, these goal changes do not apply retroactively

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244–6, Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with

(1) the clause of this contract entitled ''Utilization Of Small Business Concerns,'' or

(2) an approved plan required by this clause, shall be a material breach of the contract and may be considered in any past performance evaluation of the Contractor.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at http://www.esrs.gov. Purchases from a corporation, company, or subdivision that is an affiliate of the Contractor or subcontractor are not included in these reports. Subcontract awards by affiliates shall be treated as subcontract awards by the Contractor. Subcontract award data reported by the Contractor and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State

Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) *ISR.* This report is not required for commercial plans. The report is required for each contract containing an individual subcontracting plan.

(i) The report shall be submitted semiannually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period. When the Contracting Officer rejects an ISR, the Contractor shall submit a corrected report within 30 days of receiving the notice of ISR rejection.

(ii) (A) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(B) If a subcontracting plan has been added to the contract pursuant to 19.702(a)(3) or 19.301–2(e), the Contractor's achievements must be reported in the ISR on a cumulative basis from the date of incorporation of the subcontracting plan into the contract.

(iii) When a subcontracting plan includes indirect costs in the goals, these costs must be included in this report.

(iv) The authority to acknowledge receipt or reject the ISR resides —

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) *SSR.* (i) Reports submitted under individual contract plans.

(A) This report encompasses all subcontracting under prime contracts and subcontracts with an executive agency, regardless of the dollar value of the subcontracts. This report also includes indirect costs on a prorated basis when the indirect costs are excluded from the subcontracting goals.

(B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If the Contractor or a subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over $700,000 (over $1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime contractors.

(D) The report shall be submitted annually by October 30 for the twelve month period ending September 30. When a Contracting Officer rejects an SSR, the Contractor shall submit a revised report within 30 days of receiving the notice of

SSR rejection.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) Reports submitted under a commercial plan.

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year and all indirect costs.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

52.222-19 CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES (JAN 2018) 22.1505(b)

(a) *Applicability.* This clause does not apply to the extent that the Contractor is supplying end products mined, produced, or manufactured in —

(1) Canada, and the anticipated value of the acquisition is $25,000 or more;

(2) Israel, and the anticipated value of the acquisition is $50,000 or more;

(3) Mexico, and the anticipated value of the acquisition is $80,317 or more; or

(4) Armenia, Aruba, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or the United Kingdom and the anticipated value of the acquisition is $180,000 or more.

(b) *Cooperation with Authorities.* To enforce the laws prohibiting the manufacture or importation of products mined, produced, or manufactured by forced or indentured child labor, authorized officials may need to conduct investigations to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under this contract. If the solicitation includes the provision 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products, or the equivalent at 52.212-3(i), the Contractor agrees to cooperate fully with authorized officials of the

contracting agency, the Department of the Treasury, or the Department of Justice by providing reasonable access to records, documents, persons, or premises upon reasonable request by the authorized officials.

(c) *Violations*. The Government may impose remedies set forth in paragraph (d) for the following violations:

(1) The Contractor has submitted a false certification regarding knowledge of the use of forced or indentured child labor for listed end products.

(2) The Contractor has failed to cooperate, if required, in accordance with paragraph (b) of this clause, with an investigation of the use of forced or indentured child labor by an Inspector General, Attorney General, or the Secretary of the Treasury.

(3) The Contractor uses forced or indentured child labor in its mining, production, or manufacturing processes.

(4) The Contractor has furnished under the contract end products or components that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor. (The Government will not pursue remedies at paragraph (d)(2) or paragraph (d)(3) of this clause unless sufficient evidence indicates that the Contractor knew of the violation.)

(d) *Remedies*.

(1) The Contracting Officer may terminate the contract.

(2) The suspending official may suspend the Contractor in accordance with procedures in FAR Subpart 9.4.

(3) The debarring official may debar the Contractor for a period not to exceed 3 years in accordance with the procedures in FAR Subpart 9.4.

52.222-20 CONTRACTS FOR MATERIALS, SUPPLIES, ARTICLES, AND EQUIPMENT EXCEEDING $15,000 (MAY 2014)

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed $15,000, and is subject to 41 U.S.C. chapter 65 , the following terms and conditions apply:

(a) All stipulations required by 41 U.S.C. chapter 65 and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and workers with disabilities may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under section 14 of the Fair Labor Standards Act (41 U.S.C. 6508).

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 2015)

(a) *Definitions*. As used in this clause —

Gender identity has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

Segregated facilities 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, sexual orientation, gender identity, 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.

Sexual orientation has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

(b) 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 Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

52.222-26 EQUAL OPPORTUNITY (SEP 2016)

(a) *Definition.* As used in this clause.

"*Compensation*" means any payments made to, or on behalf of, an employee or offered to an applicant as remuneration for employment, including but not limited to salary, wages, overtime pay, shift differentials, bonuses, commissions, vacation and holiday pay, allowances, insurance and other benefits, stock options and awards, profit sharing, and retirement.

"*Compensation information*" means the amount and type of compensation provided to employees or offered to applicants, including, but not limited to, the desire of the Contractor to attract and retain a particular employee for the value the employee is perceived to add to the Contractor's profit or productivity; the availability of employees with like skills in the marketplace; market research about the worth of similar jobs in the relevant marketplace; job analysis, descriptions, and evaluations; salary and pay structures; salary surveys; labor union agreements; and Contractor decisions, statements and policies related to setting or altering employee compensation.

"*Essential job functions*" means the fundamental job duties of the employment position an individual holds. A job function may be considered essential if —

(1) The access to compensation information is necessary in order to perform that function or another routinely assigned business task; or

(2) The function or duties of the position include protecting and maintaining the privacy of employee personnel records, including compensation information.

"*Gender identity*" has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

"*Sexual orientation*" has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

"*United States,*" means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) (1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have

an aggregate value in excess of $10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c) (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to —

(i) Employment;

(ii) Upgrading;

(iii) Demotion;

(iv) Transfer;

(v) Recruitment or recruitment advertising;

(vi) Layoff or termination;

(vii) Rates of pay or other forms of compensation; and

(viii) Selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) (i) The Contractor shall not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This prohibition against discrimination does not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee’s essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor’s legal duty to furnish information.

(ii) The Contractor shall disseminate the prohibition on discrimination in paragraph (c)(5)(i) of this clause, using language prescribed by the Director of the Office of Federal Contract Compliance Programs (OFCCP), to employees and applicants by —

(A) Incorporation into existing employee manuals or handbooks; and

(B) Electronic posting or by posting a copy of the provision in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall send, to each labor union or representative of workers with which it has a collective bar-gaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(7) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(8) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR Part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(9) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(10) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(11) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(12) The Contractor shall take such action with respect to any subcontract or purchase order as the Director of OFCCP may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

52.222-3 CONVICT LABOR (JUN 2003)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons—

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

52.222-35 EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)

(a) *Definitions.* As used in this clause —

“Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at
FAR 22.1301.

(b) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60–300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) *Subcontracts.* The Contractor shall insert the terms of this clause in subcontracts of $150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)

(a) *Equal opportunity clause*. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60– 741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) *Subcontracts*. The Contractor shall include the terms of this clause in every subcontract or purchase

order in excess of $15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings

52.222-37 EMPLOYMENT REPORTS ON VETERANS (FEB 2016)

(a) *Definitions.* As used in this clause, “active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” and “recently separated veteran,” have the meanings given in FAR 22.1301.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on —

(1) The total number of employees in the contractor’s workforce, by job category and hiring location, who are protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans);

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans); and

(3) The maximum number and minimum number of employees of the Contractor or subcontractor at each hiring location during the period covered by the report.

(c) The Contractor shall report the above items by filing the VETS–4212 “Federal Contractor Veterans’ Employment Report” (see “VETS–4212 Federal Contractor Reporting” and “Filing Your VETS–4212 Report” at http://www.dol.gov/vets/vets4212.htm).

(d) The Contractor shall file VETS-4212 Reports no later than September 30 of each year.

(e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12–month period preceding the ending date selected for the report. Contractors may select an ending date –

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or

(2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-4212. The contractor’s knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under 38 U.S.C. 4212.

(g) The Contractor shall insert the terms of this clause in subcontracts of $150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places

in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and (f).

(1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor's plants and offices so that the notice is prominent and readily seen by employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contract.

(2) If the Contractor customarily posts notices to employees electronically, then the Contractor shall also post the required notice electronically by displaying prominently, on any Web site that is maintained by the Contractor and is customarily used for notices to employees about terms and conditions of employment, a link to the Department of Labor's Web site that contains the full text of the poster. The link to the Department's Web site, as referenced in (b)(3) of this section, must read, "Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers."

(b) This required employee notice, printed by the Department of Labor, may be —

(1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210, (202) 693-0123, or from any field office of the Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Provided by the Federal contracting agency if requested;

(3) Downloaded from the Office of Labor- Management Standards Web site at http://www.dol.gov/olms/regs/compliance/EO13496.htm; or

(4) Reproduced and used as exact duplicate copies of the Department of Labor's official poster.

(c) The required text of the employee notice referred to in this clause is located at Appendix A, Subpart A, 29 CFR Part 471.

(d) The Contractor shall comply with all provisions of the employee notice and related rules, regulations, and orders of the Secretary of Labor.

(e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, and the Contractor may be suspended or debarred in accordance with 29 CFR 471.14 and subpart 9.4. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

(f) *Subcontracts*.

(1) The Contractor shall include the substance of this clause, including this paragraph (f), in every subcontract that exceeds $10,000 and will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009, so that such provisions will be binding upon each subcontractor.

(2) The Contractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 or this clause.

(3) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

(4) However, if the Contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

52.222-41 SERVICE CONTRACT LABOR STANDARDS (MAY 2014)

(a) *Definitions*. As used in this clause –

Contractor when this clause is used in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

Service employee means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor.

(b) *Applicability*. This contract is subject to the following provisions and to all other applicable provisions of 41 U.S.C. chapter 67, Service Contract Labor Standards, and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 6702, as interpreted in Subpart C of 29 CFR Part 4.

(c) *Compensation.* (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this paragraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Service Contract Labor Standards statute and this contract.

(vi) Upon discovery of failure to comply with subparagraphs (b)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under the contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) *Obligation to Furnish Fringe Benefits*. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) *Minimum Wage*. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified

by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor Contracts*. If this contract succeeds a contract subject to the Service Contract Labor Standards statute under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Administrative Review Board, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) *Notification to employees*. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of 41 U.S.C. 6703 and of this contract.

(h) *Safe and Sanitary Working Conditions*. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of the service employee. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) *Records*. (1) The Contractor and each subcontractor performing work subject to the Service Contract Labor Standards statute shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Service Contract Labor Standards statute —

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor will permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) *Pay Periods*. The Contractor shall unconditionally pay to each employee subject to the Service Contract Labor Standards statute all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this statute may not be of any duration longer than semi-monthly.

(k) *Withholding of Payments and Termination of Contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Service Contract Labor Standards statute all or part of the wages or fringe benefits due under the Service Contract Labor Standards statute, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontract*s. The Contractor agrees to insert this clause in all subcontracts subject to the Service Contract Labor Standards statute.

(m) *Collective Bargaining Agreements Applicable to Service Employees*. If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or

amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority List*. Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent prime Contractor shall furnish to the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) *Ruling and Interpretations*. Rulings and interpretations of the Service Contract Labor Standards statute are contained in Regulations, 29 CFR Part 4.

(p) *Contractor's Certification*. (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it nor any person or firm who has a substantial interest in the Contractor’s firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under 41 U.S.C. 6706.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under 41 U.S.C. 6706.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) *Variations, Tolerances, and Exemptions Involving Employment*. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to 41 U.S.C. 6707 prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by 41 U.S.C. 6703(1) without diminishing any fringe benefits or cash payments in lieu thereof required under 41 U.S.C. 6703(2), in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, persons with disabilities, and disabled clients of work centers under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the statute for the employment of apprentices, student-learners, persons with disabilities, or disabled clients of work centers not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two statutes, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) *Apprentices*. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Office of Apprenticeship Training, Employer, and Labor Services (OATELS), U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and

fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips*. An employee engaged in an occupation in which the employee customarily and regularly receives more than $30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by 41 U.S.C. 6703(1), in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. However, the amount of credit shall not exceed $1.34 per hour beginning January 1, 1981. To use this provision —

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Labor Standards minimum wage through the combination of direct wages and tip credit;

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of 41 U.S.C. 6707(c).

(t) *Disputes Concerning Labor Standards*. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. 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.

Note: Regulation 52.222-41
Applicable to the following SINs: 271 114; 400 01; 400 02; 400 03; 271 107; 190 02; 190 07; 023 LSV; and 271 112

52.222-49 SERVICE CONTRACT LABOR STANDARDS — PLACE OF PERFORMANCE UNKNOWN (MAY 2014)

(a) This contract is subject to the Service Contract Labor Standards statute, and the place of performance was unknown when the solicitation was issued. In addition to places or areas identified in wage determinations, if any, attached to the solicitation, wage determinations have also been requested for the following: Various - http://www.wdol.gov/ (*insert places or areas*). The Contracting Officer will request wage determinations for additional places or areas of performance if asked to do so in writing by n/a (*insert time and date*).

(b) Offerors who intend to perform in a place or area of performance for which a wage determination has not been attached or requested may nevertheless submit bids or proposals. However, a wage determination shall be requested and incorporated in the resultant contract retroactive to the date of contract award, and there shall be no adjustment in the contract price.

52.222-51 EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR

MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT--REQUIREMENTS (MAY 2014)

(a) The items of equipment to be serviced under this contract are used regularly for other than Government purposes, and are sold or traded by the Contractor in substantial quantities to the general public in the course of normal business operations.

(b) The services shall be furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, or repair of equipment.

(1) An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the Contractor, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public.

(2) An "established market price" is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or Contractor.

(c) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract shall be the same as that used for these employees and for equivalent employees servicing the same equipment of commercial customers.

(d) The Contractor is responsible for compliance with all the conditions of this exemption by its subcontractors. The Contractor shall determine the applicability of this exemption to any subcontract on or before subcontract award. In making a judgment that the exemption applies, the Contractor shall consider all factors and make an affirmative determination that all of the conditions in paragraphs (a) through (c) of this clause will be met.

(e) If the Department of Labor determines that any conditions for exemption in paragraphs (a) through (c) of this clause have not been met, the exemption shall be deemed inapplicable, and the contract shall become subject to the Service Contract Labor Standards statute. In such case, the procedures at 29 CFR 4.123(e)(1)(iv) and 29 CFR 4.5(c) will be followed

(f) The Contractor shall include the substance of this clause, including this paragraph (f), in subcontracts for exempt services under this contract.

52.222-53 EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR CERTAIN SERVICES--REQUIREMENTS (MAY 2014)

(a) The services under this contract are offered and sold regularly to non-Governmental customers, and are provided by the Contractor to the general public in substantial quantities in the course of normal business operations.

(b) The contract services are furnished at prices that are, or are based on, established catalog or market prices. An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the Contractor, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An "established market price" is a current price, established in the usual course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or Contractor.

(c) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract.

(d) The Contractor uses the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the Contractor uses for these employees and for equivalent employees servicing commercial customers.

(e) (1) Except for services identified in FAR 22.1003-4(d)(1)(iv), the subcontractor for exempt services shall be selected for award based on other factors in addition to price or cost with the combination of other factors at least as important as price or cost; or

(2) A subcontract for exempt services shall be awarded on a sole source basis.

(f) The Contractor is responsible for compliance with all the conditions of this exemption by its subcontractors. The Contractor shall determine in advance, based on the nature of the subcontract requirements and knowledge of the practices of likely subcontractors, that all or nearly all likely subcontractors will meet the conditions in paragraphs (a) through (d) of this clause. If the services are currently being performed under a subcontract, the Contractor shall consider the practices of the existing subcontractor in making a determination regarding the conditions in paragraphs (a) through (d) of this clause. If the Contractor has reason to doubt the validity of the certification, the requirements of the Service Contract Labor Standards statute shall be included in the subcontract.

(g) If the Department of Labor determines that any conditions for exemption at paragraphs (a) through (e) of this clause have not been met, the exemption shall be deemed inapplicable, and the contract shall become subject to the Service Contract Labor Standards statute. In such case, the procedures in at 29 CFR 4.123(e)(2)(iii) and 29 CFR 4.5(c) will be followed.

(h) The Contractor shall include the substance of this clause, including this paragraph (h), in subcontracts for exempt services under this contract.

52.222-99 ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS (JUL 2014) (DEVIATION I – JUL 2014)

This clause implements Executive Order 13658, Establishing a Minimum Wage for Contractors, dated February 12, 2014, and OMB Policy Memorandum M-14-09, Implementation of the President's Executive Order Establishing a Minimum Wage for Contractors, dated June 12, 2014.

(a) Each service employee, laborer, or mechanic employed in the United States (the 50 states and the District of Columbia) in the performance of this contract by the prime Contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the Contractor and service employee, laborer, or mechanic, shall be paid not less than the applicable minimum wage under Executive Order 13658. The minimum wage required to be paid to each service employee, laborer, or mechanic performing work on this contract between January 1, 2015, and December 31, 2015, shall be $10.10 per hour.

(b) The Contractor shall adjust the minimum wage paid under this contract each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all service employees, laborers, or mechanics subject to the Executive Order beginning January 1 of the following year. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on www.wdol.gov (or any successor website). The applicable published minimum wage is incorporated by reference into this contract.

(c) The Contracting Officer will adjust the contract price or contract unit price under this clause only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Contracting Officer shall consider documentation as to the specific costs and workers impacted in determining the amount of the adjustment.

(d) The Contracting Officer will not adjust the contract price under this clause for any costs other than those identified in paragraph (c) of this clause, and will not provide price adjustments under this clause that result in duplicate price adjustments with the respective clause of this contract implementing the Service Contract Labor Standards statute (formerly known as the Service Contract Act) or the Wage Rate Requirements (Construction) statute (formerly known as the Davis Bacon Act).

(e) The Contractor shall include the substance of this clause, including this paragraph (e) in all subcontracts.

52.223-10 WASTE REDUCTION PROGRAM (MAY 2011)

(a) *Definitions.* As used in this clause —

Recycling means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

Waste prevention means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

Waste reduction means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of section 3(e) of Executive Order 13423, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.) and implementing regulations (40 CFR part 247).

52.223-11 OZONE-DEPLETING SUBSTANCES AND HIGH GLOBAL WARMING POTENTIAL HYDROFLUOROCARBONS (JUN 2016)

(a) *Definition.* As used in this clause —

"*Global warming potential*" means how much a given mass of a chemical contributes to global warming over a given time period compared to the same mass of carbon dioxide. Carbon dioxide's global warming potential is defined as 1.0.

"*High global warming potential hydrofluorocarbons*" means any hydrofluorocarbons in a particular end use for which EPA's Significant New Alternatives Policy (SNAP) program has identified other acceptable alternatives that have lower global warming potential. The SNAP list of alternatives is found at 40 CFR Part 82 subpart G with supplemental tables of alternatives available at (http://www.epa.gov/snap/).

"*Hydrofluorocarbons*" means compounds that only contain hydrogen, fluorine, and carbon.

"*Ozone-depleting substance*," means any substance the Environmental Protection Agency designates in 40 CFR Part 82 as —

(1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(2) Class II, including, but not limited to, hydrochlorofluorocarbons.

(b) The Contractor shall label products that contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), (d), and (e) and 40 CFR part 82, subpart E, as follows:

Warning

Contains (or manufactured with, if applicable) *_____, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.

* The Contractor shall insert the name of the substance(s).

(c) Reporting. For equipment and appliances that normally each contain 50 or more pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons, the Contractor shall —

(1) Track on an annual basis, between October 1 and September 30, the amount in pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons contained in the equipment and appliances delivered to the Government under this contract by —

(i) Type of hydrofluorocarbon (*e.g.*, HFC-134a, HFC-125, R-410A, R-404A, etc.);

(ii) Contract number; and

(iii) Equipment/appliance;

(2) Report that information to the Contracting Officer for FY16 and to www.sam.gov, for FY17 and after —

(i) Annually by November 30 of each year during contract performance; and

(ii) At the end of contract performance.

(d) The Contractor shall refer to EPA's SNAP program (available at http://www.epa.gov/snap) to identify alternatives. The SNAP list of alternatives is found at 40 CFR part 82 subpart G with supplemental tables available at http://www.epa.gov/snap.

52.223-17 AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)

(a) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired#

(1) Competitively within a timeframe providing for compliance with the contract performance schedule;

(2) Meeting contract performance requirements; or

(3) At a reasonable price.

(b) Information about this requirement is available at EPA’s Comprehensive Procurement Guidelines web site, http://www.epa.gov/cpg/. The list of EPA-designated items is available at http://www.epa.gov/cpg/products.htm.

52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)

(a) *Definitions.* As used in this clause –

"*Driving*" –

(1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

(2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

"*Text messaging*" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

(b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving, dated October 1, 2009.

(c) The Contractor should –

(1) Adopt and enforce policies that ban text messaging while driving –

(i) Company-owned or -rented vehicles or Government-owned vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct initiatives in a manner commensurate with the size of the business, such as –

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(d) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed the micro-purchase threshold.

52.223-19 COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011)

The Contractor's work under this contract shall conform with all operational controls identified in the applicable agency or facility Environmental Management Systems and provide monitoring and measurement information necessary for the Government to address environmental performance relative to the goals of the Environmental Management Systems.

52.223-2 AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (SEP 2013)

(a) In the performance of this contract, the contractor shall make maximum use of biobased products that are United States Department of Agriculture (USDA)-designated items unless –

(1) The product cannot be acquired –

(i) Competitively within a time frame providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) The product is to be used in an application covered by a USDA categorical exemption (see 7 CFR 3201.3(e)). For example, all USDA-designated items are exempt from the preferred procurement requirement for the following:

(i) Spacecraft system and launch support equipment.

(ii) Military equipment, *i.e.*, a product or system designed or procured for combat or combat-related missions.

(b) Information about this requirement and these products is available at http://www.biopreferred.gov.

(c) In the performance of this contract, the Contractor shall –

(1) Report to the environmental point of contact identified in paragraph (d) of this clause, with a copy to the Contracting Officer, on the product types and dollar value of any USDA-designated biobased products purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30;

(2) Submit this report no later than –

(i) October 31 of each year during contract performance; and

(ii) At the end of contract performance.

52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011)

(a) *Definitions.* As used in this clause—

Toxic chemical means a chemical or chemical category listed in 40 CFR 372.65.

(b) Federal facilities are required to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050), and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

(c) The Contractor shall provide all information needed by the Federal facility to comply with the following:

(1) The emergency planning reporting requirements of Section 302 of EPCRA.

(2) The emergency notice requirements of Section 304 of EPCRA.

(3) The list of Material Safety Data Sheets, required by Section 311 of EPCRA.

(4) The emergency and hazardous chemical inventory forms of Section 312 of EPCRA.

(5) The toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction

and recycling information required by Section 6607 of PPA.

(6) The toxic chemical and hazardous substance release and use reduction goals of section 2(e) of Executive Order 13423 and of Executive Order 13514.

52.225-1 BUY AMERICAN SUPPLIES (MAY 2014)

(a) *Definitions.* As used in this clause-

Commercially available off-the-shelf (COTS) item-

(1) Means any item of supply (including construction material) that is-

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Component means an article, material, or supply incorporated directly into an end product.

Cost of components means-

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

Domestic end product means-

(1) An unmanufactured end product mined or produced in the United States;

(2) An end product manufactured in the United States, if -

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic; or

(ii) The end product is a COTS item.

End product means those articles, materials, and supplies to be acquired under the contract for public use.

Foreign end product means an end product other than a domestic end product.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) 41 U.S.C. chapter 83, Buy American, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for an end product that is a COTS item (See 12.505(a)(1)).

(c) Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(d) The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled "Buy American Certificate."

52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at http://www.treas.gov/offices/enforcement/ofac/sdn. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at http://www.treas.gov/offices/enforcement/ofac.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

52.225-5 TRADE AGREEMENTS (OCT 2016)

(a) *Definitions.* As used in this clause —

"Caribbean Basin country end product"—

(1) Means an article that —

(i) (A) Is wholly the growth, product, or manufacture of a Caribbean Basin country;

or

(B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed; and

(ii) Is not excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b).

(A) For this reason, the following articles are not Caribbean Basin country end products:

(1) Tuna, prepared or preserved in any manner in airtight containers;

(2) Petroleum, or any product derived from petroleum;

(3) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply (i.e., Afghanistan, Cuba, Laos, North Korea, and Vietnam); and

(4) Certain of the following: textiles and apparel articles; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel; or handloomed, handmade, and folklore articles;

(B) Access to the HTSUS to determine duty-free status of articles of these types is available at http://www.usitc.gov/tata/hts/. In particular, see the following:

(1) General Note 3(c), Products Eligible for Special Tariff treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries under the United States-Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits under the United States-Caribbean Basin Trade Partnership Act; and

(2) Refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the acquisition, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Designated country” means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)”), Ukraine, or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

"Designated country end product" means a WTO GPA country end product, an FTA country end product, a least developed country end product, or a Caribbean Basin country end product.

"End product" means those articles, materials, and supplies to be acquired under the contract for public use.

"Free Trade Agreement country end product" means an article that —

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"Least developed country end product" means an article that —

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-made end product" means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

"WTO GPA country end product" means an article that —

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(b) Delivery of end products. The Contracting Officer has determined that the WTO GPA and FTAs apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made or designated country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled "Trade Agreements Certificate."

52.228-5 INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

52.229-1 STATE AND LOCAL TAXES (APR 1984) (DEVIATION I –MAY 2003)

Notwithstanding the terms of the Federal, State, and Local Taxes clause, the contract price excludes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. The Contractor shall state separately on its invoices taxes excluded from the contract price, and the ordering activity agrees either to pay the amount of the taxes to the Contractor or provide evidence necessary to sustain an exemption.

52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—SYSTEM FOR AWARD MANAGEMENT (JUL 2013)

(a) Method of payment.

(1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either—

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the System for Award Management (SAM) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the SAM database.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. If the Contractor's EFT information in the SAM database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the SAM database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Liability for uncompleted or erroneous transfers.

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for—

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and—

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the SAM database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the SAM database.

52.232-36 PAYMENT BY THIRD PARTY (MAY 2014) (DEVIATION – MAY 2003)

(a) *General*.

(1) Except as provided in paragraph (a)(2) of this clause, the Contractor agrees to accept payments due under this contract, through payment by a third party in lieu of payment directly from the ordering activity, in accordance with the terms of this clause. The third party and, if applicable, the particular credit card to be used are identified elsewhere in this contract.

(2) The credit card is not authorized as a method of payment during any period of the System for Award Management (SAM) indicates that the Contractor has delinquent debt that is subject to collection under the Treasury Offset Program (TOP). Information on TOP is available at *http://fms.treas.gov/debt/index.html*. If the SAM subsequently indicates that the Contractor no longer has delinquent debt, the Contractor may request the Contracting Officer to authorize payment by credit card.

(b) *Contractor payment request*.

(1) Except as provided in paragraph (b)(2) of this clause, the Contractor shall make payment requests through a charge to the ordering activity account with the third party, at the time and for the amount due in accordance with those clauses of this contract that authorize the Contractor to submit invoices, contract financing requests, other payment requests, or as provided in other clauses providing for payment to the Contractor.

(2) When the Contracting Officer has notified the Contractor that the credit card is no longer an authorized method of payment, the Contractor shall make such payment requests in accordance with instructions provided by the Contracting Officer during the period when the purchase card is not authorized.

(c) *Payment*. The Contractor and the third party shall agree that payments due under this contract shall be made upon submittal of payment requests to the third party in accordance with the terms and conditions of an agreement between the Contractor, the Contractor's financial agent (if any), and the third party and its agents (if any). No payment shall be due the Contractor until such agreement is made. Payments made or due by the third party under this clause are not payments made by the ordering activity and are not subject to the Prompt Payment Act or any implementation thereof in this contract.

(d) *Documentation*. Documentation of each charge against the ordering activity's account shall be provided to the Contracting Officer upon request.

(e) *Assignment of claims*. Notwithstanding any other provision of this contract, if any payment is made under this clause, then no payment under this contract shall be assigned under the provisions of the assignment of claims terms of this contract or the Assignment of Claims Act of 1940 (31 U.S.C. 3727, 41 U.S.C. 6305).

(f) *Other payment terms*. The other payment terms of this contract shall govern the content and submission of payment requests. If any clause requires information or documents in or with the payment request, that is not provided in the third party agreement referenced in paragraph (c) of this clause, the Contractor shall obtain instructions from the Contracting Officer before submitting such a payment request.

52.232-37 MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999)

This contract or agreement provides for payments to the Contractor through several alternative methods. The applicability of specific methods of payment and the designation of the payment office(s) are either stated—

(a) Elsewhere in this contract or agreement; or

(b) In individual orders placed under this contract or agreement.

52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)

(a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.

(b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

(c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

52.233-1 DISPUTES (MAY 2014)

(a) This contract is subject to 41 U.S.C chapter 71, Contract Disputes.

(b) Except as provided in 41 U.S.C chapter 71, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding $100,000 is not a claim under 41 U.S.C chapter 71 until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under 41 U.S.C chapter 71. The submission may be converted to a claim under 41 U.S.C chapter 71, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) (i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding $100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of $50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over $50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in 41 U.S.C chapter 71.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

52.233-3 PROTEST AFTER AWARD (AUG 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. 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. Upon receipt of the final decision in the protest, the Contracting Officer shall either—

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if—

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the request at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at anytime are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2), or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)

United States law will apply to resolve any claim of breach of this contract.

52.237-3 CONTINUITY OF SERVICES (JAN 1991) (DEVIATION – MAY 2003)

(a) The Contractor recognizes that the services under this contract are vital to the ordering activity and must be continued without interruption and that, upon contract expiration, a successor, either the ordering activity or another contractor, may continue them. The Contractor agrees to-

(1) Furnish phase-in training; and

(2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)

(a) The Contractor shall not publish or disclose in any manner, without the Contracting Officer's written consent, the details of any safeguards either designed or developed by the Contractor under this contract or otherwise provided by the Government.

(b) To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of Government data, the Contractor shall afford the Government access to the Contractor's facilities, installations, technical capabilities, operations, documentation, records, and databases.

(c) If new or unanticipated threats or hazards are discovered by either the Government or the Contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party.

52.242-13 BANKRUPTCY (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

52.242-15 STOP-WORK ORDER (AUG 1989)

(a) The Contracting 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 Contracting Officer shall either —

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if —

(1) The stop-work order results in an increase in the time required for, or in the Contractor’s cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

52.242-5 PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (JAN 2017)

(a) *Definitions*. As used in this clause —

Reduced payment means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

Untimely payment means a payment that is more than 90 days past due under the terms and conditions of a subcontract, for supplies and services for which the Government has paid the prime contractor.

(b) *Notice*. The Contractor shall notify the Contracting Officer, in writing, not later than 14 days after —

(1) A small business subcontractor was entitled to payment under the terms and conditions of the subcontract; and

(2) The Contractor —

(i) Made a reduced or untimely payment to the small business subcontractor; or

(ii) Failed to make a payment, which is now untimely.

(c) *Content of notice*. The Contractor shall include the reason(s) for making the reduced or untimely payment in any notice required under paragraph (b) of this clause.

52.246-4 INSPECTION OF SERVICES—FIXED-PRICE (AUG 1996) (DEVIATION - MAY 2003)

(a) Definition: "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the ordering activity covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the ordering activity during contract performance and for as long afterwards as the contract requires.

(c) The ordering activity has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The ordering activity shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the ordering activity performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the ordering activity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the ordering activity may—

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the ordering activity may--

(1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the ordering activity that is directly related to the performance of such service; or

(2) Terminate the contract for default.

52.247-29 F.O.B. ORIGIN (FEB 2006)

(a) The term "f.o.b. origin," as used in this clause, means free of expense to the Government delivered—

(1) On board the indicated type of conveyance of the carrier (or of the Government, if specified) at a designated point in the city, county, and State from which the shipment will be made and from which line-haul transportation service (as distinguished from switching, local drayage, or other terminal service) will begin;

(2) To, and placed on, the carrier's wharf (at shipside, within reach of the ship's loading tackle, when the shipping point is within a port area having water transportation service) or the carrier's freight station;

(3) To a U.S. Postal Service facility; or

(4) If stated in the solicitation, to any Government designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (the Federal Motor Carrier Safety Administration prescribes commercial zones at Subpart B of 49 CFR part 372).

(b) The Contractor shall—

(1) (i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2) (i) Order specified carrier equipment when requested by the Government; or

(ii) If not specified, order appropriate carrier equipment not in excess of capacity to accommodate shipment;

(3) Deliver the shipment in good order and condition to the carrier, and load, stow, trim, block, and/or brace carload or truckload shipment (when loaded by the Contractor) on or in the carrier's conveyance as required by carrier rules and regulations;

(4) Be responsible for any loss of and/or damage to the goods—

(i) Occurring before delivery to the carrier;

(ii) Resulting from improper packing and marking; or

(iii) Resulting from improper loading, stowing, trimming, blocking, and/or bracing of the shipment, if loaded by the Contractor on or in the carrier's conveyance;

(5) Complete the Government bill of lading supplied by the ordering agency or, when a Government bill of lading is not supplied, prepare a commercial bill of lading or other

transportation receipt. The bill of lading shall show—

(i) A description of the shipment in terms of the governing freight classification or tariff (or Government rate tender) under which lowest freight rates are applicable;

(ii) The seals affixed to the conveyance with their serial numbers or other identification;

(iii) Lengths and capacities of cars or trucks ordered and furnished;

(iv) Other pertinent information required to effect prompt delivery to the consignee, including name, delivery address, postal address and ZIP code of consignee, routing, etc.;

(v) Special instructions or annotations requested by the ordering agency for commercial bills of lading; e.g., "This shipment is the property of, and the freight charges paid to the carrier(s) will be reimbursed by, the Government"; and

(vi) The signature of the carrier's agent and the date the shipment is received by the carrier; and

(6) Distribute the copies of the bill of lading, or other transportation receipts, as directed by the ordering agency.

(c) These Contractor responsibilities are specified for performance at the plant or plants at which the supplies are to be finally inspected and accepted, unless the facilities for shipment by carrier's equipment are not available at the Contractor's plant, in which case the responsibilities shall be performed f.o.b. the point or points in the same or nearest city where the specified carrier's facilities are available; subject, however, to the following qualifications:

(1) If the Contractor's shipping plant is located in the State of Alaska or Hawaii, the Contractor shall deliver the supplies listed for shipment outside Alaska or Hawaii to the port of loading in Alaska or Hawaii, respectively, as specified in the contract, at Contractor's expense, and to that extent the contract shall be "f.o.b. destination."

(2) Notwithstanding subparagraph (c)(1) of this clause, if the Contractor's shipping plant is located in the State of Hawaii, and the contract requires delivery to be made by container service, the Contractor shall deliver the supplies, at the Contractor's expense, to the container yard in the same or nearest city where seavan container service is available.

Note: Regulation 52.247-29
Applicable to SINs 190 01, 190 02, 190 03, 190 04, 190 05, 190 06, 190 07, and 618 02

52.247-34 F.O.B. DESTINATION (NOV 1991) (DEVIATION – MAY 2003)

(a) The term "f.o.b. destination," as used in this clause, means—

(1) Free of expense to the ordering activity, on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and

(2) Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The ordering activity shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an

act or order of the ordering activity acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the National Motor Freight Classification for "heavy or bulky freight." When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the Contractor uses rail carrier or freight forwarder for less than carload shipments, the Contractor shall ensure that the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee.

(b) The Contractor shall—

(1) (i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;

(2) Prepare and distribute commercial bills of lading;

(3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;

(4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;

(5) Furnish a delivery schedule and designate the mode of delivering carrier; and

(6) Pay and bear all charges to the specified point of delivery.

Note: Regulation 52.247-34
Applicable to SINs 023 101, 023 LSV, 025 101, 125 102, 125 104, 271 101, 271 102, 271 103, 271 104, 271 105, 271 106, 271 107, 271 108, 271 112, 271 113, 271 114, 272 105, 272 106, 400 01, 400 02, 400 03, 967 01, 968 01, 096 1N, 096 2N, 096 2R, 096 3N, 096 3R, 096 4N, and 096 4R.

52.251-1 GOVERNMENT SUPPLY SOURCES (APR 2012)

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. The provisions of the clause at FAR 52.245-1, Government Property, apply to all property acquired under such authorization.

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

For contract clauses which are contained in the Federal Acquisition Regulation (FAR) the address is http://acquisition.gov/far/.

Number	Title	Clause/Provision
52.202-1	DEFINITIONS (NOV 2013)	Clause
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014)	Clause
52.203-3	GRATUITIES (APR 1984)	Clause
52.204-13	SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (OCT 2016)	Clause
52.204-19	INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)	Clause
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)	Clause
52.204-7	SYSTEM FOR AWARD MANAGEMENT (OCT 2016)	Clause
52.208-4	VEHICLE LEASE PAYMENTS (APR 1984)	Clause
52.208-5	CONDITION OF LEASED VEHICLES (APR 1984)	Clause
52.208-6	MARKING OF LEASED VEHICLES (APR 1984)	Clause
52.208-7	TAGGING OF LEASED VEHICLES (MAY 1986)	Clause
52.209-10	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (NOV 2015)	Clause
52.212-4	CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (JAN 2017) (DEVIATION I - FEB 2007)	Clause
52.216-22	INDEFINITE QUANTITY (OCT 1995)	Clause
52.217-8	OPTION TO EXTEND SERVICES (NOV 1999)	Clause
52.222-1	NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)	Clause
52.222-20	CONTRACTS FOR MATERIALS, SUPPLIES, ARTICLES, AND EQUIPMENT EXCEEDING $15,000 (MAY 2014)	Clause
52.222-49	SERVICE CONTRACT LABOR STANDARDS â## PLACE OF PERFORMANCE UNKNOWN (MAY 2014)	Clause
52.223-10	WASTE REDUCTION PROGRAM (MAY 2011)	Clause
52.223-17	AFFIRMATIVE PROCUREMENT OF	Clause

	EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)	
52.223-19	COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011)	Clause
52.223-2	AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (SEP 2013)	Clause
52.223-5	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011)	Clause
52.228-5	INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997)	Clause
52.229-1	STATE AND LOCAL TAXES (APR 1984) (DEVIATION I - MAY 2003)	Clause
52.232-36	PAYMENT BY THIRD PARTY (MAY 2014) (DEVIATION I - MAY 2003)	Clause
52.232-37	MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999)	Clause
52.233-1	DISPUTES (MAY 2014)	Clause
52.237-3	CONTINUITY OF SERVICES (JAN 1991) (DEVIATION I - MAY 2003)	Clause
52.242-13	BANKRUPTCY (JUL 1995)	Clause
52.242-15	STOP-WORK ORDER (AUG 1989)	Clause
52.242-5	PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (JAN 2017)	Clause
52.246-4	INSPECTION OF SERVICES--FIXED-PRICE (AUG 1996) (DEVIATION I - MAY 2003)	Clause
52.247-29	F.O.B. ORIGIN (FEB 2006)	Clause
52.247-34	F.O.B. DESTINATION (NOV 1991) (DEVIATION I - MAY 2003)	Clause
52.251-1	GOVERNMENT SUPPLY SOURCES (APR 2012)	Clause
552.211-75	PRESERVATION, PACKAGING, AND PACKING (FEB 1996) (ALTERNATE I - MAY 2003)	Clause
552.211-77	PACKING LIST (FEB 1996) (ALTERNATE I - MAY 2003)	Clause
552.229-71	FEDERAL EXCISE TAX--DC GOVERNMENT (SEP 1999)	Clause
552.232-83	CONTRACTOR'S BILLING RESPONSIBILITIES (MAY 2003)	Clause
552.238-73	CANCELLATION (SEP 1999)	Clause
552.238-77	DEFINITION (FEDERAL SUPPLY	Clause

	SCHEDULES) - NON-FEDERAL ENTITY (JUL 2016)	
552.238-79	USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS BY NON-FEDERAL ENTITIES (JUL 2016)	Clause
C-FSS-412	CHARACTERISTICS OF ELECTRIC CURRENT (MAY 2000)	Clause
D-FSS-471	MARKING AND DOCUMENTATION REQUIREMENTS PER SHIPMENT (APR 1984)	Clause
D-FSS-477	TRANSSHIPMENTS (APR 1984)	Clause
I-FSS-314	FOREIGN TAXES AND DUTIES (DEC 1990)	Clause
I-FSS-594	PARTS AND SERVICE (OCT 1988)	Clause

552.203-71 RESTRICTION ON ADVERTISING (SEP 1999)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the White House, the Executive Office of the President, or any other element of the Federal Government, or is considered by these entities to be superior to other products or services. Any advertisement by the Contractor, including price-off coupons, that refers to a military resale activity shall contain the following statement: "This advertisement is neither paid for nor sponsored, in whole or in part, by any element of the United States Government."

552.211-75 PRESERVATION, PACKAGING, AND PACKING (FEB 1996) (ALTERNATE I - MAY 2003)

Unless otherwise specified, all items shall be preserved, packaged, and packed in accordance with normal commercial practices, as defined in the applicable commodity specification. Packaging and packing shall comply with the requirements of the Uniform Freight Classification and the National Motor Freight Classification (issue in effect at time of shipment) and each shipping container of each item in a shipment shall be of uniform size and content, except for residual quantities. Where special or unusual packing is specified in an order, but not specifically provided for by the contract, such packing details must be the subject of an agreement independently arrived at between the ordering activity and the Contractor.

552.211-77 PACKING LIST (FEB 1996) (ALTERNATE I – MAY 2003)

(a) A packing list or other suitable shipping document shall accompany each shipment and shall indicate: (1) Name and address of consignor; (2) Name and complete address of consignee; (3) Ordering activity order or requisition number; (4) Government bill of lading number covering the shipment (if any); and (5) Description of the material shipped, including item number, quantity, number of containers, and package number (if any).

(b) When payment will be made by Ordering activity commercial credit card, in addition to the information in (a) above, the packing list or shipping document shall include: (1) Cardholder name and telephone number; and (2) the term "Credit Card."

552.211-92 RADIO FREQUENCY IDENTIFICATION (RFID) USING PASSIVE TAGS (JAN 2010)

Radio Frequency Identification shall be required on all non-bulk shipments to the Defense Logistics Agency

(DLA) or Department of Defense (DoD) destinations. Shipments shall be tagged in accordance with 48 CFR clause 252.211–7006. Shipments to GSA Distribution Centers with final destinations to DLA and DoD shall be in compliance to 48 CFR 252.211–7006. Copies may be obtained from http://www.access.gpo.gov/nara/cfr/cfr-tablesearch.html

552.212-4 CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS (JAN 2017) (DEVIATION – FEB 2007) (DEVIATION - FEB 2018)

(a) *Inspection/Acceptance*. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the ordering activity may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The ordering activity must exercise its post-acceptance rights —

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment*. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the credit card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes*. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes*. This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions*. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the ordering activity in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice*.

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include —

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on an ordering activity bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, *Payment by Electronic Funds Transfer — System for Award Management*, or 52.232-34, *Payment by Electronic Funds Transfer—Other Than System for Award Management*), or applicable agency procedures.

(C) EFT banking information is not required if the ordering activity waived the requirement to pay by EFT.

(2) The due date for making invoice payments by the designated payment office is the later of the following two events:

(i) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(ii) The 10th day after ordering activity acceptance of supplies delivered or services-performed by the Contractor.

(h) *Patent indemnity*. The Contractor shall indemnify the ordering activity and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment*.

(1) *Items accepted*. Payment shall be made for items accepted by the ordering activity that have

been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The ordering activity will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer (EFT).* If the ordering activity makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the ordering activity has otherwise overpaid on a contract financing or invoice payment, the Contractor shall —

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the —

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) Interest.

(i) All amounts that become payable by the Contractor to the ordering activity under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The ordering activity may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if —

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on —

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of an ordering activity check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss*. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the ordering activity upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the ordering activity at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes*. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the ordering activity's convenience*. The ordering activity reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the ordering activity using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the ordering activity any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause*. The ordering activity may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the ordering activity, upon request, with adequate assurances of future performance. In the event of termination for cause, the ordering activity shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the ordering activity for any and all rights and remedies provided by law. If it is determined that the ordering activity improperly terminated this contract for default, such termination shall be

deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the ordering activity upon acceptance, regardless of when or where the ordering activity takes physical possession.

(o) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability*. Except as otherwise provided by an express warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances*. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts*. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) *Order of precedence*. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, Unauthorized Obligations, and Commercial Supplier Agreements – Unenforceable Clauses paragraphs of this clause.

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any commercial supplier agreements as amended by the Commercial Supplier Agreements – Unenforceable Clauses provision.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) System for Award Management (SAM).

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the ordering activity's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of Subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through *https://www.acquisition.gov*.

(u) *Unauthorized Obligations*.

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any commercial supplier agreement (as defined in 502.101) that includes any language, provision, or clause requiring the ordering activity to pay any future fees, penalties, interest, legal costs or to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such language, provision, or clause is unenforceable against the ordering activity.

(ii) Neither the ordering activity nor any ordering activity authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the ordering activity or any ordering activity authorized end user to such clause.

(iii) Any such language, provision, or clause is deemed to be stricken from the commercial supplier agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification or any other payment by the ordering activity that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Incorporation by reference*. The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(w) *Commercial supplier agreements – unenforceable clauses.*When any supply or service acquired under this contract is subject to a commercial supplier agreement (as defined in 502.101), the following language shall be deemed incorporated into the commercial supplier agreement. As used herein, "this agreement" means the commercial supplier agreement:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the ordering activity, the following shall apply:

(i) *Applicability*. This agreement is a part of a contract between the commercial supplier and the ordering activity for the acquisition of the supply or service that necessitates a license (including all contracts, task orders, and delivery orders under FAR Part 12).

(ii) *End user*. This agreement shall bind the ordering activity as end user but shall not operate to bind an ordering activity employee or person acting on behalf of the ordering activity in his or her personal capacity.

(iii) *Law and disputes*. This agreement is governed by Federal law.

(A) Any language purporting to subject the ordering activity to the laws of a U.S. state, U.S. territory, district, or municipality, or a foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(B) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(C) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(iv) *Continued performance*. The supplier or licensor shall not unilaterally revoke, terminate or suspend any rights granted to the ordering activity except as allowed by this contract. If the supplier or licensor believes the ordering activity to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in subparagraph (d) (Disputes).

(v) *Arbitration; equitable or injunctive relief.* In the event of a claim or dispute arising under or relating to this agreement, a binding arbitration shall not be used unless specifically authorized by agency guidance, and equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the ordering activity only when explicitly provided by statute (*e.g.*, Prompt Payment Act or Equal Access to Justice Act).

(vi) *Updating terms.*

(A) After award, the contractor may unilaterally revise commercial supplier agreement terms if they are not material. A material change is defined as:

(*1*) Terms that change the ordering activity's rights or obligations;

(*2*) Terms that increase ordering activity prices;

(*3*) Terms that decrease overall level of service; or

(*4*) Terms that limit any other ordering activity right addressed elsewhere in this contract.

(B) For revisions that will materially change the terms of the contract, the revised commercial supplier agreement must be incorporated into the contract using a bilateral modification.

(C) Any agreement terms or conditions unilaterally revised subsequent to award

that are inconsistent with any material term or provision of this contract shall not be enforceable against the ordering activity, and the ordering activity shall not be deemed to have consented to them.

(vii) *No automatic renewals*. If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express consent by an authorized ordering activity representative.

(viii) *Indemnification*. Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(ix) *Audits.* Any clause of this agreement permitting the commercial supplier or licensor to audit the end user's compliance with this agreement is hereby amended as follows:

(A) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the ordering activity. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying ordering activity contract or order.

(B) This charge, if disputed by the ordering activity, will be resolved in accordance with subparagraph (d) (Disputes); no payment obligation shall arise on the part of the ordering activity until the conclusion of the dispute process.

(C) Any audit requested by the contractor will be performed at the contractor's expense, without reimbursement by the ordering activity.

(x) *Taxes or surcharges*. Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the ordering activity as end user will be governed by the terms of the underlying contract or order and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the ordering activity contract.

(xi) *Non-assignment*. This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the ordering activity's prior approval, except as expressly permitted under subparagraph (b) of this clause.

(xii) *Confidential information*. If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the contract price list, as applicable, shall be deemed "confidential information." Issues regarding release of "unit pricing" will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in this agreement to the contrary, the ordering activity may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this agreement.

(2) If any language, provision, or clause of this agreement conflicts or is inconsistent with the preceding paragraph (w)(1), the language, provisions, or clause of paragraph (w)(1) shall prevail to the extent of such inconsistency.

552.212-4 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (JAN 2017) (DEVIATION - FEB 2018) (ALTERNATE I - JAN 2017) (DEVIATION - FEB 2007)

(a) *Inspection/Acceptance*.

(1) The ordering activity has the right to inspect and test all materials furnished and services performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The ordering activity may also inspect the plant or plants of the Contractor or any subcontractor engaged in contract performance. The ordering activity will perform inspections and tests in a manner that will not unduly delay the work.

(2) If the ordering activity performs inspection or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(3) Unless otherwise specified in the contract, the ordering activity will accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they will be presumed accepted 60 days after the date of delivery, unless accepted earlier.

(4) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the ordering activity may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (a)(6) of this clause, the cost of replacement or correction shall be determined under paragraph (i) of this clause, but the “hourly rate” for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified below, the portion of the “hourly rate” attributable to profit shall be 10 percent. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken. [*Insert portion of labor rate attributable to profit.*]

(5) (i) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the ordering activity), the ordering activity may —

(A) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or

(B) Terminate this contract for cause.

(ii) Failure to agree to the amount of increased cost to be charged to the Contractor shall be a dispute under the Disputes clause of the contract.

(6) Notwithstanding paragraphs (a)(4) and (5) above, the ordering activity may at any time require the Contractor to remedy by correction or replacement, without cost to the ordering activity, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to —

(i) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or

(ii) The conduct of one or more of the Contractor’s employees selected or retained by the Contractor after any of the Contractor’s managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(7) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.

(8) The Contractor has no obligation or liability under this contract to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.

(9) Unless otherwise specified in the contract, the Contractor's obligation to correct or replace ordering activity-furnished property shall be governed by the clause pertaining to ordering activity property.

(b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) Disputes. This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions*.

(1) The clause at FAR 52.202-1, Definitions, is incorporated herein by reference. As used in this clause —

(i) Direct materials means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service.

(ii) Hourly rate means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are —

(A) Performed by the contractor;

(B) Performed by the subcontractors; or

(C) Transferred between divisions, subsidiaries, or affiliates of the contractor under a common control.

(iii) *Materials* means —

(A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the contractor under a common control;

(B) Subcontracts for supplies and incidental services for which there is not a labor category specified in the contract;

(C) Other direct costs (e.g., incidental services for which there is not a labor category specified in the contract, travel, computer usage charges, etc.);

(D) The following subcontracts for services which are specifically excluded from the hourly rate: Each order must list separately subcontracts for services excluded

from the FSS Hourly Rates; and

(E) Indirect costs specifically provided for in this clause.

(iv) *Subcontrac*t means any contract, as defined in FAR subpart 2.1, entered into with a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract including transfers between divisions, subsidiaries, or affiliates of a contractor or subcontractor. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(f) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the ordering activity in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice.

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on ordering activity bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, *Payment by Electronic Funds Transfer—System for Award Management*, or 52.232-34, *Payment by Electronic Funds Transfer—Other Than System for Award Management)*, or applicable agency

procedures.

(C) EFT banking information is not required if the ordering activity waived the requirement to pay by EFT.

(2) The due date for making invoice payments by the designated payment office is the later of the following two events:

(i) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(ii) The 10th day after ordering activity acceptance of supplies delivered or services performed by the Contractor.

(h) *Patent indemnity*. The Contractor shall indemnify the ordering activity and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payments*.

(1) Work performed. The ordering activity will pay the Contractor as follows upon the submission of commercial invoices approved by the Contracting Officer:

(i) Hourly rate.

(A) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the contract by the number of direct labor hours performed. Fractional parts of an hour shall be payable on a prorated basis.

(B) The rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by individuals that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.

(C) Invoices may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer) to the Contracting Officer or the authorized representative.

(D) When requested by the Contracting Officer or the authorized representative, the Contractor shall substantiate invoices (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment, individual daily job timecards, records that verify the employees meet the qualifications for the labor categories specified in the contract, or other substantiation specified in the contract.

(E) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis.

(1) If no overtime rates are provided in the Schedule and the Contracting

Officer approves overtime work in advance, overtime rates shall be negotiated.

(2) Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes clause of this contract.

(3) If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(ii) Materials.

(A) If the Contractor furnishes materials that meet the definition of a commercial item at 2.101, the price to be paid for such materials shall not exceed the Contractor's established catalog or market price, adjusted to reflect the —

(1) Quantities being acquired; and

(2) Any modifications necessary because of contract requirements.

(B) Except as provided for in paragraph (i)(1)(ii)(A) and (D)(2) of this clause, the ordering activity will reimburse the Contractor the actual cost of materials (less any rebates, refunds, or discounts received by the contractor that are identifiable to the contract) provided the Contractor —

(1) Has made payments for materials in accordance with the terms and conditions of the agreement or invoice; or

(2) Makes these payments within 30 days of the submission of the Contractor's payment request to the ordering activity and such payment is in accordance with the terms and conditions of the agreement or invoice.

(C) To the extent able, the Contractor shall —

(1) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(2) Give credit to the ordering activity for cash and trade discounts, rebates, scrap, commissions, and other amounts that are identifiable to the contract.

(D) Other Costs. Unless listed below, other direct and indirect costs will not be reimbursed.

(1) Other Direct Costs. The ordering activity will reimburse the Contractor on the basis of actual cost for the following, provided such costs comply with the requirements in paragraph (i)(1)(ii)(B) of this clause: **Each order must list separately the elements of other direct costs for that order.**

(2) Indirect Costs (Material Handling, Subcontract Administration, etc.). The ordering activity will reimburse the Contractor for indirect costs on a pro-rata basis over the period of contract performance at the following fixed price: **Each order must list separately the fixed amount for the indirect costs and payment schedule; if no indirect costs are approved, insert "None."**

(2) *Total cost*. It is estimated that the total cost to the ordering activity for the performance of this contract shall not exceed the ceiling price set forth in the Schedule and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a revised estimate of the total price to the ordering activity for performing this contract with supporting reasons and documentation. If at any time during the performance of this

contract, the Contractor has reason to believe that the total price to the ordering activity for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performance of this contract, the ordering activity has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(3) *Ceiling price*. The ordering activity will not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer notifies the Contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

(4) *Access to records*. At any time before final payment under this contract, the Contracting Officer (or authorized representative) will have access to the following (access shall be limited to the listing below unless otherwise agreed to by the Contractor and the Contracting Officer):

(i) Records that verify that the employees whose time has been included in any invoice meet the qualifications for the labor categories specified in the contract;

(ii) For labor hours (including any subcontractor hours reimbursed at the hourly rate in the schedule), when timecards are required as substantiation for payment —

(A) The original timecards (paper-based or electronic);

(B) The Contractor’s timekeeping procedures;

(C) Contractor records that show the distribution of labor between jobs or contracts; and

(D) Employees whose time has been included in any invoice for the purpose of verifying that these employees have worked the hours shown on the invoices.

(iii) For material and subcontract costs that are reimbursed on the basis of actual cost —

(A) Any invoices or subcontract agreements substantiating material costs; and

(B) Any documents supporting payment of those invoices.

(5) *Overpayments/Underpayments*. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. The Contractor shall promptly pay any such reduction within 30 days unless the parties agree otherwise. The ordering activity within 30 days will pay any such increases, unless the parties agree otherwise. The Contractor’s payment will be made by check. If the Contractor becomes aware of a duplicate invoice payment or that the ordering activity has otherwise overpaid on an invoice payment, the Contractor shall —

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the —

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous

payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) (i) All amounts that become payable by the Contractor to the ordering activity under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury, as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six month period as established by the Secretary until the amount is paid.

(ii) The ordering activity may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) Final Decisions. The Contracting Officer will issue a final decision as required by 33.211 if —

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see FAR 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on —

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a ordering activity check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would

otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(viii) Upon receipt and approval of the invoice designated by the Contractor as the "completion invoice" and supporting documentation, and upon compliance by the Contractor with all terms of this contract, any outstanding balances will be paid within 30 days unless the parties agree otherwise. The completion invoice, and supporting documentation, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event later than 1 year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(7) *Release of claims*. The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the ordering activity, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions.

(i) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible to exact statement by the Contractor.

(ii) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the ordering activity is prepared to make final payment, whichever is earlier.

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the ordering activity against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(8) *Prompt payment*. The ordering activity will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(9) *Electronic Funds Transfer (EFT).* If the ordering activity makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(10) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(j) *Risk of loss*. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the ordering activity upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the ordering activity at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes*. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the ordering activity's convenience*. The ordering activity reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid an amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the contract, less any hourly rate payments already made to the Contractor plus reasonable charges the Contractor can demonstrate to the satisfaction of the ordering activity using its standard record keeping system that have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the ordering activity any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(m) *Termination for cause*. The ordering activity may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the ordering activity, upon request, with adequate assurances of future performance. In the event of termination for cause, the ordering activity shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the ordering activity for any and all rights and remedies provided by law. If it is determined that the ordering activity improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the ordering activity upon acceptance, regardless of when or where the ordering activity takes physical possession.

(o) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability*. Except as otherwise provided by an express warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances*. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts*. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) *Order of precedence*. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, Unauthorized Obligations, and Commercial Supplier Agreements - Unenforceable Clauses paragraphs of this clause.

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any commercial supplier agreements as amended by the Commercial Supplier Agreements - Unenforceable Clauses provision.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) *System for Award Management (SAM).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the ordering activity's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through https://www.acquisition.gov.

(u) *Unauthorized Obligations.*

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any commercial supplier agreement (as defined in 502.101) that includes any language, provision, or clause requiring the ordering activity to pay any future fees, penalties, interest, legal costs or to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such language, provision, or clause is unenforceable against the ordering activity.

(ii) Neither the ordering activity nor any ordering activity authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the ordering activity or any ordering activity authorized end user to such clause.

(iii) Any such language, provision, or clause is deemed to be stricken from the commercial supplier agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification or any other payment by the ordering activity that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Incorporation by reference*. The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(w) *Commercial supplier agreements–unenforceable clauses*. When any supply or service acquired under this contract is subject to a commercial supplier agreement (as defined in 502.101), the following language shall be deemed incorporated into the commercial supplier agreement. As used herein, "this agreement" means the commercial supplier agreement:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the ordering activity, the following shall apply:

(i) Applicability. This agreement is a part of a contract between the commercial supplier and the ordering activity for the acquisition of the supply or service that necessitates a license or other similar legal instrument (*including all contracts, task orders, and delivery orders under FAR Part 12*).

(ii) End user. This agreement shall bind the ordering activity as end user but shall not operate to bind an ordering activity employee or person acting on behalf of the ordering activity in his or her personal capacity.

(iii) Law and disputes. This agreement is governed by Federal law.

(A) Any language purporting to subject the ordering activity to the laws of a U.S. state, U.S. territory, district, or municipality, or a foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(B) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(C) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(iv) Continued performance. The supplier or licensor shall not unilaterally revoke, terminate or suspend any rights granted to the ordering activity except as allowed by this contract. If the supplier or licensor believes the ordering activity to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in subparagraph (d) (Disputes).

(v) Arbitration; equitable or injunctive relief. In the event of a claim or dispute arising under or relating to this agreement, a binding arbitration shall not be used unless specifically authorized by agency guidance, and equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the ordering activity only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to

Justice Act).

(vi) Updating terms.

(A) After award, the contractor may unilaterally revise commercial supplier agreement terms if they are not material. A material change is defined as:

(1) Terms that change ordering activity rights or obligations;

(2) Terms that increase ordering activity prices;

(3) Terms that decrease overall level of service; or

(4) Terms that limit any other ordering activity right addressed elsewhere in this contract.

(B) For revisions that will materially change the terms of the contract, the revised commercial supplier agreement must be incorporated into the contract using a bilateral modification.

(C) Any agreement terms or conditions unilaterally revised subsequent to award that are inconsistent with any material term or provision of this contract shall not be enforceable against the ordering activity, and the ordering activity shall not be deemed to have consented to them.

(vii) No automatic renewals. If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express consent by an authorized ordering activity representative.

(viii) Indemnification. Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(ix) Audits. Any clause of this agreement permitting the commercial supplier or licensor to audit the end user’s compliance with this agreement is hereby amended as follows:

(A) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the ordering activity. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying ordering activity contract or order.

(B) This charge, if disputed by the ordering activity, will be resolved in accordance with subparagraph (d) (Disputes); no payment obligation shall arise on the part of the ordering activity until the conclusion of the dispute process.

(C) Any audit requested by the contractor will be performed at the contractor's expense, without reimbursement by the ordering activity.

(x) Taxes or surcharges. Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the ordering activity as end user will be governed by the terms of the underlying ordering activity contract or order and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the ordering activity contract.

(xi) Non-assignment. This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the ordering activity’s prior approval, except as expressly permitted under subparagraph (b) of this clause.

(xii) Confidential information. If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the contract price list, as applicable, shall be deemed "confidential information." Issues regarding release of "unit pricing" will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in this agreement to the contrary, the ordering activity may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this agreement.

(2) If any language, provision, or clause of this agreement conflicts or is inconsistent with the preceding paragraph (w)(1), the language, provisions, or clause of paragraph (w)(1) shall prevail to the extent of such inconsistency.

552.212-71 CONTRACT TERMS AND CONDITIONS APPLICABLE TO GSA ACQUISITION OF COMMERCIAL ITEMS (JUN 2016)

(a) The Contractor agrees to comply with any clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The clauses in paragraph (b) of this section are incorporated by reference:

[*The Contracting Officer should check the clauses that apply or delete the clauses that do not apply from the list. The Contracting Officer may add the date of the clause if desired for clarity.]*

(b) Clauses.

Yes 552.203-71 Restriction on Advertising

Yes 552.211-73 Marking

No 552.215-70 Examination of Records by GSA

Yes 552.215-71 Examination of Records by GSA (Multiple Award Schedule)

Yes 552.215-72 Price Adjustment —Failure to Provide Accurate Information

Yes 552.219-70 Allocation of Orders—Partially Set-Aside Items

No 552.228-70 Workers' Compensation Laws

Yes 552.229-70 Federal, State, and Local Taxes

No 552.232-8 Discounts for Prompt Payment

Yes 552.232-23 Assignment of Claims

No 552.232-71 Adjusting Payments

No 552.232-72 Final Payment

No 552.232-73 Availability of Funds

No 552.232-78 Payment Information

No 552.237-71 Qualifications of Employees

Yes 552.238-71 Submission and Distribution of Authorized FSS Schedule Price List

Yes 552.238-74 Industrial Funding Fee and Sales Reporting

Yes 552.238-75 Price Reductions

No 552.238-81 Modifications (Multiple Award Schedule)

No 552.242-70 Status Report of Orders and Shipments

No 552.246-73 Warranty—Multiple Award Schedule

No 552.246-76 Warranty of Pesticides

552.212-72 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO GSA ACQUISITION OF COMMERCIAL ITEMS (JUN 2015)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement provisions of law or Executive Orders applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

(a) Provisions.

_____ 552.223-72 Hazardous Material Information

(b) Clauses.

_____ 552.223-70 Hazardous Substances.

_____ 552.223-71 Nonconforming Hazardous Material.

_____ 552.223-73 Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments.

_____ 552.238-70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped.

_____ 552.238-72 Identification of Products That Have Environmental Attributes.

552.215-71 EXAMINATION OF RECORDS BY GSA (MULTIPLE AWARD SCHEDULE) (JUL 2003)

The Contractor agrees that the Administrator of General Services or any duly authorized representative shall have access to and the right to examine any books, documents, papers and records of the Contractor involving transactions related to this contract for overbillings, billing errors, compliance with the Price Reduction clause and compliance with the Industrial Funding Fee and Sales Reporting clause of this contract. This authority shall expire 3 years after final payment. The basic contract and each option shall be treated as separate contracts for purposes of applying this clause.

552.215-73 NOTICE (JUL 2016)

(a) The information collection requirements contained in this solicitation/contract are either required by regulation or approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned OMB Control No. 3090-0163.

(b) GSA's hours of operation are 8:00 a.m. to 4:30 p.m. Requests for pre-award debriefings postmarked or otherwise submitted after 4:30 p.m. will be considered submitted the following business day. Requests for post-award debriefings delivered after 4:30 p.m. will be considered received and filed the following business day.

552.216-70 ECONOMIC PRICE ADJUSTMENT – FSS MULTIPLE AWARD SCHEDULE CONTRACTS (SEP 1999) (ALTERNATE I – SEP 1999)

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

(a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reductions clause.

(b) Contractors may request price increases to be effective on or after the first 12 months of the contract period providing all of the following conditions are met:

(1) Increases resulting from a reissue or other modification of the Contractor's commercial catalog/price list that was used as the basis for the contract award.

(2) No more than three increases will be considered during each succeeding 12-month period of the contract. (For succeeding contract periods of less than 12 months, up to three increases will be considered subject to the other conditions of this subparagraph (b)).

(3) Increases are requested before the last 60 days of the contract period.

(4) At least 30 days elapse between requested increases.

(c) In any contract period during which price increases will be considered, the aggregate of the increases during any 12-month period shall not exceed 10 percent of the contract unit price in effect at the end of the preceding 12-month period. The Government reserves the right to raise the ceiling when market conditions during the contract period support such a change. [*Insert the percentage appropriate at the time the solicitation is issued. This percentage should be determined based on the trend established by an appropriate index such as the Producer Prices and Price Index. A ceiling of more than 10 percent must be approved by the Contracting Director*.]

(d) The following material shall be submitted with the request for a price increase:

(1) A copy of the commercial catalog/price list showing the price increase and the effective date for commercial customers.

(2) Commercial Sales Practices Format regarding the Contractor's commercial pricing practice relating to the reissued or modified catalog/price list, or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.

(3) Documentation supporting the reasonableness of the price increase.

(e) The Government reserves the right to exercise one of the following options:

(1) Accept the Contractor's price increases as requested when all conditions of (b), (c), and (d) of

this clause are satisfied;

(2) Negotiate more favorable discounts from the new commercial prices when the total increase requested is not supported; or,

(3) Remove the product(s) from contract involved pursuant to the Cancellation clause of this contract, when the increase requested is not supported.

(f) The increased contract prices shall apply to delivery orders issued to the Contractor on or after the effective date of the contract modification.

552.223-73 PRESERVATION, PACKAGING, PACKING, MARKING AND LABELING OF HAZARDOUS MATERIALS (HAZMAT) FOR SHIPMENTS (JUN 2015)

(a) *Definition. United States*, as used in this clause, means the 48 adjoining U.S. States, Alaska, Hawaii, and U.S. territories and possessions, such as Puerto Rico.

(b) Preservation, packaging, packing, marking and labeling of hazardous materials for export shipment outside the United States in all transport modes shall comply with the following, as applicable:

(1) International Maritime Dangerous Goods (IMDG) Code as established by the International Maritime Organization (IMO).

(2) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180. (Note: Classifications permitted by the HMR, but not permitted by the IMDG code, such as Consumer Commodities classed as ORM–D, shall be packaged in accordance with the IMDG Code and dual-marked with both Consumer Commodity and IMDG marking and labeling.)

(3) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.

(4) International Air Transport Association (IATA), Dangerous Goods Regulation and/or International Civil Aviation Organization (ICAO), Technical Instructions.

(5) AFMAN 24–204, Air Force Inter- Service Manual, Preparing Hazardous Materials For Military Air Shipments.

(6) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(c) Preservation, packaging, packing, marking and labeling of hazardous materials for domestic shipments within the United States in all transport modes shall comply with the following; as applicable:

(1) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180.

(2) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.

(3) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(d) Hazardous Material Packages designated for outside the United States destinations through Forwarding Points, Distribution Centers, or Container Consolidation Points (CCPs) shall comply with the IMDG, IATA, ICAO or AFMAN 24–204 codes, as applicable.

(e) The test certification data showing compliance with performance-oriented packaging or UN-approved packaging requirements shall be made available to GSA contract administration/management representatives or regulatory inspectors upon request.

552.229-70 FEDERAL, STATE, AND LOCAL TAXES (APR 1984)

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

552.229-71 FEDERAL EXCISE TAX—DC GOVERNMENT (SEP 1999)

If the District of Columbia cites an Internal Revenue Tax Exempt Certificate Number on orders placed under this contract, the Contractor shall bill shipments to the District of Columbia at prices exclusive of Federal excise tax and show the amount of such tax on the invoice.

552.232-23 ASSIGNMENT OF CLAIMS (SEP 1999)

Because this is a requirements or indefinite quantity contract under which more than one agency may place orders, paragraph (a) of the Assignment of Claims clause (FAR 52.232-23) is inapplicable and the following is substituted therefor:

In order to prevent confusion and delay in making payment, the Contractor shall not assign any claim(s) for amounts due or to become due under this contract. However, the Contractor is permitted to assign separately to a bank, trust company, or other financial institution, including any Federal lending agency, under the provisions of the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereinafter referred to as "the Act"), all amounts due or to become due under any order amounting to $1,000 or more issued by any Government agency under this contract. Any such assignment takes effect only if and when the assignee files written notice of the assignment together with a true copy of the instrument of assignment with the contracting officer issuing the order and the finance office designated in the order to make payment. Unless otherwise stated in the order, payments to an assignee of any amounts due or to become due under any order assigned may, to the extent specified in the Act, be subject to reduction or set-off.

552.232-83 CONTRACTOR’S BILLING RESPONSIBILITIES (MAY 2003)

The Contractor is required to perform all billings made pursuant to this contract. However, if the Contractor has dealers that participate on the contract and the billing/payment process by the Contractor for sales made by the dealer is a significant administrative burden, the following alternative procedures may be used. Where dealers are allowed by the Contractor to bill ordering activities and accept payment in the Contractor’s name, the Contractor agrees to obtain from all dealers participating in the performance of the contract a written agreement, which will require dealers to—

(1) Comply with the same terms and conditions regarding prices as the Contractor for sales made under the contract;

(2) Maintain a system of reporting sales under the contract to the manufacturer, which includes—

(i) The date of sale;

(ii) The ordering activity to which the sale was made;

(iii) The service or product/model sold;

(iv) The quantity of each service or product/model sold;

(v) The price at which it was sold, including discounts; and

(vi) All other significant sales data.

(3) Be subject to audit by the Government, with respect to sales made under the contract; and

(4) Place orders and accept payments in the name of the Contractor in care of the dealer.

An agreement between a Contractor and its dealers pursuant to this procedure will not establish privity of contract between dealers and the Government**.**

(Note: This is an FSS reproduction using word processing software) **STANDARD FORM 1449** (10-95) **(BACK)**

552.238-71 SUBMISSION AND DISTRIBUTION OF AUTHORIZED FSS SCHEDULE PRICE LISTS (SEP 1999) (DEVIATION - JUN 2016)

(a) At the time of offer submission, an electronic version of proposed prices, including terms and conditions, will be submitted utilizing the templates in eOffer. If necessary, eOffer will facilitate the revision of proposed pricing or price-related terms and conditions during the evaluation process. Upon award of a contract, eOffer will use the submitted pricing information to create the Contractor's Authorized Federal Supply Schedule Price List and post it to GSA Advantage!.

(b) During the period of the contract, the Contractor shall provide its Authorized Federal Supply Schedule Price List to eligible ordering activities upon request.

Note: Regulation 552.238-71
The requirements regarding FSS Schedule price lists provided in Clause 552.238-71 SUBMISSION AND DISTRIBUTION OF AUTHORIZED FSS SCHEDULE PRICE LISTS (SEP 1999) (DEVIATION - JUN 2016) are applicable to contracts under Formatted Product Tool (FPT) Schedules/SINs only. The following requirements are applicable to contracts under non-FPT Schedules/SINs:
(a) The Contracting Officer will return one copy of the Authorized FSS Schedule Pricelist to the Contractor with the notification of contract award.
(b) The Contracting Officer will provide detailed instructions for the electronic submission with the award notification. Some structured data entry in a prescribed format may be required.
(c) During the period of the contract, the Contractor shall provide one copy of its Authorized FSS Schedule Pricelist to any authorized Schedule user, upon request.

552.238-72 IDENTIFICATION OF PRODUCTS THAT HAVE ENVIRONMENTAL ATTRIBUTES (SEP 2003)

(a) Several laws, Executive orders and Agency directives require Federal buyers to purchase products that are less harmful to the environment, when they are life cycle cost-effective (see FAR Subpart 23.7). The U.S. General Services Administration (GSA) requires contractors to highlight environmental products under Federal Supply Service schedule contracts in various communications media (e.g., publications and electronic formats).

(b) Definitions. As used in this clause —

Energy-efficient product means a product that—

(1) Meets Department of Energy and Environmental Protection Agency criteria for use of the ENERGY STAR [reg] trademark label; or

(2) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

GSA Advantage!® is an on-line shopping mall and ordering system that provides customers with access to products and services under GSA contracts.

Other environmental attributes refers to product characteristics that provide environmental benefits, excluding recovered materials and energy and water efficiency. Several examples of these characteristics are biodegradable, recyclable, reduced pollutants, ozone safe, and low volatile organic compounds (VOCs).

Post-consumer material means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Post-consumer material is part of the broader category of "recovered material." The Environmental Protection Agency (EPA) has developed a list of EPA-designated products in their Comprehensive Procurement Guidelines (CPGs) to provide Federal agencies with purchasing recommendations on specific products in a Recovered Materials Advisory Notice (RMAN). The RMAN contains recommended recovered and post-consumer material content levels for the specific products designated by EPA (40 CFR part 247 and http://www.epa.gov/cpg/).

Recovered materials means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (Executive Order 13101 and 42 U.S.C. 6903 (19) and http://www.epa.gov/cpg/). For paper and paper products, see the definition at FAR 11.301 (42 U.S.C. 6962 (h)).

Remanufactured means factory rebuilt to original specifications.

Renewable energy means energy produced by solar, wind, geothermal, and biomass power.

Renewable energy technology means—

(1) Technologies that use renewable energy to provide light, heat, cooling, or mechanical or electrical energy for use in facilities or other activities; or

(2) The use of integrated whole-building designs that rely upon renewable energy resources, including passive solar design.

(c) (1) The offeror must identify products that—

(i) Are compliant with the recovered and post-consumer material content levels recommended in the Recovered Materials Advisory Notices (RMANs) for EPA-designated products in the CPG program (http://www.epa.gov/cpg/);

(ii) Contain recovered materials that either do not meet the recommended levels in the RMANs or are not EPA-designated products in the CPG program (see FAR 23.401 and http://www.epa.gov/cpg/);

(iii) Are energy-efficient, as defined by either ENERGY STAR [reg] and/or FEMP's designated top 25th percentile levels (see ENERGY STAR [reg] at

http://www.energystar.gov/ and FEMP at http://www.eere.energy.gov/);

(iv) Are water-efficient;

(v) Use renewable energy technology;

(vi) Are remanufactured; and

(vii) Have other environmental attributes.

(2) These identifications must be made in each of the offeror's following mediums:

(i) The offer itself.

(ii) Printed commercial catalogs, brochures, and pricelists.

(iii) Online product website.

(iv) Electronic data submission for GSA *Advantage!* ® submitted via GSA's Schedules Input Program (SIP) software or the Electronic Data Inter-change (EDI). Offerors can use the SIP or EDI methods to indicate environmental and other attributes for each product that is translated into respective icons in GSA *Advantage!* ® .

(d) An offeror, in identifying an item with an environmental attribute, must possess evidence or rely on a reasonable basis to substantiate the claim (see 16 CFR part 260, Guides for the Use of Environmental Marketing Claims). The Government will accept an offeror's claim of an item's environmental attribute on the basis of—

(1) Participation in a Federal agency-sponsored program (e.g., the EPA and DOE ENERGY STAR [reg] product labeling program);

(2) Verification by an independent organization that specializes in certifying such claims; or

(3) Possession of competent and reliable evidence. For any test, analysis, research, study, or other evidence to be "competent and reliable," it must have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

552.238-73 CANCELLATION (SEP 1999)

Either party may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 30 calendar days after the other party receives the notice of cancellation. If the Contractor elects to cancel this contract, the Government will not reimburse the minimum guarantee.

552.238-74 INDUSTRIAL FUNDING FEE AND SALES REPORTING (MAY 2014)

(a) *Reporting of Federal Supply Schedule Sales*. The Contractor shall report all contract sales under this contract as follows:

(1) The Contractor shall accurately report the dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales under this contract by calendar quarter (January 1-March 31, April 1-June 30, July 1-September 30, and October 1-December 31). The dollar value of a sale is the price paid by the Schedule user for products and services on a Schedule task or delivery order. The reported contract sales value shall include the Industrial Funding Fee (IFF). The Contractor shall maintain a consistent accounting method of sales reporting, based on the Contractor's

established commercial accounting practice. The acceptable points at which sales may be reported include —

(i) Receipt of order;

(ii) Shipment or delivery, as applicable;

(iii) Issuance of an invoice; or

(iv) Payment.

(2) Contract sales shall be reported to Federal Acquisition Services (FAS) within 30 calendar days following the completion of each reporting quarter. The Contractor shall continue to furnish quarterly reports, including “zero” sales, through physical completion of the last outstanding task order or delivery order of the contract.

(3) Reportable sales under the contract are those resulting from sales of contract items to authorized users unless the purchase was conducted pursuant to a separate contracting authority such as a Governmentwide Acquisition Contract (GWAC); a separately awarded FAR Part 12, FAR Part 13, FAR Part 14, or FAR Part 15 procurement; or a non-FAR contract. Sales made to state and local governments under Cooperative Purchasing authority shall be counted as reportable sales for IFF purposes.

(4) The Contractor shall electronically report the quarterly dollar value of sales, including “zero” sales, by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA)’s Federal Acquisition Service (FAS). Prior to using this automated system, the Contractor shall complete contract registration with the FAS Vendor Support Center (VSC). The website address, as well as registration instructions and reporting procedures, will be provided at the time of award. The Contractor shall report sales separately for each National Stock Number (NSN), Special Item Number (SIN), or sub-item.

(5) The Contractor shall convert the total value of sales made in foreign currency to U.S. dollars using the “Treasury Reporting Rates of Exchange” issued by the U.S. Department of Treasury, Financial Management Service. The Contractor shall use the issue of the Treasury report in effect on the last day of the calendar quarter. The report is available from Financial Management Service, International Funds Branch, Telephone: (202) 874–7994, Internet: http://www.fiscal.treasury.gov/fsreports/rpt/treasRptRateExch/treasRptRateExch_home.htm

(b) The Contractor shall remit the IFF at the rate set by GSA’s FAS.

(1) The Contractor shall remit the IFF to FAS in U.S. dollars within 30 calendar days after the end of the reporting quarter; final payment shall be remitted within 30 days after physical completion of the last outstanding task order or delivery order of the contract.

(2) The IFF represents a percentage of the total quarterly sales reported. This percentage is set at the discretion of GSA’s FAS. GSA’s FAS has the unilateral right to change the percentage at any time, but not more than once per year. FAS will provide reasonable notice prior to the effective date of the change. The IFF reimburses FAS for the costs of operating the Federal Supply Schedules Program. FAS recoups its operating costs from ordering activities as set forth in 40 U.S.C. 321: Acquisition Services Fund. Net operating revenues generated by the IFF are also applied to fund initiatives benefitting other authorized FAS programs, in accordance with 40 U.S.C. 321. Offerors must include the IFF in their prices. The fee is included in the award price(s) and reflected in the total amount charged to ordering activities. FAS will post notice of the current IFF at https://72a.gsa.gov/ or successor website as appropriate.

(c) Within 60 days of award, an FAS representative will provide the Contractor with specific written procedural instructions on remitting the IFF. FAS reserves the unilateral right to change such instructions from time to time, following notification to the Contractor.

(d) Failure to remit the full amount of the IFF within 30 calendar days after the end of the applicable reporting period constitutes a contract debt to the United States Government under the terms of FAR Subpart 32.6. The Government may exercise all rights under the Debt Collection Improvement Act of 1996, including withholding or setting off payments and interest on the debt (see FAR clause 52.232-17, Interest). Should the Contractor fail to submit the required sales reports, falsify them, or fail to timely pay the IFF, this is sufficient cause for the Government to terminate the contract for cause.

552.238-75 PRICE REDUCTIONS (JUL 2016)

(a) Before award of a contract, the Contracting Officer and the Offeror will agree upon (1) the customer (or category of customers) which will be the basis of award, and (2) the Government's price or discount relationship to the identified customer (or category of customers). This relationship shall be maintained throughout the contract period. Any change in the Contractor's commercial pricing or discount arrangement applicable to the identified customer (or category of customers) which disturbs this relationship shall constitute a price reduction.

(b) During the contract period, the Contractor shall report to the Contracting Officer all price reductions to the customer (or category of customers) that was the basis of award. The Contractor's report shall include an explanation of the conditions under which the reductions were made.

(c) (1) A price reduction shall apply to purchases under this contract if, after the date negotiations conclude, the Contractor —

(i) Revises the commercial catalog, pricelist, schedule or other document upon which contract award was predicated to reduce prices;

(ii) Grants more favorable discounts or terms and conditions than those contained in the commercial catalog, pricelist, schedule or other documents upon which contract award was predicated; or

(iii) Grants special discounts to the customer (or category of customers) that formed the basis of award, and the change disturbs the price/discount relationship of the Government to the customer (or category of customers) that was the basis of award.

(2) The Contractor shall offer the price reduction to the Government with the same effective date, and for the same time period, as extended to the commercial customer (or category of customers).

(d) There shall be no price reduction for sales —

(1) To commercial customers under firm, fixed-price definite quantity contracts with specified delivery in excess of the maximum order threshold specified in this contract;

(2) To Federal agencies;

(3) Made to Eligible Ordering Activities identified in GSAR Clause 552.238-78 when the order is placed under this contract (and the Eligible Ordering Activities identified in GSAR Clause 552.238-78 is the agreed upon customer or category of customer that is the basis of award); or

(4) Caused by an error in quotation or billing, provided adequate documentation is furnished by the Contractor to the Contracting Officer.

(e) The Contractor may offer the Contracting Officer a voluntary Governmentwide price reduction at any time during the contract period.

(f) The Contractor shall notify the Contracting Officer of any price reduction subject to this clause as soon as possible, but not later than 15 calendar days after its effective date.

(g) The contract will be modified to reflect any price reduction which becomes applicable in accordance with this clause.

552.238-77 DEFINITION (FEDERAL SUPPLY SCHEDULES) –NON-FEDERAL ENTITY (JUL 2016)

Ordering activity (also called "ordering agency" and "ordering office") means an eligible ordering activity (see 552.238-78), authorized to place orders under Federal Supply Schedule contracts.

552.238-78 SCOPE OF CONTRACT (ELIGIBLE ORDERING ACTIVITIES) (JUL 2016)

(a) This solicitation is issued to establish contracts which may be used on a nonmandatory basis by the agencies and activities named below, as a source of supply for the supplies or services described herein, for domestic and/or overseas delivery. For Special Item Number 132-53, Wireless Services ONLY, limited geographic coverage (consistent with the Offeror's commercial practice) may be proposed.

(1) Executive agencies (as defined in FAR Subpart 2.1) including nonappropriated fund activities as prescribed in 41 CFR 101-26.000);

(2) Government contractors authorized in writing by a Federal agency pursuant to FAR 51.1;

(3) Mixed ownership Government corporations (as defined in the Government Corporation Control Act);

(4) Federal Agencies, including establishments in the legislative or judicial branch of government (except the Senate, the House of Representatives and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol);

(5) The Government of the District of Columbia;

(6) Tribal governments when authorized under 25 U.S.C. 450j(k);

(7) Tribes or tribally designated housing entities pursuant to 25 U.S.C. 4111(j);

(8) Qualified Nonprofit Agencies as authorized under 40 U.S.C. 502(b); and

(9) Organizations, other than those identified in paragraph (d) below, authorized by GSA pursuant to statute or regulation to use GSA as a source of supply.

(b) Definitions —

Domestic delivery is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

Overseas delivery is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. territories.

(c) Offerors are requested to check one of the following boxes:

_____ Contractor will provide domestic and overseas delivery.

_____ Contractor will provide overseas delivery only.

_____ Contractor will provide domestic delivery only.

(d) The following activities may place orders against Schedule contracts:

(1) State and local government may place orders against Schedule 70 contracts, and Consolidated Schedule contracts containing information technology Special Item Numbers, and Schedule 84 contracts, on an optional basis; PROVIDED, the Contractor accepts order(s) from such activities;

(2) The American National Red Cross may place orders against Federal Supply Schedules for products and services in furtherance of the purposes set forth in its Federal charter (36 U.S.C. § 300102); PROVIDED, the Contractor accepts order(s) from the American National Red Cross; and

(3) Other qualified organizations, as defined in section 309 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5152), may place orders against Federal Supply Schedules for products and services determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency; PROVIDED, the Contractor accepts order(s) from such activities.

(4) State and local governments may place orders against Federal Supply Schedules for good or services determined by the Secretary of Homeland Security to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, et seq.) to facilitate disaster preparedness or response, or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack; PROVIDED, the Contractor accepts order(s) from such activities.

(e) Articles or services may be ordered from time to time in such quantities as may be needed to fill any requirement, subject to the Order Limitations thresholds which will be specified in resultant contracts. Overseas activities may place orders directly with schedule contractors for delivery to CONUS port or consolidation point.

(f) (1) The Contractor is obligated to accept orders received from activities within the Executive Branch

of the Federal Government.

(2) The Contractor is not obligated to accept orders received from activities outside the Executive Branch; however, the Contractor is encouraged to accept such orders. If the Contractor elects to accept such orders, all provisions of the contract shall apply, including clause 552.232-79, Payments by Credit Card. If the Contractor is unwilling to accept such orders, and the proposed method of payment is not through the Credit Card, the Contractor shall return the order by mail or other means of delivery within 5 workdays from receipt. If the Contractor is unwilling to accept such orders, and the proposed method of payment is through the Credit Card, the Contractor must so advise the ordering activity within 24 hours of receipt of order. (Reference clause 552.232-79, Payment by Credit Card.) Failure to return an order or advise the ordering activity within the time frames of this paragraph shall constitute acceptance whereupon all provisions of the contract shall apply.

(g) The Government is obligated to purchase under each resultant contract a guaranteed minimum of $2,500 (two thousand, five hundred dollars) during the contract term.

(h) All users of GSA’s Federal Supply Schedules, including non-Federal users, shall use the schedules in accordance with the ordering guidance provided by the Administrator of General Services. GSA encourages non-Federal users to follow the Schedule Ordering Procedures set forth in the Federal Acquisition Regulation (FAR) 8.4, but they may use different established competitive ordering procedures if such procedures are needed to satisfy their state and local acquisition regulations and/or organizational policies.

552.238-79 USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS BY NON-FEDERAL ENTITIES (JUL 2016)

(a) If an entity identified in paragraph (d) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities), elects to place an order under this contract, the entity agrees that the order shall be subject to the following conditions:

(1) When the Contractor accepts an order from such an entity, a separate contract is formed which incorporates by reference all the terms and conditions of the Schedule contract except the Disputes clause, the patent indemnity clause, and the portion of the Commercial Item Contract Terms and Conditions that specifies “Compliance with laws unique to Government contracts” (which applies only to contracts with entities of the Executive branch of the U.S. Government). The parties to this new contract which incorporates the terms and conditions of the Schedule contract are the individual ordering activity and the Contractor. The U.S. Government shall not be liable for the performance or nonperformance of the new contract. Disputes which cannot be resolved by the parties to the new contract may be litigated in any State or Federal court with jurisdiction over the parties, applying Federal procurement law, including statutes, regulations and case law, and, if pertinent, the Uniform Commercial Code. To the extent authorized by law, parties to this new contract are encouraged to resolve disputes through Alternative Dispute Resolution. Likewise, a Blanket Purchase Agreement (BPA), although not a contract, is an agreement that may be entered into by the Contractor with such an entity and the Federal Government is not a party.

(2) Where contract clauses refer to action by a Contracting Officer or a Contracting Officer of GSA, that shall mean the individual responsible for placing the order for the ordering activity (e.g., FAR 52.212-4 at paragraph (f) and FSS clause I-FSS-249 B.)

(3) As a condition of using this contract, eligible ordering activities agree to abide by all terms and conditions of the Schedule contract, except for those deleted clauses or portions of clauses mentioned in paragraph (a)(1) of this clause. Ordering activities may include terms and conditions required by statute, ordinance, regulation, order, or as otherwise allowed by State and local government entities as a part of a statement of work (SOW) or statement of objective (SOO) to the extent that these terms and conditions do not conflict with the terms and conditions of the Schedule contract. The ordering activity and the Contractor expressly acknowledge that, in entering into an agreement for the ordering activity to purchase goods or services from the Contractor, neither the ordering activity nor the Contractor will look to, primarily or in any secondary capacity, or file any claim against the United States or any of its agencies with respect to any failure of performance by the other party.

(4) The ordering activity is responsible for all payments due the Contractor under the contract formed by acceptance of the ordering activity’s order, without recourse to the agency of the U.S. Government, which awarded the Schedule contract.

(5) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.

(6) The supplies or services purchased will be used for governmental purposes only and will not be resold for personal use. Disposal of property acquired will be in accordance with the established procedures of the ordering activity for the disposal of personal property.

(b) If the Schedule Contractor accepts an order from an entity identified in paragraph (d) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities), the Contractor agrees to the following conditions:

(1) The ordering activity is responsible for all payments due the Contractor for the contract formed by acceptance of the order, without recourse to the agency of the U.S. Government, which

awarded the Schedule contract.

(2) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall decline the order using the same means as those used to place the order. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.

(c) In accordance with clause 552.238-74, Industrial Funding Fee and Sales Reporting, the Contractor must report the quarterly dollar value of all sales under this contract. When submitting sales reports, the Contractor must report two dollar values for each Special Item Number:

(1) The dollar value for sales to entities identified in paragraph (a) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities), and

(2) The dollar value for sales to entities identified in paragraph (d) of clause 552.238-78.

552.238-81 MODIFICATIONS (FEDERAL SUPPLY SCHEDULE) (APR 2014)

(a) *General.* The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (d) of this clause. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) *Types of Modifications.*

(1) Additional items/additional SINs. When requesting additions, the following information must be submitted:

(i) Information requested in paragraphs (1) and (2) of the Commercial Sales Practice Format to add SINs.

(ii) Discount information for the new items(s) or new SIN(s). Specifically, submit the information requested in paragraphs 3 through 5 of the Commercial Sales Practice Format. If this information is the same as the initial award, a statement to that effect may be submitted instead.

(iii) Information about the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(iv) Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by 52.215- 6, *Place of Performance*.

(vi) Hazardous Material information (if applicable) must be submitted as required by 52.223-3 (ALT I), *Hazardous Material Identification and Material Safety Data*. Information about the new item(s) or the item(s) under the new SIN(s) as described in 552.212-70, *Preparation of Offer (Multiple Award Schedule)*, is required.

(vii) Any information requested by 52.212-3(f), *Offeror Representations and Certifications—Commercial Items*, that may be necessary to assure compliance with FAR 52.225-1, *Buy American Act—Balance of Payments Programs—Supplies*.

(2) Deletions. The Contractors shall provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a

higher price during the same contract period, if the contracting officer finds the higher price to be unreasonable when compared with the deleted item.

(3) Price Reduction. The Contractor shall indicate whether the price reduction falls under the item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at 552.238-75. If the Price reduction falls under item (i), the Contractor shall submit a copy of the dated commercial price list. If the price reduction falls under item (ii) or (iii), the Contractor shall submit a copy of the applicable price list(s), bulletins or letters or customer agreements which outline the effective date, duration, terms and conditions of the price reduction.

(c) *Effective dates.* The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 552.238-75.

(d) *Electronic File Updates*. The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the Contracting Officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the Contracting Officer as set forth in the Price Reductions clause at 552.238-75.

(e) *Amendments to Paper Federal Supply Schedule Price Lists.*

(1) The Contractor must provide supplements to its paper price lists, reflecting the most current changes. The Contractor may either:

(i) Distribute a supplemental paper Federal Supply Schedule Price List within 15 workdays after the effective date of each modification.

(ii) Distribute quarterly cumulative supplements. The period covered by a cumulative supplement is at the discretion of the Contractor, but may not exceed three calendar months from the effective date of the earliest modification. For example, if the first modification occurs in February, the quarterly supplement must cover February—April, and every three month period after. The Contractor must distribute each quarterly cumulative supplement within 15 workdays from the last day of the calendar quarter.

(2) At a minimum, the Contractor shall distribute each supplement to those ordering activities that previously received the basic document. In addition, the Contractor shall submit two copies of each supplement to the Contracting Officer and one copy to the FSS Schedule Information Center.

552.238-81 MODIFICATIONS (FEDERAL SUPPLY SCHEDULE) (APR 2014) (ALTERNATE I – JUN 2016)

(a) *General*. The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (d) of this clause. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) *Types of Modifications*.

(1) Additional items/additional SINs. When requesting additions, the following information must be submitted:

(i) Information requested in paragraphs (1) and (2) of the Commercial Sales Practice Format to add SINs.

(ii) Discount information for the new items(s) or new SIN(s). Specifically, submit the information requested in paragraphs 3 through 5 of the Commercial Sales Practice

Format. If this information is the same as the initial award, a statement to that effect may be submitted instead.

(iii) Information about the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(iv) Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by 52.215-6, *Place of Performance*.

(vi) Hazardous Material information (if applicable) must be submitted as required by 52.223-3 (ALT I), *Hazardous Material Identification and Material Safety Data*.

(vii) Any information requested by 52.212-3(f), *Offeror Representations and Certifications—Commercial Items*, that may be necessary to assure compliance with FAR 52.225-1, *Buy American Act—Balance of Payments Programs—Supplies*.

(2) Deletions. The Contractors shall provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the contracting officer finds the higher price to be unreasonable when compared with the deleted item.

(3) Price Reduction. The Contractor shall indicate whether the price reduction falls under the item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at 552.238-75. If the Price reduction falls under item (i), the Contractor shall submit a copy of the dated commercial price list. If the price reduction falls under item (ii) or (iii), the Contractor shall submit a copy of the applicable price list(s), bulletins or letters or customer agreements which outline the effective date, duration, terms and conditions of the price reduction.

(c) *Effective dates*. The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 552.238-75.

(d) *Electronic File Updates*. The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the Contracting Officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the Contracting Officer as set forth in the Price Reductions clause at 552.238-75.

(e) *Amendments to Paper Federal Supply Schedule Price Lists.*

(1) The Contractor must provide supplements to its paper price lists, reflecting the most current changes. The Contractor may either:

(i) Distribute a supplemental paper Federal Supply Schedule Price List within 15 workdays after the effective date of each modification.

(ii) Distribute quarterly cumulative supplements. The period covered by a cumulative supplement is at the discretion of the Contractor, but may not exceed three calendar months from the effective date of the earliest modification. For example, if the first modification occurs in February, the quarterly supplement must cover February—April, and every three month period after. The Contractor must distribute each quarterly cumulative supplement within 15 workdays from the last day of the calendar quarter.

(2) At a minimum, the Contractor shall distribute each supplement to those ordering activities that previously received the basic document. In addition, the Contractor shall submit two copies of

each supplement to the Contracting Officer and one copy to the FSS Schedule Information Center.

(f) Electronic submission of modification requests is mandatory via eMod (http://eOffer.gsa.gov), unless otherwise stated in the electronic submission standards and requirements at the Vendor Support Center website (http://vsc.gsa.gov). If the electronic submissions standards and requirements information is updated at the Vendor Support Center website, Contractors will be notified prior to the effective date of the change.

552.246-78 INSPECTION AT DESTINATION (JUL 2009)

Inspection of all purchases under this contract will be made at destination by an authorized Government representative.

C-FSS-412 CHARACTERISTICS OF ELECTRIC CURRENT (MAY 2000)

Contractors supplying equipment which uses electrical current are required to supply equipment suitable for the electrical system at the location at which the equipment is to be used as specified on the order.

CI-FSS-056 FEDERAL ACQUISITION REGULATION (FAR) PART 51 DEVIATION AUTHORITY (FEDERAL SUPPLY SCHEDULES) (JAN 2010)

(a) *General Background*.

On October 8, 2009, a class deviation to FAR Part 51 was granted by GSA's Senior Procurement Executive in accordance with FAR Subpart 1.404, Class deviations. The deviation permits federal contracting officers to authorize GSA contractors, who are performing an order on a time-and-material or labor-hour basis, to purchase supplies and services from schedule contractors or to process requisitions through the Global Supply Program.

(b) *Orders*.

Orders placed using the FAR Part 51 deviation shall be:

(1) Placed on a time-and-materials (T&M)/labor-hour (LH) basis—an order placed by the Federal Government to the buying contractor can be partially fixed price, but the portion of the order for the items to be procured using the FAR Part 51 deviation shall be T&M/LH;

(2) For ancillary supplies/services that are in support of the overall order such that the items are not the primary purpose of the work ordered, but are an integral part of the total solution offered;

(3) Issued in accordance with the procedures in FAR 8.405-1, Ordering Procedures for supplies, and services not requiring a statement of work;

(4) Placed by the Federal Government. The authorization is **NOT** available to state and local governments.

(c) For comprehensive guidance on the proper use the FAR Part 51 authority granted by the deviation, please refer to the Ordering Guide at www.gsa.gov/far51deviation.

D-FSS-471 MARKING AND DOCUMENTATION REQUIREMENTS PER SHIPMENT (APR 1984)

It shall be the responsibility of the Ordering Office to determine the full marking and documentation requirements necessary under the various methods of shipment authorized by the contract. Set forth below is the minimum information and documentation that will be required for shipment. In the event the Ordering Office fails to provide the essential information and documentation, the Contractor shall, within three days after receipt of order, contact the Ordering Office and advise them accordingly. The Contractor shall not proceed with any shipment requiring transshipment via U.S. Government facilities without the below stated prerequisites:

Direct Shipments. The Contractor shall mark all items ordered against this contract with indelible ink, paint or fluid, as follows:

(1) Traffic Management or Transportation Officer at FINAL destination.

(2) Ordering Supply Account Number.

(3) Account number.

(4) Delivery Order or Purchase Order Number.

(5) National Stock Number, if applicable; or Contractor's item number.

(6) Box _____ of _____ Boxes.

(7) Nomenclature (brief description of items).

D-FSS-477 TRANSSHIPMENTS (APR 1984)

The Contractor shall complete TWO DD Forms 1387, Military Shipment Labels and, if applicable, four copies of DD Form 1387-2, Special Handling/Data Certification—used when shipping chemicals, dangerous cargo, etc. Two copies of the DD Form 1387 will be attached to EACH shipping container delivered to the port Transportation Officer for subsequent transshipment by the Government as otherwise provided for under the terms of this contract. These forms will be attached to one end and one side (NOT on the top or bottom) of the container. The Contractor will complete the bottom line of these forms, which pertains to the number of pieces, weight and cube of each piece, using U.S. weight and cubic measures. Weights will be rounded off to the nearest pound. (One kg = 2.2 U.S. pounds; one cubic meter = 35.3156 cubic feet.) In addition, if the cargo consists of chemicals, or is dangerous, one copy of the DD Form 1387 2 will be attached to the container, and three copies will be furnished to the Transportation Officer with the Bill of Lading. DANGEROUS CARGO WILL NOT BE INTERMINGLED WITH NONDANGEROUS CARGO IN THE SAME CONTAINER. Copies of the above forms, and preparation instructions will be obtained from the Ordering Office issuing the Delivery Order. Reproduced copies of the forms are acceptable. FAILURE TO INCLUDE DD FORMS 1387 (AND DD FORM 1387-2, IF APPLICABLE) ON EACH SHIPPING CONTAINER WILL RESULT IN REJECTION OF SHIPMENT BY THE PORT TRANSPORTATION OFFICER.

G-FSS-900-C CONTACT FOR CONTRACT ADMINISTRATION (JUL 2003)

Offerors should complete paragraphs (a) and (b) if providing both domestic and overseas delivery. Complete paragraph (a) if providing domestic delivery only. Complete paragraph (b) if providing overseas delivery only.

The Contractor shall designate a person to serve as the contract administrator for the contract both domestically and overseas. The contract administrator is responsible for overall compliance with contract terms and conditions. The contract administrator is also the responsible official for issues concerning 552.238-74, Industrial Funding Fee and Sales Reporting (JUL 2003), including reviews of contractor records. The Contractor’s designation of representatives to handle certain functions under this contract does not

relieve the contract administrator of responsibility for contract compliance. Any changes to the designated individual must be provided to the Contracting Officer in writing, with the proposed effective date of the change

(a) Domestic:

NAME _____

TITLE _____

ADDRESS _____

ZIP CODE _____

TELEPHONE NO. (_____) _____ FAX NO. _____

E-MAIL ADDRESS _____

(b) Overseas: Overseas contact points are mandatory for local assistance with the resolution of any delivery, performance, or quality complaint from customer agencies. (Also, see the requirement in I-FSS-594, Parts and Service.) At a minimum, a contact point must be furnished for each area in which deliveries are contemplated, e.g., Europe, South America, Far East, etc.

NAME _____

TITLE _____

ADDRESS _____

ZIP CODE _____

TELEPHONE NO. (_____) _____ FAX NO. _____

E-MAIL ADDRESS _____

I-FSS-106 GUARANTEED MINIMUM (JUL 2003)

The minimum that the Government agrees to order during the period of this contract is $2,500. If the Contractor receives total orders for less than $2,500 during the term of the contract, the Government will pay the difference between the amount ordered and $2,500.

(a) Payment of any amount due under this clause shall be contingent upon the Contractor's timely submission of GSA Form 72A reports (see GSAR 552.238-74 "Industrial Funding Fee and Sales Reporting") during the period of the contract and receipt of the close-out sales report pursuant to GSAR 552.238-74.

(b) The guaranteed minimum applies only if the contract expires or contract cancellation is initiated by the Government. The guaranteed minimum does not apply if the contract is terminated for cause or if the contract is canceled at the request of the Contractor.

I-FSS-108 CLAUSES FOR OVERSEAS COVERAGE (MAY 2000)

The following clauses apply to overseas coverage.

52.214-34 Submission of Offers in the English Language
52.214-35 Submission of Offers in U.S. Currency

52.247-34 FOB Destination
52.247-38 FOB Inland Carrier, Country of Exportation
52.247-39 FOB Inland Point, Country of Importation
C-FSS-412 Characteristics of Electric Current
D-FSS-471 Marking and Documentation Requirements Per Shipment
D-FSS-477 Transshipments
F-FSS-202-F Delivery Prices
I-FSS-314 Foreign Taxes and Duties
I-FSS-594 Parts and Service

I-FSS-109 ENGLISH LANGUAGE AND U.S. DOLLAR REQUIREMENTS (MAR 1998)

(a) All documents produced by the Contractor to fulfill requirements of this contract including, but not limited to, Federal Supply Schedule catalogs and pricelists, must reflect all terms and conditions in the English language.

(b) U.S. dollar equivalency, if applicable, will be based on the rates published in the "Treasury Reporting Rates of Exchange" in effect as of the date of the agency's purchase order or in effect during the time period specified elsewhere in this contract.

I-FSS-140-B URGENT REQUIREMENTS (JAN 1994)

When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering agency, agencies are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering agency, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

I-FSS-163 OPTION TO EXTEND THE TERM OF THE CONTRACT (EVERGREEN) (APR 2000)

(a) The Government may require continued performance of this contract for an additional 5 year period when it is determined that exercising the option is advantageous to the Government considering price and other factors.. The option clause may not be exercised more than three times. When the option to extend the term of this contract is exercised the following conditions are applicable:

(1) It is determined that exercising the option is advantageous to the Government considering price and the other factors covered in (2 through 4 below).

(2) The Contractor's electronic catalog/pricelist has been received, approved, posted, and kept current on GSA *Advantage!*® in accordance with clause I-FSS-600, Contract Price Lists.

(3) Performance has been acceptable under the contract.

(4) Subcontracting goals have been reviewed and approved.

(b) The Contracting Officer may exercise the option by providing a written notice to the Contractor within 30 days, unless otherwise noted, prior to the expiration of the contract or option.

(c) When the Government exercises its option to extend the term of this contract, prices in effect at the time the option is exercised will remain in effect during the option period, unless an adjustment is made in accordance with another contract clause (e.g., Economic Price Adjustment Clause or Price Reduction Clause).

I-FSS-314 FOREIGN TAXES AND DUTIES (DEC 1990)

Prices offered must be net, delivered, f.o.b. to the destinations accepted by the Government.

(a) The offeror warrants that such prices do not include any tax, duty, customs fees, or other foreign Governmental costs, assessments, or similar charges from which the U.S. Government is exempt. The offeror further warrants that any applicable taxes duties, customs fees, other Government costs, assessments or similar charges from which the U.S. Government is not exempt are included in the prices quoted and that such prices are not subject to increases for any such charges applicable at the time of acceptance of this offer by the Government.

(b) Standard commercial export packaging, including containerization, if necessary, packaging, preservation, marking are included in the pricing offered and accepted by the Government.

I-FSS-40 CONTRACTOR TEAM ARRANGEMENTS (JUL 2003)

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with contract clause 552.238-74, Industrial Funding Fee and Sales Reporting, i.e., each contractor (team member) must report sales and remit the IFF for all products and services provided under its individual contract.

I-FSS-50 PERFORMANCE REPORTING REQUIREMENTS (FEB 1995)

(a) This clause applies to all contracts estimated to exceed $100,000.

(b) Unless notified otherwise in writing by the Contracting Officer, the Contractor may assume contract performance is satisfactory.

(c) If negative performance information is submitted by customer agencies, the Contracting Officer will notify the Contractor in writing and provide copies of any complaints received. The Contractor will have 30 calendar days from receipt of this notification to submit a rebuttal and/or a report of corrective actions taken.

I-FSS-594 PARTS AND SERVICE (OCT 1988)

(1) For equipment under items listed in the schedule of items or services on which offers are submitted, the offeror certifies by submission of this offer that parts and services (including the performing of warranty or guarantee service) are now available from dealers or distributors serving the areas of ultimate overseas destination or that such facilities will be established and will be maintained throughout the contract period. If a new servicing facility is to be established, the facility shall be established no later than the beginning of the contract period.

(2) Each Contractor shall be fully responsible for the services to be performed by the named servicing facilities, or by such facilities to be established, and fully guarantees performance of such services if the original service proves unsatisfactory.

(3) Offerors are requested to include in the pricelist, the names and addresses of all supply and service points maintained in the geographic area in which the Contractor will perform. Please indicate opposite each point whether or not a complete stock of repair parts for items offered is carried at that point, and whether or not mechanical service is available.

GEOGRAPHIC AREA	ADDRESS OF SUPPLY AND SERVICE POINT

It is desired to have available means for maintaining Government-owned items in satisfactory operating condition and to receive service at least as good as that extended to commercial customers.

I-FSS-597 GSA *ADVANTAGE!* ® (OCT 2014)

(a) The Contractor must participate in the GSA *Advantage!* ® online shopping service. Information and instructions regarding contractor participation are contained in clause I-FSS-599, Electronic Commerce.

(b) The Contractor also should refer to contract clauses 552.238-71, Submission and Distribution of Authorized GSA Schedule Pricelists (which provides for submission of pricelists on a common-use electronic medium), I-FSS-600, Contract Pricelists (which provides information on electronic contract data), and 552.238-81, Modifications (Federal Supply Schedule), (which addresses electronic file updates).

I-FSS-599 ELECTRONIC COMMERCE—FACNET (FEB 2018)

(a) General Background.

The Federal Acquisition Streamlining Act (FASA) of 1994 establishes the Federal Acquisition Computer Network (FACNET) requiring the Government to evolve its acquisition process from one driven by paperwork into an expedited process based on electronic commerce/electronic data interchange (EC/EDI). EC/EDI means more than merely automating manual processes and eliminating paper transactions. It can and will help to move business processes (e.g., procurement, finance, logistics, etc.) into a fully electronic environment and fundamentally change the way organizations operate.

(b) Trading Partners and Value-Added Networks (VAN's).

Within the FACNET architecture, electronic documents (e.g., orders, invoices, etc.) are carried between the Federal Government's procuring office and contractors (now known as "trading partners"). These transactions are carried by commercial telecommunications companies called Value-Added Networks (VAN's).

EDI can be done using commercially available hardware, software, and telecommunications. The selection of a VAN is a business decision contractors must make. There are many different VAN's which provide a variety of electronic services and different pricing strategies. If your VAN only provides communications services, you may also need a software translation package.

(c) Registration Instructions.

DOD will require Contractors to register as trading partners to do business with the Government. This policy can be reviewed via the INTERNET at http://www.defenselink.mil/releases/1999/b03011999_bt079-99.html.

To do EDI with the Government, Contractors must register as a trading partner. Contractors will provide regular business information, banking information, and EDI capabilities to all agencies in this single registration. A central repository of all trading partners, called the Central Contractor Registration (CCR) http://www.ccr.gov/, has been developed. All Government procuring offices and

other interested parties will have access to this central repository. The database is structured to identify the types of data elements which are public information and those which are confidential and not releasable.

To register, contractors must provide their Dun and Bradstreet (DUNS) number. The DUNS number is available by calling 1(800)333-0505. It is provided and maintained free of charge and only takes a few minutes to obtain. Contractors will need to provide their Tax Identification Number (TIN). The TIN is assigned by the Internal Revenue Service by calling 1(800)829-1040. Contractors will also be required to provide information about company bank or financial institution for electronic funds transfer (EFT).

Contractors may register through on-line at http://www.ccr.gov/ or through their Value Added Network (VAN) using an American National Standards Institute (ANSI) ASC X12 838 transaction set, called a "Trading Partner Profile." A transaction set is a standard format for moving electronic data. VAN's will be able to assist contractors with registration.

(d) Implementation Conventions.

All EDI transactions must comply with the Federal Implementation Conventions (IC's). Many VAN's and software providers have already built the IC requirements into their products. If you need to see the IC's, they are available on a registry maintained by the National Institute of Standards and Technology (NIST). It is accessible via the INTERNET at http://www.itl.nist.gov/lab/csl-pubs.htm. IC's are available for common business documents such as Purchase Order, Price Sales Catalog, Invoice, Request for Quotes, etc.

(e) Additional Information.

GSA has additional information available for vendors who are interested in starting to use EC/EDI. Contact the Contracting Officer for a copy of the latest handbook. Several resources are available to vendors to assist in implementing EC/EDI; specific addresses are available in the handbook or from the Contracting Officer:

(1) Electronic Commerce Resource Centers (ECRC's) are a network of U.S. Government-sponsored centers that provide EC/EDI training and support to the contractor community. They are found in over a dozen locations around the country.

(2) Procurement Technical Assistance Centers (PTAC's) and Small Business Development Centers (SBDC's) provide management assistance to small business owners. Each state has several locations.

(3) Most major US cities have an EDI user group of companies who meet periodically to share information on EDI-related subjects.

(f) GSA *Advantage!* ®

(1) GSA *Advantage!* ® will use this FACNET system to receive catalogs, invoices and text messages; and to send purchase orders, application advice, and functional acknowledgments. GSA *Advantage!* ® enables customers to:

(i) Perform database searches across all contracts by manufacturer; manufacturer's model/part number; vendor; and generic product categories.

(ii) Generate their own EDI delivery orders to contractors, generate EDI delivery orders from the Federal Supply Service to contractors, or download files to create their own delivery orders.

(iii) Use the Federal IMPAC VISA.

(2) GSA *Advantage!*® may be accessed via the GSA Home Page. The INTERNET address is:

http://www.gsa.gov.

I-FSS-60 PERFORMANCE INCENTIVES (APR 2000)

(a) Performance incentives may be agreed upon between the contractor and the ordering office on individual orders or Blanket Purchase Agreements under this contract in accordance with this clause.

(b) The ordering office must establish a maximum performance incentive price for these services and/or total solutions, on individual orders or Blanket Purchase Agreements.

(c) Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering offices shall consider establishing incentives where performance is critical to the agency's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

(Note: This is an FSS reproduction using word processing software) **STANDARD FORM 1449** (10-95) **(BACK)**

I-FSS-600 CONTRACT PRICE LISTS (OCT 2016)

(a) Electronic Contract Data.

(1) At the time of award, the Contractor will be provided instructions for submitting electronic contract data in a prescribed electronic format as required by clause 552.238-71, *Submission and Distribution of Authorized FSS Schedule Price Lists*.

(2) The Contractor will have a choice to transmit its file submissions electronically through Electronic Data Interchange (EDI) in accordance with the Federal Implementation Convention (IC) or use the application made available at the time of award. The Contractor's electronic files must be complete; correct; readable; virus-free; and contain only those supplies and services, prices, and terms and conditions that were accepted by the Government. They will be added to GSA's electronic ordering system known as GSA *Advantage!*®, a menu-driven database system that provides on-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic order. The Contractor's electronic files must be received no later than 30 days after award. Contractors should refer to clause I-FSS-597, GSA *Advantage!* ® for further information.

(3) Further details on EDI, ICs, and GSA *Advantage!* ® can be found in clause I-FSS-599, *Electronic Commerce*.

(4) The Contractor is encouraged to place the GSA identifier (logo) on their web site for those supplies or services covered by this contract. The logo can link to the contractor's Federal Supply Schedule price list. The identifier URL is located at http://www.gsa.gov/logos. All resultant "web price lists" shown on the contractor's web site must be in accordance with section (b)(3)(ii) of this clause and nothing other than what was accepted /awarded by the Government) may be included. If the contractor elects to use contract identifiers on its website (either logos or contact number) the website must clearly distinguish between those items awarded on the contract and any other items offered by the contractor on an open market basis.

(5) The contractor is responsible for keeping all electronic catalogs data up to date; e.g., prices, product deletions and replacements, etc.

(b) Federal Supply Schedule Price Lists.

(1) The Contractor must also prepare and distribute a Federal Supply Schedule Price List as required by clause 552.238-71, Submission and Distribution of Authorized FSS Schedule Price Lists. This must be done as set forth in this paragraph (b).

(2) The Contractor must prepare a Federal Supply Schedule Price List by either:

(i) Using the commercial catalog, price list, schedule, or other document as accepted by the Government, showing accepted discounts, and obliterating all items, terms, and conditions not accepted by the Government by lining out those items or by a stamp across the face of the item stating "NOT UNDER CONTRACT" or "EXCLUDED"; or

(ii) Composing a price list in which only those items, terms, and conditions accepted by the Government are included, and which contain only net prices, based upon the commercial price list less discounts accepted by the Government. In this instance, the Contractor must show on the cover page the notation "Prices Shown Herein are Net (discount deducted)".

(3) The cover page of the Federal Supply Schedule Price List must include the following information prepared in the format set forth in this subparagraph (b)(3):

(i) GENERAL SERVICES ADMINISTRATION

Federal Supply Service
Authorized Federal Supply Schedule Price List
On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA *Advantage!*®, a menu-driven database system. The INTERNET address GSA *Advantage!*® is: GSAAdvantage.gov.

Schedule Title
FSC Group, Part, and Section or Standard Industrial Group (as applicable)
FSC Class(es)/Product code(s) and/or Service Codes (as applicable)
Contract number
For more information on ordering from Federal Supply Schedules click on the FSS Schedules button at fss.gsa.gov.
Contract period.
Contractor's name, address, and phone number (include toll-free WATS number and FAX number, if applicable)
Contractor’s internet address/web site where schedule information can be found (as applicable). Contract administration source (if different from preceding entry).
Business size.

(ii) CUSTOMER INFORMATION: The following information should be placed under this heading in consecutively numbered paragraphs in the sequence set forth below. If this information is placed in another part of the Federal Supply Schedule Price List, a table of contents must be shown on the cover page that refers to the exact location of the information.

1a. Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s).

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show the range of the lowest price, and cite the areas to which the prices apply.

1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate “Not applicable” for this item.

2. Maximum order.

3. Minimum order.

4. Geographic coverage (delivery area).

5. Point(s) of production (city, county, and State or foreign country).

6. Discount from list prices or statement of net price.

7. Quantity discounts.

8. Prompt payment terms. Note: Prompt payment terms must be followed by the statement "Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions."

9a. Notification that Government purchase cards are accepted at or below the micro-purchase threshold.

9b. Notification whether Government purchase cards are accepted or not accepted above the micro-purchase threshold.

10. Foreign items (list items by country of origin).

11a. Time of delivery. (Contractor insert number of days.)

11b. Expedited Delivery. The Contractor will insert the sentence “Items available for expedited delivery are noted in this price list.” under this heading. The Contractor may use a symbol of its choosing to highlight items in its price lists that have expedited delivery.

11c. Overnight and 2-day delivery. The Contractor will indicate whether overnight and 2-day delivery are available. Also, the Contractor will indicate that the schedule customer may contact the Contractor for rates for overnight and 2-day delivery.

11d. Urgent Requirements. The Contractor will note in its price list the “Urgent Requirements” clause of its contract and advise agencies that they can also contact the Contractor’s representative to effect a faster delivery.

12. F.O.B. point(s).

13a. Ordering address(es).

13b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA’s) are found in Federal Acquisition Regulation (FAR) 8.405-3.

14. Payment address(es).

15. Warranty provision.

16. Export packing charges, if applicable.

17. Terms and conditions of Government purchase card acceptance (any thresholds above the micro-purchase level).

18. Terms and conditions of rental, maintenance, and repair (if applicable).

19. Terms and conditions of installation (if applicable).

20. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable).

20a. Terms and conditions for any other services (if applicable).

21. List of service and distribution points (if applicable).

22. List of participating dealers (if applicable).

23. Preventive maintenance (if applicable).

24a. Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants).

24b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor's website or other location.) The EIT standards can be found at: www.Section508.gov/.

25. Data Universal Number System (DUNS) number.

26. Notification regarding registration in System for Award Management (SAM) database.

(4) Amendments to Federal Supply Schedule Price Lists must include on the cover page the same information as the basic document plus the title "Supplement No. (sequentially numbered)" and the effective date(s) of such supplements.

(5) Accuracy of information and computation of prices is the responsibility of the Contractor. NOTE: The obliteration discussed in subdivision (b)(2)(i) of this clause must be accomplished prior to the printing and distribution of the Federal Supply Schedule Price Lists.

(6) Inclusion of incorrect information will cause the Contractor to resubmit/correct and redistribute the Federal Supply Schedule Price List, and may constitute sufficient cause for Cancellation, applying the provisions of 552.212-4 , *Contract Terms and Conditions* (paragraph (m), Termination for Cause), and application of any other remedies as provided by law—including monetary recovery.

(7) In addition, one copy of the Federal Supply Schedule Price List must be submitted to the National Customer Service Center at: Email: schedules.infocenter@gsa.gov Telephone: 1 (800) 488-3111

I-FSS-639 CONTRACT SALES CRITERIA (MAR 2002)

(a) A contract will not be awarded unless anticipated sales are expected to exceed $25,000 within the first 24 months following contract award, and are expected to exceed $25,000 in sales each 12-month period thereafter.

(b) The Government may cancel the contract in accordance with clause 552.238-73, Cancellation, unless reported sales are at the levels specified in paragraph (a) above.

I-FSS-644 DEALERS AND SUPPLIERS (OCT 1988)

When requested by the Contracting Officer, if other than the manufacturer, the offeror must submit prior to

award of a contract, either (1) a letter of commitment from the manufacturer which will assure the offeror of a source of supply sufficient to satisfy the Government's requirements for the contract period, OR (2) evidence that the offeror will have an uninterrupted source of supply from which to satisfy the Government's requirements for the contract period.

I-FSS-646 BLANKET PURCHASE AGREEMENTS (MAY 2000)

Blanket Purchase Agreements (BPA's) can reduce costs and save time because individual orders and invoices are not required for each procurement but can instead be documented on a consolidated basis. The Contractor agrees to enter into BPA's with ordering activities provided that:

(a) The period of time covered by such agreements shall not exceed the period of the contract including option year period(s);

(b) Orders placed under such agreements shall be issued in accordance with all applicable regulations and the terms and conditions of the contract; and

(c) BPAs may be established to obtain the maximum discount (lowest net price) available in those schedule contracts containing volume or quantity discount arrangements.

I-FSS-680 DISSEMINATION OF INFORMATION BY CONTRACTOR (APR 1984)

The Government will provide the Contractor with a single copy of the resulting Federal Supply Schedule. However, it is the responsibility of the Contractor to furnish all sales outlets authorized to participate in the performance of the contract with the terms, conditions, pricing schedule, and other appropriate information.

I-FSS-965 INTERPRETATION OF CONTRACT REQUIREMENTS (APR 1984)

No interpretation of any provision of this contract, including applicable specifications, shall be binding on the Government unless furnished or agreed to in writing by the Contracting Officer or his designated representative.

I-FSS-969 ECONOMIC PRICE ADJUSTMENT—FSS MULTIPLE AWARD SCHEDULE (OCT 2014)

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

(a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reduction Clause.

(b) There are two types of economic price adjustments (EPAs) possible under the Multiple Award Schedules (MAS) program for contracts not based on commercial catalogs or price lists as described below. Price adjustments may be effective on or after the first 12 months of the contract period on the following basis:

(1) Adjustments based on escalation rates negotiated prior to contract award. Normally, when escalation rates are negotiated, they result in a fixed price for the term of the contract. No separate contract modification will be provided when increases are based on negotiated escalation rates. Price increases will be effective on the 12-month anniversary date of the contract effective date, subject to paragraph (f), below.

(2) Adjustments based on an agreed-upon market indicator prior to award. The market indicator,

as used in this clause, means the originally released public index, public survey or other public, based market indicator. The market indicator shall be the originally released index, survey or market indicator, not seasonally adjusted, published by the [to be negotiated], and made available at [to be identified]. Any price adjustment shall be based on the percentage change in the designated (i.e. indicator identification and date) market indicator from the initial award to the latest available as of the anniversary date of the contract effective date, subject to paragraph (e), below. If the market indicator is discontinued or deemed no longer available or reliable by the Government, the Government and the Contractor will mutually agree to a substitute. The contract modification reflecting the price adjustment will be effective upon approval by the Contracting Officer, subject to paragraph (g), below. The adjusted prices shall apply to orders issued to the Contractor on or after the effective date of the contract modification.

(c) Nothwithstanding the two economic price adjustments discussed above, the Government recognizes the potential impact of unforeseeable major changes in market conditions. For those cases where such changes do occur, the contracting officer will review requests to make adjustments, subject to the Government's examination of industry-wide market conditions and the conditions in paragraph (d) and (e), below. If adjustments are accepted, the contract will be modified accordingly. The determination of whether or not extra-ordinary circumstances exist rests with the contracting officer. The determination of an appropriate mechanism of adjustment will be subject to negotiations.

(d) Conditions of Price change requests under paragraphs b(2) and c above.:

(1) No more than three increases will be considered during each succeeding 12-month period of the contract. (For succeeding contract periods of less than 12 months, up to three increases will be considered subject to the other conditions of subparagraph (b)).

(2) Increases are requested before the last 60 days of the contract period, including options.

(3) At least 30 days elapse between requested increases.

(4) In any contract period during which price increases will be considered, the aggregate of the increases during any 12-month period shall not exceed ten percent (10%) of the contract unit price in effect at the end of the preceding 12-month period. The Government reserves the right to raise the ceiling when market conditions during the contract period support such a change.

(e) The following material shall be submitted with request for a price increase under paragraphs b(2) and c above:

(1) A copy of the index, survey or pricing indicator showing the price increase and the effective date.

(2) Commercial Sales Practice format, per contract clause 52.215-21 Alternate IV, demonstrating the relationship of the Contractor's commercial pricing practice to the adjusted pricing proposed or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.

(3) Any other documentation requested by the Contracting Officer to support the reasonableness of the price increase.

(f) The Government reserves the right to exercise one of the following options:

(1) Accept the Contractor's price increases as requested when all conditions of (b), (c), (d), and (e) of this clause are satisfied;

(2) Negotiate more favorable prices when the total increase requested is not supported; or,

(3) Decline the price increase when the request is not supported. The Contractor may remove the item(s) from contract involved pursuant to the Cancellation Clause of this contract.

(g) Effective Date of Increases: No price increase shall be effective until the Government receives the electronic file updates pursuant to GSAR 552.238-81, Modifications (Federal Supply Schedule).

(h) All MAS contracts remain subject to contract clauses GSAR 552.238-75, “Price Reductions”; and 552.215-72, “Price Adjustment -- Failure to Provide Accurate Information.” In the event the application of an economic price adjustment results in a price less favorable to the Government than the price relationship established during negotiation between the MAS price and the price to the designated customer, the Government will maintain the price relationship to the designated customer.

6. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Justin Emerick, Project Manager, Water Services
Co-Submitter:	Erin Young
Date:	09/30/2020
Meeting Date:	10/06/2020

TITLE:

Consideration and Approval of Construction Contract with Boart Longyear Company in the amount of $1,858,419. for the services of drilling well #2 at Fort Tuthill.

STAFF RECOMMENDED ACTION:

1. Approve the construction contract with Boart Longyear Company in the amount of $1,858,419, and a contract time period of 365 calendar days; and
2. Authorize the City Manager to execute the necessary documents.

Executive Summary:

Council approval will allow the execution of a contract with Boart Longyear Company to perform well-drilling services for Fort Tuthill Well #2. The project was bid on September 16, 2020, and Boart Longyear was the lowest responsive responsible bidder.

Financial Impact:

The Ft Tuthill Well #2 project is funded by the total appropriation of $1,858,419. Funds for this project are budgeted in the Water Services New Well Capital account # 202-08-370-3350-0-4464.

Policy Impact:

There are no policy impacts with this contractual agreement.

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives
Priority: Sustainable, Innovative Infrastructure Objectives: Deliver outstanding services to residents through a healthy, well maintained infrastructure system; Utilize existing long-range plan(s) that identify the community's future infrastructure needs and all associated costs

Regional Plan
Regional Plan WR2.2 Maintain and develop facilities to provide reliable, safe, and cost-effective water, wastewater and reclaimed water services.

Has There Been Previous Council Decision on This:

Council has previously approved the FY 2018-2019 Capital Improvement 5-Year Plan and authorized the FY 2018-2019 budget for this project in the amount of $1,800,000. On April 7, 2020, this Council approved the Amended and Restated Permanent Easement for Wells, Drainage, Sewer, and Water Pipelines (for Fort Tuthill and surrounding area development) with Coconino County.

Options and Alternatives:

1. Approve the award as recommended. This would allow the project to be constructed in 2020/2021.
2. Reject all bids. This option would delay the construction start and possibly cause the work to be deferred until 2022.

Background/History:

Additional well resources are needed to provide for growth and system redundancy in order to achieve a reliable and cost-effective balance of water supplies utilizing ground water and surface water supplies sources. Water Services used a sophisticated ground structure probing technique called Controlled Source Audio Frequency Magnetotellurics (CSAMT). This technique provides the City with a visual "picture" of the underground structures beneath promising areas that indicate whether or not the rock porosity is generous enough to allow adequate flow into the fault structures where water is most apt to be withdrawn.

Because of the challenging drilling conditions in the Flagstaff area, a special type of drilling technique called the *Dual-Rotary* method was chosen for the development of this well. This drilling technique advances well casing along with the drill bit during drilling of the borehole, which mitigates issues many previously used methods have had in maintaining the circulation of drilling fluids during the drilling process. This is important because it provides a larger margin of safety in not losing the well hole to collapse prior to the installation of the well casing. The Dual Rotary method was successfully used in drilling the last three City wells at Fort Tuthill Well site #1, Sinagua Well, and McAllister Well in 2008.

ATC Group Services were hired to design the well and develop the scope of services and drilling specifications. This information defines project protocols and guides the drilling contractor through the challenging drilling conditions found in the Flagstaff area. ATC Group Services will see the project through to ensure that the proper protocols are followed and the final well meets the City's specifications.

Well development services include: drilling the well to 2,500 feet, verifying well alignment and deviation during the drilling process, installing well casing, screen and gravel pack, performing restoration activities to the disturbed area to pre-drilling conditions (grading, reseeding).

Purchasing staff published an Invitation for Bids (IFB) solicitation for Well Drilling Project in the Arizona Daily Sun on August 30th and September 6th, 2020, and posted the solicitation to the City of Flagstaff's PlanetBids Website on August 25th, 2020. On September 16th, 2020, the City received three Bids from Well Drilling contractors. Upon a review from Water Services and the Procurement team, Boart Longyear Company was determined to be the lowest responsive bidder of the three bids received in this bidding process. The following are the dollar amounts of the bids received for IFB #2021-19 Well Drilling Project:

- Boart Longyear $1,858,419.00 (base bid $1,843,219.00 + Add Alternate Gravel Package $15,200)
- Yellow Jacket Drilling $1,943,241.00
- Weber Water $2,709,313.00

Key Considerations:

Approval of this contract will mark the start of the third of a four-phase process to bring another groundwater well online: 1) completion of a Well Siting Study Report (April, 2018), 2) hiring a consultant to locate a final well site, develop a well design and drilling specifications, and provide the City guidance and oversee the well drilling process (September, 2018), 3) hiring a well drilling firm to drill and construct the new water supply well, and 4) equipping the well with a pump house for disinfection and delivery into the public water distribution system.

The need for a new water well is based upon maintaining a certain percentage of system redundancy to ensure a reliable water supply to our customers, as explained in the City's Water Policies (City Council Resolution #2014-13) for F2 Water System Capacity Allocation.

The City has an agreement with the County that allows a second well at Fort Tuthill, titled Permanent Easement for Wells, Drainage, Sewer, and Water Pipelines (Fort Tuthill), dated March 24, 2020.

Community Benefits and Considerations:

City customers will benefit by having adequate capacity in our water production system as per the City's Water Policy F2 Water System Capacity Allocation. .

Attachments:

Well Drilling Contract
Fort Tuthill Well #2 Location
Fort Tuthill Permanent Easement Agreement 2009
Fort Tuthill 2020 Easement

CONSTRUCTION CONTRACT #2021-19

City of Flagstaff, Arizona
and
Boart Longyear Company

This Construction Contract ("Contract") is made and entered into this _____ day of _____ 2020, by and between the City of Flagstaff, an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona ("Owner") and Boart Longyear Company, a Utah Corporation ("Contractor") with offices at 2455 South 3600 West Salt Lake City, UT, 84119. Contractor and the Owner may be referred to each individually as a "Party" and collectively as the "Parties."

RECITALS

A. Owner desires to obtain construction services; and

B. Contractor has available and offers to provide personnel and materials necessary to accomplish the work and complete the Project as described in the Scope of Work within the required time in accordance with the calendar days included in this Contract.

NOW, THEREFORE, the Owner and Contractor agree as follows:

1. Scope of Work. The Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities for the **Well Drilling Project** (the "Project"). The Project scope is specific to the attached Special Provisions (Exhibit B). Contractor shall construct the Project for the Owner in a good, workmanlike and substantial manner and to the satisfaction of the Owner through its engineers and under the direction and supervision of the City Engineer, or his properly authorized agents including but not limited to project managers and project engineers. Contractor's work shall be strictly pursuant to and in conformity with the Contract.

1.1 A Pre-Construction Conference will be held with the successful Contractor after the Notice of Award is issued. The date and time of the Conference will be agreed upon between the Contractor and the Engineer. The meeting will be held at City Hall, 211 West Aspen Avenue, Flagstaff, AZ 86001. The purpose of the meeting is to outline specific construction items and procedures that the Owner feels require special attention on the part of the Contractor. The Contractor may also present any variations in procedures to improve the workability of the Project, reduce the cost, or reduce inconvenience to the public. The Contractor shall submit a written proposal at this conference outlining intended plans for pavement replacement, maintaining continuous access to residences and businesses along the construction site, and traffic control.

2. Contract; Ownership of Work. Contractor shall furnish and deliver all of the materials and perform all of the work in accordance with this Contract; Construction Plans; Special Provisions; the City of Flagstaff Engineering Design and Construction Standards and Specifications; the latest version of the Maricopa Association of Governments ("MAG") Specifications for Public Works Construction and City revisions to the MAG Specifications for

Public Works Construction ("Exhibit A"); and any Arizona Department of Transportation (A.D.O.T.) Standards that may be referenced on the Plans or in the specifications, incorporated in this Contract by reference, plans and associated documents. All provisions of the Invitation for Construction Bids, Performance Bond, Payment Bond, Certificates of Insurance, Addenda, Change Orders and Field Orders, if any, are hereby incorporated into this Contract. All materials, work, specifications and plans shall be the property of the Owner.

The following exhibits are incorporated by reference and are expressly made a part of this Contract:

2.1.1 Revisions of MAG Standard Specifications for Public Works Construction ("Flagstaff Addendum to MAG")	Exhibit A
2.1.2 Special Provisions	Exhibit B

3. Payments. In consideration of the faithful performance of the work described in this Contract, the Owner shall pay an amount not to exceed **one million eight hundred fifty-eight thousand four hundred nineteen dollars ($1,858,419.00)** to the Contractor for work and materials provided in accordance with the bid schedule, which amount includes all federal, state, and local taxes, as applicable. This amount shall be payable through monthly progress payments, subject to the following conditions:

3.1 Contractor shall promptly submit to the Owner all proper invoices necessary for the determination of the prices of labor and materials;

3.2 Progress payments shall be made in the amount of ninety percent (90%) of the value of labor and materials incorporated in the work, based on the sum of the Contract prices of labor and material, and of materials stored at the worksite, on the basis of substantiating paid invoices, as estimated by the Owner, less the aggregate of all previous payments, until the work performed under this Contract is fifty percent (50%) complete. When and after such work is fifty (50%) complete, the ten percent (10%) of value previously retained may be reduced to five percent (5%) of value completed if Contractor is making satisfactory progress as determined by the Owner, and providing that there is no specific cause or claim requiring a greater amount to be retained. If at any time the Owner determines that satisfactory progress is not being made, the ten percent (10%) retention shall be reinstated for all subsequent progress payments made under this Contract;

3.3 The City Engineer shall have the right to finally determine the amount due to Contractor;

3.4 Monthly progress payments shall be made by the Owner, on or before fourteen (14) calendar days after the receipt by the Owner of an approved estimate of the work completed;

3.5 Contractor agrees that title to materials incorporated in the work, and stored at the site, shall vest with the Owner upon receipt of the corresponding progress payment;

3.6 The remainder of the Contract price, after deducting all such monthly payments and any retention, shall be paid within sixty (60) days after final acceptance of completed work by

the Owner. The release of retention or alternate surety shall be made following the Owner's receipt and acceptance of: Contractor's Affidavit Regarding Settlement of Claims, Affidavit of Payment, Consent of Surety for Final Payment, and Unconditional Full and Final lien waivers from all subcontractors and suppliers who have filed an Arizona Preliminary 20 Day Lien Notice in accordance with A.R.S. §§ 33-992.01 and 33-992.02.

4. Time of Completion. Contractor agrees to complete all work as described in this Contract within **three hundred sixty-five (365) calendar days** from the date of the Owner's Notice to Proceed free of all liens, claims and demands of any kind for materials, equipment, supplies, services, labor, taxes and damages to property or persons, in the manner and under the conditions specified within the time or times specified in this Contract.

5. Performance of Work. All work covered by this Contract shall be done in accordance with the latest and best accepted practices of the trades involved. The Contractor shall use only skilled craftsmen experienced in their respective trades to prepare the materials and to perform the work.

6. Acceptance of Work; Non-Waiver. No failure of the Owner during the progress of the work to discover or reject materials or work not in accordance with this Contract shall be deemed an acceptance of, or a waiver of, defects in work or materials. No payment shall be construed to be an acceptance of work or materials which are not strictly in accordance with the Contract.

7. Delay of Work. Any delay in the performance of this Contract due to strikes, lockouts, fires, or other unavoidable casualties beyond the control of the Contractor and not caused by any wrongful act or negligence of the Contractor shall entitle the Contractor to an extension of time equal to the delay so caused. The Contractor shall notify the Owner in writing specifying such cause within twenty-four (24) hours after its occurrence. In the event such delay is caused by strikes, lockouts, or inability to obtain workmen for any other cause, the Owner shall have the right but shall not be obligated to complete the work on the same basis as is provided for in Section 13 below (Contract Violations).

8. Failure to Complete Project in Timely Manner. If Contractor fails or refuses to execute this Contract within the time specified in Section 4 above, or such additional time as may be allowed, the proceeds of Contractor's performance guaranty shall become subject to deposit into the Treasury of the municipality as monies available to compensate the Owner for damages as provided by A.R.S. § 34-201 for the delay in the performance of work under this Contract, and the necessity of accepting a higher or less desirable bid from such failure or refusal to perform this Contract as required. If Contractor has submitted a certified check or cashier's check as a performance guaranty, the check shall be returned after the completion of this Contract.

9. Labor Demonstration. It is understood that the work covered by this Contract is for the Owner's business purposes and that any unfavorable publicity or demonstrations in connection with the work will have a negative effect upon the Owner. If Contractor's actions in performance of the Contract result in any public demonstration on behalf of the laborers or organized labor in the vicinity of the Owner's premises, whether such demonstration is in the form of picketing, posting of placards or signs, violence, threats of violence or in any other form, which in the Owner's judgment, might convey to the public the impression that the Owner or the Contractor or any subcontractor is

unfair to laborers or to organized labor, the Owner shall have the right to terminate this Contract immediately, unless the Contractor shall have caused such demonstration to be discontinued within two (2) days after request of the Owner to do so. In the event any such demonstration is attended by violence, the Owner may fix lesser time within which a discontinuance shall be accomplished. In the event of Contract termination, the Contractor agrees to remove from the Premises within twenty-four (24) hours of termination, all machinery, tools, and equipment belonging to it or to its subcontractors. All obligations or liabilities of the Owner to the Contractor shall be discharged by such termination, except the obligation to pay to the Contractor a portion of the Contract price representing the value based upon the Contract prices of labor and materials incorporated in the work as established by the Owner, less the aggregate of all previous payments, but subject to all of the conditions pertaining to payments generally.

10. Material Storage. During the progress of the work, the Contractor shall arrange for office facilities and for the orderly storage of materials and equipment. Contractor shall erect any temporary structures required for the work at his or her own expense. The Contractor shall at all times keep the premises reasonably free from debris and in a condition which will not increase fire hazards. Upon completion of the work, the Contractor shall remove all temporary buildings and facilities and all equipment, surplus materials and supplies belonging to the Contractor. Contractor shall leave the Premises in good order, clean, and ready to use by the Owner. The establishment of any temporary construction yard, material storage area or staging area to be located within City of Flagstaff limits and outside the public right-of-way or Project limits generally requires a Temporary Use Permit. (See Exhibit A, Section 107.2.1.)

11. Maintenance During Winter Suspension of Work. A "Winter Shutdown" is the period of time typically including December through March during which no Work will be performed by any person or entity (including but not limited to the Contractor) on the Project and Contractor shall shutdown, properly insulate and shelter the Project in a safe and workmanlike manner pursuant to local, state and federal laws. Although December through March is typically the time frame, the City reserves the right to initiate and terminate a Winter Shutdown at the City's sole discretion in the event of adverse weather conditions. A Winter Shutdown may be declared by the City despite delays, *for any reason,* on the Project. City retains the right to declare a Winter Shutdown. If work has been suspended due to winter weather, the Contractor shall be responsible for maintenance and protection of the improvements and of partially completed portions of the work until final acceptance of the project. Winter Shutdown shall be by field order, change order or original contract. If repairs and/or maintenance are needed during the Winter Shutdown, the Contractor is required to perform the repairs and/or maintenance within twenty-four (24) hours of notification from the City. If the needed repairs and/or maintenance are not addressed within the timeframe, the City will accomplish the work and deduct the cost from monies due or become due to the Contractor.

The City shall provide snow removal operations on active traffic lanes only during the Winter Shutdown. All other snow removal and maintenance operations shall be the responsibility of the Contractor during the Winter Shutdown. All cost associated with snow removal and proper disposal shall be considered incidental to the work including repair of temporary surface improvements due to normal wear and snow removal operations during the Winter Shutdown.

12. Assignment. Contractor shall not assign this Contract, in whole or in part, without the prior written consent of the Owner. No right or interest in this Agreement shall be assigned, in whole or in part, by Contractor without prior written permission of the City and no delegation of any duty of Contractor shall be made without prior written permission of the Owner. The Owner shall not unreasonably withhold consent to such assignment. Contractor agrees that any assignment agreement between Contractor and the Assignee shall include and subject to the assignee to all obligations, terms and conditions of this Contract and that Contractor shall also remain liable under all obligations, terms and conditions of this Contract.

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

If to Owner:	**If to Contractor:**
Emily Markel	Michael Van Aacken
Senior Procurement Specialist	2455 South 3600 West
211 West Aspen Avenue	Salt Lake City, UT, 84119
Flagstaff, AZ 86001	mvanaacken@boartlongyear.com

14. Contract Violations. In the event of any of the provisions of this Contract are violated by the Contractor or by any of Contractor's subcontractors, the Owner may serve written notice upon the Contractor and the Surety of its intention to terminate such Contract (the "Notice to Terminate"). The Contract shall terminate within five (5) days of the date Contractor receives the Notice to Terminate, unless the violation ceases and Contractor makes arrangements for correction satisfactory to the Owner. In the event of any such termination, the Owner shall immediately serve notice of the termination upon the Surety by registered mail, return receipt requested. The Surety shall have the right to take over and perform the Contract. If the Surety does not commence performance within ten (10) days from the date of receipt of the Owner's notice of termination, the Owner may complete the work at the expense of the Contractor, and the Contractor and his or her Surety shall be liable to the Owner for any excess cost incurred by the Owner to complete the work. If the Owner completes the work, the Owner may take possession of and utilize such materials, appliances and plants as may be on the worksite site and necessary for completion of the work.

15. Termination for Convenience. The Owner may terminate this contract at any time for any reason by giving at least **thirty (30) days** written notice to the Contractor. If termination occurs under this Section 15, the Contractor shall be paid fair market value for work completed by Contractor as of the date of termination. The parties agree that fair market value shall be determined based on the Contractor's original bid price, less any work not yet completed by the Contractor as of the date the written notice of termination is given to the Contractor.

16. Contractor's Liability and Indemnification. To the fullest extent permitted by law, Provider shall indemnify, save and hold harmless the City of Flagstaff and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against liabilities, damages, losses and costs, including reasonable attorney fees, but only to the extent caused by the, recklessness or intentional wrongful conduct of the contractor, subcontractor or design professional or other persons employed or used by the contractor, subcontractor or design professional in the performance of the contract. The amount and type of insurance coverage requirements set forth in the Contract (Section 103.6 of Exhibit A) will in no way be construed as limiting the scope of the indemnity in this paragraph.

17. Non Appropriation. In the event that no funds or insufficient funds are appropriated and budgeted in any fiscal period of the Owner to meet the Owner's obligations under this Contract, the Owner will notify Contractor in writing of such occurrence, and this Contract will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Contract are exhausted. No payments shall be made or due to the other party under this Contract beyond these amounts appropriated and budgeted by the Owner to fund the Owner's obligations under this Contract.

18. Amendment of Contract. This Contract may not be modified or altered except in writing and signed by duly authorized representatives of the parties.

19. Subcontracts. Contractor shall not enter into any subcontract, or issue any purchase order for the completed work, or any substantial part of the work, unless in each instance, prior written approval shall have been given by the Owner. Contractor shall be fully responsible to the Owner for acts and omissions of Contractor's subcontractors and all persons either directly or indirectly employed by them.

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

21. Compliance with All Laws. Contractor shall comply with all applicable laws, statutes, ordinances, regulations and governmental requirements in the performance of this Contract.

22. Employment of Aliens. Contractor shall comply with A.R.S. § 34-301, which provides that a person who is not a citizen or ward of the United States shall not be employed upon or in connection with any state, county or municipal public works project.

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

24. Contractor's Warranty. Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-

214.A, Verification of Employment Eligibility. Contractor shall not employ aliens in accordance with A.R.S. § 34-301, Employment of Aliens on Public Works Prohibited. Contractor acknowledges that pursuant to A.R.S. § 41-4401, Government Procurement; E-Verify Requirement; Definitions, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this Contract, and that the Owner retains the legal right to inspect the papers of any employee who works on the Contract to ensure compliance with this warranty.

25. Jurisdiction and Venue. This Contract shall be administered and interpreted under the laws of the State of Arizona. The Contractor hereby submits itself to the original jurisdiction of those courts located within Coconino County, Arizona.

26. Attorney's Fees. If suit or action is initiated in connection with any controversy arising out of this Contract, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees, or in event of appeal as allowed by the appellate court.

27. Time is of the Essence. Contractor acknowledges that the completion of the Contract by the dates specified final completion is critical to the Owner, time being of the essence of this Contract.

28. No Third-Party Beneficiaries. The Parties acknowledge and agree that the terms, provisions, conditions, and obligations of this Contract are for the sole benefit of, and may be enforceable solely by, the Parties to this Contract, and none of the terms, provisions, conditions, and obligations of this Contract are for the benefit of, or may be enforced by, any person or entity not a party to this Contract.

29. Headings. The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Contract.

30. Severability. If any part of this Contract is determined by a court to be in conflict with any statute or constitution or to be unlawful for any reason, the parties intend that the remaining provisions of this Contract shall remain in full force and effect unless the stricken provision leaves the remaining Contract unenforceable.

31. Force Majeure. The parties acknowledge that there may be events that occur during the term of this Contract that are beyond the control of both the City and the Contractor, including events of war, floods, labor, disputes, earthquakes, epidemics, pandemics, adverse weather conditions not reasonably anticipated, forest fires, and other acts of God. These events may result in temporary delay or permanent shut down of the work that is the subject of this Contract, as set forth in Exhibit B. This may be caused by such things as stay-at-home orders, loss of labor force, supply chain delays, and other impediments to timely delivery of the Contract.

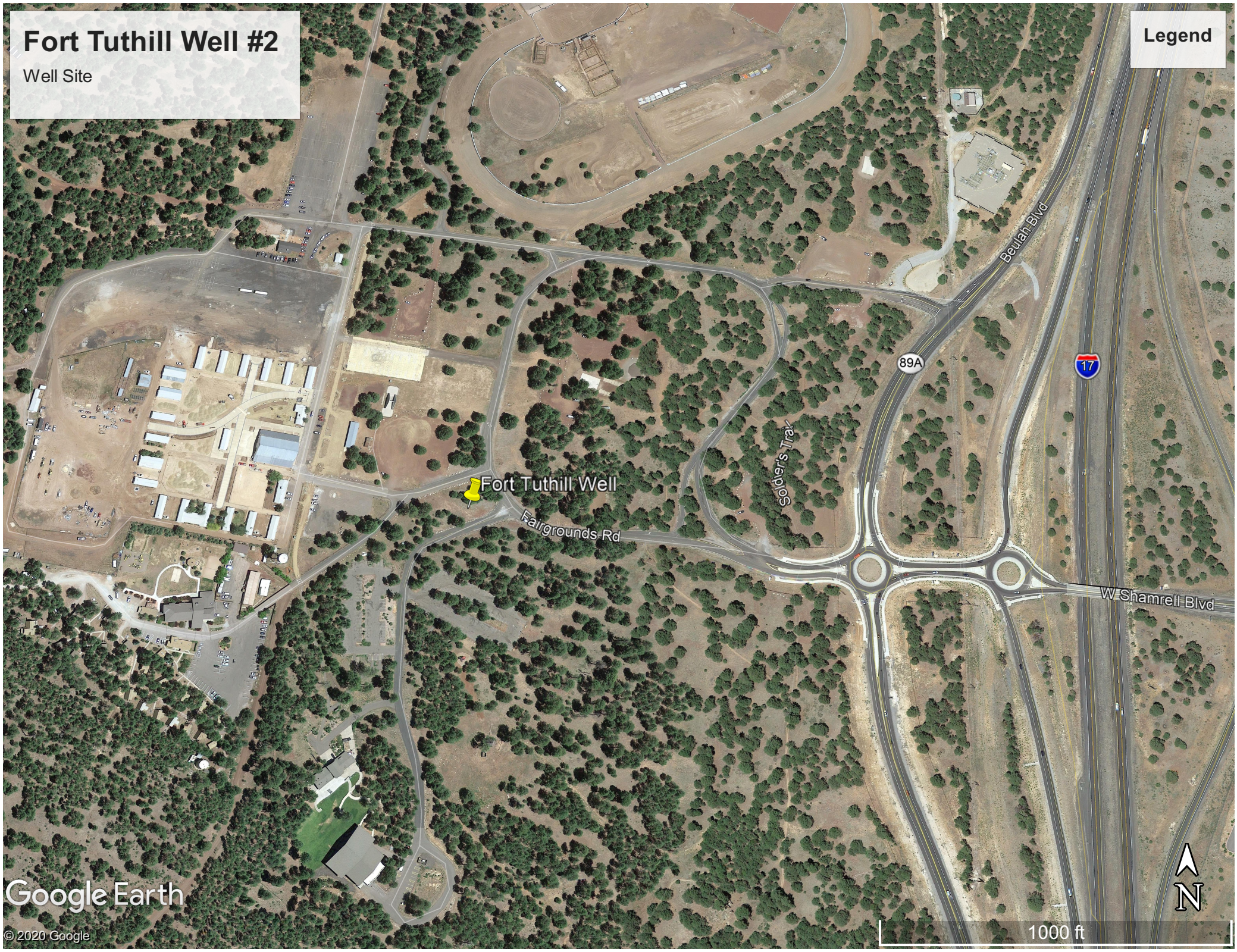
The parties agree that there will be no claims arising from a temporary delay or permanent shut down caused by the events described above and that the City will pay no additional costs incurred as a result of such events.

The parties agree to act in good faith to extend the Contract completion date without any penalty to the Contractor and that the extension will be in an amount of time equal to any temporary delay. This term supersedes all other terms regarding temporary delay, permanent shut down, or increased costs.

IN WITNESS WHEREOF, the Owner and Contractor, by their duly authorized representatives, have executed this Contract as of the date written above.

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

Owner, City of Flagstaff	**Contractor, Boart Longyear Company**
Greg Clifton, City Manager	Signature
Attest:	Printed Name
City Clerk	Title
Approved as to form:	
City Attorney	


Fort Tuthill Well #2
Well Site
Legend
Fort Tuthill Well
Fairgrounds Rd
Soldier's Trail
Beulah Blvd
89A
17
W Shamrell Blvd
Google Earth
© 2020 Google
N
1000 ft

Official Records of Coconino County 3519405
Candace Owens - Recorder 04/06/2009 04:34 PM Pgs: 27
COCONINO COUNTY CLERK OF THE BOARD E $23.00

WHEN RECORDED, RETURN TO:

City of Flagstaff

Attention: City Clerk

PERMANENT EASEMENT FOR WELLS, DRAINAGE, SEWER, AND WATER PIPELINES
(Fort Tuthill)

THIS PERMANENT EASEMENT FOR WELLS, DRAINAGE, SEWER AND WATER PIPELINES (this "Agreement") is made this 6th day of April, 2009, between THE CITY OF FLAGSTAFF, an Arizona municipal corporation (the "City") and COCONINO COUNTY, a political subdivision of the State of Arizona (the "County").

RECITALS

A. The City, the County and U.S. Bank Trust National Association entered into that certain Agreement for Temporary Easement for Water Well Exploration and Option to Purchase Perpetual Production Water Well Easement dated November 22, 2006, (the "Temporary Easement"). Pursuant to the Temporary Easement, the City was granted a temporary easement for water well exploration within the Fort Tuthill County Park (the "Park") in the area legally defined and depicted on Exhibits "A-1 and A-2" attached hereto and made a part hereof ("Well Easement Area").

B. In accordance with the rights granted under the Temporary Easement, the City explored and drilled a well upon the Well Easement Area that the City deemed to be of sufficient quantity and quality for its purposes (the "Well").

C. The City and the County desire by this Agreement to, among other things:

i. grant permanent easements for ingress and egress access to, and the location, operation, use and maintenance of, the Well and Well related equipment upon the Well Easement Area;

ii. grant a permanent easement for a Well Easement Area by the County for a future well and pipelines to the future well;

iii. grant permanent easements by the County for the location, operation, maintenance, alteration, repair and/or replacement of underground pipelines, and utility services of all types (the "Utility Easement") in the location set forth on Exhibit "B" (the "Utility Easement Area") attached hereto and made a part hereof, including for the construction, operation, maintenance and repair of certain water pipelines (referred to herein as "Water

Pipelines") within the Utility Easement Area in the approximate locations set forth on Exhibit "B-1" attached hereto and made a part hereof;

iv. provide for the future grant of additional permanent Utility Easements including those needed for Water Pipelines and Sewer Pipelines by the County through the Park property and from the Park's north boundary to the connection with the proposed Tuthill North subdivision boundary in the approximate locations set forth on Exhibit "C-1" (water) and Exhibit "C-2" (sewer) attached hereto and made a part hereof;

v. grant a permanent easement by the County for the location, operation, maintenance, alteration, repair and/or replacement of drainage way of all types including, but not limited to, swales, culverts, pipes and other City approved drainage systems (the "Drainage Easement") in the area set forth on Exhibit "F" (the "Drainage Easement Area");

vi. grant additional permanent Utility Easements by the County for the existing water mains that currently are on the Park property shown in Exhibit "G" (the "Park Utility Easement Area") ;and

vii. allocate the cost to install the Water Pipelines and Sewer Pipelines between the City and the County;

NOW THEREFORE, for and in consideration of the mutual obligations and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the County covenant and agree as follows:

1. Wells and Water Pipelines.

a. Grant of Easement for Well. The County hereby grants to the City and its successors and assigns, an exclusive, permanent easement to construct, install, operate, maintain, repair and/or replace the Well and Well related equipment, pumps, power and all appurtenant facilities (the "Facilities"), upon, across and under the surface of the Well Easement Area that may be necessary or proper pertaining to the extraction of water from the Well and the connection to and distribution through the City's water system, together with such vehicular and pedestrian ingress and egress access to and from the Well Easement Area and other land of the County located adjacent to the Well Easement Area. The County reserves the right to continue to use and operate the area surrounding and in the Well Easement Area for any and all park purposes not inconsistent with the rights and privileges granted herein.

b. Grant of Easement for Additional Well. If determined by the City, in the City's sole judgment, that an additional well is necessary, the County hereby grants to the City and its successors and assigns, an exclusive, permanent easement to construct, install, operate, maintain, alter, repair and/or replace an additional well and related Facilities, upon, across and under the surface of the future Well Easement Area pertaining to the extraction of water therefrom and to connect to and distribute such water through the City's water system, together with such vehicular and pedestrian ingress and egress access to and from the Well Easement Area and other land of the County located within 2000 feet of the existing Well. The construction of the additional well shall also include, and the County agrees to grant to the City, additional Utility Easements to connect the additional well to the Water Pipelines. The location

of such Utility Easements pertaining to the additional well shall be identified with particularity following the final design by the City. To the extent hydrologically feasible, the City and the County shall, upon mutual agreement, determine the location of the future well and associated utility lines to minimize the disruption to the Park facilities and events. The City shall be responsible for the cost of the design of the additional well, the preparation of the Utility Easements and the cost of construction of the additional well and Water Pipelines. For purposes of this Agreement, all references to the "Well" shall mean and refer to the Well and any additional well drilled upon the Well Easement Area. The County acknowledges and agrees that the Well, the Facilities and the associated water and water rights, including effluent, are owned solely by the City and the County disclaims any interest or right thereto.

c. Grant of Utility Easement. The County hereby grants to the City and its successors and assigns, a permanent Utility Easement upon, across and under the surface of the Utility Easement Area. This shall include, but not limited to, Water Pipelines and Sewer Pipelines, including those now existing or hereafter constructed as contemplated by this Agreement, reclaimed water, and other City transmission and distribution lines. The Utility Easement includes the right of vehicular and pedestrian ingress and egress across adjacent property owned or controlled by the County where reasonably required to gain access to the Utility Easement Area. This easement is granted on a non-exclusive basis to the City. The City shall have the right to use the easement for City provided public services associated with City approved utilities. This Utility Easement includes the right to remove, alter or maintain vegetation, improvements, or obstructions within the limits of the easement that conflict with the legitimate use of this Utility Easement. Upon completion of any removal, alteration or maintenance of the utility improvements, the City or assigns, shall have the obligation to restore the physical attributes of the Utility Easement Area disturbed by any removal, alteration or maintenance to as near the pre-disturbance condition, or County approved condition, as the physical characteristics of the installed utility permit. The County shall be responsible for the maintenance of the Utility Easement Area surface after the restoration of the area by the City. All utility infrastructure shall be located below ground. Maintenance of the surface appearance of the Utility Easement Area after any disturbance or restoration caused by the City shall remain the responsibility and associated surface maintenance cost of the County. To the extent permitted by Arizona law, the City hereby covenants to indemnify and save County harmless from any liabilities for injuries or damages to persons or property arising out of the City's or its officers', agents', employees', and invitees use of this Utility Easement granted herein.

d. Well Productivity. The City is solely responsible for the productivity of the Well and any associated groundwater withdrawal issues including claims by third parties arising from the City's ownership, operation, maintenance and delivery of groundwater from the Well. Nothing in this Agreement shall obligate or require the City to drill or operate any Well or any Water Pipelines and the City may at any time cease drawing water from the Well without obligation or liability to the County. Any decision by the City to withdraw groundwater from the Well, or to cease such operation, does not eliminate the City's obligation to provide water and sewer service to the Park as a metered customer as contemplated in this Agreement.

e. Construction of Laterals on the Park. Upon the City's construction of the Water Pipelines, the City shall construct eight (8) laterals with hydrants within the Park as generally illustrated on the schematic attached hereto as Exhibit H, the exact location of the

laterals shall be identified with particularity following the final design by Shephard Wesnitzer Inc. (the "Engineer") and mutual agreement of the City and County and shall constitute, and the County hereby grants to the City, an additional easement upon, across and under the surface of the Park in the location of the laterals, for the construction, installation, operation, maintenance, repair and/or replacement of such laterals. Any dispute between the City and County as to the design or location of the laterals and hydrants, should the City and County be unable to reach a mutual decision, shall be decided under the mediation process described in Section 6(e)(i) below. The laterals shall not exceed 30 feet in length. The three (3) closest hydrants to the horse racing track may be used by the County for dust control purposes at the Park and the City shall install water meters on such hydrants after the County requests the meters through the Customer Service Area of the City and pays the designated deposit charges. The County shall pay all water costs and fees at the prevailing "out of City" rates for the usage. In no event shall the County resell any water provided by the City in accordance with the terms of this Agreement.

f. Temporary Construction Easement. The County hereby grants to the City a temporary construction easement to allow for access roads, construction of the Well, Facilities and bore pit. The temporary construction easement shall be three (3) times the permitted width of the Utility Easement Area.

g. Pump House Sound Abatement. If the City installs a pump house or similar facility on City owned property located adjacent to the Park, the City shall also install commercially reasonable and customarily available sound abatement materials and/or equipment concurrently with the construction of the pump house. If installed, the City, at the City's cost, will conduct a background sound assessment at the site from the interstate traffic and the sounds from the Well will be mitigated to not exceed those levels by 5 decibels. The noises will be measured at the center of the North Entrance of the Park 10 feet from the edge of the Beulah Boulevard.

h. Water Related Costs and Phasing. The costs and phasing associated with the construction, installation and usage of water from the Well is subject to the following terms and conditions:

(i) The cost to install the Well and Water Pipeline and related Facilities shall be allocated in accordance with the Water Cost Sharing Matrix attached hereto as Exhibit "D" and made a part hereof. In the event that the City determines the actual costs associated with the construction of the Well, the Water Pipelines and related Facilities are different that those shown on the Water Cost Sharing Matrix, then the City shall allocate the actual costs in accordance with the same percentages shown on the Water Cost Sharing Matrix. In no instance shall the County's cost for installation of the Well, the Water Pipelines and related Facilities be any amount other than $0.00 (zero dollars).

(ii) Upon the recordation of this Agreement (the "Effective Date"), the City agrees to waive (1) the amount of $6,500.00 corresponding to "in-City" water rates charged by the City to the County for the past three years, and (2) the County's unpaid capacity charge associated with upsizing the existing water meter at the Park from 4" to 6" in the amount of $26,030.50. Any future water meters obtained or requested to be obtained by the County from

the City shall be the County's obligation and shall be charged at the then current rates for the City's other commercial utility customers.

(iii) The County is responsible to pay all water related costs and fees associated with the County's water usage at the Park in the same manner and subject to the same rates as other "out of City" users.

(iv) The Water Pipelines and related Facilities shall be constructed in two phases. Immediately upon the Effective Date, the City may commence Phase I consisting of the construction of the Water Pipelines and related Facilities from the Well, under I-17 and connect to the City's existing facilities at the Pulliam Airport. All costs associated with Phase I, including overhead, shall be paid by the City. Subject to a management intergovernmental agreement between the County and the City, the County shall administer and the City shall pay for the construction of Phase II consisting of the construction of the Water Pipeline from the boundary of the Tuthill North subdivision to the pump house. The County, at the County's cost, will obtain the necessary Utility Easements for the construction of Phase II. The City may elect to use a "Job Order Contractor" or "Construction Manager at Risk Contract" to perform the work, and the funds to pay for the construction will be processed through the County.

(v) The County shall contract with the Engineer and complete the design of the Phase II Water Pipeline and Sewer Pipeline from the Tuthill North subdivision to the Luke Recreational Center (as defined below) for sewer and from the Tuthill North Subdivision to the City's proposed pump house for water. The City shall be responsible for the design costs of the Phase II Water Pipeline and the County shall be responsible for the design costs of the Sewer Pipeline.

i. City Election Rights. Water and sewer service by the City to the Park shall not be construed to permit the County to obtain additional water or sewer service or connections at the Park or in other areas of the County without the prior written consent of the City, which consent may be granted or withheld in the City's sole discretion.

2. Sewer Pipelines.

a. Grant of Easement for Sewer Pipelines. The County hereby grants to the City, its successors and assigns, a permanent easement to operate, maintain, alter, repair and/or replace the Sewer Pipelines and any related facilities upon, across and under the surface of the Park that may be necessary or proper pertaining to the connection to and collection through the existing sewer system, together with such vehicular and pedestrian ingress and egress access to and from the Sewer Pipeline Easement Area and other land of the County located adjacent to the Sewer Pipeline Easement Area.

b. Sewer Related Costs and Recapture

(i) The cost to install the Sewer Pipeline and related facilities shall be allocated in accordance with the Sewer Cost Sharing Matrix attached hereto as Exhibit "E" and made a part hereof. In the event that the actual costs associated with the construction of the Sewer, the Sewer Pipelines and any related facilities are different than those shown on the Sewer

Cost Sharing Matrix, then the City shall allocate the actual costs in accordance with the same percentages shown on the Sewer Cost Sharing Matrix.

(ii) The City will administer the recapture with benefited properties and refund the construction costs to the County after the County completes the construction in accordance with the Ordinances of the City.

(iii) The County is responsible to pay all sewer capacity charges associated with the County's sewer usage at the Park in the same manner and subject to the same rates as other "out of City" users.

(iv) The City may review the County's sewer capacity costs every five years and the County will be responsible to pay any additional capacity used over and above the use levels established by the City as of the Effective Date, which amounts shall be paid as detailed in the Ordinances of the City. The County may, by written notice to the City, elect to pay the sewer capacity charges in equal installments over ten years from the date of activation of the sewer pipeline and as detailed in the Ordinances of the City.

(v) The County acknowledges and agrees that the Sewer Pipelines and related facilities are owned solely by the City and the County disclaims any interest or right thereto.

3. Shared Costs for Project Overhead and Management. Any general overhead and management costs for Phase II shall be shared equally between the County and the City.

4. Luke Air Force Base Recreational Center. The County and the City acknowledge and agree that the Luke Air Force Base Recreational Center located adjacent to the Park (the "Luke Recreational Center") shall not be included in the County's sewer or water account, but shall have a separate and distinct water and sewer utility account. The City and the County shall each use commercially reasonable, good faith efforts to establish the proportionate costs applicable to the Luke Recreational Center. The Luke Recreational Center currently has its meter flow pass through the Park's meter with the City hand calculating the deduction to the Park meter with the Park and Luke Recreation Center having separate accounts. Following construction, the flows will not pass through the Park's meter and Luke Air Force Base and the County will have separate accounts and metering.

5. Drainage Easement. The County hereby grants to the City, its successors and assigns, a permanent Drainage Easement upon the Drainage Easement Area. This easement includes the right of vehicular and pedestrian ingress and egress across adjacent property owned or controlled by the County where reasonably required to gain access to the Drainage Easement Area. This Drainage Easement is granted on a non-exclusive basis to the City and the City shall have the right to use the easement for public utility services associated with City approved drainage appurtenances. This Drainage Easement includes the right to remove, alter or maintain vegetation, improvements, or obstructions within the limits of the easement that conflict with the legitimate use of this Drainage Easement. The City shall use its reasonable efforts to coordinate with the County to avoid the disruption of natural resources. Upon completion of any removal, alteration or maintenance of the utility improvements, the City or assigns, shall have the

obligation to restore the physical attributes of the Drainage Easement Area disturbed by any removal, alteration or maintenance to as near the pre-disturbance condition, or County approved condition, as the physical characteristics of the installed utility permit. The County shall be responsible for the maintenance of the Utility Easement Area surface and associated surface maintenance costs after the restoration of the area by the City. To the extent permitted by Arizona law, the City hereby covenants to indemnify and save County harmless from any liabilities for injuries or damages to persons or property arising out of the City's or its officers', agents', employees', and invitees of this Drainage Easement granted herein.

6. General Provisions.

a. Use of Easements. The City and the County shall each reasonably cooperate with the other in order to coordinate construction, installation, maintenance and repair activities upon the Well Easement Area, the Water Pipeline Easement Area and the Sewer Pipeline Easement Area so as not to unreasonably interfere with or disrupt the activities performed from time to time at the Park.

b. Authorization. The parties to this Agreement represent and warrant that the persons executing this Agreement on their behalves have full authority to bind the respective parties.

c. Temporary Easement. As of the Effective Date of this Agreement, the Temporary Easement and the parties' respective obligations and liabilities thereunder are hereby terminated and of no further force or effect.

d. Cancellation. This Agreement is subject to the cancellation provisions of Arizona Revised Statutes § 38-511.

e. Dispute Resolution.

(i) Mediation. If a dispute arises out of or relates to this Agreement and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to resolve the dispute by mediation before resorting to litigation or some other dispute resolution procedure. Mediation will be self-administered and conducted under the CPR Mediation Procedures established by the CPR Institute for Dispute Resolution, 366 Madison Avenue, New York, New York 10017, (212) 949-6490, www.cpradr.org. with the exception of the mediator selection provisions, unless other procedures are agreed upon by the parties. Unless the parties agree otherwise, the mediator(s) shall be selected from panels of mediators trained under the Alternative Dispute Resolution Program of the Coconino County Superior Court. Each party agrees to bear its own costs in mediation. The parties will not be obligated to mediate if an indispensable party is unwilling to join the mediation. This section does not constitute a waiver of the parties' right to arbitrate or initiate legal action if a dispute is not resolved through good faith negotiation or mediation, or if provisional relief is required under the Arizona Rules of Civil Procedure.

(ii) Litigation and Attorneys' Fees. Except as otherwise agreed by the parties, any litigation brought by any party against any other party to enforce the provisions of this Agreement must be filed in the Coconino County Superior Court. In the event any action at

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

f. Liability and Indemnification.

(i) The City shall defend against and be responsible for any and all damages arising now and in the future from the activities of the City, its agents, employees and contractors, in the exercise of its rights under the Agreement on the Well Easement Area, the Water Pipeline Easement Area and Sewer Pipeline Easement Area and shall repair such damage, or in lieu thereof and at the option of the County, make a mutually agreeable settlement with the County for such damages. The City hereby covenants and agrees to indemnify, defend and hold the County harmless for, from and against any and all claims, demands, costs, actions, suits, liabilities, losses and expenses, of whatever kind and nature whatsoever (collectively, the "Claims") that may arise or result from any act, action or omission of the City in connection with the activities of the City, its employees, agents, contractors and invitees as contemplated under this Agreement.

(ii) The County shall defend against and be responsible for any and all damages arising now and in the future from the activities of the County, its agents, employees and contractors, in the exercise of its rights under the Agreement on the Well Easement Area, the Water Pipeline Easement Area and Sewer Pipeline Easement Area and shall repair such damage, or in lieu thereof and at the option of the City, make a mutually agreeable settlement with the City for such damages. The County hereby covenants and agrees to indemnify, defend and hold the City harmless for, from and against any and all Claims that may arise or result from any act, action or omission of the County in connection with the activities of the County, its employees, agents, contractors and invitees as contemplated under this Agreement.

g. Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein.

h. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Arizona and shall be deemed made and entered into in Coconino County.

i. Modification. No modification of this Agreement shall be deemed effective unless in writing and signed by the parties hereto.

j. Run with Land. All of the covenants set forth herein constitute covenants that run with the land, and those covenants and all conditions set forth herein shall inure to the benefit of and shall be binding upon the authorized successors in interest of each of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the date first set forth above.

CITY OF FLAGSTAFF, an Arizona municipal corporation

By: _____

Attest:

Laura Matthews for
City Clerk

Approved as to Form:

_____
City Attorney

COCONINO COUNTY, a political subdivision of the State of Arizona

By: _____
Matt Ryan, Chairman

Attest:

_____
Clerk of the Board

Approved as to Form:

_____
County Attorney

STATE OF ARIZONA)
) ss.
County of Coconino)

The foregoing instrument was acknowledged before me on April 6, 2009, by Sara Presler, the Mayor of the City of Flagstaff, an Arizona municipal corporation, acting for and on behalf thereof.

Debra Huff
Notary Public

My Commission Expires:

Oct. 23, 2011

DEBRA HUFF
Notary Public - Arizona
Coconino County
My Comm. Expires Oct 23, 2011

STATE OF ARIZONA)
) ss.
County of Coconino)

The foregoing instrument was acknowledged before me on April 6, 2009, by Matt Ryan, the Chairman BOS of Coconino County, a political subdivision of the State of Arizona, acting for and on behalf thereof.

Laura Matthews
Notary Public

My Commission Expires:

April 24, 2012

OFFICIAL SEAL
LAURA MATTHEWS
Notary Public - State of Arizona
COCONINO COUNTY
My Comm. Expires April 24, 2012

EXHIBIT "A"
DESCRIPTION OF WELL EASEMENT AREA

LOCATED IN THE northeast one-quarter of Section 6, Township 20 North, Range 7 East of the Gila and Salt River Meridian (NE/4 of Sec. 6, T20N, R7E, G&SRM), Coconino County, Arizona;

LYING WITHIN Parcel No. 2 as described in Instrument 3080890 per the Coconino County Recorder's Office;

AND BEING a square parcel of land more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at the northeast corner of the NE/4 of Section 6 and also the Closing Corner for Sections 5 and 6 which point is marked by an aluminum cap marked "NES RLS 14671", thence South 0 degrees 39 minutes 19 seconds East along the east line of the NE/4 Section 6 a distance of 2659.61 feet to the quarter corner between Section 5 and Section 6 as marked by a City of Flagstaff aluminum cap;

THENCE South 0 degrees 39 minutes 14 seconds East along the east line of the SE/4 Section 6 a distance of 78.00 feet to a point;

THENCE South 89 degrees 33 minutes 30 seconds West a distance of 93.50 feet to a point;

THENCE North 67 degrees 56 minutes 30 seconds West a distance of 620.00 feet to a point;

THENCE South 89 degrees 33 minutes 30 seconds West a distance of 166.00 feet to the TRUE POINT OF BEGINNING of this easement description.

THENCE South 28 degrees 26 minutes 30 seconds East a distance of 54.00 feet to a point;

Continue...

...continued.

THENCE South 61 degrees 33 minutes 30 seconds West a distance of 200.00 feet to a point;

THENCE N 28 degrees 26 minutes 30 seconds West a distance of 200.00 feet to a point;

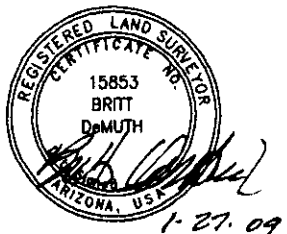
THENCE North 61 degrees 33 minutes 30 seconds East a distance of 200.00 feet to a point;

THENCE South 28 degrees 26 minutes 30 seconds East a distance of 146.00 feet to the TRUE POINT OF BEGINNING of this easement description.

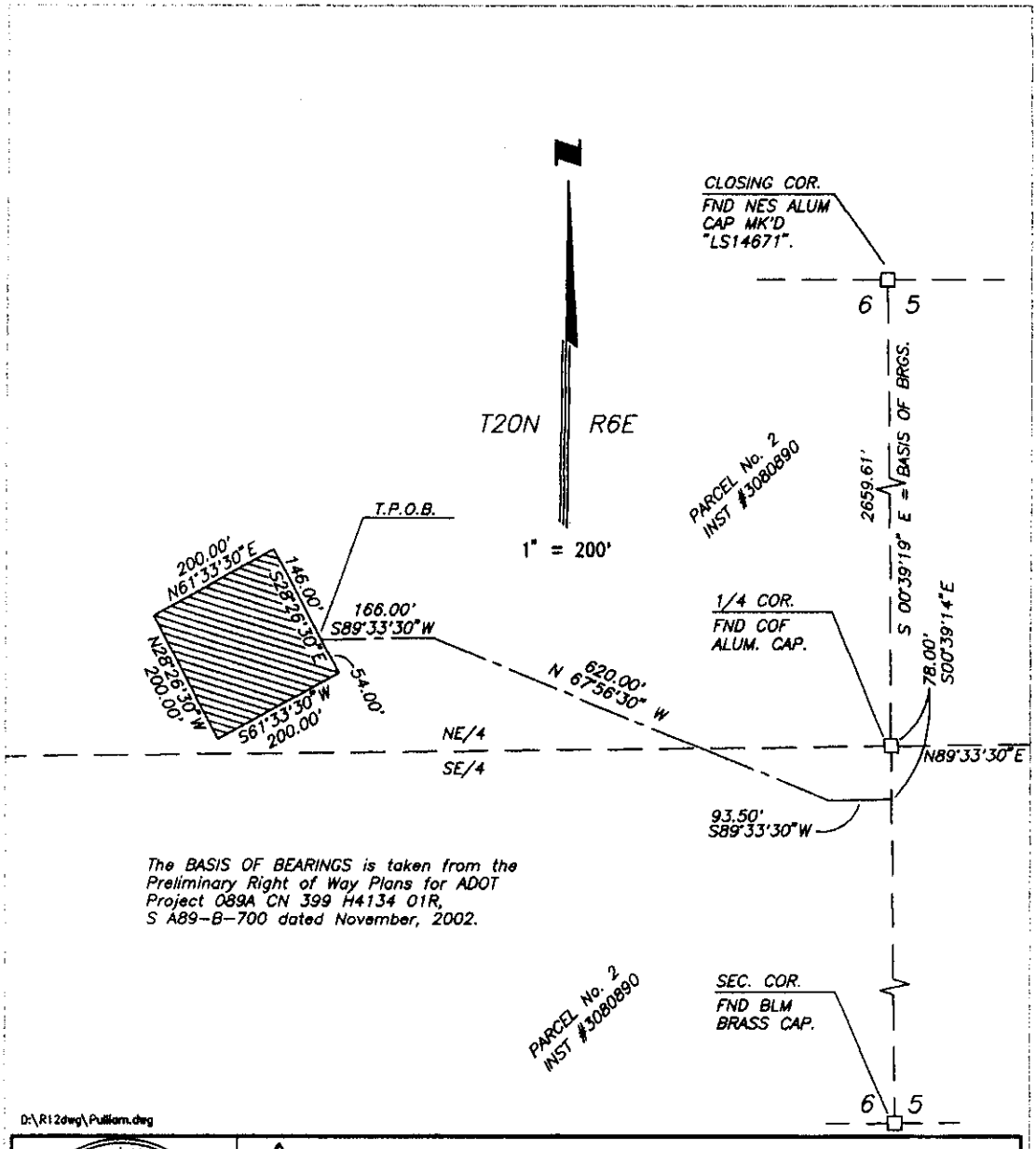
The Easement, as described above, contains 40,000 square feet of land and is depicted graphically in EXHIBIT "A-1" attached and made a part hereof by this reference.

PREPARED BY:

Aztech Design, Inc.
PO Box 494
Flagstaff, Arizona 86002
fn c:mary\coftuthill.doc



1-27-09
EXPIRES SEPT. 30, 2011



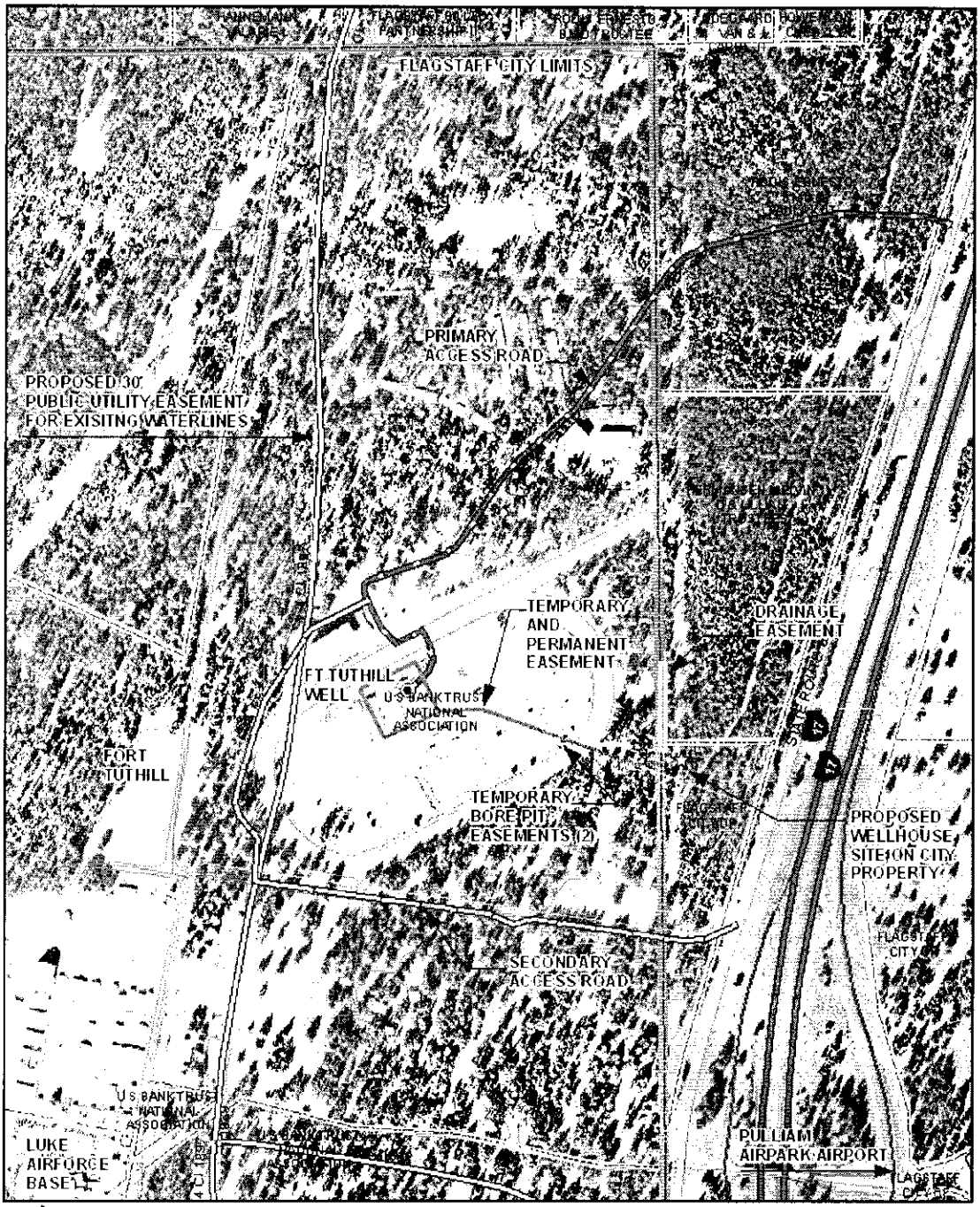
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
15853
BRITT
DeMUTH
ARIZONA, U.S.A.
EXPIRES SEPT. 30, 2011

aztech design, inc.
CIVIL ENGINEERING DESIGN, LAND SURVEYING
P.O. BOX 494 FLAGSTAFF, ARIZ. 86002 (520) 774-4409

Des. ____
Dwn. ____
Chk. ____

EXHIBIT "A-1"

EXHIBIT A-2
Egress/Ingress Access to Well Easement Locations



City of Flagstaff - Utilities Department

EXHIBIT "B"
DESCRIPTION OF UTILITY EASEMENT AREA

LOCATED IN THE northeast one-quarter and the southeast one-quarter of Section 6, Township 20 North, Range 7 East of the Gila and Salt River Meridian (NE/4 and SE/4 of Sec. 6, T20N, R7E, G&SRM), Coconino County Arizona;

LYING WITHIN Parcel No. 2 as described in Instrument 3080890 per the Coconino County Recorder's Office;

AND BEING A STRIP OF LAND twenty (20) feet in width encompassing fourteen (14) feet on the left (southerly side) and six (6) feet on the right (northerly side) of the line between the TRUE POINT OF BEGINNING and the TERMINUS POINT described herein.

COMMENCING FOR REFERENCE at the northeast corner of the NE/4 of Section 6 and also the Closing Corner for Sections 5 and 6 which point is marked by an aluminum cap marked "NES RLS 14671", thence South 0 degrees 39 minutes 19 seconds East along the east line of the NE/4 Section 6 a distance of 2659.61 feet to the quarter corner between Section 5 and Section 6 as marked by a City of Flagstaff aluminum cap;

THENCE South 0 degrees 39 minutes 14 seconds East along the east line of the SE/4 Section 6 a distance of 78.00 feet to the TRUE POINT OF BEGINNING of this easement description. The easement is twenty (20) feet in width encompassing fourteen (14) feet on the left (southerly side) and six (6) feet on the right (northerly side) of the following described line:

THENCE South 89 degrees 33 minutes 30 seconds West a distance of 93.50 feet to a point;

THENCE North 67 degrees 56 minutes 30 seconds West a distance of 620.00 feet to a point;

Continue...

...continued.

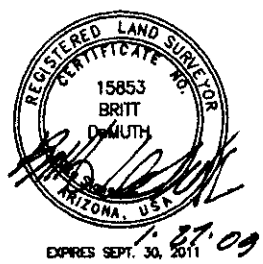
THENCE South 89 degrees 33 minutes 30 seconds West a distance of 260.00 feet to a point;

THENCE North 45 degrees 26 minutes 30 seconds West a distance of 40.00 feet to the TERMINUS POINT of this easement description.

The Easement, as described above, contains 19,870 square feet of land and is depicted graphically in EXHIBIT "B-1" attached and made a part hereof by this reference.

PREPARED BY:

Aztech Design, Inc.
PO Box 494
Flagstaff, Arizona 86002
fn c:\mary\coftuthill.doc



1.27.09
EXPIRES SEPT. 30, 2011

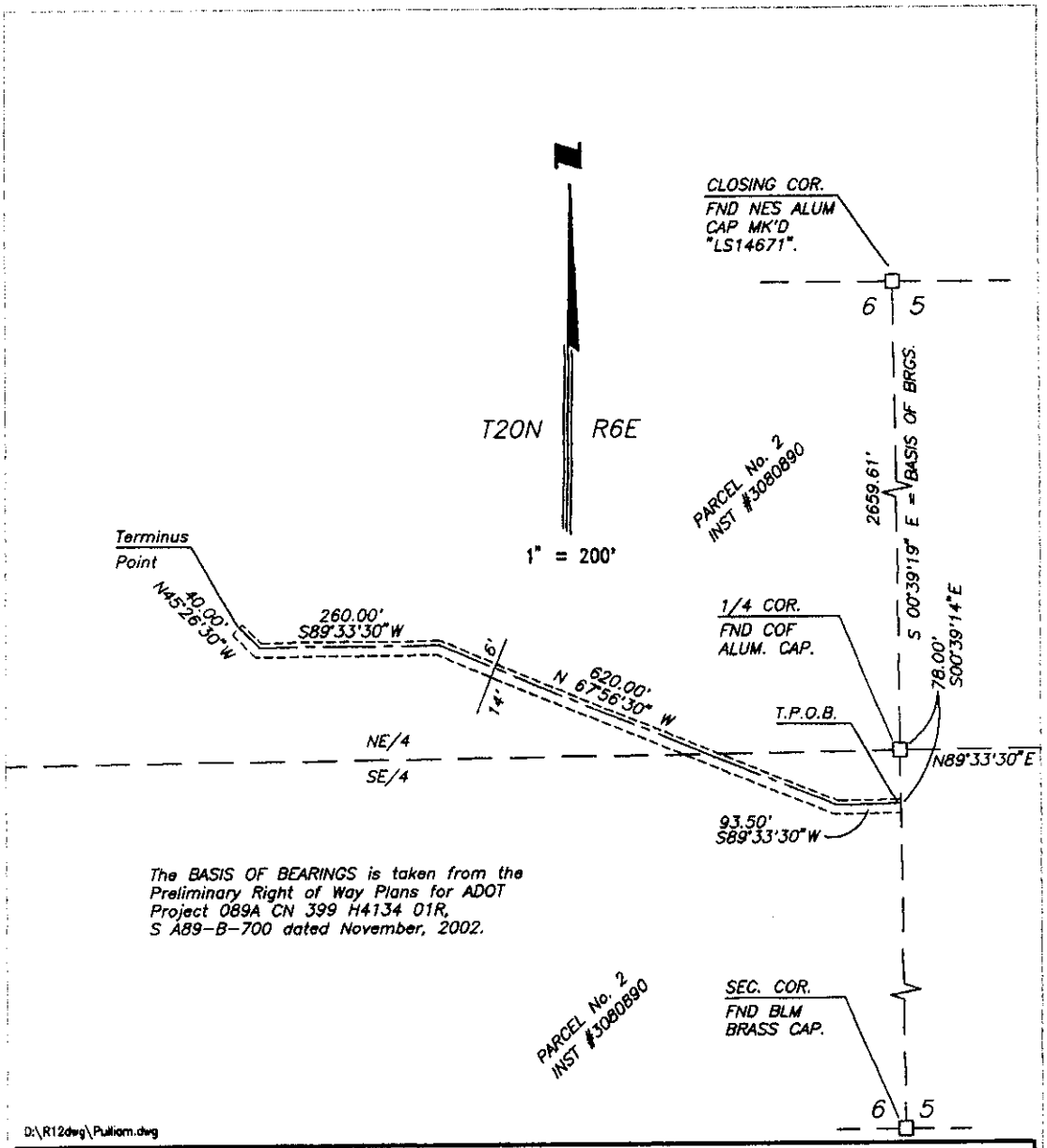
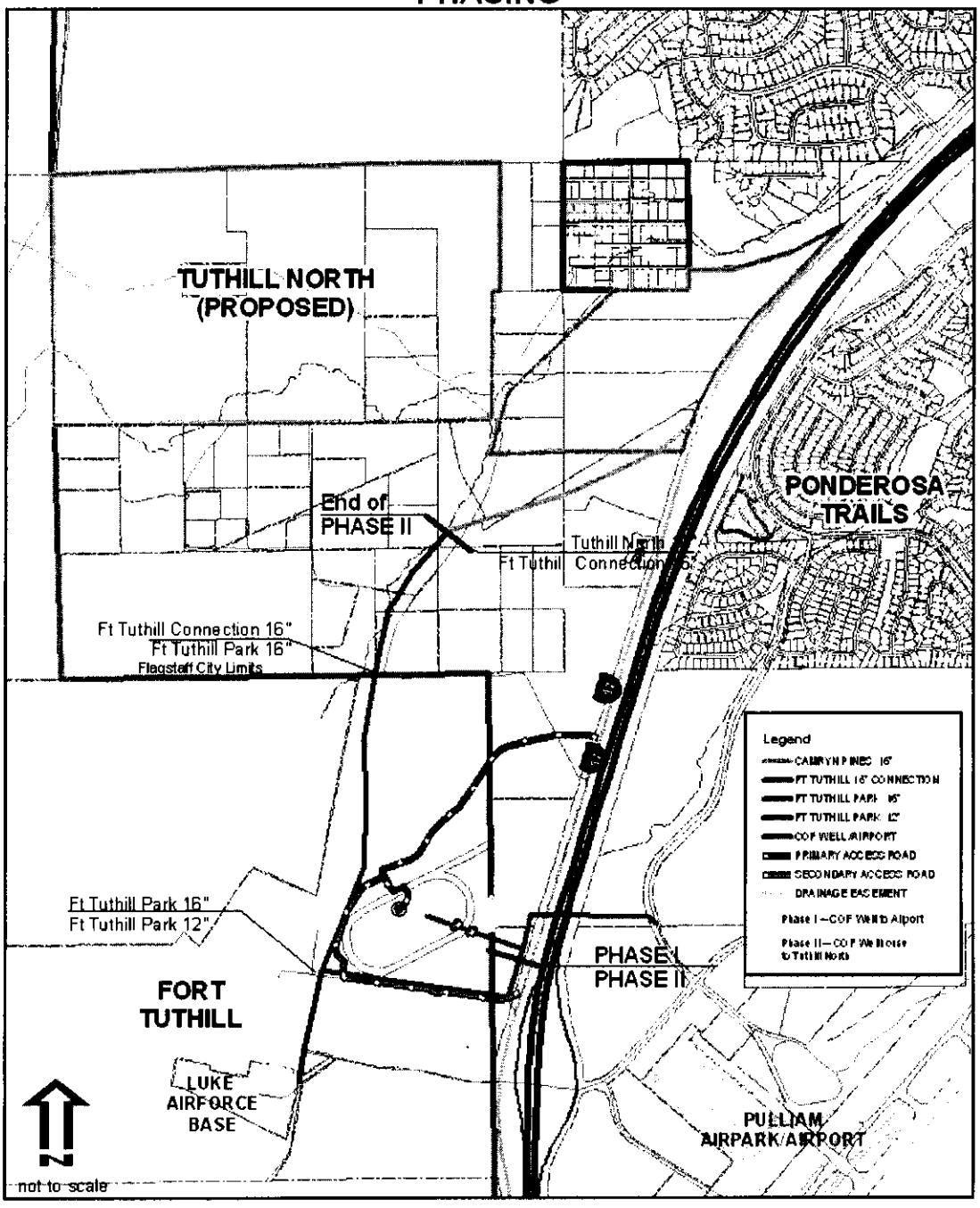

CLOSING COR.
FND NES ALUM
CAP MK'D
"LS14671".
6
5
T20N
R6E
1" = 200'
PARCEL No. 2
INST #3080890
2659.61'
BASIS OF BRGS.
S 00°39'19" E
Terminus
Point
N45°26'30"W
40.00'
260.00'
S89°33'30"W
6'
14'
N 67°56'30" W
620.00'
1/4 COR.
FND COF
ALUM. CAP.
78.00'
S00°39'14"E
T.P.O.B.
N89°33'30"E
NE/4
SE/4
93.50'
S89°33'30"W
The BASIS OF BEARINGS is taken from the
Preliminary Right of Way Plans for ADOT
Project 089A CN 399 H4134 01R,
S A89-B-700 dated November, 2002.
PARCEL No. 2
INST #3080890
SEC. COR.
FND BLM
BRASS CAP.
6
5
D:\R12dwg\Pulliam.dwg
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
15853
BRITT
DeMUTH
ARIZONA, U.S.A.
1.27.09
EXPIRES SEPT. 30, 2011
aztech design, inc.
CIVIL ENGINEERING DESIGN, LAND SURVEYING
P.O. BOX 494 FLAGSTAFF, ARIZ. 86002 (520) 774-4409
Des.
Dwn.
Chk.
EXHIBIT "B-1"

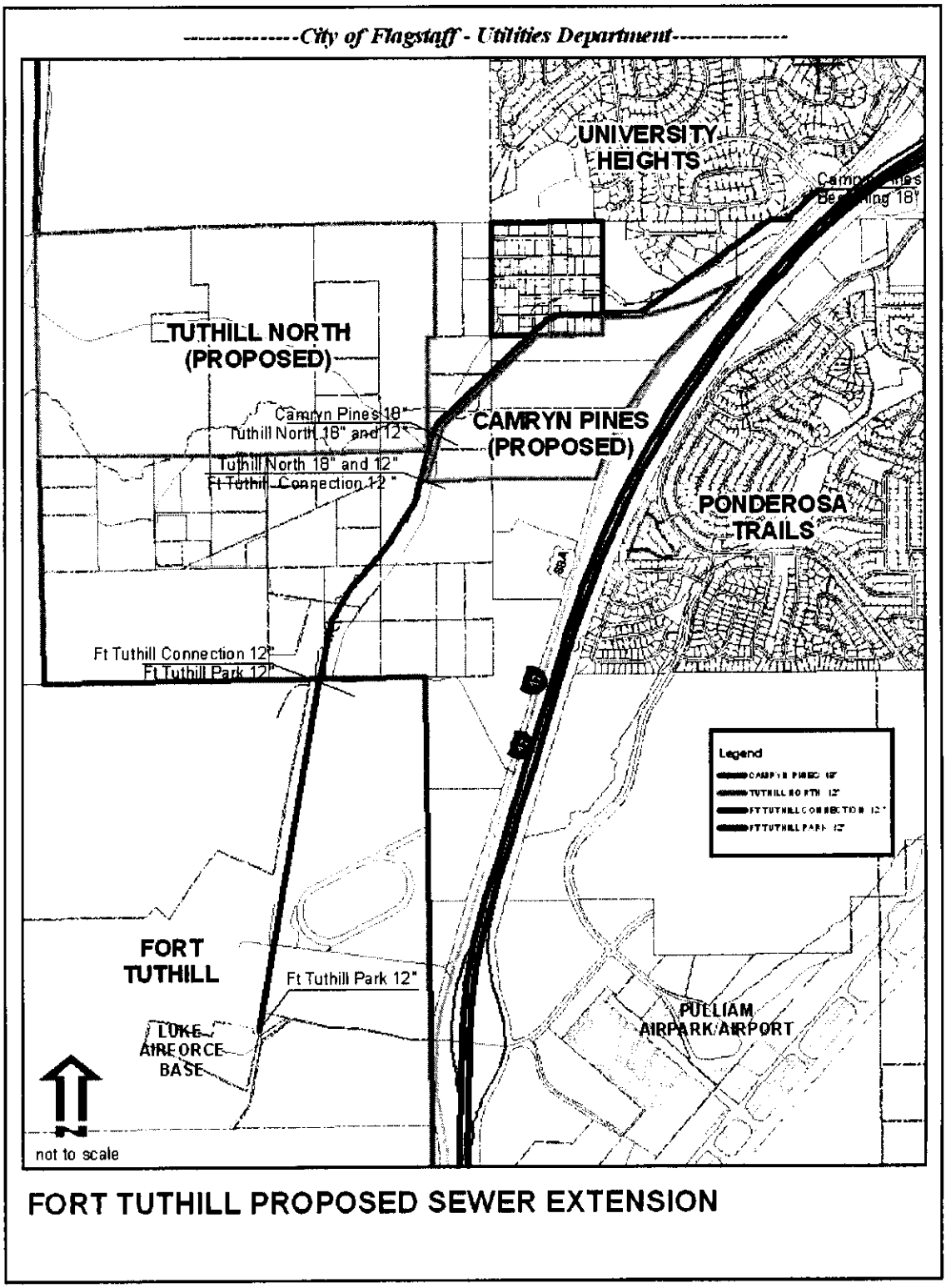
EXHIBIT C-1
FORT TUTHILL PROPOSED WATER EXTENSION
PHASING



----------City of Flagstaff - Utilities Department----------

EXHIBIT "C-2"

SEWER PIPELINE EXTENSION



FORT TUTHILL PROPOSED SEWER EXTENSION

EXHIBIT "D"

WATER COST SHARING MATRIX

Fort Tuthill Water - Cost Sharing Matrix

WATER	Length Feet	Cost to Upsize 8"-16"	Total	City Portion	Fort Tuthill Portion	Camryn Pines Portion	Tuthill North Portion	Others
Camryn Pines								
16" PVC Water from Univ Hts	4900	$255,000	$752,000	**$0**	**$30,600**	$497,000	$43,605	$67,320
Camryn Pines 8' Loop Contribution	3100	N/A	$295,000			$295,000		
Tuthill North								
16" PVC Water	2400	$125,000	$343,000	**$0**	**$18,125**	$0	$218,000	$106,875
Fort Tuthill								
16" PVC to Fort Tuthill property	3200	$166,400	$457,600	**$0**	**$291,200**	$0	$32,448	$133,952
30 ' PUE Easement, approx 1.5 acres			TBD					
City of Flagstaff- Loop to Well								
16" PVC Water	4800	N/A	$686,400	**$686,400**	**$0**	$0	$0	$0
City of Flagstaff -Pipe to wellhead								
8" PVC Water under Racetrack	1200	N/A	$225,000	**$225,000**	**$0**	$0	$0	$0
30 ' PUE Easement, Wells and pipeline approx 1 acre			$175,422	**$175,422**	**($175,422)**			
City of Flagstaff- Loop Pipe to Airport								
18" DI Water + 30" Bore under Beulah and I-17	3150	N/A	$825,000	**$825,000**				
City of Flagstaff- 6 FH Assy Stubouts			$132,000	**$132,000**	**($132,000)**			
City of Flagstaff- Tuthill Meter Upsize 4"-6"			$26,003	**$26,003**	**($26,003)**			
City of Flagstaff- Outside COF Rate 110%			$6,500	**$6,500**	**($6,500)**			
Fort Tuthill Portion of Recapture			$48,725	**$48,725**	**($48,725)**			
		Total Project	**$3,797,228**					
			City Portion	**$2,125,050**				
				County Portion	**$0**			

	Recapture Amount - Proportionate share					
Pipe Segment	Cost to Upsize 8"-16"	Fort Tuthill	Surrounding Parcels	Tuthill North	State Land	Fairways at FRGC
Camryn Pines	$255,000	$30,600	$78,285	$43,605	$67,320	$35,190
Camryn to Tuthill North	$125,000	$18,125	$46,250	$0	$39,750	$20,875
Tuthill North to Fort Tuthill	$166,400	$0	$57,907	$32,448	$49,920	$26,125
Totals		$48,725	$182,442	$76,053	$156,990	$82,190

EXHIBIT "E"

SEWER COST SHARING MATRIX

Fort Tuthill Sewer - Cost Sharing Matrix

SEWER	Length Feet	Cost to Upsize 8"-18"	Total	City Portion	Fort Tuthill Portion	Luke AFB Portion	Camryn Pines Portion	Tuthill North Portion	Others
Camryn Pines									
18" PVC Sewer from Univ Hts	5600	$400,000	$1,130,000	$0	$36,000	$12,000	$730,000	$68,400	$283,600
Tuthill North									
18" PVC Sewer	700	$50,000	$140,000	$0	$5,438	$1,813	$0	$0	$42,750
12" PVC Sewer	900	$18,000	$130,000	$0	$13,500	$4,500	$0	$112,000	$0
Fort Tuthill Connection									
12" PVC to Fort Tuthill property	2400	$47,000	$338,000	$0	$291,000	$4,183	$0	$0	$47,000
30 ' PUE Easement, approx 1.5 acres			TBD						
Fort Tuthill Onsite									
12" PVC Sewer	4000	$96,400	$504,400	$0	$504,400	$0	$0	$0	$0
Fort Tuthill Tap Fees			$194,515	$0	$194,515	TBD			
		Total Project	$2,436,915						
			City Portion	$0					
				County Portion	$1,044,853				

Pipe Segment	*Recapture Amount - Proportionate share* Cost to Upsize	Fort Tuthill	Luke AFB	Surrounding Parcels	Tuthill North	State Land	Fairways at FRGC
18" Camryn Pines	$400,000	$36,000	$12,000	$122,800	$68,400	$105,600	$55,200
18" Camryn to Tuthill North	$50,000	$5,438	$1,813	$18,500	$0	$15,900	$8,350
12" Tuthill North to FT	$18,000	$13,500	$4,500	$0	$0	$0	$0
12" Tuthill North to Fort Tuthill	$47,000	$0	$4,183	$42,817	$0	$0	$0
12" Fort Tuthill Onsite	$96,400	$0	$96,400	$0	$0	$0	$0
Totals		$54,938	$118,896	$184,117	$68,400	$121,500	$63,550

EXHIBIT "F"
DESCRIPTION OF DRAINAGE EASEMENT AREA

LOCATED IN THE northeast one-quarter and the southeast one-quarter of Section 6, Township 20 North, Range 7 East of the Gila and Salt River Meridian (NE/4 and SE/4 of Sec. 6, T20N, R7E, G&SRM), Coconino County, Arizona;

LYING WITHIN Parcel No. 2 as described in Instrument 3080890 per the Coconino County Recorder's Office;

AND BEING A STRIP OF LAND twenty (20) feet in width more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at the northeast corner of the NE/4 of Section 6 and also the Closing Corner for Sections 5 and 6 which point is marked by an aluminum cap marked "NES RLS 14671", thence South 0 degrees 39 minutes 19 seconds East along the east line of the NE/4 Section 6 a distance of 2659.61 feet to the quarter corner between Section 5 and Section 6 as marked by a City of Flagstaff aluminum cap, which point is the TRUE POINT OF BEGINNING of this easement description;

THENCE South 0 degrees 39 minutes 14 seconds East along the east line of the SE/4 Section 6 a distance of 30.00 feet to a point;

THENCE South 89 degrees 20 minutes 41 seconds West a distance of 20.00 feet to a point;

THENCE North 0 degrees 39 minutes 19 seconds West a distance of 200.00 feet to a point;

THENCE North 89 degrees 20 minutes 41 seconds East a distance of 20.00 feet to a point on the east line of the NE/4 Section 6;

THENCE South 0 degrees 39 minutes 19 seconds East along the east line of the NE/4 Section 6 a distance of 170.00 feet to the TRUE POINT OF BEGINNING of this easement description.

Continue...

...continued.

The Easement, as described above, contains 4,000 square feet of land and is depicted graphically in EXHIBIT "F-1" attached and made a part hereof by this reference.

PREPARED BY:

Aztech Design, Inc.
PO Box 494
Flagstaff, Arizona 86002
fn c:\mary\coftuthill.doc

7.27.09

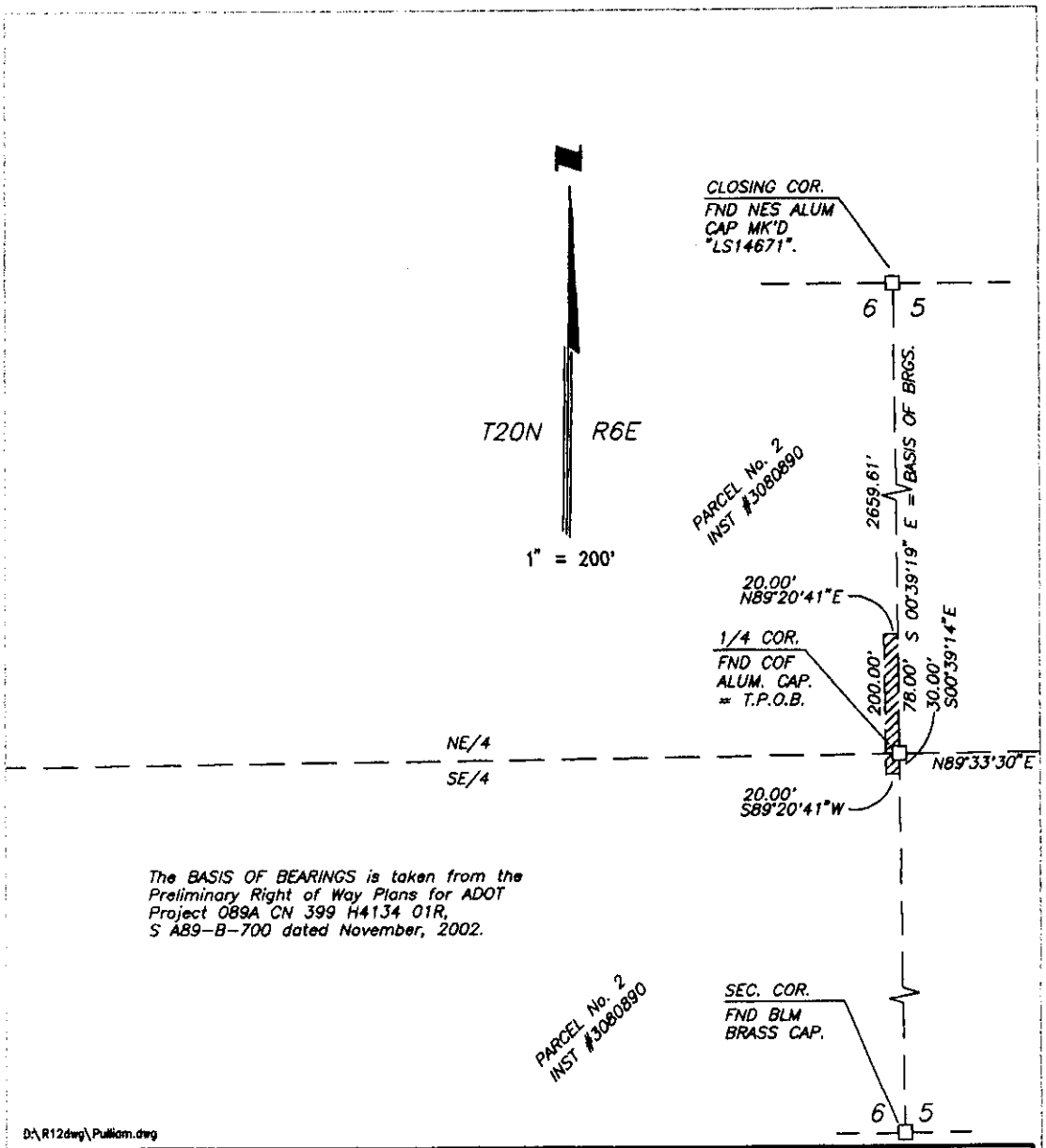

CLOSING COR.
FND NES ALUM
CAP MK'D
"LS14671".
6
5
T20N
R6E
1" = 200'
PARCEL No. 2
INST #3080890
2659.61'
BASIS OF BRGS.
S 00°39'19" E
20.00'
N89°20'41"E
1/4 COR.
FND COF
ALUM. CAP.
= T.P.O.B.
200.00'
78.00'
30.00'
S00°39'14"E
NE/4
SE/4
N89°33'30"E
20.00'
S89°20'41"W
The BASIS OF BEARINGS is taken from the
Preliminary Right of Way Plans for ADOT
Project 089A CN 399 H4134 01R,
S A89-B-700 dated November, 2002.
PARCEL No. 2
INST #3080890
SEC. COR.
FND BLM
BRASS CAP.
6
5
D:\R12dwg\Pulliam.dwg
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
15853
BRITT
DeMUTH
ARIZONA, U.S.A.
EXPIRES SEPT. 30, 2011
aztech design, inc.
CIVIL ENGINEERING DESIGN, LAND SURVEYING
P.O. BOX 494 FLAGSTAFF, ARIZ. 86002 (520) 774-4409
Des.
Dwn.
Chk.
EXHIBIT "F-1"

EXHIBIT "G"
DESCRIPTION OF A BLANKET EASEMENT
FOR EXISTING CITY OF FLAGSTAFF WATER MAINS

LOCATED IN THE northeast one-quarter and the southeast one-quarter of Section 6, Township 20 North, Range 7 East of the Gila and Salt River Meridian (NE/4 and SE/4 of Sec. 6, T20N, R7E, G&SRM), Coconino County, Arizona;

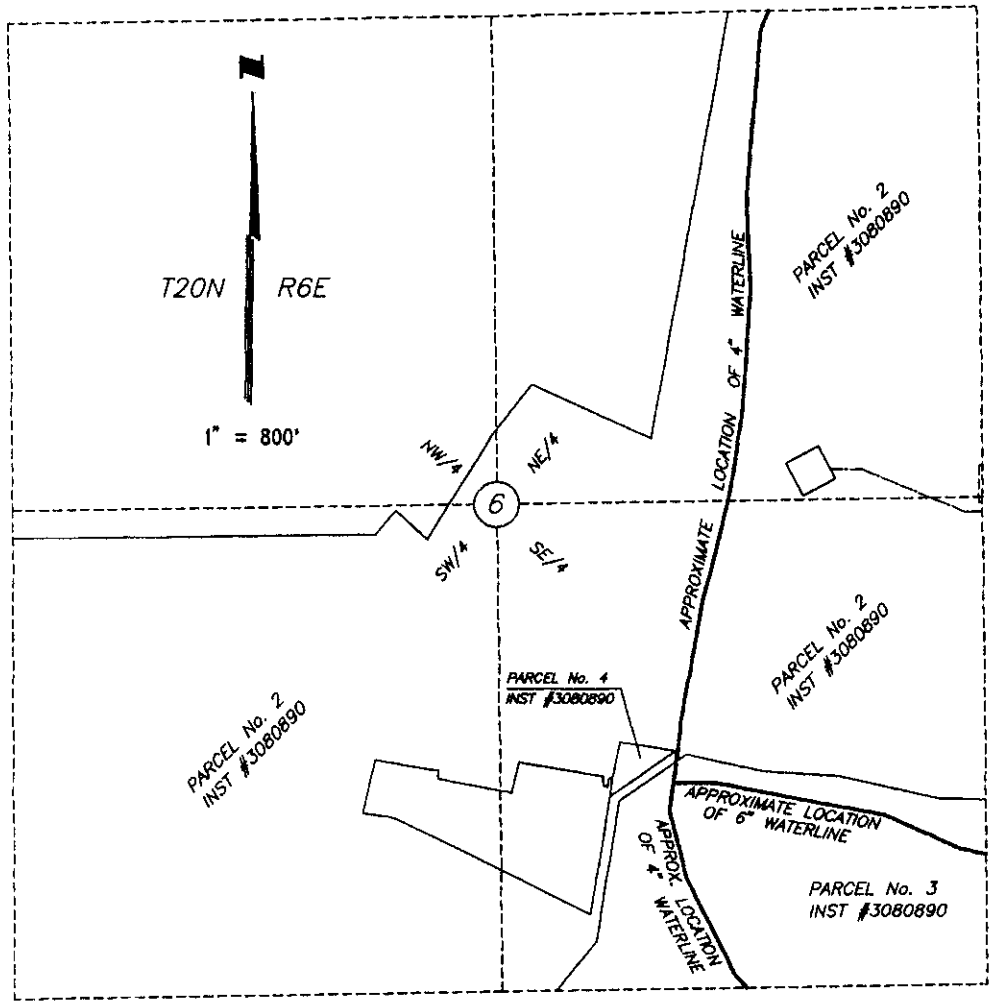
OVER PARCEL No. 2, Parcel No. 3 and Parcel No. 4 as described in Instrument 3080890 per the Coconino County Recorder's Office.

AND LIMITED TO all those areas within ten (10) feet of the existing 4" and 6" diameter waterlines shown in their approximate locations per EXHIBIT "G-1" attached and made a part hereof by this reference.

PREPARED BY:

Aztech Design, Inc.
PO Box 494
Flagstaff, Arizona 86002
fn c:\mary\coftuthill.doc

7-27-09
EXPIRES SEPT. 30, 2011



D:\R12dwg\Pulliam.dwg

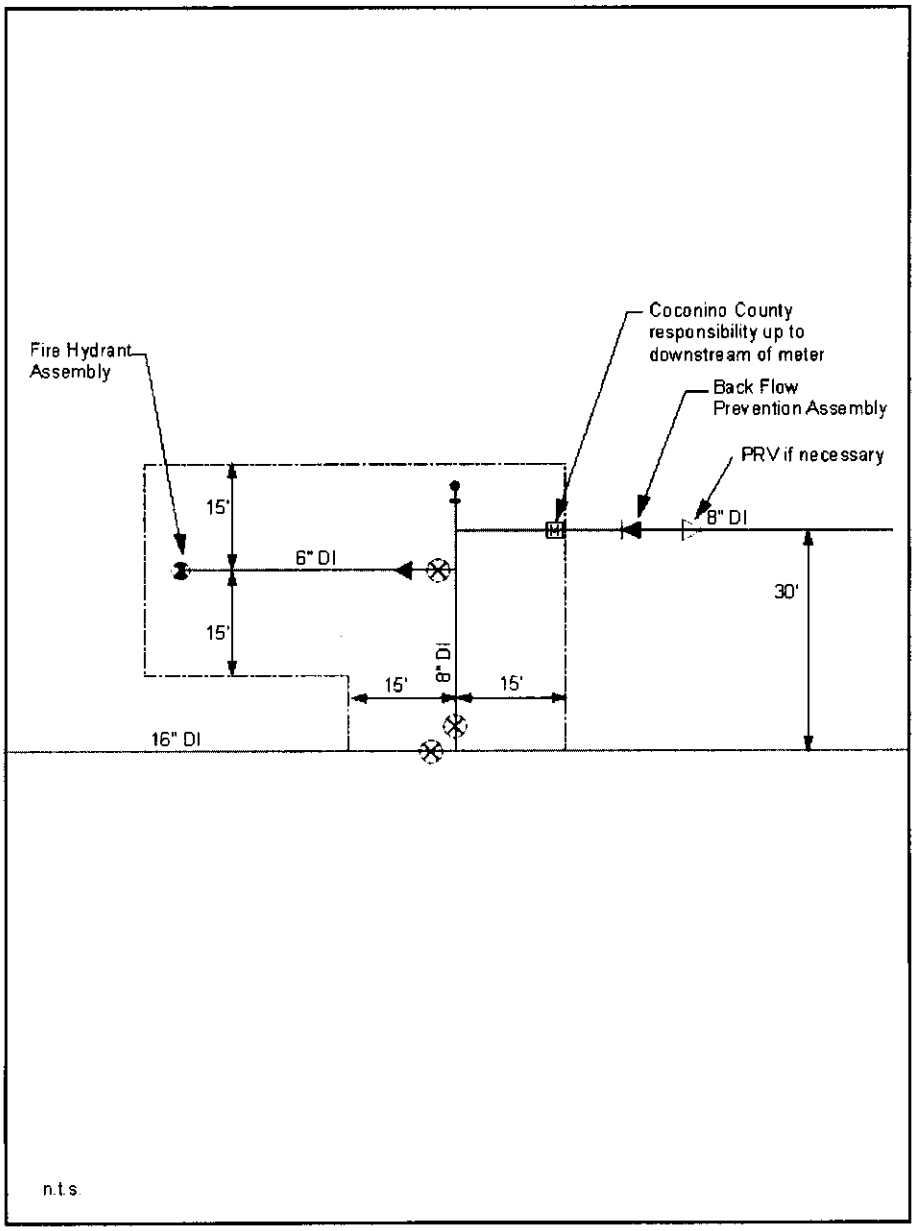
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
15853
BRITT
DeMUTH
ARIZONA, U.S.A.
6.27.09
EXPIRES SEPT. 30, 2011

aztech design, inc.
CIVIL ENGINEERING DESIGN, LAND SURVEYING
P.O. BOX 494 FLAGSTAFF, ARIZ. 86002 (520) 774-4409

Des. ____
Dwn. ____
Chk. ____

EXHIBIT "G-1"

EXHIBIT H
Typical Hydrant/Meter Stub Out Easement



----------City of Flagstaff - Utilities Department----------

7. D.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Ryan Roberts, Water Services Engineering Manager

Co-Submitter: Brad Hill

Date: 04/01/2020

Meeting Date: 04/07/2020

TITLE:

Consideration and Approval of Contract: Approval of Amended and Restated Permanent Easement for Wells, Drainage, Sewer, and Water Pipelines (for Fort Tuthill Park and surrounding area development).

STAFF RECOMMENDED ACTION:

1. Approve the agreement with Coconino County;
2. Authorize the City Manager to execute the necessary documents

Executive Summary:

Approval of this agreement acknowledges existing easements granted by the County and acknowledges existing utility infrastructure built by the City on County property under the previous agreement. This agreement also will provide the City with additional permanent and temporary easements necessary to operate and maintain wells, drainage, sewer, and water lines within city limits and to improve utility service in the Ft. Tuthill County Park. In addition, the agreement provides that Coconino County will construct new sewer lines necessary to serve the Park, and the City will pay for the incremental cost of oversizing the sewer line from 8" up to 18" to meet future development needs in the area.

The County Board of Supervisors approved this agreement at their meeting on March 24.

Financial Impact:

The Water Services Division has $760,000 budgeted in the FY2019-20 Water Services Enterprise Fund in account #203-08-375-3412-0-4463 for reimbursing Coconino County for upsizing and installing this public sewer infrastructure.

Policy Impact:

None

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

COUNCIL GOALS: 3) 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:

On March 17, 2009, City Council meeting, the City Council approved the original "Permanent Easement Agreement" for wells, drainage, sewer and water at Fort Tuthill Park. In November 2009 the agreement was amended to clarify the bidding and construction obligations of the parties.

Options and Alternatives:

1. Approve agreement and (confirm) reimbursement payment
2. Approve the agreement with any City Council approved amendments
3. Not approve the revised agreement and have staff continue negotiations.

Background/History:

The City and County entered into a Temporary Easement Agreement in 2006 for the exploration of a well within Fort Tuthill County Park. The City was successful in drilling a well, which is a very productive water source of water for the City of Flagstaff. The City and County then entered into a Permanent Easement Agreement in 2009, that allowed for the design, construction and cost-sharing of a sewer main, wells and well houses (existing and future), water transmission and distribution mains and their easements, within Fort Tuthill County Park. The first phase of the Project was completed in December 2010. The City's cost for the improvements for the well, wellhouse, infrastructure improvements inside the Ft Tuthill Park and the transmission main across Interstate 17 that connects to our water distribution system was $4,858,279. The County share of that amount for the sewer main was $300,695.

In 2019, the County approached the City to amend and update the original agreement prepared in 2009. Many of the sections of the original agreement were obsolete and no longer needed. Since September 2019, staff from both the City and County have worked together to prepare this agreement.

This new agreement replaces and updates the original 2009 agreement and the 2009 amendment. The new agreement again provides that the County grants a permanent easement necessary to operate and maintain the existing and future water wells, drainage, sewer lines and waterlines located at Fort Tuthill. Under the original agreement, the City was to construct the sewer line, however, this project is not programmed by the City to occur at this time. The County wishes to proceed now with redevelopment efforts at the Park. Under the new agreement the County will construct sewer lines necessary to provide sewer service to the Park, and the City will pay the incremental costs of upsizing the offsite sewer line in order to provide capacity for future development in the area. The new agreement includes updated provisions related to the bidding and construction of the project. The County will transfer the sewer line improvements to the City for ongoing operations after construction is complete.

Key Considerations:

The substantive revisions in this amended agreement are as follows:

- Added Phase III language stipulating that the county will be responsible for constructing the sewer line and City will pay for the upsizing of this sewer line using capacity fees;
- Added language for recapture agreement, stating the City is willing to consider a 20-year recapture agreement instead of an existing 10-year term (a longer period of time for County to recapture a portion of its costs from future developments in the area);
- Added language specifying the requirement to install sound abatement materials at future pump house #2, similar to what was installed for pump house #1.

At the County's request, a provision has been added stating that the City Council "may" waive applicable water services capacity fees related to the sewer line project for the County. Past practice and current recommendation of staff is to not waive said fees. Should the Council want to do this an in-depth look at existing ordinances would need to occur.

Expanded Financial Considerations:

The Water Services Division has $760,000 budgeted in the FY2019-20 Water Services Enterprise Fund in account #203-08-375-3412-0-4463 for reimbursing Coconino County for upsizing and installing this public sewer infrastructure. The contract will be awarded to the lowest responsible and responsive bidder for the project including upsizing. The actual cost of upsizing will be determined during the public bidding process and reconciliation of final project costs. Water Services anticipates the upsizing cost to be less than the $760,000 budgeted amount with the remaining funds to be returned to the sewer enterprise fund.

Community Benefits and Considerations:

By approving this agreement, citizens will receive additional potable water resources and an improved water and sewer system for Fort Tuthill Park. The existing well at Ft Tuthill produces 1200 gallons per minute. An additional future well, currently being developed in this proven area, will be an additional water asset for the City.

Community Involvement:

Inform/Consult

The development of multiple water resources at Fort Tuthill has been discussed in various public forums over the years. In 2004 voters approved a bond election for four new water wells after numerous public meetings.

The Fort Tuthill Sewer Oversizing Reimbursement to Coconino County was discussed during the FY2019-20 proposed budget and Capital Improvement program meetings with City Council members and Water Commission Board members.

Attachments: Original Permanent Easement Agreement with County
Revised Permamnent Easement Agreement dated 3-12-2020
Exhibit I showing Easements

WHEN RECORDED, RETURN TO:

_____
_____
_____
_____
Attention: _____

AMENDED AND RESTATED PERMANENT EASEMENT FOR WELLS, DRAINAGE, SEWER, AND WATER PIPELINES (Fort Tuthill)

THIS AMENDED AND RESTATED PERMANENT EASEMENT FOR WELLS, DRAINAGE, SEWER AND WATER PIPELINES (this "Agreement") is made this 24 day of March, 2020, between THE CITY OF FLAGSTAFF, an Arizona municipal corporation (the "City") and COCONINO COUNTY, a political subdivision of the State of Arizona (the "County").

RECITALS

A. The City, the County and U.S. Bank Trust National Association entered into that certain Agreement for Temporary Easement for Water Well Exploration and Option to Purchase Perpetual Production Water Well Easement dated November 22, 2006, (the "Temporary Easement"). Pursuant to the Temporary Easement, the City was granted a temporary easement for water well exploration within the Fort Tuthill County Park (the "Park") in the area legally defined and depicted on Exhibits "A-1 and A-2" attached hereto and made a part hereof ("Well Easement Area").

B. In accordance with the rights granted under the Temporary Easement, the City explored and drilled a well upon the Well Easement Area that the City deemed to be of sufficient quantity and quality for its purposes (the "Well").

C. The City and the County entered into a Permanent Easement for Wells, Drainage, Sewer and Water Pipelines recorded on April 6, 2009, in the records of the Coconino County Recorder instrument no. 3519405, and entered into an Amendment, recorded on November 23, 2009, in the records of the Coconino County Recorder, instrument no. 3545682.

D. This Amended and Restated Permanent Easement for Wells, Drainage, Sewer and Water Pipelines will serve to replace the prior recorded instrument nos. 3519405 and 3545682, memorialize the current status of the work, and serve as an updated agreement of the parties.

E. The parties entered into a separate Sewer, Water and Reclaimed Water Pipeline Easement, recorded on November 5, 2009 in the records of the Coconino County Recorder's Office instrument no. 3543878, granting to City an easement for sewer and water pipelines within the Park boundaries.

F. The City and the County desire by this Agreement to, among other things:

i. grant permanent easements to the City for ingress and egress access to, and the location, operation, use and maintenance of, the Well and Well related equipment upon the Well Easement Area shown in Exhibits "A", "A-1" and "A-2" attached hereto and made a part hereof (Fort Tuthill Well #1 was completed July 7, 2010);

ii.grant a permanent easement for a Well Easement Area to the City for a future well and pipelines to the future well (Fort Tuthill Well #2);

iii.grant permanent easements to the City for the location, operation, maintenance, alteration, repair and/or replacement of underground pipelines, and utility services of all types (the "Utility Easement") in the location set forth on Exhibit "B" (the "Utility Easement Area") attached hereto and made a part hereof, including for the construction, operation, maintenance and repair of certain water pipelines (referred to herein as "Water Pipelines") within the Utility Easement Area in the approximate locations set forth on Exhibit "B-1" attached hereto and made a part hereof (the Water Pipeline from Fort Tuthill Well #1 to the Pumphouse was completed on July 7, 2010);

iv.grant additional permanent Utility Easements to City for Water Pipelines and Sewer Pipelines through the Park property and from the Park's north boundary to the connection with the City boundary in the approximate locations as conceptually depicted in Exhibit "C-1" (water) and Exhibit "C-2" (sewer) attached hereto and made a part hereof;

v.allocate the cost to install the Water Pipelines and Sewer Pipelines between the City and the County (former cost sharing matrices Exhibits "D" and "E" are obsolete and have been omitted);

vi. grant a permanent easement to the City for the location, operation, maintenance, alteration, repair and/or replacement of drainage way of all types including, but not limited to, swales, culverts, pipes and other City approved drainage systems (the "Drainage Easement") for Fort Tuthill Well #1 in the area set forth on Exhibit "F" and "F-1" (the "Drainage Easement Area") and for Fort Tuthill Well #2 in a different area to be determined;

vii. grant additional permanent Utility Easements to the City for the existing water mains that currently are on the Park property as conceptually shown in Exhibit "G" and "G-1" (the "Park Utility Easement Area");and

viii.provide for City construction of laterals in the Park as shown in Exhibit "H" ("Laterals");

ix. grant all other permanent and temporary easements necessary for the Phase III Sewer Line project, as shown in Exhibit "I" ("Sewer Pipeline Easements")

NOW THEREFORE, for and in consideration of the mutual obligations and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the County covenant and agree as follows:

I. WELLS AND WATER PIPELINES

1. Grant of Easement for Well (Fort Tuthill Well #1). The County hereby grants to the City and its successors and assigns, an exclusive, permanent easement to construct, install, operate, maintain, repair and/or replace the Well and Well related equipment, pumps, power and all appurtenant facilities (the "Facilities"), upon, across and under the surface of the Well Easement Area (Exhibits "A", "A-1" and "A-2") that may be necessary or proper pertaining to the extraction of water from the Well and the connection to and distribution through the City's water system, together with such vehicular and pedestrian ingress and egress access to and from the Well Easement Area and other land of the County located adjacent to the Well Easement Area. The County reserves the right to continue to use and operate the area surrounding and in the Well Easement Area for any and all park purposes not inconsistent with the rights and privileges granted herein.

2. Grant of Easement for Additional Well (Fort Tuthill Well #2). If determined by the City, in the City's sole judgment, that an additional well is necessary, the County hereby grants to the City and its successors and assigns, an exclusive, permanent easement to construct, install, operate, maintain, alter, repair and/or replace an additional well and related Facilities, upon, across and under the surface of the future Well Easement Area pertaining to the extraction of water therefrom and to connect to and distribute such water through the City's water system, together with such vehicular and pedestrian ingress and egress access to and from the Well Easement Area and other land of the County located within 2000 feet of the existing Well. The construction of the additional well shall also include, and the County agrees to grant to the City, additional Utility Easements to connect the additional well to the Water Pipelines. The location of such Utility Easements pertaining to the additional well shall be identified with particularity following the final design by the City. To the extent hydrologically feasible, the City and the County shall, upon mutual agreement, determine the location of the future well and associated utility lines to minimize the disruption to the Park facilities and events. The City shall be responsible for the cost of the design of the additional well, the preparation of the Utility Easements and the cost of construction of the additional well and Water Pipelines. For purposes of this Agreement, all references to the "Well" shall mean and refer to the Well and any additional well drilled upon the Well Easement Area. The County acknowledges and agrees that the Well, the Facilities and the associated water and water rights, including effluent, are owned solely by the City and the County disclaims any interest or right thereto.

3. Grant of Utility Easement. The County hereby grants to the City and its successors and assigns, a permanent Utility Easement upon, across and under the surface of the Utility Easement Area (Exhibits "B" and "B-1"). This shall include, but not limited to, Water Pipelines and Sewer Pipelines, including those now existing or hereafter constructed as contemplated by this Agreement, reclaimed water, and other City transmission and distribution lines. The Utility Easement includes the right of vehicular and pedestrian ingress and egress across adjacent property owned or controlled by the County where reasonably required to gain access to the Utility Easement Area. This easement is granted on a non-exclusive basis to the City. The City shall have the right to use the easement for City provided public services associated with City approved utilities. This Utility Easement includes the right to remove, alter or maintain vegetation, improvements, or obstructions within the limits of the easement that conflict with the legitimate use of this Utility Easement. Upon completion of any removal, alteration or maintenance of the

utility improvements, the City or assigns, shall have the obligation to restore the physical attributes of the Utility Easement Area disturbed by any removal, alteration or maintenance to as near the pre-disturbance condition, or County approved condition, as the physical characteristics of the installed utility permit. The County shall be responsible for the maintenance of the Utility Easement Area surface after the restoration of the area by the City. All utility infrastructure shall be located below ground. Maintenance of the surface appearance of the Utility Easement Area after any disturbance or restoration caused by the City shall remain the responsibility and associated surface maintenance cost of the County. To the extent permitted by Arizona law, the City hereby covenants to indemnify and save County harmless from any liabilities for injuries or damages to persons or property arising out of the City's or its officers', agents', employees', and invitees use of this Utility Easement granted herein.

4. Well Productivity. The City is solely responsible for the productivity of the Wells and any associated groundwater withdrawal issues including claims by third parties arising from the City's ownership, operation, maintenance and delivery of groundwater from the Wells. Nothing in this Agreement shall obligate or require the City to drill or operate any Well or any Water Pipelines and the City may at any time cease drawing water from the Wells without obligation or liability to the County. Any decision by the City to withdraw groundwater from the Wells, or to cease such operation, does not eliminate the City's obligation to provide water and sewer service to the Park as a metered customer as contemplated in this Agreement.

5. Drainage Easements for Fort Tuthill Well #1. The County hereby grants to the City, its successors and assigns, a permanent Drainage Easement upon the Drainage Easement Area (Exhibit "F" and "F-1") for Fort Tuthill Well #1. This easement includes the right of vehicular and pedestrian ingress and egress across adjacent property owned or controlled by the County where reasonably required to gain access to the Drainage Easement Area. This Drainage Easement is granted on a non-exclusive basis to the City and the City shall have the right to use the easement for public utility services associated with City approved drainage appurtenances. This Drainage Easement includes the right to remove, alter or maintain vegetation, improvements, or obstructions within the limits of the easement that conflict with the legitimate use of this Drainage Easement. The City shall use its reasonable efforts to coordinate with the County to avoid the disruption of natural resources. Upon completion of any removal, alteration or maintenance of the utility improvements, the City or assigns, shall have the obligation to restore the physical attributes of the Drainage Easement Area disturbed by any removal, alteration or maintenance to as near the pre-disturbance condition, or County approved condition, as the physical characteristics of the installed utility permit. The County shall be responsible for the maintenance of the Utility Easement Area surface and associated surface maintenance costs after the restoration of the area by the City. To the extent permitted by Arizona law, the City hereby covenants to indemnify and save County harmless from any liabilities for injuries or damages to persons or property arising out of the City's or its officers', agents', employees', and invitees of this Drainage Easement granted herein.

6. Drainage Easements for Fort Tuthill Well #2.

a. Location. The exact location of the Drainage Easement for Fort Tuthill Well #2 is to be determined. The City shall submit to the County a proposed Drainage Easement Area Exhibit prior to construction to be approved by County. Upon approval of the Drainage Easement Area,

the City shall prepare a Legal Description and Exhibit to be recorded and attached to this document. The City shall be responsible for design and construction of all improvements required for the Drainage Easement including but not limited to culverts, swales, headwalls, road crossings and reconstruction. The Drainage Easement shall not create drainage issues or unduly impact Park use.

b. Grant. The County hereby grants to the City, its successors and assigns, a permanent Drainage Easement in such area needed for future Well #2. This easement includes the right of vehicular and pedestrian ingress and egress across adjacent property owned or controlled by the County where reasonably required to gain access to the Drainage Easement Area. This Drainage Easement is granted on a non-exclusive basis to the City and the City shall have the right to use the easement for public utility services associated with City approved drainage appurtenances. This Drainage Easement includes the right to remove, alter or maintain vegetation, improvements, or obstructions within the limits of the easement that conflict with the legitimate use of this Drainage Easement. The City shall use its reasonable efforts to coordinate with the County to avoid the disruption of natural resources. Upon completion of any removal, alteration or maintenance of the utility improvements, the City or assigns, shall have the obligation to restore the physical attributes of the Drainage Easement Area disturbed by any removal, alteration or maintenance to as near the pre-disturbance condition, or County approved condition, as the physical characteristics of the installed utility permit. The County shall be responsible for the maintenance of the Utility Easement Area surface and associated surface maintenance costs after the restoration of the area by the City. To the extent permitted by Arizona law, the City hereby covenants to indemnify and save County harmless from any liabilities for injuries or damages to persons or property arising out of the City's or its officers', agents', employees', and invitees of this Drainage Easement granted herein.

7. Easements for Existing Water Mains. The County hereby grants additional permanent Utility Easements to the City for the existing water mains that currently are on the Park property shown in Exhibit "G" and "G-1" (the "Park Utility Easement Area"). The parties will work in good faith to update the easements to meet current City standards, which require a 20' width for one line, and 26' width for two lines in the same easement area

8. Construction of Laterals on the Park: Upon the City's construction of the Water Pipelines, the City shall construct eight (8) laterals with hydrants within the Park as generally illustrated on the schematic attached hereto as Exhibit H, the exact location of the laterals shall be identified with particularity following the final design by Shephard Wesnitzer Inc. (the "Engineer") and mutual agreement of the City and County and shall constitute, and the County hereby grants to the City, an additional easement upon, across and under the surface of the Park in the location of the laterals, for the construction, installation, operation, maintenance, repair and/or replacement of such laterals. Any dispute between the City and County as to the design or location of the laterals and hydrants, should the City and County be unable to reach a mutual decision, shall be decided under the mediation process described in Section 6(e)(i) below. The laterals shall not exceed 30 feet in length. The three (3) closest hydrants to the horse racing track may be used by the County for dust control purposes at the Park and the City shall install water meters on such hydrants after the County requests the meters through the Customer Service Area of the City and pays the designated deposit charges and other one-time fees, unless waived by the City Council by ordinance. The County shall pay all water costs and usage fees at the prevailing "out of City" rates

and fees for the usage. In no event shall the County resell any water provided by the City in accordance with the terms of this Agreement. (Construction is partially complete).

9. Temporary Construction Easement (Fort Tuthill Well #1): The County hereby grants to the City a temporary construction easement to allow for access roads, construction of the Well, Facilities and bore pit. The temporary construction easement shall be three (3) times the permitted width of the Utility Easement Area. (Construction of Fort Tuthill Well #1 was completed July 7, 2010).

10. Temporary Construction Easement (Fort Tuthill Well #2): The County hereby grants to the City a temporary construction easement to allow for access roads, construction of the Well, Facilities and bore pit. The temporary construction easement shall be three (3) times the permitted width of the Utility Easement Area.

11. Pump House #1 Sound Abatement: If the City installs a pump house or similar facility on City owned property located adjacent to the Park, the City shall also install commercially reasonable and customarily available sound abatement materials and/or equipment concurrently with the construction of the pump house. If installed, the City, at the City's cost, will conduct a background sound assessment at the proposed site(s) to establish a baseline sound level. Sound from any improvement(s) shall be mitigated so as not to exceed baseline levels by more than 5 decibels. The noises will be measured from within a 25 foot radius of the proposed improvement(s). (Pump House #1 was completed July 7, 2010 and baseline sound level has been established).

12. Pump House #2 Sound Abatement. If the City installs a pump house or similar facility on County property located within the Park, the City shall also install commercially reasonable and customarily available sound abatement materials and/or equipment concurrently with the construction of the pump house. If installed, the City, at the City's cost, will conduct a background sound assessment at the proposed site(s) to establish a baseline sound level. Sound from any improvement(s) shall be mitigated so as not to exceed baseline levels by more than 5 decibels. The noises will be measured from within a 25 foot radius of the proposed improvement(s). (Pump House #2 has not yet been constructed).

13. Water Related Costs. In 2009 the City waived (1) the amount of $6,500.00 corresponding to "in-City" water rates charged by the City to the County for the past three years, and (2) the County's unpaid capacity charge associated with upsizing the existing water meter at the Park from 4" to 6" in the amount of $26,030.50.

The County is responsible to pay all water related costs and fees associated with the County's water usage at the Park in the same manner and subject to the same rates as other "out of City" users.

II. CONSTRUCTION PHASES

The Water Pipelines, Sewer Pipelines and related Facilities shall be constructed in three phases, which are defined as follows:

Phase I shall consist of the construction of the Water Pipelines and related Facilities from the Well under I-17 and connect to the City's existing facilities at the Pulliam Airport. All costs associated with Phase I, including overhead, shall be paid by the City. (Phase I was completed July 7, 2010.)

Phase II shall consist of the construction of the Water Pipelines and related Facilities and Sewer Pipelines from the pumphouse to the Fort Tuthill Park boundary as defined by the plans dated September 2, 2009. Any general overhead and management costs for Phase II shall be shared equally between the County and the City. (Phase II was completed December 16, 2010.)

Phase III shall consist of the construction of Sewer Pipeline from the current terminus in Fort Tuthill Park to the connection point within the the City of Flagstaff, as proposed in Exhibit C-2 and shown in the final construction plans for City of Flagstaff Project No. EPCK2015005.

III. PHASE III SEWER PIPELINE PROJECT

1. Phase III Design. The County at its expense shall contract with the Engineer and complete the design of the Phase III Water Pipeline and Sewer Pipeline, except the County may enter into a separate recapture agreement with the City to recapture a portion of the design costs per City Code.

2. Phase III Sewer Pipeline Easements.

a. Offsite Permanent Easements for Sewer Pipeline (from the current terminus in Fort Tuthill Park to the connection point within the City of Flagstaff as proposed in Exhibit C-2 and shown in the final construction plans for City of Flagstaff Project No. EPCK2015005). The County hereby grants to the City, its successors and assigns, permanent easements to operate, maintain, alter, repair and/or replace the Sewer Pipelines and any related facilities upon, across and under the surface of such lands that may be necessary or proper pertaining to the connection to and collection through the existing sewer system, together with such vehicular and pedestrian ingress and egress access to and from the Sewer Pipeline Easement Area and other land of the County located adjacent to the Sewer Pipeline Easement Area. The County has recorded the permanent easements, as depicted in the map and with the recording numbers listed in the attached Exhibit "I".

b. Conveyance of Permanent Easements. The County will convey permanent utility easements listed in Exhibit "I" to the City for maintaining the water and sewer pipelines after completion and final acceptance of the Project by the City.

c. Temporary Construction Easements. The County will acquire and will pay for all temporary construction easements for the Project. In the event the County is unable to obtain temporary construction easements for any portions of the Project, it may elect to proceed with

construction within the boundaries of the Utility Easement Area. The temporary construction easements acquired are shown in Exhibit "I".

3. Phase III Bidding and Contract.

a. Bidding. The County will coordinate and administer the bidding process for the Construction of Phase III per Title 34, Arizona Revised Statutes. The bid documents will include a Schedule A for alternate upsized pipelines for sewer and water for future service area needs, and a Schedule B for minimum sized pipelines for sewer and water for County development needs. The contractor shall be required to submit balanced bids. The City will participate in the pre-bid meeting. The City will also participate jointly with the County in the evaluation of the bidders. The County Board of Supervisors will award the contract to the lowest responsible and responsive bidder for Schedule A.

b. Project Management. The County will be the Project Manager and will administer and conduct all construction management, including administration of the construction contract. All field orders will be submitted to the County, reviewed by the City, and approved by the County. All change orders will be submitted to both the City and the County. The City and County each will have inspectors present at the Project.

c. Contractor Invoices. The contractor will submit all invoices to the County. Invoices will separately state what charges are for the sewer portion of the Project, what charges are for the water portion of the Project, and what charges, if any, are shared for both sewer and water. The County will provide copies of all invoices to the City upon receipt from the contractor. The County will review and approve payments under the County administered contract. The County will remit an accounting of the approved payments to the City.

4. Phase III Final Acceptance.

a. Transfer. After final acceptance, the Sewer Pipelines and related facilities are owned solely by the City and the County disclaims any interest or right thereto.

b. Payment. After final acceptance and the County's connection to the City sewer system, the County shall pay in one installment all sewer capacity charges associated with the County's sewer usage at the Park in the same manner and subject to the same rates as other "out of City" users. The estimated amount is $147,667 under the current adopted rates.

5. Phase III Reimbursement.

a. City Reimbursement for Sewer Upsizing (from 8" up to 18"). The City will reimburse the County for all costs associated with the construction of the utility line upsizing from Ft. Tuthill to the existing City sewer collection system, as shown in the City construction plans EPCK2015005.

b. Entire Project Cost. Reimbursement is to include the difference in the *entire* project cost between upsize Schedule A and base Schedule B including all the construction materials, labor, services, taxes and fees required to complete the project. County will provide a final

accounting of all project design and construction costs, including but not limited to all contract invoices, inspection and permitting fees.

c. Overhead. Any general overhead and management costs for Phase III shall be paid for solely by the County, a portion of which may be recaptured under the recapture agreement.

d. Payment. The City will pay its upsizing reimbursement costs to the County in one installment promptly following final acceptance of the Project.

6. Phase III County Recapture of Sewerline Project Costs from future developments connecting to the sewer main. The County is eligible to enter into a recapture agreement with the City per City of Flagstaff Engineering Code Section 13-09-005-0001, as may be amended. The City Council at a public meeting will consider amending the code to allow a recapture period of up to 20 years.

7. Future Water or Sewer Service Connections for County. The City will allow additional water and sewer connections at Fort Tuthill Park for the County use to the extent capacity allows at the time and upon payment of then current applicable water and sewer capacity fees. The City Council by ordinance may elect to waive water and sewer and capacity fees.

8. Luke Air Force Base Recreational Center. The Luke Air Force Base Recreational Center located adjacent to the Park (the "Luke Recreational Center") shall not be included in the County's sewer or water account, but shall have a separate and distinct water and sewer utility account. (This was completed December 16, 2010).

IV. GENERAL PROVISIONS

1. Use of Easements. The City and the County shall each reasonably cooperate with the other in order to coordinate construction, installation, maintenance and repair activities upon the Well Easement Area, the Water Pipeline Easement Area and the Sewer Pipeline Easement Area and all other easements granted herein so as not to unreasonably interfere with or disrupt the activities performed from time to time at the Park.

2. Authorization. The parties to this Agreement represent and warrant that the persons executing this Agreement on their behalves have full authority to bind the respective parties.

3. Phase I and II Temporary Easements. As of the Effective Date of this Agreement, the Temporary Easements for Phase I and II and the parties' respective obligations and liabilities thereunder are hereby terminated and of no further force or effect.

4. Cancellation. This Agreement is subject to the cancellation provisions of Arizona Revised Statutes § 38-511.

5. Dispute Resolution.

a. Mediation. If a dispute arises out of or relates to this Agreement and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to resolve the dispute by mediation before resorting to litigation or some other dispute resolution procedure.

Mediation will be self-administered and conducted under the CPR Mediation Procedures established by the CPR Institute for Dispute Resolution, 366 Madison Avenue, New York, New York 10017, (212) 949-6490, www.cpradr.org. with the exception of the mediator selection provisions, unless other procedures are agreed upon by the parties. Unless the parties agree otherwise, the mediator(s) shall be selected from panels of mediators trained under the Alternative Dispute Resolution Program of the Coconino County Superior Court. Each party agrees to bear its own costs in mediation. The parties will not be obligated to mediate if an indispensable party is unwilling to join the mediation. This section does not constitute a waiver of the parties' right to arbitrate or initiate legal action if a dispute is not resolved through good faith negotiation or mediation, or if provisional relief is required under the Arizona Rules of Civil Procedure.

b. Litigation and Attorneys' Fees. Except as otherwise agreed by the parties, any litigation brought by any party against any other party to enforce the provisions of this Agreement must be filed in the Coconino County Superior Court. In the event any action at law or in equity is instituted between the parties in connection with this Agreement, the prevailing party or parties in the action will be entitled to its costs and expenses including reasonable attorneys' fees and court costs from the non-prevailing party or parties.

6. Liability and Indemnification.

a. The City shall defend against and be responsible for any and all damages arising now and in the future from the activities of the City, its agents, employees and contractors, in the exercise of its rights under the Agreement on the Well Easement Area, the Water Pipeline Easement Area and Sewer Pipeline Easement Area and shall repair such damage, or in lieu thereof and at the option of the County, make a mutually agreeable settlement with the County for such damages. The City hereby covenants and agrees to indemnify, defend and hold the County harmless for, from and against any and all claims, demands, costs, actions, suits, liabilities, losses and expenses, of whatever kind and nature whatsoever (collectively, the "Claims") that may arise or result from any act, action or omission of the City in connection with the activities of the City, its employees, agents, contractors and invitees as contemplated under this Agreement.

b. The County shall defend against and be responsible for any and all damages arising now and in the future from the activities of the County, its agents, employees and contractors, in the exercise of its rights under the Agreement on the Well Easement Area, the Water Pipeline Easement Area and Sewer Pipeline Easement Area and shall repair such damage, or in lieu thereof and at the option of the City, make a mutually agreeable settlement with the City for such damages. The County hereby covenants and agrees to indemnify, defend and hold the City harmless for, from and against any and all Claims that may arise or result from any act, action or omission of the County in connection with the activities of the County, its employees, agents, contractors and invitees as contemplated under this Agreement.

7. Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein. The following document shall remain legally binding: the Sewer, Water and Reclaimed Water Pipeline Easement, recorded on November 5, 2009 in Coconino Recorder's Office instrument no. 3543878.

8. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Arizona and shall be deemed made and entered into in Coconino County.

9. Modification. No modification of this Agreement shall be deemed effective unless in writing and signed by the parties hereto.

10. Run with Land. All of the covenants set forth herein constitute covenants that run with the land, and those covenants and all conditions set forth herein shall inure to the benefit of and shall be binding upon the authorized successors in interest of each of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the date first set forth above.

CITY OF FLAGSTAFF, an Arizona municipal corporation

By: _____
GREG CLIFTON, CITY MANAGER

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

COCONINO COUNTY, a political subdivision of the State of Arizona

By: _____
Chair

Attest:

_____
Clerk of the Board

Approved as to Form:

_____
County Attorney

STATE OF ARIZONA)
) ss.
County of Coconino)

The foregoing instrument was acknowledged before me on MAY 4TH, 2020, by GREG CLIFTON, the CITY MANAGER of the City of Flagstaff, an Arizona municipal corporation, acting for and on behalf thereof.

Notary Public

My Commission Expires:

SEPTEMBER 15TH 2023.

MORGAN B. MULLANEY
Notary Public
Commission Number 570284
Expires: September 15, 2023
Coconino County

STATE OF ARIZONA)
) ss.
County of Coconino)

The foregoing instrument was acknowledged before me on March 24, 2020, by Lena Fowler, the Chair of Coconino County, a political subdivision of the State of Arizona, acting for and on behalf thereof.

Notary Public

My Commission Expires:

8-6-2022

Valerie Webber
Notary Public
Yavapai County, Arizona
My Comm. Expires 8-6-2022
Commission No. 551541

EXHIBIT "A"
DESCRIPTION OF WELL EASEMENT AREA

LOCATED IN THE northeast one-quarter of Section 6, Township 20 North, Range 7 East of the Gila and Salt River Meridian (NE/4 of Sec. 6, T20N, R7E, G&SRM), Coconino County, Arizona;

LYING WITHIN Parcel No. 2 as described in Instrument 3080890 per the Coconino County Recorder's Office;

AND BEING a square parcel of land more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at the northeast corner of the NE/4 of Section 6 and also the Closing Corner for Sections 5 and 6 which point is marked by an aluminum cap marked "NES RLS 14671", thence South 0 degrees 39 minutes 19 seconds East along the east line of the NE/4 Section 6 a distance of 2659.61 feet to the quarter corner between Section 5 and Section 6 as marked by a City of Flagstaff aluminum cap;

THENCE South 0 degrees 39 minutes 14 seconds East along the east line of the SE/4 Section 6 a distance of 78.00 feet to a point;

THENCE South 89 degrees 33 minutes 30 seconds West a distance of 93.50 feet to a point;

THENCE North 67 degrees 56 minutes 30 seconds West a distance of 620.00 feet to a point;

THENCE South 89 degrees 33 minutes 30 seconds West a distance of 166.00 feet to the TRUE POINT OF BEGINNING of this easement description.

THENCE South 28 degrees 26 minutes 30 seconds East a distance of 54.00 feet to a point;

Continue...

...continued.

THENCE South 61 degrees 33 minutes 30 seconds West a distance of 200.00 feet to a point;

THENCE N 28 degrees 26 minutes 30 seconds West a distance of 200.00 feet to a point;

THENCE North 61 degrees 33 minutes 30 seconds East a distance of 200.00 feet to a point;

THENCE South 28 degrees 26 minutes 30 seconds East a distance of 146.00 feet to the TRUE POINT OF BEGINNING of this easement description.

The Easement, as described above, contains 40,000 square feet of land and is depicted graphically in EXHIBIT "A-1" attached and made a part hereof by this reference.

PREPARED BY:

Aztech Design, Inc.
PO Box 494
Flagstaff, Arizona 86002
fn c:mary\coftuthill.doc

1-27-09
EXPIRES SEPT. 30, 2011

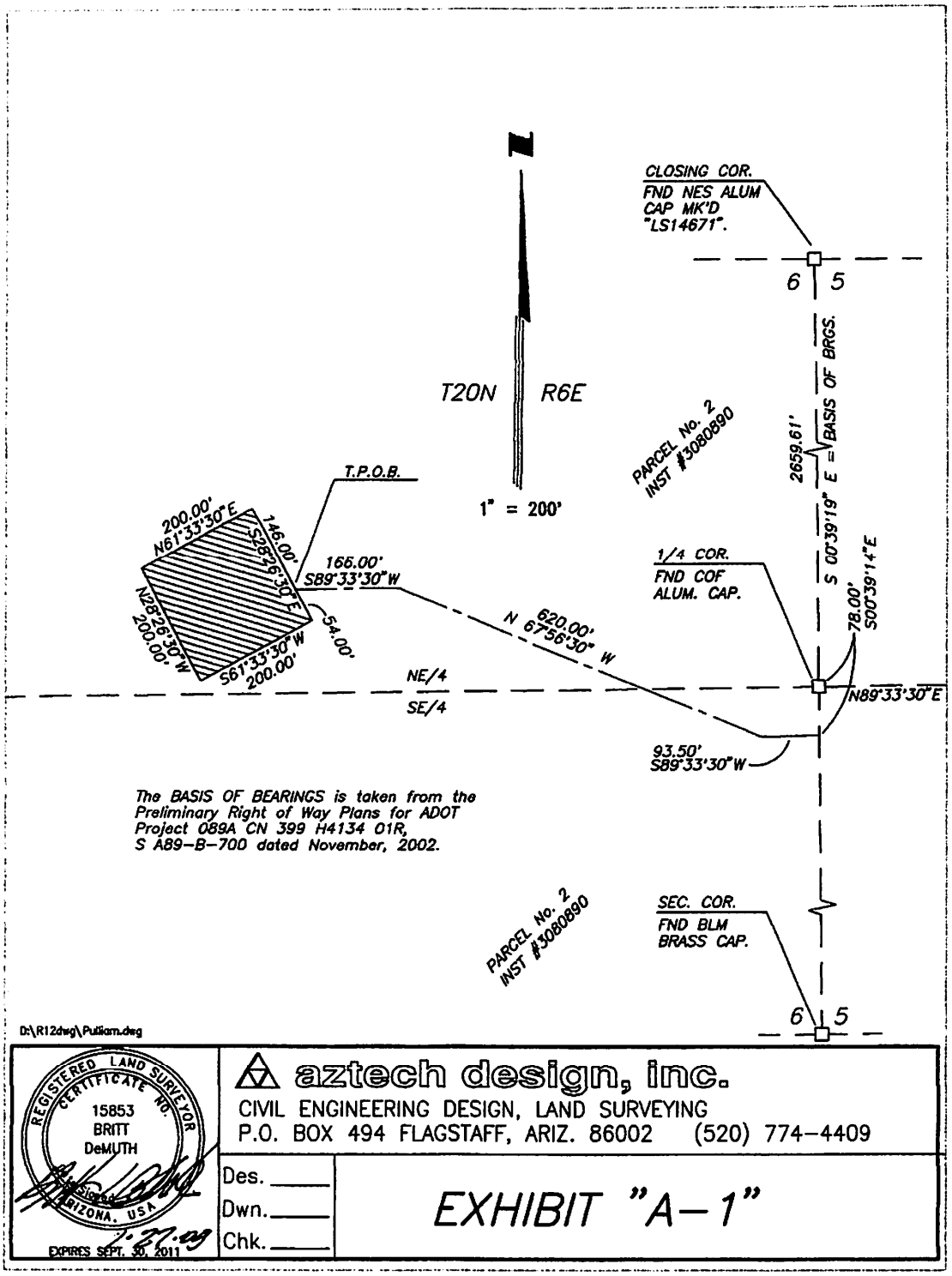
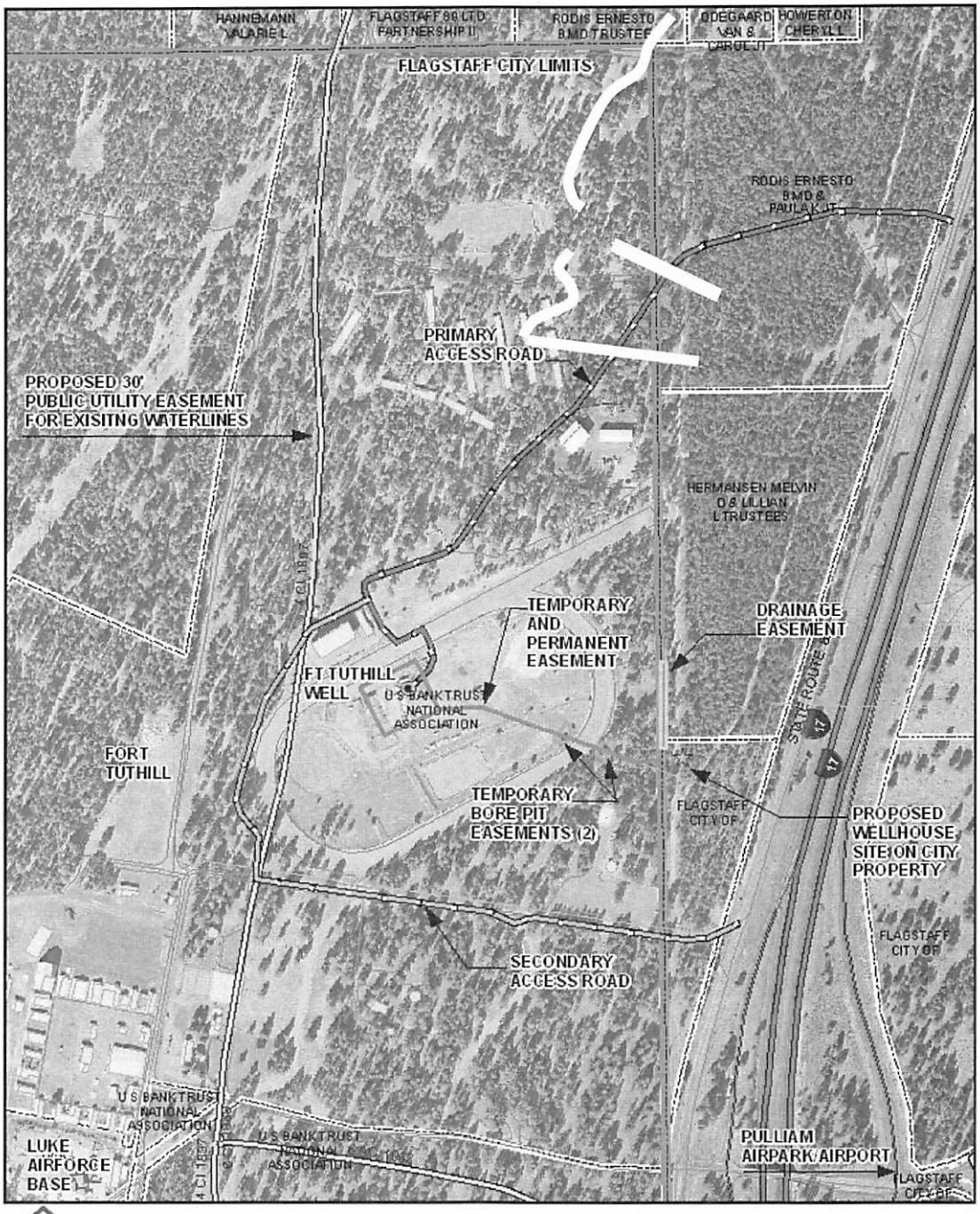

CLOSING COR.
FND NES ALUM
CAP MK'D
"LS14671".
6
5
T20N
R6E
1" = 200'
PARCEL No. 2
INST #3080890
2659.61'
S 00°39'19" E = BASIS OF BRGS.
T.P.O.B.
200.00'
N61°33'30"E
146.00'
S28°26'30"E
166.00'
S89°33'30"W
54.00'
N28°26'30"W
200.00'
S61°33'30"W
200.00'
1/4 COR.
FND COF
ALUM. CAP.
78.00'
S00°39'14"E
N 67°56'30" W
620.00'
NE/4
SE/4
N89°33'30"E
93.50'
S89°33'30"W
The BASIS OF BEARINGS is taken from the
Preliminary Right of Way Plans for ADOT
Project 089A CN 399 H4134 01R,
S A89-B-700 dated November, 2002.
PARCEL No. 2
INST #3080890
SEC. COR.
FND BLM
BRASS CAP.
6
5
D:\R12dwg\Pulliam.dwg
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
15853
BRITT
DeMUTH
ARIZONA, USA
EXPIRES SEPT. 30, 2011
aztech design, inc.
CIVIL ENGINEERING DESIGN, LAND SURVEYING
P.O. BOX 494 FLAGSTAFF, ARIZ. 86002 (520) 774-4409
Des.
Dwn.
Chk.
EXHIBIT "A-1"

EXHIBIT A-2
Egress/Ingress Access to Well Easement Locations



----------City of Flagstaff - Utilities Department----------

EXHIBIT "B"
DESCRIPTION OF UTILITY EASEMENT AREA

LOCATED IN THE northeast one-quarter and the southeast one-quarter of Section 6, Township 20 North, Range 7 East of the Gila and Salt River Meridian (NE/4 and SE/4 of Sec. 6, T20N, R7E, G&SRM), Coconino County, Arizona;

LYING WITHIN Parcel No. 2 as described in Instrument 3080890 per the Coconino County Recorder's Office;

AND BEING A STRIP OF LAND twenty (20) feet in width encompassing fourteen (14) feet on the left (southerly side) and six (6) feet on the right (northerly side) of the line between the TRUE POINT OF BEGINNING and the TERMINUS POINT described herein.

COMMENCING FOR REFERENCE at the northeast corner of the NE/4 of Section 6 and also the Closing Corner for Sections 5 and 6 which point is marked by an aluminum cap marked "NES RLS 14671", thence South 0 degrees 39 minutes 19 seconds East along the east line of the NE/4 Section 6 a distance of 2659.61 feet to the quarter corner between Section 5 and Section 6 as marked by a City of Flagstaff aluminum cap;

THENCE South 0 degrees 39 minutes 14 seconds East along the east line of the SE/4 Section 6 a distance of 78.00 feet to the TRUE POINT OF BEGINNING of this easement description. The easement is twenty (20) feet in width encompassing fourteen (14) feet on the left (southerly side) and six (6) feet on the right (northerly side) of the following described line:

THENCE South 89 degrees 33 minutes 30 seconds West a distance of 93.50 feet to a point;

THENCE North 67 degrees 56 minutes 30 seconds West a distance of 620.00 feet to a point;

Continue...

...continued.

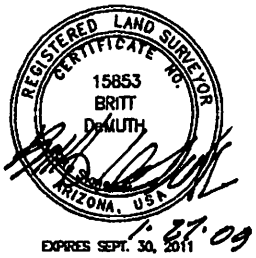
THENCE South 89 degrees 33 minutes 30 seconds West a distance of 260.00 feet to a point;

THENCE North 45 degrees 26 minutes 30 seconds West a distance of 40.00 feet to the TERMINUS POINT of this easement description.

The Easement, as described above, contains 19,870 square feet of land and is depicted graphically in EXHIBIT "B-1" attached and made a part hereof by this reference.

PREPARED BY:

Aztech Design, Inc.
PO Box 494
Flagstaff, Arizona 86002
fn c:mary\coftuthill.doc



7.27.09

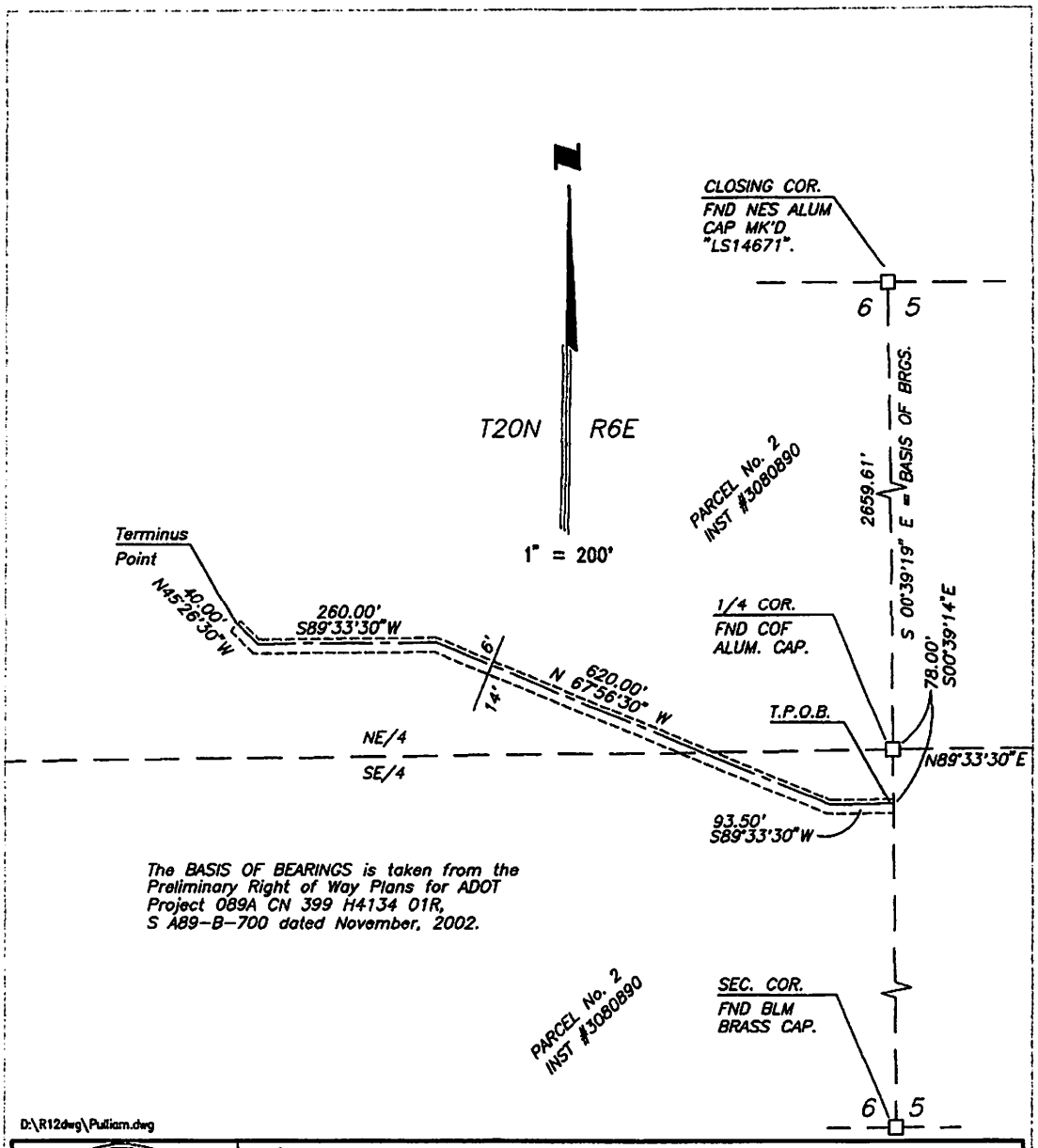
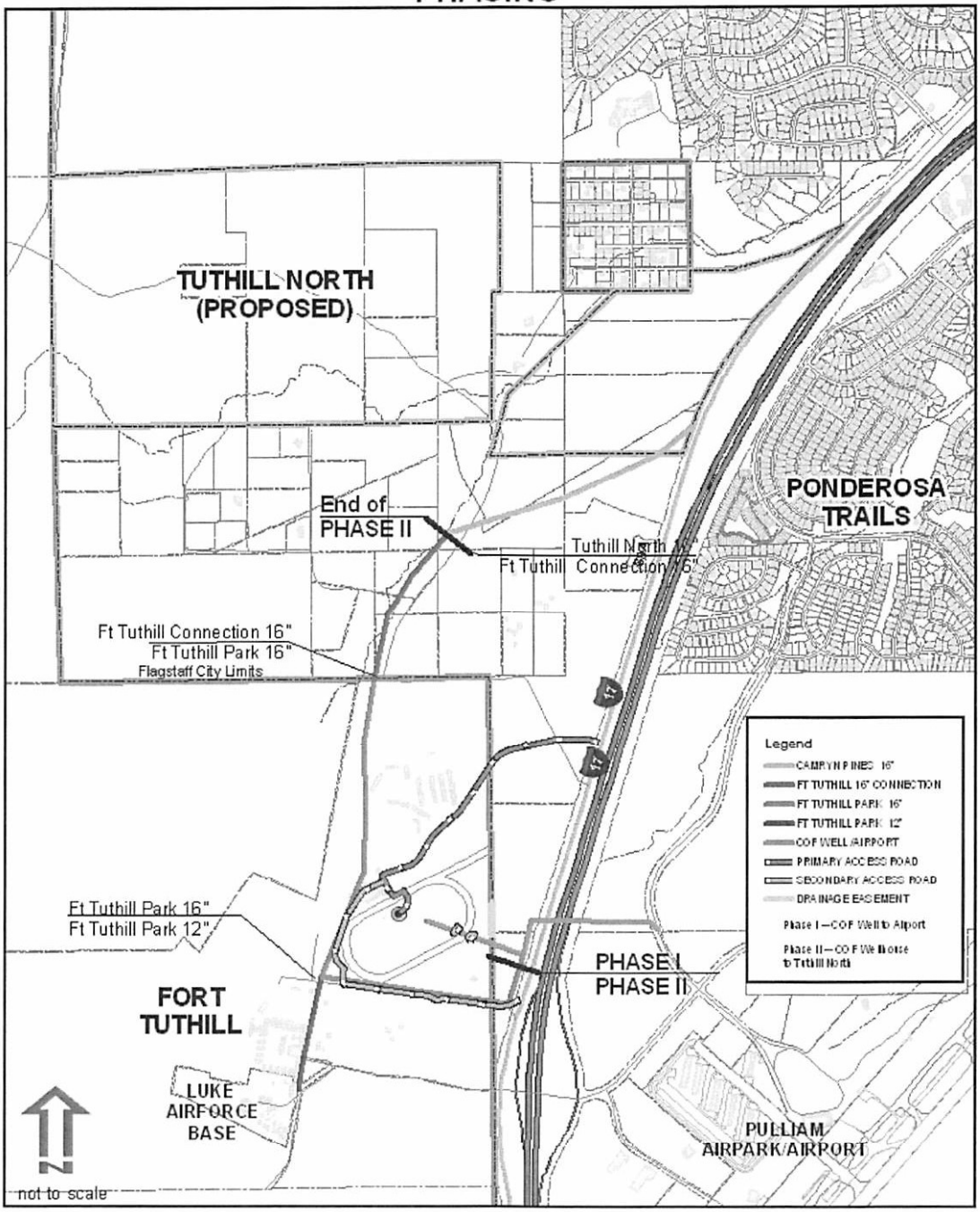

CLOSING COR.
FND NES ALUM
CAP MK'D
"LS14671".
6
5
T20N
R6E
1" = 200'
PARCEL No. 2
INST #3080890
2659.61'
S 00°39'19" E = BASIS OF BRGS.
Terminus
Point
N45°26'30"W
40.00'
260.00'
S89°33'30"W
6'
14'
N 67°56'30" W
620.00'
1/4 COR.
FND COF
ALUM. CAP.
78.00'
S00°39'14"E
T.P.O.B.
NE/4
SE/4
N89°33'30"E
93.50'
S89°33'30"W
The BASIS OF BEARINGS is taken from the
Preliminary Right of Way Plans for ADOT
Project 089A CN 399 H4134 01R,
S A89-B-700 dated November, 2002.
PARCEL No. 2
INST #3080890
SEC. COR.
FND BLM
BRASS CAP.
6
5
D:\R12dwg\Pulliam.dwg
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
15853
BRITT
DeMUTH
ARIZONA, U.S.A.
1.27.09
EXPIRES SEPT. 30, 2011
aztech design, inc.
CIVIL ENGINEERING DESIGN, LAND SURVEYING
P.O. BOX 494 FLAGSTAFF, ARIZ. 86002 (520) 774-4409
Des.
Dwn.
Chk.
EXHIBIT "B-1"

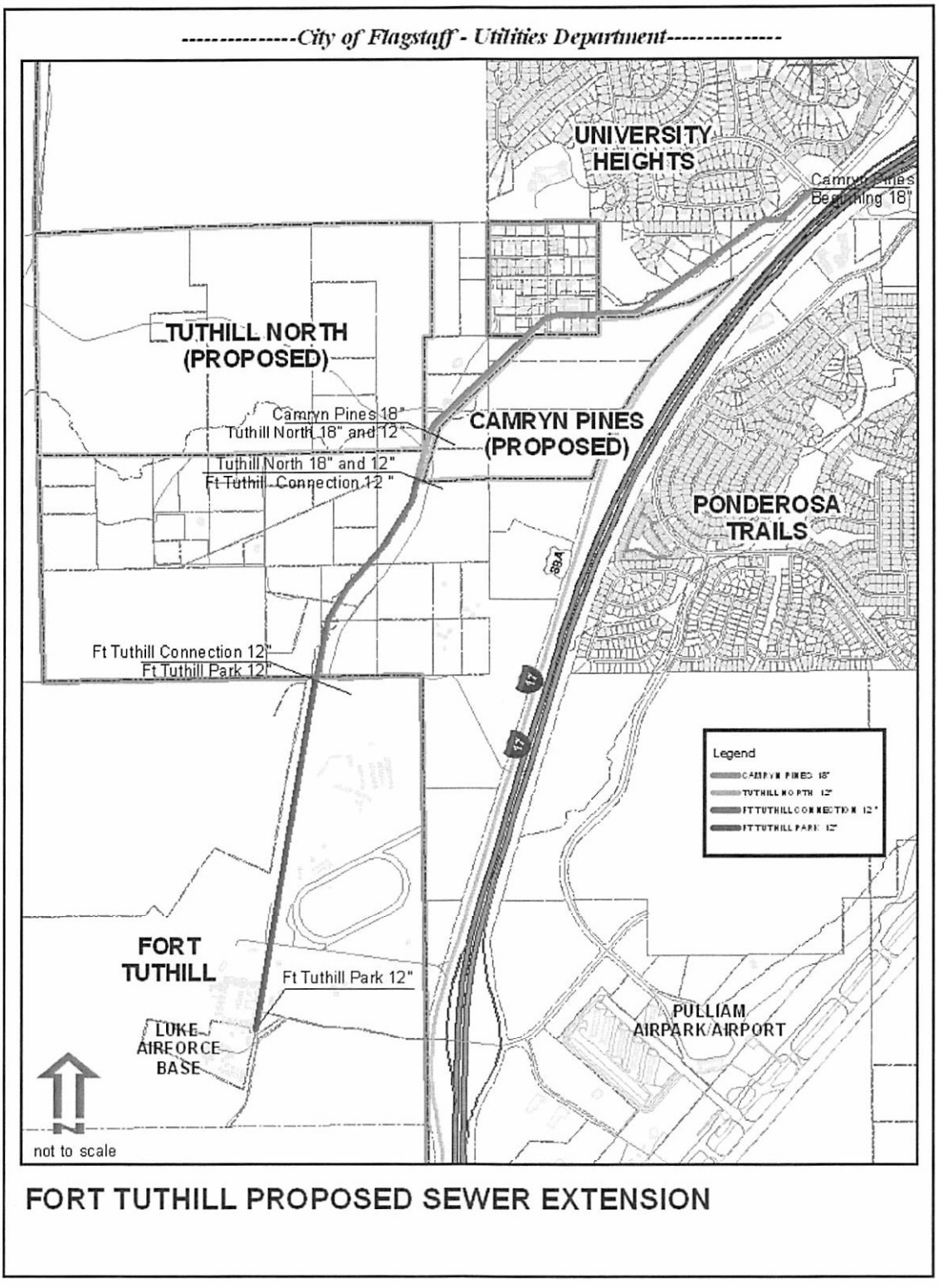
EXHIBIT C-1
FORT TUTHILL PROPOSED WATER EXTENSION
PHASING



----------City of Flagstaff - Utilities Department----------

EXHIBIT "C-2"

SEWER PIPELINE EXTENSION



FORT TUTHILL PROPOSED SEWER EXTENSION

EXHIBITS D AND E. RESERVED.

EXHIBIT "F"
DESCRIPTION OF DRAINAGE EASEMENT AREA

LOCATED IN THE northeast one-quarter and the southeast one-quarter of Section 6, Township 20 North, Range 7 East of the Gila and Salt River Meridian (NE/4 and SE/4 of Sec. 6, T20N, R7E, G&SRM), Coconino County, Arizona;

LYING WITHIN Parcel No. 2 as described in Instrument 3080890 per the Coconino County Recorder's Office;

AND BEING A STRIP OF LAND twenty (20) feet in width more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at the northeast corner of the NE/4 of Section 6 and also the Closing Corner for Sections 5 and 6 which point is marked by an aluminum cap marked "NES RLS 14671", thence South 0 degrees 39 minutes 19 seconds East along the east line of the NE/4 Section 6 a distance of 2659.61 feet to the quarter corner between Section 5 and Section 6 as marked by a City of Flagstaff aluminum cap, which point is the TRUE POINT OF BEGINNING of this easement description;

THENCE South 0 degrees 39 minutes 14 seconds East along the east line of the SE/4 Section 6 a distance of 30.00 feet to a point;

THENCE South 89 degrees 20 minutes 41 seconds West a distance of 20.00 feet to a point;

THENCE North 0 degrees 39 minutes 19 seconds West a distance of 200.00 feet to a point;

THENCE North 89 degrees 20 minutes 41 seconds East a distance of 20.00 feet to a point on the east line of the NE/4 Section 6;

THENCE South 0 degrees 39 minutes 19 seconds East along the east line of the NE/4 Section 6 a distance of 170.00 feet to the TRUE POINT OF BEGINNING of this easement description.

Continue...

...continued.

The Easement, as described above, contains 4,000 square feet of land and is depicted graphically in EXHIBIT "F-1" attached and made a part hereof by this reference.

PREPARED BY:

Aztech Design, Inc.
PO Box 494
Flagstaff, Arizona 86002
fn c:mary\coftuthill.doc

EXPIRES SEPT. 30, 2011 7.27.09

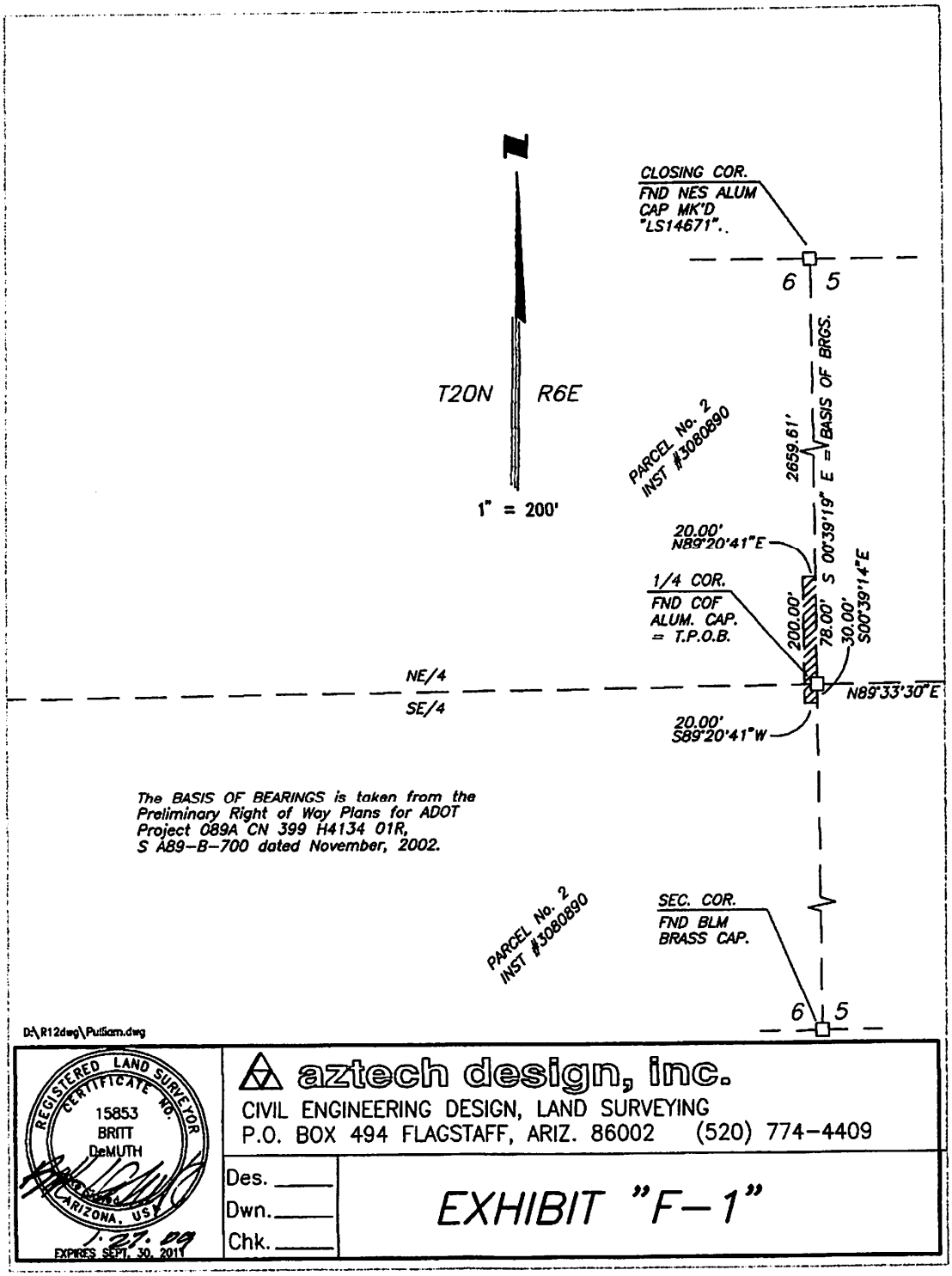

N
T20N
R6E
1" = 200'
CLOSING COR.
FND NES ALUM
CAP MK'D
"LS14671"..
6
5
PARCEL No. 2
INST #3080890
2659.61'
BASIS OF BRGS.
20.00'
N89°20'41"E
1/4 COR.
FND COF
ALUM. CAP.
= T.P.O.B.
200.00'
78.00'
S 00°39'19" E
30.00'
S00°39'14"E
NE/4
SE/4
N89°33'30"E
20.00'
S89°20'41"W
The BASIS OF BEARINGS is taken from the
Preliminary Right of Way Plans for ADOT
Project 089A CN 399 H4134 01R,
S A89-B-700 dated November, 2002.
PARCEL No. 2
INST #3080890
SEC. COR.
FND BLM
BRASS CAP.
6
5
D:\R12dwg\Putsam.dwg
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
15853
BRITT
DeMUTH
ARIZONA, USA
1.27.09
EXPIRES SEPT. 30, 2011
aztech design, inc.
CIVIL ENGINEERING DESIGN, LAND SURVEYING
P.O. BOX 494 FLAGSTAFF, ARIZ. 86002 (520) 774-4409
Des.
Dwn.
Chk.
EXHIBIT "F-1"

EXHIBIT "G"
DESCRIPTION OF A BLANKET EASEMENT
FOR EXISTING CITY OF FLAGSTAFF WATER MAINS

LOCATED IN THE northeast one-quarter and the southeast one-quarter of Section 6, Township 20 North, Range 7 East of the Gila and Salt River Meridian (NE/4 and SE/4 of Sec. 6, T20N, R7E, G&SRM), Coconino County, Arizona;

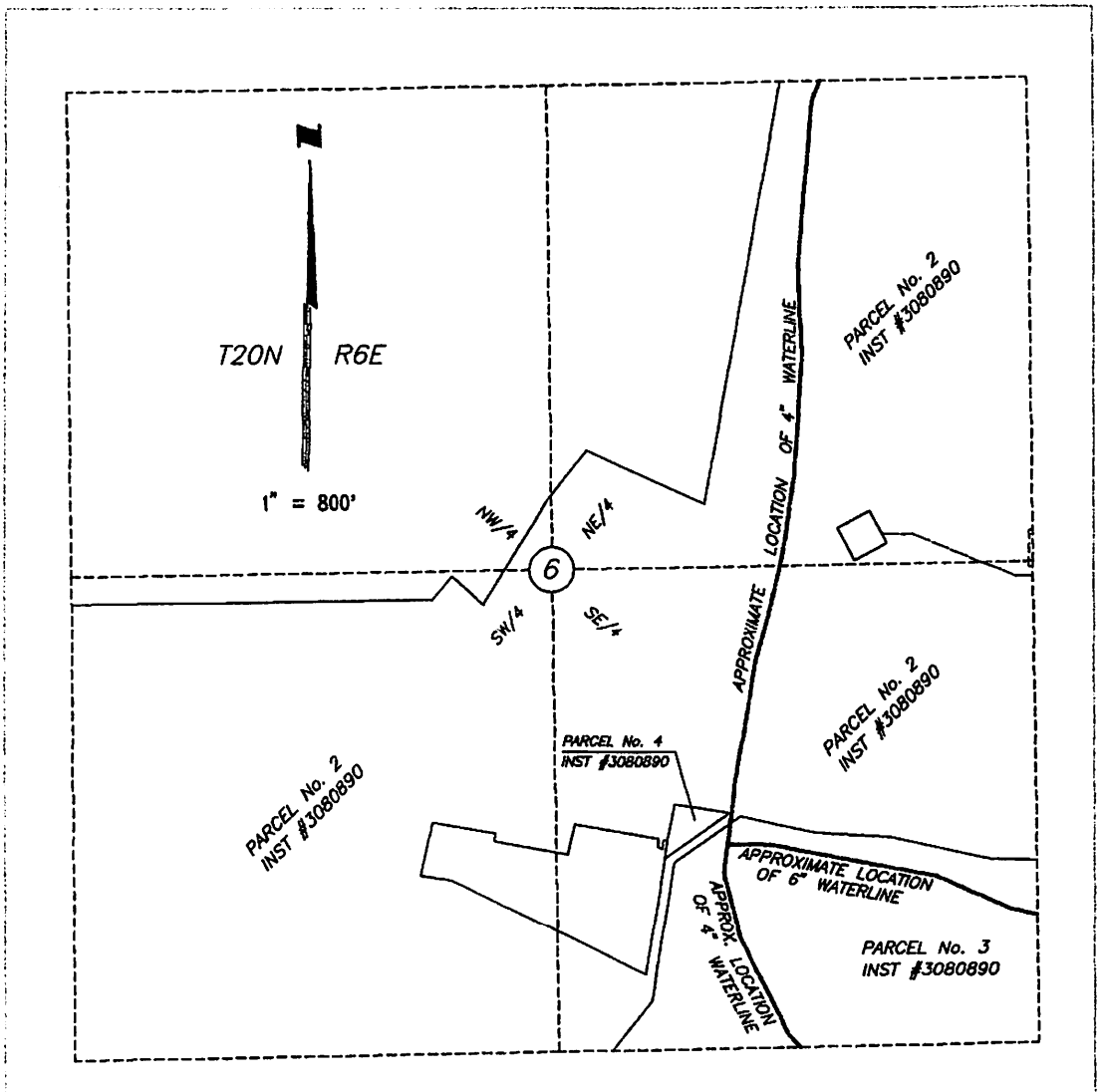
OVER PARCEL No. 2, Parcel No. 3 and Parcel No. 4 as described in Instrument 3080890 per the Coconino County Recorder's Office.

AND LIMITED TO all those areas within ten (10) feet of the existing 4" and 6" diameter waterlines shown in their approximate locations per EXHIBIT "G-1" attached and made a part hereof by this reference.

PREPARED BY:

Aztech Design, Inc.
PO Box 494
Flagstaff, Arizona 86002
fn c:mary\coftuthill.doc

1.27.09
EXPIRES SEPT. 30, 2011



D:\R12dwg\Pullam.dwg

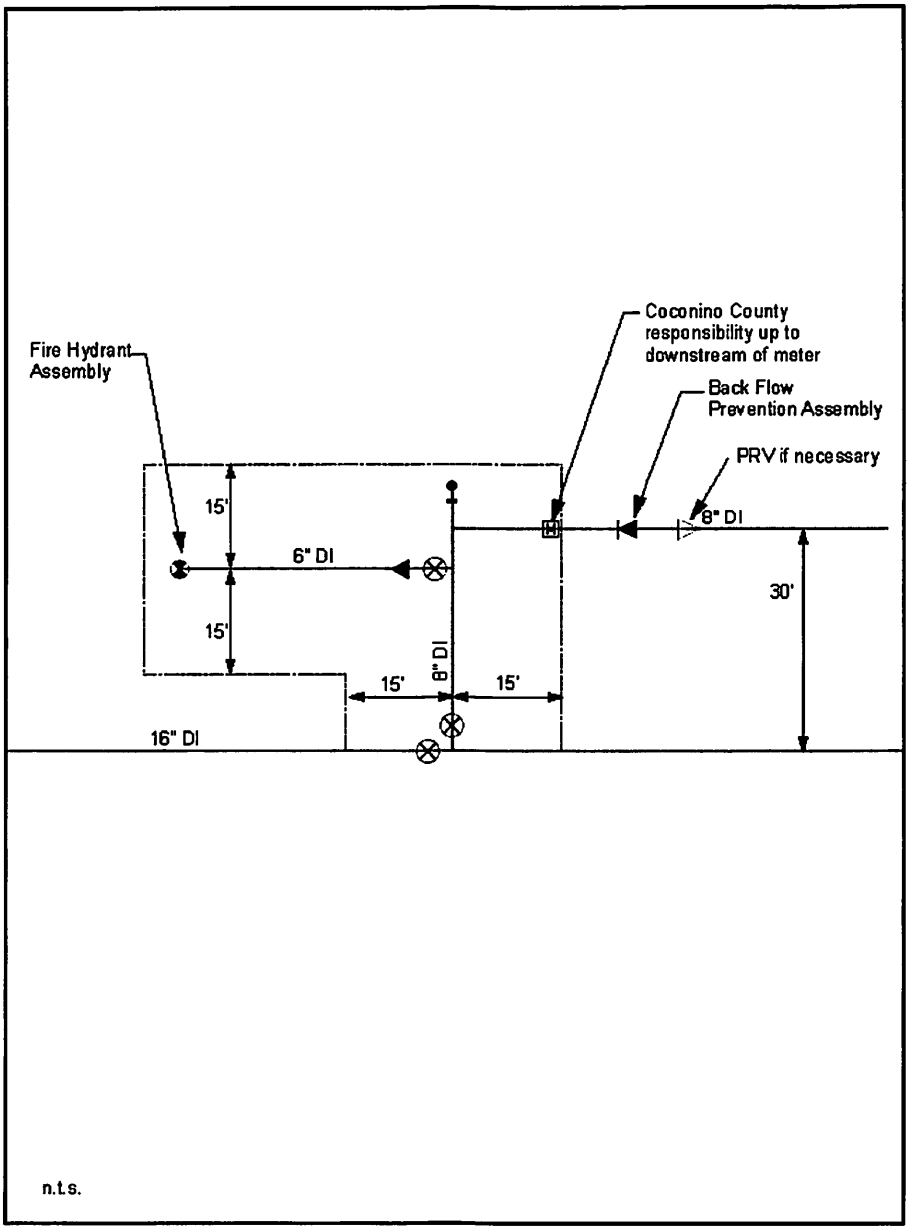
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
15853
BRITT
DeMUTH
ARIZONA, U.S.A.
1-27-09
EXPIRES SEPT. 30, 2011

aztech design, inc.
CIVIL ENGINEERING DESIGN, LAND SURVEYING
P.O. BOX 494 FLAGSTAFF, ARIZ. 86002 (520) 774-4409

Des. ____
Dwn. ____
Chk. ____

EXHIBIT "G-1"

EXHIBIT H
Typical Hydrant/Meter Stub Out Easement



----------City of Flagstaff - Utilities Department----------

ITEM	DESCRIPTION	LOCATION
A	20' PUE & 40' TCE	REZNICK PROPERTY (APN # – 112-05-001S & 112-47-003)
B	30' PUE	MT. DELL ROAD & FOUNTAINHEAD PROPERTY (APN# – 112-05-103A)
C	SEWER SERVICE (10' TCE)	MT. DELL RESIDENTS (APN# – 112-11-001, 112-11-002, 112-11-003A, 112-11-005, 112-11-006, 112-11-007A, 112-11-008B, 112-11-012B, 112-11-012C, 112-11-014B, 112-11-014C, 112-11-015, 112-11-017, 112-11-018A)
D	20' PUE	PALMER AVENUE
E	20' PUE &40' TCE	REZNICK PROPERTY (APN # – 112-11-009)
F	30' PUE & 60' TCE	FOUNTAINHEAD PROPERTY (APN# – 112-05-001K, 112-05-130A, 112-10-012B,112-10-031, 112-10-033)
G	30' PUE & 60' TCE	NORTHERN ARIZONA HEALTHCARE PROPERTY (APN# – 11-10-001L, 112-0-001V, 112-10-005T, 112-10-006A, 112-10-006B, 112-10-006C, 112-10-015)
H	20' PUE & 20' TCE	HANNEMANN PROPERTY (APN# – 11-10-027D)
I	30' PUE	COCONINO COUNTY PROPOERTY (APN# – 116-13-005B)

APN	OWNER	PUE RECORDING #	TCE RECORDING #
116-13-005B	COCONINO COUNTY	3519405	BY PUE AGREEMENT
116-13-005B	COCONINO COUNTY	3543878	BY PUE AGREEMENT
116-13-005B	COCONINO COUNTY	3545682	BY PUE AGREEMENT
112-10-027D	HANNEMANN, VALERIE, L.	3720465	3865829
112-10-005T	NORTHERN ARIZONA HEALTHCARE	3708271	3865843
112-10-006A	NORTHERN ARIZONA HEALTHCARE	3708270	3865843
112-10-006C	NORTHERN ARIZONA HEALTHCARE	3708270	3865843
112-10-0001V	NORTHERN ARIZONA HEALTHCARE	3708269	3865843
112-10-032	NORTHERN ARIZONA HEALTHCARE	3708268	3865843
ALL NAH PARCELS	NORTHERN ARIZONA HEALTHCARE	3705788	N/A
12-05-001G (NOW 112-05-130A) MOUNTAIN DELL EASEMENT	FOUNTAINHEAD, LLC	3802558	BY FRANCHISE AGREEMENT, IN ROAD ROW
112-10-031, 112-10-033	FOUNTAINHEAD, LLC	3802559	3865827, 3865826
112-05-001K, 112-05-130A	FOUNTAINHEAD, LLC	3802560	3865825, 3865826
112-10-012B	FOUNTAINHEAD, LLC	3808451	3865824
112-11-009	REZNICK NW FMLY TR C/U THE ALCOVE TRUST DTD 11-29-04 (BOONE MELANIE)	3776095	NOTARIZED
112-05-001S	REZNICK NW FMLY TR C/U THE ALCOVE TRUST DTD 11-29-04 (BOONE MELANIE)	3776094	NOTARIZED
112-47-033	REZNICK NW FMLY TR C/U THE ALCOVE TRUST DTD 11-29-04 (BOONE MELANIE)	3776094	NOTARIZED
PALMER AVENUE ROW	COCONINO COUNTY	BY FRANCHISE AGREEMENT, IN ROAD ROW	BY FRANCHISE AGREEMENT, IN ROAD ROW
112-11-015	MT. DELL WATER COMPANY	N/A	3865839
112-11-012C	TAK COMMERCIAL REAL ESTATE,LLC	N/A	3865832
112-11-002	BURDSAL, SUSAN A.	N/A	3865842
112-11-005	GARRO, STEVE L. & DENISE	N/A	3865830
112-11-001	JOCAR PROPERTIES,LLC	N/A	3865833
112-11-012B	JOCAR PROPERTIES,LLC	N/A	3865831
112-11-006	MANZO, THOMAS V.	N/A	3866999
112-11-014C	ENDRES, VICTORIA LYNN	N/A	3865834
112-11-018A	REZNICK, PETER & ZAIRA	N/A	3865835
112-11-007A	SCHMIDT, DAVID L.	N/A	3865836
112-11-014B	GIFFORD, TINA	N/A	3865837
112-11-003A	RUIZ, ARMANDO & ALEJANDRINA	N/A	3865838
112-11-017	REZNICK, PETER & ZAIRA	N/A	3865840
112-11-008B	BUZZARD, BRIAN & RACHEL	N/A	3865841

SCALE: 1" = 250'

PRELIMINARY

NOT FOR CONSTRUCTION, BIDDING OR RECORDING

EXHIBIT I

FT. TUTHILL UTILITIES

COCONINO ARIZONA

EXHIBIT I

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

JOB NO: 1418
DATE: MAR 20
SCALE: AS SHOWN
DRAWN: HAS
DESIGN: RMF
CHECKED: SD/RMF

NO.	DESCRIPTION:	DATE	BY:
	REVISIONS		

Call at least two full working days before you begin excavation
ARIZONA 811
Arizona Blue Stake, Inc.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)

DRAWING NO.
EXI.1

SHT NO. 1 OF 2

PLOTTED: Mar 05, 2020 11:32am

FILE: P:\2014\1418\Drawings\Exhibits\EXHIBIT I\Overall & North\1418 Overview Map_2020-03 Jeg BW-CSD-18

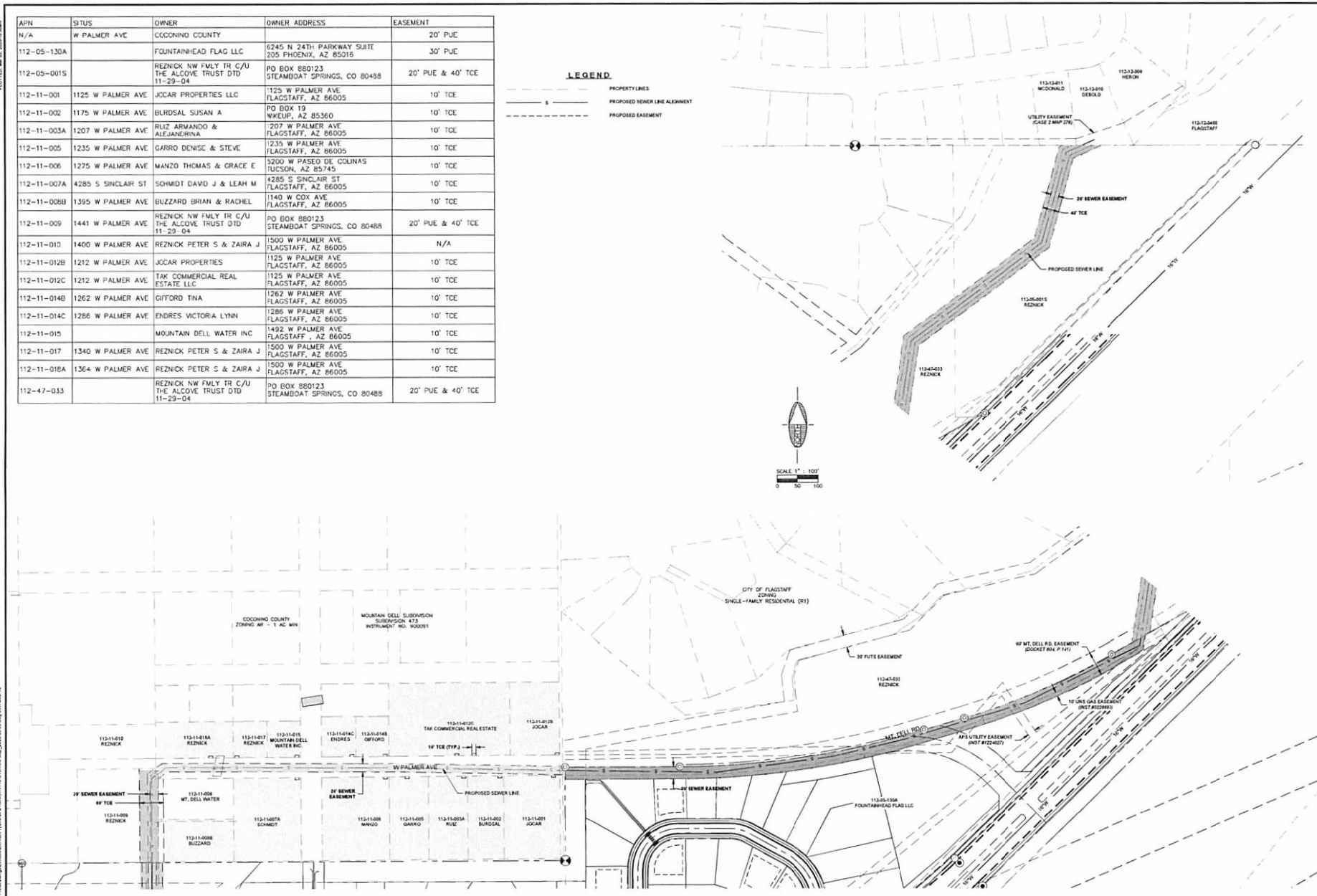
APN	SITUS	OWNER	OWNER ADDRESS	EASEMENT
N/A	W PALMER AVE	COCONINO COUNTY		20' PUE
112-05-130A		FOUNTAINHEAD FLAG LLC	6245 N 24TH PARKWAY SUITE 205 PHOENIX, AZ 85016	30' PUE
112-05-001S		REZNICK NW FMLY TR C/U THE ALCOVE TRUST DTD 11-29-04	PO BOX 880123 STEAMBOAT SPRINGS, CO 80488	20' PUE & 40' TCE
112-11-001	1125 W PALMER AVE	JOCAR PROPERTIES LLC	1125 W PALMER AVE FLAGSTAFF, AZ 86005	10' TCE
112-11-002	1175 W PALMER AVE	BURDSAL SUSAN A	PO BOX 19 WIKEUP, AZ 85360	10' TCE
112-11-003A	1207 W PALMER AVE	RUIZ ARMANDO & ALEJANDRINA	1207 W PALMER AVE FLAGSTAFF, AZ 86005	10' TCE
112-11-005	1235 W PALMER AVE	GARRO DENISE & STEVE	1235 W PALMER AVE FLAGSTAFF, AZ 86005	10' TCE
112-11-006	1275 W PALMER AVE	MANZO THOMAS & GRACE E	5200 W PASEO DE COLINAS TUCSON, AZ 85745	10' TCE
112-11-007A	4285 S SINCLAIR ST	SCHMIDT DAVID J & LEAH M	4285 S SINCLAIR ST FLAGSTAFF, AZ 86005	10' TCE
112-11-008B	1395 W PALMER AVE	BUZZARD BRIAN & RACHEL	1140 W COX AVE FLAGSTAFF, AZ 86005	10' TCE
112-11-009	1441 W PALMER AVE	REZNICK NW FMLY TR C/U THE ALCOVE TRUST DTD 11-29-04	PO BOX 880123 STEAMBOAT SPRINGS, CO 80488	20' PUE & 40' TCE
112-11-010	1400 W PALMER AVE	REZNICK PETER S & ZAIRA J	1500 W PALMER AVE FLAGSTAFF, AZ 86005	N/A
112-11-012B	1212 W PALMER AVE	JOCAR PROPERTIES	1125 W PALMER AVE FLAGSTAFF, AZ 86005	10' TCE
112-11-012C	1212 W PALMER AVE	TAK COMMERCIAL REAL ESTATE LLC	1125 W PALMER AVE FLAGSTAFF, AZ 86005	10' TCE
112-11-014B	1262 W PALMER AVE	GIFFORD TINA	1262 W PALMER AVE FLAGSTAFF, AZ 86005	10' TCE
112-11-014C	1286 W PALMER AVE	ENDRES VICTORIA LYNN	1286 W PALMER AVE FLAGSTAFF, AZ 86005	10' TCE
112-11-015		MOUNTAIN DELL WATER INC	1492 W PALMER AVE FLAGSTAFF , AZ 86005	10' TCE
112-11-017	1340 W PALMER AVE	REZNICK PETER S & ZAIRA J	1500 W PALMER AVE FLAGSTAFF, AZ 86005	10' TCE
112-11-018A	1364 W PALMER AVE	REZNICK PETER S & ZAIRA J	1500 W PALMER AVE FLAGSTAFF, AZ 86005	10' TCE
112-47-033		REZNICK NW FMLY TR C/U THE ALCOVE TRUST DTD 11-29-04	PO BOX 880123 STEAMBOAT SPRINGS, CO 80488	20' PUE & 40' TCE

LEGEND

PROPERTY LINES

PROPOSED SEWER LINE ALIGNMENT

PROPOSED EASEMENT



FLAGSTAFF ARIZONA

FT. TUTHILL UTILITIES

EXHIBIT I
NORTH MAP

JOB NO:	14118
DATE:	MAR 20
SCALE:	1"=100'
DRAWN:	AKS
DESIGN:	RMF
CHECKED:	SDJ/MF

110 W. Dale Avenue
Flagstaff, AZ 86001
928.773.0354
928.774.5934 fax
www.swiaz.com
Shephard Wesnitzer, Inc.

NO.	DESCRIPTION	DATE	BY
	REVISIONS		

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

DRAWING NO.
EXI.2

SHT NO. 2 OF 2

PLOTTED: Mar 05, 2020-10:35am

FILE: P:\2014\14118\Drawings\Exhibits\EXHIBIT I Overall & North\14118-Overview Map_2020-03-05.dwg SWA ESD-18

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Rose Toehe, Coordinator for Indigenous Initiatives
Date:	09/30/2020
Meeting Date:	10/06/2020

TITLE:

Consideration and Approval of Memorandum of Understanding and Consideration and Adoption of Ordinance No. 2020-24: A Memorandum of Understanding with Coconino County for members of the Coconino County Indigenous Peoples Advisory Council to serve as ex-officio members of the City of Flagstaff Indigenous Commission and an ordinance of the City Council of the City of Flagstaff Arizona, amending the Flagstaff City Code, Title 2, Boards and Commissions, by adding a new Chapter 2-26, creating an Indigenous Commission

STAFF RECOMMENDED ACTION:

1) Approve the Memorandum of Understanding
2) Read Ordinance No. 2020-24 by title only for the final time
3) City Clerk reads Ordinance No. 2020-24 by title only (if approved above)
4) Adopt Ordinance No. 2020-24

Executive Summary:

On October 10, 2017, the Flagstaff City Council made a commitment to the Indigenous citizens and communities to address the recommendations received from six city-wide Indigenous forums in collaboration with Indigenous Circle of Flagstaff. The City Council further made a commitment to realize the creation of an Indigenous Commission to help advise City Council on carrying out the recommendations. The Indigenous Commission will serve as a communication bridge to Indigenous citizenry/population through the office of Coordinator for Indigenous Initiatives to City Council.

Strategic Plan and Recommendations:

1. Visibility: To build visibility of Indigenous presence and contributions through public art, street and place names, public advertising, and possible support for a Flagstaff Powwow.
2. Economic Inclusion: Finance and promote a study to quantify Indigenous contribution to Flagstaff's economy. Create a directory of and promote Indigenous-owned businesses in Flagstaff. Feasibility study for a public marketplace for Indigenous artists.
3. Community/Cultural Center: Begin the process to develop a vision statement, and to identify a location, administrative structure, and funding partners for an Indigenous Community Cultural Center. This is the costliest of the recommendations and also the most frequently articulated.
4. Education: Work with Flagstaff Unified School District to support expanded curricula and staff training on Indigenous histories, cultures, and contributions.
5. Public Safety and Criminal Justice: Work with Police, Fire Departments and the Courts to include conversations and input on public safety.
6. Wellness: Take initiative in identifying, assisting, and supporting Indigenous organizations to build

culturally grounded resources for the treatment of intergenerational trauma and other sources of damage expressed by means of substance abuse, homelessness, domestic violence, and suicide. Including positive programs such as Indigenous community gardens and youth-elder programs ideally based within Community Cultural Center. Explore ways to show consideration and respect for lands that are revered, beloved, and sacred for Indigenous people. This is a paramount issue of physical, mental, and spiritual health for the Indigenous people of Flagstaff.

7. Housing: Work with Indigenous organizations to further support affordable housing for Indigenous people. Identify and recommend ways the City can ease the burden of Flagstaff's restrictive price levels for housing and utilities.
8. Transportation: Explore solutions to regional transportation deficits that place particular obstacles in the path of Native Indigenous people who travel between the City and nearby homes or additional family homes for work, shopping, family connections, and health services.

Financial Impact:

A budget is not associated with this activity in the current budget cycle. In the future, funds can be identified to carry out certain aspects/activities of the Commission.

Policy Impact:

The Indigenous Commission can advise the City Council on policy issues and considerations.

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

High Performing Governance:
Encourage public trust through transparency, accessibility and the use of the City's public participation policy.
Safe and Healthy Community:
Help to foster a safe, secure, and healthy community.
Inclusive and Engaged Community:
Foster community pride and civic engagement.
Advance social equity and social justice in Flagstaff.
Facilitate and foster diversity and inclusivity.
Enhance community outreach and engagement opportunities.
Robust and Resilient Economy:
Grow and strengthen a more robust, diverse, a resilient economy.
Livable Community:
Create a welcoming community through partnerships, strong neighborhoods, civic engagement, and resident participation.
Provide educational opportunities for Flagstaff.
Environmental Stewardship:
Actively manage to protect all environmental and natural resources.

Has There Been Previous Council Decision on This:

On May 26, 2020, during the Work Plan presentation of the Coordinator for Indigenous Initiatives, Council briefly discussed the need to create the Indigenous Commission and referred to other discussions in the past.

On July 7, 2020, Coordinator for Indigenous Initiatives provided a presentation on Commissions and Committee to seek Council guidance and direction on Indigenous Commission creation.

Attachments: Memorandum of Understanding

Ord. 2020-24

Memorandum of Understanding
Between
Coconino County
and
the City of Flagstaff
for

The inclusion of members of the Coconino County Indigenous Peoples Advisory Council specifically as ex-officio, non-voting members on the City of Flagstaff Indigenous Commission

---

WHEREAS, the Coconino County Indigenous Peoples Advisory Council (IPAC) is an important asset to Coconino County and the City of Flagstaff; and

WHEREAS, the Flagstaff City Council, through Ordinance 2020-24, is establishing the City of Flagstaff Indigenous Commission which will also be an important asset to the City of Flagstaff and Coconino County; and

WHEREAS, many of the values of IPAC and the City of Flagstaff Indigenous Commission will be shared values that demonstrate the need for inclusion and understanding between all tribal nations and all people; and

WHEREAS, the Flagstaff City Council, through Ordinance 2020-24, has provided for three (3) members of the IPAC to be appointed, from time to time, by the Flagstaff City Council as ex-officio, non-voting members of the City of Flagstaff Indigenous Commission; and

WHEREAS, Coconino County and the City of Flagstaff believe the added value and perspectives that come with the inclusion of three (3) members of IPAC as ex-officio, non-voting members on the City of Flagstaff Indigenous Commission will contribute to the greater benefit of all.

Now therefore, Coconino County and the City of Flagstaff enter into this Memorandum of Understanding.

Article I – BACKGROUND AND OBJECTIVE

The objective of this Memorandum of Understanding (hereinafter "Agreement") is to establish the terms and conditions under which three (3) members of the Coconino County Indigenous Peoples Advisory Council (IPAC) may be appointed by the Flagstaff City Council to serve as ex-officio, non-voting members of the City of Flagstaff Indigenous Commission (IC).

ARTICLE II – TERM OF AGREEMENT

This Agreement will be effective so long as Flagstaff City Ordinance 2020-24 remains in the City Code;

or,

until Coconino County cancels this Agreement at its will and pleasure thereby requiring an amendment to Ordinance 2020-24 to no longer provide for the appointment of three (3) members of the IPAC to serve on the IC;

or,

until the City of Flagstaff cancels this Agreement at its will and pleasure ***AND*** the Flagstaff City Council amends Ordinance 2020-24 to no longer provide for the appointment of three (3) members of the IPAC to serve on the IC.

ARTICLE III – CONSENT

A. The Coconino County Board of Supervisors hereby consents to the appointment of three (3) members of the Coconino County Indigenous Peoples Council (IPAC) to serve by appointment of the Flagstaff City Council as ex-officio members of the City of Flagstaff Indigenous Commission (IC).

B. The Flagstaff City Council hereby consents to appoint three (3) members of the Coconino County Indigenous Peoples Advisory Council (IPAC) to serve as ex-officio members of the City of Flagstaff Indigenous Commission (IC).

ARTICLE IV – QUALIFICATIONS AND REQUIREMENTS

Coconino County hereby acknowledges and agrees that in order for members of the IPAC to qualify for appointment to the IC it is required that they ***NOT*** live within the boundaries of the City of Flagstaff.

ARTICLE V - APPOINTMENT

A. The Flagstaff City Council shall appoint three (3) members of the IPAC who do not live within the boundaries of the City of Flagstaff to serve as ex-officio members of the IC as follows:

   a. Two (2) members to serve for a term of three (3) years;

   b. One (1) member to serve for a term of two (2) years.

ARTICLE VI - PURPOSE AND DUTIES

A. The purposes and duties of the three (3) ex-officio, non-voting members shall be advisory only in nature and they shall not have a vote on actual recommendations made to the Flagstaff City Council as outlined in the subsections of this Article V, Section A., below.

1. Consistent with Flagstaff City Ordinance 2020-24, the three (3) members of the IPAC serving as ex-officio, non-voting members of the IC shall work together with the remaining seven (7) members of the IC to advise the Flagstaff City Council with respect to certain policies, needs, issues, and methods in promoting the Strategic Plan and Recommendations accepted by City Council and to furnish the City Council with information through the Coordinator for Indigenous Initiatives.

2. The IC, and the three (3) ex-officio, non-voting members from IPAC serving on the IC shall not advise or make recommendations to the City Council regarding:

i. Any litigation involving any Indigenous peoples or tribes.
ii. Any water matters or issues.
iii. Any land matters or issues.

ARTICLE VII – COMMISSION RULES AND OPERATIONS

Coconino County hereby acknowledges and agrees that the three (3) members of the IPAC appointed to serve as ex-officio, non-voting members of the IC shall be subject to, and acknowledge that all official business conducted pursuant to the Board and Commission Members' Rules and Operations Manual adopted by Resolution No. 2019-38 of the City Council, as may be amended from time to time, and in accordance with meeting procedures, if any, adopted by the IC insofar as they are not in conflict with the Board and Commission Members' Rules and Operations Manual. In the event of any such conflict, the provisions of the Board and Commission Members' Rules and Operations Manual shall prevail.

ARTICLE VIII – MODIFICATION AND TERMINIATION

Either party may terminate this Agreement at its own will and pleasure as stated above in Article II.

IN WITNESS HEREOF, the parties hereto have executed the Agreement on the date(s) set forth below:

FOR COCONINO COUNTY:

_____ _____

Chair *Date*
Coconino County Board of Supervisors

FOR CITY OF FLAGSTAFF:

_____ _____

Mayor *Date*
City of Flagstaff

ORDINANCE NO. 2020-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, AMENDING THE FLAGSTAFF CITY CODE, TITLE 2, *BOARDS AND COMMISSIONS*, BY ADDING A NEW CHAPTER 2-26, CREATING AN INDIGENOUS COMMISSION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, on October 10, 2017, the Indigenous Circle of Flagstaff presented a summary of findings and recommendations resulting from the six Indigenous Community Forums held from November 2016 to May 2017; and

WHEREAS, the Mayor and City Councilmembers directed The City Manager to begin work on a five-year strategic planning process to implement the recommendations from the list presented by the Indigenous Circle of Flagstaff; and

WHEREAS, the creation of the Indigenous Commission recognizes and renews the commitment between the City of Flagstaff and the Indigenous nations and communities of Northern Arizona to work together for the benefit of all.

ENACTMENTS:

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

SECTION 1. In General.

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

CHAPTER 2-26
INDIGENOUS COMMISSION

2-26-001-0001 CREATION OF COMMISSION

An Indigenous Commission is hereby created.

2-26-001-0002 MEMBERS AND OFFICERS

The Indigenous Commission shall have seven (7) voting members appointed by the City Council and three (3) ex-officio (non-voting) members from the Indigenous Peoples Advisory Council appointed by the City Council in accordance with a Memorandum of Understanding between the City of Flagstaff and the Coconino County Indigenous Peoples Advisory Council. All voting members shall reside within the Flagstaff City limits.

A. Members must have a tribal affiliation as enrolled members of a tribe/nation recognized by the federal and/or state governments. Members will have interest in the issues

presented in the Strategic Plan as presented to City Council by the Coordinator for Indigenous Initiatives.

2-26-001-0003 TERMS OF OFFICE

A. Terms shall be for three years except for the first appointments to create staggered terms. The City Council shall appoint three members for three (3) year term, two members for two (2) year terms, and two members for one (1) year terms. After the initial appointment all terms thereafter will be three (3) year terms.

B. The City Council will make every effort to recruit and appoint those individuals that represent the diverse Indigenous population of Flagstaff and who have demonstrated an interest in the recommendations as directed at the October 10, 2017 City Council meeting by the Indigenous Circle of Flagstaff.

C. Two (2) Co–Chairpersons from among the seven (7) voting members shall be selected by a majority vote of those members at a meeting called for that purpose.

2-26-001-0004 PURPOSE AND DUTIES

A. The Indigenous Commission serves as an advisory board to City Council, makes recommendations with respect to certain policies, needs, issues, and methods in promoting the Strategic Plan and Recommendations accepted by City Council and furnishes the City Council with information through the Coordinator for Indigenous Initiatives.

B. The duties of the Indigenous Commission shall include:

1. Fostering mutual understanding, respect and awareness among all citizens within the City of Flagstaff; recognizing the different economic, cultural, social, racial, religious and ethnic groups within the City; cooperating in the development of educational programs dedicated to improvement of community relations with and to enlist the support of various groups to foster understanding of strategic plan.
2. Developing recommendations for the Mayor and City Council to assist in developing certain policies required to respond to the concerns and needs of those in the community and on the Commission in the promotion of strategic plan.
3. Advising and assisting the City Council on ways to educate the community and developing ways to disseminate such information through surveys, studies, forums, workshops, brochures or other events.
4. Developing and providing public forums for identifying and discussing issues of interest relating to the area of Indigenous related awareness.
5. Acting as an information or referral group to assist individuals, organizations and employers in an effort to aid the community towards greater understanding and respect for diversity awareness among all individuals.

C. The Indigenous Commission shall not advise or make recommendations to the City Council regarding:

1. Any litigation involving any Indigenous peoples or tribes.
2. Any water matters or issues.
3. Any land matters or issues.

C. Strategic Plan and Recommendations:

1. Visibility: To build visibility of Indigenous presence and contributions through public art, street and place names, public advertising, and possible support for a Flagstaff Powwow.
2. Economic Inclusion: Finance and promote a study to quantify Indigenous contribution to Flagstaff's economy. Create a directory of and promote Indigenous-owned businesses in Flagstaff. Feasibility study for a public marketplace for Indigenous artists.
3. Community Cultural Center: Develop a vision statement, and to identify a location, administrative structure, and funding partners for an Indigenous Community Cultural Center. This is the costliest of the recommendations and also the most frequently articulated.
4. Education: Work with Flagstaff Unified School District to support expanded curricula and staff training on Indigenous histories, cultures, and contributions.
5. Public Safety and Criminal Justice: Work with Police, Fire Departments and the Courts to include conversations and input on public safety.
6. Wellness: Take initiative in identifying, assisting, and supporting Indigenous organizations to build culturally grounded resources for the treatment of intergenerational trauma and other sources of damage expressed by means of substance abuse, homelessness, domestic violence, and suicide. Including positive programs such as Indigenous community gardens and youth-elder programs ideally based within Community Cultural Center. Explore ways to show consideration and respect for lands that are revered, beloved, and sacred for Indigenous people. This is a paramount issue of physical, mental, and spiritual health for the Indigenous people of Flagstaff.
7. Housing: Work with Indigenous organizations to further support affordable housing for Indigenous people. Identify and recommend ways the City can ease the burden of Flagstaff's restrictive price levels for housing and utilities.
8. Transportation: Explore solutions to regional transportation deficits that place particular obstacles in the path of Native Indigenous people who travel between the City and nearby homes or additional family homes for work, shopping, family connections, and health services.

2-26-001-0005 MEETINGS; ATTENDANCE

A. The Commission shall hold regular meetings at such dates and times as determined by the members except that the Chairperson may call a special meeting with not less than twenty-four (24) hours' notice as properly posted under Arizona Open Meeting laws.

B. The Indigenous Commission shall not conduct any business at a meeting unless a quorum is present. A quorum shall consist of four (4) voting members of the Commission.

C. Official business shall be conducted pursuant to the Board and Commission Members' Rules and Operations Manual adopted by Resolution No. 2019-38 of the City Council, as may be amended from time to time, and in accordance with meeting procedures, if any, adopted by the Commission insofar as they are not in conflict with the Board and Commission Members' Rules and Operations Manual. In the event of any such conflict, the provisions of the Board and Commission Members' Rules and Operations Manual shall prevail.

SECTION 2. Repeal of Conflicting Ordinances.

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

SECTION 3. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 4. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6th day of October, 2020.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
:	
Co-Submitter:	Erin Young, Water Resources Manager
Co-Submitter:	Stacey Brechler-Knaggs
Date:	09/30/2020
Meeting Date:	10/06/2020

TITLE:

Consideration and Adoption of Resolution No. 2020-58: A resolution approving an Intergovernmental Agreement between the City of Flagstaff and University of Arizona for water education through Arizona Project Wet.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2020-58 by title only
2) City Clerk reads Resolution No. 2020-58 by title only (if approved above)
3) Adopt Resolution No. 2020-58

Executive Summary:

Approval of the Intergovernmental Agreement ("IGA") for the Flagstaff Water Education Program Between the Arizona Board of Regents for and on behalf of the University of Arizona and the City of Flagstaff will formalize the partnership between the parties. Arizona Project WET (Water Education for Teachers) operates under the authority of the University of Arizona. Arizona Project WET provides water education throughout Arizona and has partnered with the City of Flagstaff on the annual Water Festival since 2005. Under this IGA, Arizona Project WET agrees to develop and deliver water-based K-12 educational content for Flagstaff schools, with guidance from the City of Flagstaff Water Conservation Program. This agreement will begin upon full execution and will continue for a 5-year initial term, with the ability to renew for an additional 5-year term.

Financial Impact:

Water Services has an on-going budget of $15,000 per year in Water Fund, Water Resources Section account number 202-08-304-1062-0-4290 for educational content, as described in the scope of work Exhibit A. Grant funds and/or sponsorship dollars have historically reduced the annual cost to the City. The City agrees to waive indirect costs so that the total funding provides a greater direct benefit to the project.

Policy Impact:

Collaborating with Project WET supports Council Adopted Water Policy D 1.1 on Water Conservation Education

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

Key Community Priorities: Environmental Stewardship
Key Community Objectives: Enhance community outreach and engagement opportunities; Provide environmental community outreach, education, and volunteer opportunities.

Regional Plan

Goal CC.5. Support and promote art, science, and education resources for all to experience

Has There Been Previous Council Decision on This:

There has not been previous council direction on this topic.

Options and Alternatives:

1. Approve the Agreement; or
2. Do not approve the Agreement and direct staff to support Arizona Project WET on an annual basis in a less formal manner.

Background/History:

Arizona Project WET has partnered with the City of Flagstaff Water Conservation Program on the annual Water Festival for 4th graders since 2005. During fiscal years 2017-2020, the two parties also partnered on additional water-based education for several FUSD schools, operating under a sole-source procurement. At the close of the fiscal year 2020, City staff proposed an IGA to formalize these programs under one umbrella, therefore eliminating the annual sole-source justification and scoping efforts.

Key Considerations:

This IGA formalizes the partnership that has existed between Arizona Project WET and the City of Flagstaff Water Conservation Program in some capacity since 2005. The execution of this IGA will clarify roles and responsibilities between the two parties and will streamline the annual provisioning of youth water-based education in Flagstaff schools on behalf of the Water Services Water Conservation Program. The annual Water Festival for 4th Grade students has served an average of 840 students a year in the 12 years of the program. The additional programming brings the Project WET curriculum to teachers in Flagstaff who request support in water resources and conservation education.

Expanded Financial Considerations:

This IGA specifies that up to $15,000 annually may be paid to Arizona Project WET for water-based educational outreach in Flagstaff area schools. The Water Conservation Program has helped to defray these costs in the past by providing the majority of the supplies for the annual Water Festival, by contributing staff time where appropriate, and by securing annual sponsorships of the Water Festival from local companies such as SCA Tissue and Fratellis Pizza. Additionally, Arizona Project WET received a grant last year through the Arizona Community Foundation that covered most of the additional programming funds to offer the Project WET K-12 teacher support. City staff and Arizona Project WET staff will continue seeking funds each year to offset the total cost.

Community Benefits and Considerations:

We believe that the development and encouragement of a water ethic in the Flagstaff community is essential to achieving our water conservation goals, which are a critical component of our long term water resource planning. Providing youth education on water conservation serves two purposes: first, it ensures that Flagstaff community members understand the value and importance of water from an early age. Second, students bring home information about water conservation from school back to their families. Outreach that occurs at school also ensures equity, since there are families in our community that do not have the ability to attend events where we would normally provide this type of outreach such

as the Festival of Science or the annual Earth Day celebration.

Community Involvement:

The annual 4th Grade Water Festival is a wonderful collaboration between City staff, Arizona Project WET, and students from Northern Arizona University (NAU). NAU students and local teaches attend a free 6-hour workshop where they learn the water lessons from Project WET and City staff. This gives the students and teachers experience teaching the Project WET water units to the 4th grade students. The actual day of the event will see from 50 to over 100 volunteers of parents, city staff, and local business representatives. Sponsorship and support have historically come from SCA Tissue and Fratelli Pizza. With the closure of SCA Tissue, City staff will be seeking a new sponsor for the Festival in 2021.

Attachments: Res. 2020-58
Arizona Project WET IGA
Exhibit A-Scope of Work

RESOLUTION NO. 2020-58

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF FLAGSTAFF AND THE ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF UNIVERSITY OF ARIZONA FOR WATER EDUCATION THROUGH ARIZONA PROJECT WET

RECITALS:

WHEREAS, the City wishes to collaborate with Arizona Project WET to educate K-12 students about water resources and their importance to Flagstaff's future; and

WHEREAS, effective water education lessons will also inspire students and their families to adopt water conservation practices; and

WHEREAS, Arizona Project WET is equipped to develop and deliver targeted programming for Flagstaff teachers and students on these topics that meet one or more of Arizona's science standards.

ENACTMENTS:

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

SECTION 1. That Arizona Project WET and the City of Flagstaff Water Conservation Program agree to collaborate on water-based K-12 educational content and instruction for a period of five (5) years, with the ability to renew the agreement for an additional five (5) years.

SECTION 2. That the City of Flagstaff Water Conservation Program will provide staff time to support this partnership along with funding of up to $15,000 annually to Arizona Project WET for the provision of these services.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6th day of October, 2020.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____

CITY ATTORNEY

Exhibits:
IGA

INTERGOVERNMENTAL AGREEMENT
Flagstaff Water Education Program Between Arizona Board of Regents for and on behalf of University of Arizona and the City of Flagstaff

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into this ____ day of _____, 2020, by and between the CITY OF FLAGSTAFF, a municipal corporation of the State of Arizona ("City"), and the ARIZONA BOARD OF REGENTS, a body corporate with perpetual succession pursuant to the laws of the State of Arizona, for and on behalf of University of Arizona, a public institution of higher education ("University").

RECITALS:

WHEREAS, the City has authority to enter into this Agreement pursuant to Arizona Revised Statutes ("A.R.S.") § 11-952 and the Flagstaff City Charter, Article I, Section 3; and

WHEREAS, the University has authority to enter into this Agreement pursuant to A.R.S. §§ 11-952 and 15-1625; and

WHEREAS, the City is wanting to collaborate with the University of Arizona, Arizona Project WET (APW) to educate K-12 students about their interconnected water resources and their importance to Flagstaff's future. Effective water education lessons will also inspire students to adopt water conservation practices; and

WHEREAS, the University of Arizona, Arizona Project WET program develops water stewardship and STEM literacy by providing teacher professional development that evolves instructional practice and deepens content knowledge, direct student outreach that delivers and extends classroom learning, and community engagement; and

WHEREAS, the parties intend to develop and deliver targeted programs relevant to the Flagstaff area that assist teaching in meeting one or more of the new Arizona science standards, per targeted grade level, while providing real world relevancy for student engagement.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties agree as follows:

The purpose of this Agreement is to cover the activities related to the Flagstaff Water Education Program.

TERM AND TERMINATION:

This Agreement will begin upon full execution and continue for five (5) years ("Initial Term"). At the end of the Initial Term, the parties will determine if an extended period of time is needed to gather information regarding the composition of the program, and may enter into an

amendment to renew the Agreement for one (1) additional five (5) years ("Renewal Term"). The Initial Term and Renewal Term, if exercised, will cover the duration of the pilot program period. At the end of the pilot program period, the parties will determine whether or not to enter into an agreement for a long term program which will establish the specific responsibilities, costs and payment obligations between the parties.

Notwithstanding the foregoing, either party may terminate this Agreement for convenience by providing the other party ninety (90) days' prior written notice.

RESPONSIBILITIES:

City shall be responsible for the following activities:

1. Provide funding in the amount of up to **$15,000** per year on a reimbursement basis for water education lessons facilitated through inquiry and exploration within the City of Flagstaff service area, see scope of work Exhibit A.
2. The City agrees to waive the indirect cost so that the total funding provides a greater direct benefit to the project.
3. Work with Arizona Project WET staff and others to ensure educational content is pertinent to the City of Flagstaff service area.
4. Analyze evaluation data and metrics collected by Arizona Project WET to ensure school district staff and participants find the Arizona Project WET trainings effective and helpful in meeting the Arizona science standards per targeted grade level.

University shall be responsible for the following activities:

1. Provide educator professional development that evolves instructional practice and deepens content knowledge.
2. Work with the Water Services staff and school district to identify grade level specific lessons for interested teachers.
3. Immerse educators in the use of Systems Thinking.
4. Deepen educator' understanding of Arizona's water resources and water science.
5. Provide an impactful STEM unit that enables educators to engage students in STEM learning focused their own water resources and protection of it.
6. Support educators in the delivery of STEM unites by assisting with the logistical planning and delivery of key curriculum components.
7. Direct student-directed learning experiences that extend classroom learning.
8. Evaluate student and educator knowledge and skill gains using assessment tools.
9. Engage the community in learning about water resource challenges and issues pertinent to the Flagstaff area.

10. The University agrees to waive the indirect cost so that the total funding provides a greater direct benefit to the project.

PERSONNEL:

Except for the purposes of A.R.S. § 23-1022 D., personnel of either party will not for any other purpose be considered employees or agents of the other party. Each party assumes full responsibility for the actions of its personnel while performing activities and services under this Agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including but not limited to withholding of income taxes and social security), workers' compensation and disability benefits.

INSURANCE AND INDEMNIFICATION:

1. University shall maintain adequate insurance (through the Arizona Department of Administration Risk Management Division, which is a self-insurance program) to cover any liability arising from the acts and omissions of University employees or agents participating in the pilot program. University shall not be responsible for maintaining insurance coverage for liability arising from the acts and omissions of City employees or agents.

2. City shall maintain adequate insurance (which may include a bona fide self-insurance program) to cover any liability arising from the acts and omissions of City employees or agents participating in the pilot program. City shall not be responsible for maintaining insurance coverage for liability arising from the acts and omissions of University employees or agents.

3. Each party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, indemnitor's officer, officials, agents, employees, or volunteers.

NONAPPROPRIATION:

If the City's performance under this Agreement depends upon the appropriation of funds by the City Council or the University's performance under this Agreement depends upon the appropriation of funds by the Arizona Legislature, and if the City Council or the Arizona Legislature, respectively, fails to appropriate the funds necessary for performance, then either the City or the University may provide written notice to the other party and immediately cancel this

Agreement without further obligation of either party. Appropriation is a legislative act and is beyond the control of the parties.

RECORD INSPECTION AND RETENTION:

The parties agree to retain all books, accounts, reports, files and other records relating to the Agreement and to make such records available at all reasonable times for inspection and audit by the University or Auditor General of the State of Arizona, or their agents, during the term of and for a period of five (5) years after completion of this Agreement.

CONFLICT OF INTEREST:

In accordance with A.R.S. § 38-511, this Agreement may be cancelled for conflict of interest within three (3) years after its execution, without penalty or further liability.

NON-DISCRIMINATION:

The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, non-discrimination, including the Americans with Disabilities Act, sexual orientation, or gender identity or expression.

THIRD PARTY BENEFICIARIES:

This Agreement is intended for the exclusive benefit of the parties hereto. Nothing herein is intended to create any rights or responsibilities to third parties.

ASSIGNMENT:

Neither party shall have the right to assign this Agreement without prior written consent of the other party.

MANNER OF FINANCING:

Each party to this Agreement shall be responsible for its own costs and budgeting for performance of their respective obligations.

DISPUTES AND ARBITRATON:

In the event of a dispute between the parties to this Agreement, the parties shall attempt to resolve the disagreement on an informal, good faith basis. If that fails, pursuant to A.R.S. §12-1518, the parties acknowledge and agree that they may be required to make use of mandatory arbitration of any legal action that is filed in the Arizona Superior Court concerning a controversy arising out of this Agreement if required by A.R.S. § 12-133.

RELATIONSHIP AND USE OF MARKS:

Except as otherwise agreed in writing, the parties acknowledge that the relationship created by this Agreement is limited to a pilot program. Neither party shall make any representations stating or implying the parties engage in broader transactions or that a party is otherwise associated with the other without first obtaining express written permission from the other party. In addition, neither party shall use any trade name, trademark, service mark, logo, domain name, nor any other distinctive brand feature owned or used by the other party without its express written authorization.

NOTICES:

To City of Flagstaff:
City Manager
City of Flagstaff
211 W Aspen Ave
Flagstaff, AZ 86001

To University of Arizona:
Sponsored Projects & Contracting Services
University of Arizona
PO Box 210158, Room 515
Tucson, AZ 85721-0158

with copy to:

Water Conservation Specialist
City of Flagstaff
211 W Aspen Ave
Flagstaff, AZ 86001

GENERAL PROVISIONS:

1. Both parties agree to meet monthly during the term of this Agreement to discuss the quantity and quality of the material being delivered by the University, as well as the costs incurred under the pilot program.

2. No payments beyond those identified in RESPONSIBILITIES above will be exchanged between the parties during the term of this Agreement. If the determination is made to

enter into a long term program at the conclusion of the pilot program period, any costs associated with the long term program will be identified in a subsequent agreement between the parties.

COUNTERPARTS:

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

AMENDMENTS AND RELATED AGREEMENTS:

This Agreement constitutes the entire agreement of the parties relating to the subject matter hereof as of the date of execution. All amendments or modifications of this Agreement shall be in writing and approved by the parties.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have set forth their hands, through representatives duly so authorized, the day and date first above written.

ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF UNIVERSITY OF ARIZONA

_____ _____

Mark A. Drury, Contracts Manager Date
Sponsored Projects & Contracting Services

The undersigned has determined that the foregoing Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the Arizona Board of Regents.

_____ _____

Josh Estavillo, Associate General Counsel Date

CITY OF FLAGSTAFF

_____ _____

Coral Evans, Mayor Date

Attest:

_____

City Clerk

The undersigned has determined that the foregoing Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the City of Flagstaff.

_____ _____

City Attorney Date

Flagstaff Water Education Program

Exhibit A – Scope of Work

I. Purpose

The purpose of this partnership is to educate K-12 students about their interconnected water resources and their importance to Flagstaff's future. Effective water education lessons will also inspire students to adopt water conservation practices.

II. Goals

Develop and deliver targeted programs that assist educators in meeting science standards while providing real world relevancy for student engagement. Working with Flagstaff area schools, local non-profits and non-formal educators, Arizona Project WET will identify grade level specific lessons for interested teachers. Options may include:

- Water Scene Investigation Program - Classroom or virtual visits (with a homework assignment in between)
- 50-minute facilitated sessions on the groundwater system using flow models
- 50-minute interactive lesson on watersheds that includes forest and burned area runoff and retention
- Offer new school water audit opportunities to existing SWAP teachers to audit and retrofit new parts of their schools, other schools and or public buildings
- Other water conservation education lessons, including virtual lessons
- Annual Water Festival and accompanying classroom assistance for 4th graders
- STEM Events and/or Festivals

III. Objectives

This program will work to build understanding on the following objectives (not all students will meet the same objectives). Participating students will:

- see relationships between Flagstaff's interconnected water resources
- make connections to their water supplies and needs
- explore the watershed that they live in and how it functions in their lives
- construct explanations using evidence about regional and local water management
- examine evidence of drought impacts
- apply water conservation and efficiency strategies
- become water stewards and wise water users

IV. Background

Arizona Project WET develops water stewardship and STEM literacy by: 1) providing teacher professional development that evolves instructional practice and deepens content knowledge, 2) direct student outreach that delivers or extends classroom learning, and 3) community engagement. For over a decade, the APW Program has delivered effective water education that teaches water science and stewardship and inspires responsible decision making and water conservation.

V. Budget

APW will utilize $8,000 of the annual budget to fund a part-time hourly Instructional Specialist, and up to $7,000 for the annual Water Festival, teacher classroom assistance, teacher workshops and STEM events. The Instructional Specialist will report to the Director of APW and be a part of the statewide APW team but will be housed at the Coconino County Cooperative Extension Office. The Specialist will provide their own transportation, have a valid AZ driver's license and current vehicle insurance to travel within Coconino County.

Total Cost: up to $15,000 annually for in person and/or virtual water education lessons facilitated through inquiry and exploration within City of Flagstaff service area.

8. B.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Chad Smith, Interim Special Services Manager

Co-Submitter: Stacey Brechler-Knaggs

Date: 09/30/2020

Meeting Date: 10/06/2020

TITLE:

Consideration and Approval of Grant Application and Acceptance Upon Award: U.S. Department of Justice, 2020 Edward Byrne Memorial Justice Assistance Grant in the amount of $20,751.00.

STAFF RECOMMENDED ACTION:

Approve the U.S. Department of Justice, 2020 Edward Byrne Memorial Justice Assistance Grant (JAG) application to the Flagstaff Police Department for grant funds in the amount of $20,751.00.

Executive Summary:

Approval of the grant in the amount of $20,751.00 will greatly assist in providing communications equipment, less lethal training equipment and DUI education/training materials. The Flagstaff Police Department will use the funding to procure Motorola APX 4500 radios for police vehicles, mobile-data computer docking stations, TASER training equipment, and DUI education and training materials. The remainder and a total of 3% will be applied to costs associated with transitioning to National Incident Based Reporting System (NIBRS).

The Coconino County Sheriff's Office will utilize funds to purchase a total of eight (8) radios. The mobile radios will be installed in off-road, Search and Rescue vehicles, deployed to areas with rough terrain and limited access. The County will use the 3% NIBRS set-aside to enhance our Records Management System in preparation of the transition to NIBRS.

Financial Impact:

There is no significant financial impact to the City of Flagstaff in terms of expenditures. The grant is in the amount of $20,751.00 and is upon award, will be budgeted in FY 2020-21 in the General Fund under the Police Grant section, utilizing account number 001-04-062-6101-2-4273.

Policy Impact:

None. This grant will allow Flagstaff Police Department and Coconino County Sheriff's office to improve an aging, outdated or non-existent communication infrastructure. It will also assist FPD in providing dynamic, scenario-based training and updated DUI educational materials.

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

- Safe & Healthy Community: Provide public safety with the resources, staff, and training to respond to community needs.
- Inclusive & Engaged Community: Enhance community outreach and engagement opportunities.

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.
- Policy PF.3.4. Maintain emergency management operations to protect life and property during disaster events in natural hazard areas and built environments.

Has There Been Previous Council Decision on This:

Yes, since 2014, Council has approved the Justice Assistance Grant (JAG) Program IGAs with the Coconino County Sheriff's Office, which has benefited both agencies.

Options and Alternatives:

1.) Approve grant application process and acceptance upon award.
2.) Disapprove grant application process.

Background/History:

The U.S Department of Justice, Office of Justice Programs (OJP) Bureau of Justice Assistance (BJA), was created in 1984 to provide federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist crime victims. The Edward Byrne Memorial Justice Assistance Grant (JAG) Program allows states, tribes, and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions. JAG blends the previous Byrne Formula and Local Law Enforcement Block Grant (LLEBG) Programs to provide agencies with the flexibility to prioritize and spend funds where they are most needed. The formula calculates direct allocations for local governments within each state, based on their share of the total violent crime reported to the state.

Key Considerations:

The JAG formula program provides agencies with the flexibility to prioritize and place justice funds where they are needed most. As we are carrying a surplus of FY18 and FY19 JAG monies forward, we are prioritizing FY20 monies on communications equipment, training equipment and DUI education materials.

Expanded Financial Considerations:

The Fiscal Year 2020 JAG funds have been requested in the amount of $20,751.00 of which the City will agree to the terms of the Intergovernmental Agreement and pass on the appropriate funds through the County. The County will request a total of $6,225 (includes 3% set aside) to be used to purchase four (4) Very High Frequency (VHF) P25 digital mobile radios and four (4) Ultra High Frequency (UHF) refurbished radios.

Both agencies will use 3% of their total amount to be used for the mandatory National Incident Based Reporting System (NIBRS) transition and will be used in conjunction with the OnCall Records software implementation to add NIBRS to the records software management system. A total amount of $617.00 will be used for NIBRS as requested by the JAG grant requirements.

Community Benefits and Considerations:

Approval of this Grant and Award will allow the Flagstaff Police Department and the Coconino County Sheriff's Office to utilize the Fiscal Year 2020 grant funds to improve communication, training and community outreach, ultimately helping to preserve life, protect property, improve community relations, prevent and control crime, administer justice and assist crime victims.

Community Involvement:

Inform the Council and public on the application of this grant and intended use of these funds.

Expanded Options and Alternatives:

Financial Implications: The 2020 JAG funds have been allocated in the amount of $20,751.00 of which the City agrees to pay the County a total of $6,225.00 for the purchase of four (4) VHF P25 digital mobile radios and four (4) UHF refurbished radios and $187.00 will be used for the mandatory National Incident Based Reporting System (NIBRS) transition required by the federal government. The City amount of $14,526.00 will be used for purchasing communications equipment, training equipment and DUI education materials, with the remaining balance of $430.00 will be used for the mandatory National Incident Based Reporting System (NIBRS) transition required by the federal government.

Attachments: JAG 2020- Application Submittal

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FY 2020 LOCAL SOLICITATION

PROGRAM NARRATIVE (Attachment 1)

The Employer Identification Number (EIN) on the SF-424 is the City of Flagstaff Municipal Government EIN. The Flagstaff Police Department has a vendor number that is 86-6000282, The City of Flagstaff's DUNS number is 088302625, SAM expiration date 02/06/2021. The Coconino County's DUNS number is 838150878, SAM expiration date 02/09/2021.

Program Objectives

Flagstaff Police Department (FPD) –
City of Flagstaff, Flagstaff Police Department (FPD) is applying for $20,751.00 under the purpose of: LAW ENFORCEMENT PROGRAMS. The FPD portion of $14,526.00 will fund equipment purchases to facilitate basic law enforcement functions and new agency initiatives/programs. In an effort to support the vision of the JAG Program, we are seeking approval to purchase equipment to improve our communication equipment, improve our computer hardware, and introduce new de-escalation training equipment. We feel the combination of these new programs will help improve officer safety, community policing, and ultimately result in crime prevention. The remaining $436 will be used for the mandatory National Incident Based Reporting System (NIBRS) transition.

Coconino County Sheriff's Office (CCSO) –

CCSO is applying for $6,038.00 under the purpose of: LAW ENFORCEMENT PROGRAMS. The funds will be used to purchase four VHR P25 digital mobile radios and four UHF refurbished radios to be installed in our off road UTVs and ATVs. These off-road vehicles are used during patrol operations and search and rescue operations where normal vehicles are unable to travel due to the rugged terrain which makes up most of our large county.

The remaining $187.00 is applied to the associated National Incident Based Reporting System (NIBRS) costs, bringing the Coconino County Sheriff's Office total to $6,225.00.

Organization Capabilities/Competencies

FPD – We have recently undergone a patrol shift realignment, based on calls for service and improved staffing levels. One result of this realignment indicates a reduction in staff overtime due to increased manning during high-volume call times. As such, we are seeking to purchase equipment and implement new programs to continue to pro-actively engage the community (particularly juveniles) and support our officers by improving our communication and training equipment. The Flagstaff Police Department Support Services Manager has been identified as the lead contact for this grant and that individual will be responsible for ensuring reporting is adhered to and all purchases follow/meet the requirements of the grant. The FPD Support Services Manager has a great working relationship and supports open, frequent communication with the City of Flagstaff Grants Management Team.

The City of Flagstaff Grants Management Team (GMT) is composed of the Grants and Contracts Manager, Grants Specialist, Financial Officer/Accountant, and the Project Representative. This team approach has assured the City's success in grant compliance from application to closeout. The GMT ensures all terms and conditions of the grant agreement are followed, provides oversight and monitoring for necessary financial and performance reports, monitors contract performance, and ensures all evaluation, audit and closeout procedures are met.

The City of Flagstaff has a full-time Grants and Contracts Manager position which involves researching, monitoring, and applying for available municipal-related grants, monitoring, implementing, evaluating, and assuring the compliance of terms and conditions, and in general, is the central coordinator for all grants; which may involve internal auditing and internal accountability for proper grant compliance. The Grants Specialist position provides support to the Grant and Contracts Manager in these functions. The Accountants assigned to the grants have a high level of technical expertise in governmental budgeting and accounting. In addition, the Project Representatives have extensive knowledge in the targeted areas in which they are seeking funds and are responsible for administering the programs.

The City receives numerous federal grants, which are audited yearly by an Independent Auditor on compliance with requirements applicable to each major program and on internal control over compliance in accordance with OMB 2 CFR Part 200. The Single Audit Report, Schedule of Expenditures of Federal Awards for the past five years, have reflected no audit findings.

The Coconino County Sheriff's Office is highly capable of implementing this project. Key players have been identified to oversee this project. We have a full-time Grants Manager that will monitor, evaluate, and assure the compliance of terms and conditions, and coordinate the implementation and reporting of the project. We have a Communication Manager that will coordinate with the Administrative Manager to purchase and program the equipment.

Program Activities - Design and Implementation

FPD –

Community Policing programs provide positive community relationships and excellent customer service to the community. While one-dimensional programs can be effective, we seek to incorporate multiple initiates through a designed program. The program being referred to is also capable to be activated upon approval to purchase the equipment, as it is ideal for smaller groups and can be deployed while socially distancing.

Youth Alcohol Education and DUI Deterrence: If approved to purchase the Fatal Vision Goggles Kit and DIES Balcony Mat, the Public Information Officer and School Resource Officers will be utilizing these educational aids during events/classes in an effort to deter underage alcohol consumption and driving under the influence or while impaired. This program will be conducted no less than bi-annually.

Communication Equipment Improvements: Flagstaff Police Department is working to equip new vehicle builds with radio equipment that is currently supported by the existing radio service provider (Motorola). We feel it is imperative to ensure communications equipment is functional and not likely to fail during an emergency situation. Another key component of communication is an officer's Mobile Data Computer (MDC); the MDC is key to receive calls for service, call

notes and alerts from the dispatch center. We recently began purchasing new MDC's for officers and these devices required docking stations to be secure and usable inside the officer's vehicle.

De-escalation and Communication Training: Both the Flagstaff Police Department and JAG Program share an overwhelming desire for preservation of life. Better training materials are available for agencies to utilize, but they come at a cost. With approval of this grant request, FPD seeks to purchase and utilize a specially designed suit that can take TASER deployments to the individual wearing the suit; this will be used for more dynamic, scenario-based training and afford officers a much more realistic de-escalation and use of force training environment. The goal will be to focus on de-escalation and less-than-lethal techniques to gain compliance or control of a subject.

CCSO will enter into an Intergovernmental Agreement with the City of Flagstaff. Once this document has been fully executed, the County will follow its established best practice procurement methods to purchase the equipment. We will coordinate with the Information Technology Manager for programming and officer training.

Project Plan - Impact/Outcomes, Evaluation, and Sustainment

FPD – The current climate surrounding law enforcement has tested the relationships of agencies and their communities. No time in law enforcement has been more critical than now to engage in positive, community interactions and ensure officers have the appropriate training and equipment to safely fulfill their mission to preserve life, property, and order through reductions in crime and enforcing violations of the law.

With approval to purchase the requested equipment, we feel we can help address factors that help deter criminal activity and work to ensure officers feel comfortable and confident to fulfill their duties to the community.

Officers will continue to apply our historical CompStat process to address citizens' concerns of criminal activity, fear of crime, and public intoxication in high crime areas. Specific initiatives, directed patrol efforts, and undercover surveillance have proved extremely effective. Officers also worked closely with community members to improve the environmental design and security of high traffic/high crime locations.

Our Public Information Officer will maintain the "Fatal Vision Goggles" and associated "DIES Balcony Mat"; this will be used by our School Resource Officers and DUI Instructors to host classes in our local schools or training facility to educate the public of the dangers of alcohol and attempting to drive impaired. To consider this a successful program, during this grant's reporting periods, School Resource Officers/ DUI Instructors will be required to host no less than one (1) Youth Alcohol Education and DUI Deterrent event annually; this may be increased after schools re-open and the employment of social distancing (in response to the COVID-19 pandemic) has been lifted.

Our Support Services Supervisor will maintain an inventory of the radios and docking stations; these radios will be programmed by the FPD Radio Systems Analyst and assigned to be installed in new police vehicles. The radios and docking stations will be inventoried and labeled as "JAG PURCHASE" to ensure retention and destruction obligations are met. We will consider this a successful program if the new radios and docking stations experience less failure/repair time than current radios and docking stations for this grant's reporting period.

Our TASER and Defensive Tactics Instructors will maintain inventory of the de-escalation/TASER suit. They will be responsible for hosting trainings, no less than annually, that focus on de-escalation and communication techniques. Evaluation and success of this type of program is challenging to define, given the complexity of use of force situations in law enforcement, therefore success will be considered as the hosting of an annual training and enrollment/completion of the training by 80% of sworn staff during this grant's reporting period.

CCSO- Installing the mobile radios in our off-road vehicles will allow stronger, clearer communications between officers during patrol operations and search missions in our 18,600 square miles of rugged terrain.

The Sheriff's Office Communications Manager will add the equipment to our inventory and monitor the systems routinely to ensure continued coverage.

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2020 LOCAL SOLICITATION

BUDGET NARRATIVE (Attachment 2)

The total $20,751.00 JAG funds will be divided between the disparate City of Flagstaff ($14,526.00), Flagstaff Police Department (FPD) and Coconino County Sheriff's Office (CCSO) ($6,225.00). The City of Flagstaff is requesting to utilize its share of the grant to procure communications equipment, training equipment and tools to help educate youth on the dangers and impairment associated with alcohol consumption.

CITY OF FLAGSTAFF POLICE DEPARTMENT

D. Equipment

Communications equipment is critical for effective policing and officer safety. We are seeking approval to purchase two (2) Motorola APX 4500 Mobile Radios and five (5) Havis-Ledco Docking Stations to power and secure officer's MDC's; both items will be installed in new vehicle builds; these are not to replace existing communications equipment.

Qty. 2- Motorola APX 4500 Mobile Radios	$2,980.00 (ea.)	$5,960.00
Qty. 5- Havis-Ledco Docking Stations	$742.00 (ea.)	$3,710.00
Tax/Shipping	$785.00	$785.00
Program Total:		**$10,455.00**

TASER Training Suit: Flagstaff Police Department is seeking progressive ways to incorporate scenario-based, de-escalation and communication training, involving practical/potential application of TASER.

TASER X26P/X26 Simulation Suit	$733.00 (ea.)	$733.00
TASER Simulation Suit Gloves	$65.00 (ea.)	$65.00
Tax/Shipping	$84.00	$84.00
ProgramTotal:		**$882.00**

Fatal-Vision Alcohol Impairment Goggles and Training Aids: To help educate youth on the seriousness of impairment and dangers associated with alcohol consumption and driving under the influence of alcohol.

Fatal Vision Alcohol Event Kit	$1,850.00 (ea.)	$1,850.00
DIES Balcony Danger Mat	$575.00 (ea.)	$575.00
Tax/Shipping		$328.00
Program Total:		**$2,753.00**

Any remaining monies from this grant will be allocated towards the National Incident-Based Reporting System (NIBRS) transition for the City of Flagstaff.

NIBRS - *City of Flagstaff*	$436.00	$436.00
Program Total:		**$436.00**

COCONINO COUNTY SHERIFFS OFFICE

G. Subawards / Subrecipient

CCSO is applying for $6,038.00 under the purpose of: LAW ENFORCEMENT PROGRAMS. The funds will be used to purchase four VHF P25 digital mobile radios and four UHF refurbished radios to be installed in our off road UTVs and ATVs. These off-road vehicles are used during patrol operations and search and rescue operations where normal vehicles are unable to travel due to the rugged terrain which makes up most of our large county.

Qty. 4- VHF P25 Digital Mobile Radios, accessories, installation	$1,208.50 (ea.)	$4,834.00
Qty. 4- UHF Refurbished Radios, accessories, installation	$301.00 (ea.)	$1,204.00

The remaining $187.00 will be used for the mandatory National Incident Based Reporting System (NIBRS) transition and will be used in conjunction with the OnCall Records implementation to add NIBRS to the records software management system.

NIBRS – *Coconino County*	$187.00	$187.00

Total Project Cost – ***City & County***	$20,680.00

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FY 2020 LOCAL SOLICITATION

REVIEW NARRATIVE (Attachment 3)

The City of Flagstaff Staff Summary Report for the FY 2020 JAG grant application and Intergovernmental Agreement will be presented at the October 2020 City Council meeting. These meetings are open to the public and posted in City Hall and on the City's website. To comment on an item that is on the agenda citizens are asked to fill out a speaker card and submit it to the recording clerk. When the item comes up on the agenda, their name will be called to address the council and provide comment.

In addition, the Coconino County Board of Supervisors will address an agenda item on August 11, 2020, certifying approval of the grant application and an Intergovernmental Agreement between the disparate City of Flagstaff and Coconino County. The County Board meetings are also open to the public to comment on any agenda item.

This year's City funds will be spent to procure items, which will help ensure and promote effective policing, communication and aide in communication system improvements. Funding is also being requested to purchase training and educational equipment to improve officer safety and de-escalation techniques/communication. Lastly, part of the funding will aide in a community policing effort to educate and increase awareness to our youth population on the dangers and potential consequences of alcohol consumption. Any additional funds will be allocated towards fees associated with the department's transition to NIBRS.

The designated Coconino County funds will be applied towards the purchase of four VHR P25 digital mobile radios and four UHF refurbished radios to be install in off road UTVs and ATVs. These off-road vehicles are used during patrol operations and search and rescue operations where normal vehicles are unable to travel due to the rugged terrain which makes up most of our large county.

The remaining $187.00 will be used for the mandatory National Incident Based Reporting System (NIBRS) transition and will be used in conjunction with the OnCall Records implementation to add NIBRS to the records software management system.

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2020 LOCAL SOLICITATION

ABSTRACT (Attachment 4)

Applicant's Name: City of Flagstaff, Flagstaff Police Department (FPD)
Title of Project: FPD & CCSO – FY 2020 JAG Program

Goals:

FPD - Funding to pay communications equipment, training equipment and tools to engage with our community through interactive education.

CCSO – The goal of this project is to purchase four VHR P25 digital mobile radios and four UHF refurbished radios to be installed in CCSO off road UTVs and ATVs. These off-road vehicles are used during patrol operations and search and rescue operations where normal vehicles are unable to travel due to the rugged terrain which makes up most of our large county.

Description of Strategies:

FPD has a proven track record of establishing and maintaining crime prevention programs that elicit cooperation between community members and law enforcement personnel to control, detect and investigate crime. Strengthening our communications equipment and communications skills will only reinforce and improve our community policing principles and a CompStat policing model we have utilized for over a decade. Crime data is collected, disseminated and analyzed on a regular basis so that effective strategies and tactics can be developed to prevent or solve crimes. Using CompStat data, department personnel and resources are rapidly deployed to most effectively reduce crime, protect property and decrease the time it takes to improve the quality of life for individuals and/or families being impacted by crime trends. Our multifaceted, dynamic approach to crime reduction, improving quality of life and resource allocation will be assisted by improved communications equipment and remain effective, through improved training techniques (via improved training equipment). This year, we are also excited about the potential to purchase and deploy educational aids and host classes, in an effort to prevent youth alcohol exposure or crime, which may be attributed to alcohol consumption.

Coconino County is the second largest county in the United States, spanning over 18,600 square miles. Within our jurisdiction is rugged terrain and our radio communication system has areas with poor or non-existent communications. The cellular modem systems will be used during law enforcement operations where coverage is poor, increasing officer safety. The plotter printer will be used to print maps during emergencies, disasters and search and rescue operations.

Project Identifiers:

The twelve project identifiers that meet the criteria for the Edward Byrne Memorial Justice Assistance grant are Alcohol, Communication, Community Policing, Computer- Hardware, Crime Prevention, Equipment – General, Intervention Programs, Officer Safety, Policing, School Crime, System Improvements, and Training- De-escalation.

CCSO – The project identifiers that meet the criteria for the FFY20 Edward Byrne Memorial Justice Assistance grant are Communication, Community Policing, Community Prosecution, Equipment – General, Officer Safety, Policing, and System Improvements.

Major Deliverables:

FPD – The Flagstaff Police Department is fully capable to purchase, install/implement, and deploy the requested equipment within the allotted timeframe. We anticipate completion of all purchases within the first reporting period. There are no anticipated delays or issues with any of our programs, as both the de-escalation training equipment and the alcohol training aides can be deployed safely, while adhering to social distancing and federal, state and local guidelines.

CCSO –

Coordination Plans:

FPD – Follow all procurement guidelines, to establish an appropriate vendor to purchase the equipment from; follow through on payment and grant reporting requirements. Document the progress and all training courses/classes, which utilize the grant purchased equipment. Provide feedback/data to JAG and note whether the program was deemed successful or complete based on the definitions and guidelines of the program..

CCSO – We will enter into an Intergovernmental Agreement with the City of Flagstaff. Once this document has been fully executed, we will obtain approval from the County to purchase the equipment and train officers on its use.

This grant will not coordinate with any other justice-related funding and will be used solely for overtime by the City of Flagstaff and for the purchase of the cellular modem system and a plotter printer for the County.

Budget Detail - Year 1

Does this budget contain conference costs which is defined broadly to include meetings, retreats, seminars, symposia, and training activities? - Y/N (DOJ Financial Guide, Section 3.10)	

A. Personnel

Name	Position	Computation						
List each name, if known.	*List each position, if known.*	*Show annual salary rate & amount of time devoted to the project for each name/position.*						
		Salary	**Rate**	**Time Worked** (# of hours, days, months, years)	**Percentage of Time**	**Total Cost**	**Non-Federal Contribution**	**Federal Request**
						$0		$0
					Total(s)	**$0**	**$0**	**$0**

Narrative

B. Fringe Benefits

Name	Computation				
List each grant-supported position receiving fringe benefits.	*Show the basis for computation.*				
	Base	**Rate**	**Total Cost**	**Non-Federal Contribution**	**Federal Request**
			$0		$0
		Total(s)	**$0**	**$0**	**$0**

Narrative

C. Travel

Purpose of Travel	Location	Type of Expense	Basis	Computation						
Indicate the purpose of each trip or type of trip (training, advisory group meeting)	*Indicate the travel destination.*	*Lodging, Meals, Etc.*	*Per day, mile, trip, Etc.*	*Compute the cost of each type of expense X the number of people traveling.*						
				Cost	**Quantity**	**# of Staff**	**# of Trips**	**Total Cost**	**Non-Federal Contribution**	**Federal Request**
			N/A					$0		$0
							Total(s)	**$0**	**$0**	**$0**

Narrative

D. Equipment

Item *List and describe each item of equipment that will be purchased*	**Computation** *Compute the cost (e.g., the number of each item to be purchased X the cost per item)*				
	# of Items	***Unit Cost***	***Total Cost***	***Non-Federal Contribution***	***Federal Request***
Motorola APX 4500 Mobile Radio	2	$2,980.00	$5,960		$5,960
Havis-Ledco Docking Stations	5	$742.00	$3,710		$3,710
TASER X26P/X26 Simulation Suit	1	$733.00	$733		$733
TASER Simulation Suit Gloves	1	$65.00	$65		$65
Fatal Vision Acohol Event Kit	1	$1,850.00	$1,850		$1,850
DIES Balcony Danger Mat	1	$575.00	$575		$575
Shipping and Taxes	1	$1,197.00	$1,197		$1,197
City- NIBRS 3% set-aside, Records Management Software	1	$436.00	$436		$436
		Total(s)	**$14,526**	**$0**	**$14,526**

Narrative

Communication Equipment Improvements: Flagstaff Police Department is working to equip new vehicle builds with radio equipment that is currently supported by the existing radio service provider (Motorola). We feel it is imperative to ensure communications equipment is functional and not likely to fail during an emergency situation. Another key component of communication is an officer's Mobile Data Computer (MDC); the MDC is key to receive calls for service, call notes and alerts from the dispatch center. We recently began purchasing new MDC's for officers and these devices required docking stations to be secure and usable inside the officer's vehicle.

De-escalation and Communication Training: With approval of this grant request, FPD seeks to purchase and utilize a specially designed suit that can take TASER deployments to the individual wearing the suit; this will be used for more dynamic, scenario-based training and afford officers a much more realistic de-escalation and use of force training environment. The goal will be to focus on de-escalation and less-than-lethal techniques to gain compliance or control of a subject.

Youth Alcohol Education and DUI Deterrence: If approved to purchase the Fatal Vision Goggles Kit and DIES Balcony Mat, the Public Information Officer and School Resource Officers will be utilizing these educational aids during events/classes in an effort to deter underage alcohol consumption and driving under the influence or while impaired. This program will be conducted no less than bi-annually. All equipment outlined in this Budget Worksheet will follow federal, state and local procurement regulations and/or policies.

E. Supplies

Supply Items *Provide a list of the types of items to be purchased with grant funds.*	**Computation** *Describe the item and the compute the costs. Computation: The number of each item to be purchased X the cost per item.*				
	# of Items	***Unit Cost***	***Total Cost***	***Non-Federal Contribution***	***Federal Request***
			$0		$0
		Total(s)	**$0**	**$0**	**$0**

Narrative

F. Construction

Purpose	Description of Work	Computation				
Provide the purpose of the construction	*Describe the construction project(s)*	*Compute the costs (e.g., the number of each item to be purchased X the cost per item)*				
		# of Items	*Cost*	*Total Cost*	*Non-Federal Contribution*	*Federal Request*
				$0		$0
			Total(s)	$0	$0	$0

Narrative

G. Subawards (Subgrants)

Description	Purpose	Consultant?			
Provide a description of the activities to be carried out by subrecipients.	*Describe the purpose of the subaword (subgrant)*	*Is the subaward for a consultant? If yes, use the section below to explain associated travel expenses included in the cost.*			
			Total Cost	*Non-Federal Contribution*	*Federal Request*
Four (4) UHF Refurbished Radio with Antenna and Install	These off-road vehicles are used during patrol and search and rescue operations to access rugged terrain.		$1,204		$1,204
Four (4) Mobile VHF P25 Radios for ATV/UTV Vehicles	These off-road vehicles are used during patrol and search and rescue operations to access rugged terrain.		$4,834		$4,834
County- NIBRS 3% set-aside, Records Management Software	Records Management Software		$187		$187
		Total(s)	$6,225	$0	$6,225

Consultant Travel (if necessary)

Purpose of Travel	Location	Type of Expense	Computation					
Indicate the purpose of each trip or type of trip (training, advisory group meeting)	*Indicate the travel destination.*	*Hotel, airfare, per diem*	*Compute the cost of each type of expense X the number of people traveling.*					
			Cost	*Duration or Distance*	*# of Staff*	*Total Cost*	*Non-Federal Contribution*	*Federal Request*
						$0		$0
					Total	$0	$0	$0

Narrative

Most of Coconino County is made up of rugged terrain where typical patrol vehicles are incapable of traveling. The mobile radios will be installed in our off road UTV and ATVs to be used in our law enforcement operations in these areas. The County will use the 3% NIBRS set-aside to enhance our Records Management System in preparation of the transition to NIBRS. CCSO will enter into an Intergovernmental Agreement with the City of Flagstaff for funding distribution. Once this document has been fully executed, the County will follow its established best practices procurement methods to purchase the equipment. We will coordinate with the Information Technology Manager for programming and officer training. The Coconino County Sheriff's Office is highly capable of implementing this project. Key players have been identified to oversee this project. We have a full-time Grants Manager that will monitor, evaluate, and assure the compliance of terms and conditions, and coordinate the implementation and reporting of the project. We have a Communication Manager that will coordinate with the Administrative Manager to purchase and program the equipment. All equipment purchased will follow Federal, State and local procurement regulations and guidelines.

H. Procurement Contracts

Description	Purpose	Consultant?			
Provide a description of the products or services to be procured by contract and an estimate of the costs. Applicants are encouraged to promote free and open competition in awarding contracts. A separate justification must be provided for sole source procurements in excess of the Simplified Acquisition Threshold (currently $150,000).	*Describe the purpose of the contract*	*Is the subaward for a consultant? If yes, use the section below to explain associated travel expenses included in the cost.*			
			Total Cost	***Non-Federal Contribution***	***Federal Request***
					$0
		Total(s)	**$0**	**$0**	**$0**

Consultant Travel (If necessary)

Purpose of Travel	Location	Type of Expense	Computation					
Indicate the purpose of each trip or type of trip (training, advisory group meeting)	*Indicate the travel destination.*	*Hotel, airfare, per diem*	*Compute the cost of each type of expense X the number of people traveling.*					
			Cost	***Duration or Distance***	***# of Staff***	***Total Cost***	***Non-Federal Contribution***	***Federal Request***
						$0		$0
					Total	$0	$0	$0

Narrative

I. Other Costs

Description	Computation						
List and describe items that will be paid with grants funds (e.g. rent, reproduction, telephone, janitorial, or security services, and investigative or confidential funds).	*Show the basis for computation*						
	Quantity	***Basis***	***Cost***	***Length of Time***	***Total Cost***	***Non-Federal Contribution***	***Federal Request***
					$0		$0
				Total(s)	**$0**	**$0**	**$0**

Narrative

J. Indirect Costs

Description *Describe what the approved rate is and how it is applied.*	**Computation** *Compute the indirect costs for those portions of the program which allow such costs.*				
	Base	***Indirect Cost Rate***	***Total Cost***	***Non-Federal Contribution***	***Federal Request***
			$0		$0
		Total(s)	**$0**	**$0**	**$0**

Narrative

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FY 2020 LOCAL SOLICITATION

List of Project Identifiers

Applicable project identifiers associated with proposed project activities include:

1. Alcohol
2. Communication
3. Community Policing
4. Computer- Hardware
5. Crime Prevention
6. Equipment- General
7. Equipment- Audio/Video
8. Intervention Programs
9. Officer Safety
10. Policing
11. School crime
12. System Improvements
13. Training- De-escalation

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FY 2020 LOCAL SOLICITATION

APPLICANT DISCLOSOURE OF PENDING APPLICATIONS

The City of Flagstaff **does not** have pending applications submitted within the last 12 months for federally funded assistance that include requests for funding to support the same project being proposed under this solicitation and will cover the identical cost items outlined in the budget narrative and worksheet in the application under this solicitation.

GMS APPLICATION NUMBER 2020-H8002-AZ-DJ

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FY 2020 LOCAL SOLICITATION

APPLICANT DISCLOSOURE OF PENDING APPLICATIONS

The Coconino County Sheriff's **does not** have pending applications submitted within the last 12 months for federally funded assistance that include requests for funding to support the same project being proposed under this solicitation and will cover the identical cost items outlined in the budget narrative and worksheet in the application under this solicitation.

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
[b] a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	[a] a. bid/offer/application b. initial award c. post-award	[a] a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
[☑] Prime [☐] Subawardee Tier ___ , *if known*: City of Flagstaff 211 W. Aspen Ave. Flagstaff, AZ 86001 **Congressional District**, *if known*: 1	**Congressional District**, *if known*:
6. Federal Department/Agency: U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance	**7. Federal Program Name/Description:** Justice Assistance Grant 2020 CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant *(if individual. last name. first name. MI)*: Nexxus Consulting Bob Holmes 499 South Capital St. SW Suite 600 Washington, D.C. 20003	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name. MI)*:

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.

Signature: Greg Clifton
Print Name: Greg Clifton
Title: City Manager
Telephone No.: (928) 213-2053 Date: 8/18/2020

Federal Use Only:

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Appendix C

Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)

Each applicant must provide responses to the following questions as an attachment to the application:

(1) Does your jurisdiction have any laws, policies, or practices related to whether, when, or how employees may communicate with DHS or ICE?

FPD ANSWER: The Flagstaff Police Department has Policy 429 entitled Immigration Enforcement which conforms to the state law. (See attached)

CCSO ANSWER: The Coconino County Sheriff's Office has Policy 428 Immigration Violations which conforms to the Arizona Statute. (See attached)

(2) Is your jurisdiction subject to any laws from a superior political entity (e.g., a state law that binds a city) that meet the description in question 1?

FPD ANSWER: Yes, the State of Arizona has A.R.S Section 11-1051 entitled Cooperation and Assistance in Enforcement of Immigration Laws. (See attached)

CCSO ANSWER: Yes, we are required to uphold Arizona Revised Statute 11-1051 Cooperation and Assistance in Enforcement of Immigration Laws. (See attached)

(3) If yes to either:

- Please provide a copy of each law or policy;
- Please describe each practice; and

A.R.S. Section 11-1050 states (in pertinent part): "B. For any lawful stop, detention or arrest made by a law enforcement official or a law enforcement agency of this state or a law enforcement official or a law enforcement agency of a county, city, town or other political subdivision of this state in the enforcement of any other law or ordinance of a county, city or town or this state where reasonable suspicion exists that the person is an alien and is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person, except if the determination may hinder or obstruct an investigation. Any person who is arrested shall have the person's immigration status determined before the person is released. The person's immigration status shall be verified with the federal government pursuant to 8 United States Code section 1373(c)."

Flagstaff Police Department Policy 429 States (in pertinent part): "This agency shall conduct all immigration enforcement activities in a manner consistent with federal and state laws regulating immigration and protecting the civil rights, privileges and immunities of all persons. This policy will not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law, nor does it restrict the full enforcement of state laws."

The policy further states, consistent with state law: "If, during the course of a lawful stop or detention of a person ("detainee"), an officer subsequently develops reasonable suspicion to believe a detainee is an alien and is unlawfully present in the U.S., the officer must make a reasonable attempt to determine the immigration status of the detainee with ICE/CBP."

- Please explain how the law, policy, or practice complies with section 1373.

FPD ANSWER: Arizona Law and Flagstaff Police Department Policy 429 do not prohibit or restrict a government entity from sending or receiving information from ICE regarding citizenship or immigration status in compliance with Section 1373(a) and (b)(1). The law and policy also do not restrict the maintaining of such information or the exchange of such information with other governmental entities in compliance with Section 1373(b)(2) and (3).

CCSO ANSWER: Arizona Revised Statute and the Coconino County Sheriff's Office Policy 428 do not prohibit or restrict a government entity from sending or receiving information from ICE regarding citizenship or immigration status in compliance with Section 1373(a) and (b)(1). The law and policy also do not restrict the maintaining of such information or the exchange of such information with other governmental entities in compliance with Section 1373(b)(2) and (3).

Note: Responses to these questions must be provided by the applicant to BJA as part of the JAG application. Further, the requirement to provide this information applies to all tiers of JAG funding, for all subawards made to state or local government entities, including public institutions of higher education. All subrecipient responses must be collected and maintained by the direct recipient of JAG funding and must be made available to DOJ upon request. Responses to these questions are not required from subrecipients that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.

Immigration Enforcement

429.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the management of investigations into issues related to immigration enforcement.

429.2 POLICY

This agency shall conduct all immigration enforcement activities in a manner consistent with federal and state laws regulating immigration and protecting the civil rights, privileges and immunities of all persons. This policy will not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law, nor does it restrict the full enforcement of state laws.

The need for community trust and cooperation is an essential component of effective policing and public safety. In furtherance of this principle, victims and witnesses of crime and individuals who contact this agency to express concerns about our performance or file a complaint **shall not** be the focus of immigration inquiries and should be encouraged to cooperate in the reporting and investigation of crime and complaints.

Whenever a foreign national is arrested or detained in the United States, there are legal requirements an officer must follow to ensure the arrested / detained subject has access to consular assistance from his or her own government. These requirements apply to the arrest or detention of anyone who is not a United States citizen, including permanent resident aliens and illegal immigrants. Officers should refer to the diplomatic and consular contacts policy (#432) for proper protocol.

429.3 DEFINITIONS

ICE/CBP €š" Immigration and Customs Enforcement, or Customs and Border Protection.

Reasonable suspicion - when an officer is aware of specific, articulable facts which, when considered with objective and reasonable inferences, form a basis for particularized suspicion. The requirement of particularized suspicion encompasses two elements. First, the assessment must be based upon the totality of the circumstances. Second, that assessment must create a reasonable suspicion that the particular person is unlawfully present in the United States.

ICE Referral Form- Form (attached) that is utilized by officer to document aliens that have civil only detainers, administrative warrants, or any detainee questioned and suspected of unlawful immigrant status but released. This form will be documented with an FPD DR, and turned into Records via the normal report submission process. Records will forward this form to ICE.

429.4 CONSENSUAL CONTACTS

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

(a) State laws related to immigration enforcement neither expand nor limit an officer's ability to approach a person and engage that person in a voluntary conversation. During that conversation, the officer may inquire about any subject matter. The person contacted does not have to answer questions or produce any identification, but may choose to do so voluntarily. Officers do not have the authority to demand that a person "show their papers." If during the contact, the officer develops reasonable suspicion that the person has committed, is committing or is about to commit a crime, then the officer should proceed as provided in Section 429.5 below.

(b) Officers should exercise discretion in making immigration status inquiries during consensual contacts with juveniles, victims and witnesses of crime. Officers shall refrain from making such inquiries of victims, witnesses, or those making citizen's complaints as discouraging cooperation is likely to hinder or obstruct the investigation and can negatively impact overall community trust and confidence. Immigration status inquiries should only be made when necessary to further an investigation. In order to avoid perceptions of bias based policing (including racial profiling) during consensual contacts, officers should be consistent in asking persons for their identification.

(c) In no event shall race, color or national origin play any role in an officer's decision to inquire about immigration status in consensual encounters.

429.5 PERSONS LAWFULLY STOPPED OR DETAINED

If, during the course of a lawful stop or detention of a person ("detainee"), an officer subsequently develops reasonable suspicion to believe a detainee is an alien and is unlawfully present in the U.S., the officer must make a reasonable attempt to determine the immigration status of the detainee with ICE/CBP. There are two exceptions to this requirement:

(a) When it is not practicable

1. In determining whether it is practicable, officers should consider things such as work load, criticality of incident and of other present duties, available personnel on scene, location, available back-up, ability to contact ICE/CBP and availability of ICE/CBP.

(b) When the determination may hinder or obstruct an investigation

1. The officer should consider when or whether to investigate immigration status in light of the need for suspect, victim and witness cooperation in an investigation (this consideration is not necessarily limited to the investigation for which you have detained the person). For example, complex investigations of money laundering, human trafficking and drug smuggling may require significant cooperation of those involved.

In establishing whether there is reasonable suspicion to believe a person is an alien and unlawfully present in the U.S., an officer shall not consider the detainee's race, color or national origin, except to the extent that an officer may ask about a person's citizenship. If the detainee presents one of the following types of identification, it is presumed that the detainee is lawfully present in the U.S.

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

No further investigation into the person's status is necessary, unless there are additional facts that cast doubt on the person's lawful presence:

(a) A valid Arizona driver license,

(b) A valid Arizona non-operating identification license,

(c) A valid tribal enrollment card or other form of tribal identification, or

(d) If the entity requires proof of legal presence in the U.S. before issuance, any valid U.S. federal, state or local government issued identification.

If reasonable suspicion exists to believe the person is unlawfully present, and if the detainee does not present presumptive identification or meet one of the exceptions that are listed in section 429.5 (a) and (b) above, the officer shall make a reasonable attempt to determine the person's immigration status. In determining whether reasonable suspicion exists the officer shall take into consideration the totality of the circumstances. Circumstances that may be considered include, but are not limited to::

(a) lack of or false identification (if otherwise required by law)

(b) possession of foreign identification

(c) flight and/or preparation for flight; engaging in evasive maneuvers, in vehicle, on foot, etc.

(d) voluntary statements by the person regarding their citizenship or lawful presence

  (a) Note that if the person is in custody for purposes of Miranda, s/he may not be questioned about immigration status until after the reading and waiver of Miranda rights.

(e) foreign vehicle registration

(f) counter-surveillance or lookout activity

(g) in company of other unlawfully present aliens

(h) location, including for example:

  (a) place where unlawfully present aliens are known to congregate looking for work

  (b) a location known for human smuggling or known smuggling routes

(i) traveling in tandem

(j) vehicle is overcrowded or rides heavily

(k) passengers in vehicle attempt to hide or avoid detection

(l) prior information about the person

(m) inability to provide their residential address

(n) claim of not knowing others in same vehicle or at same location

(o) providing inconsistent or illogical information

(p) dress

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

(q) demeanor " for example, unusual or unexplained nervousness, erratic behavior, refusal to make eye contact

(r) significant difficulty speaking English

When reasonable suspicion exists to believe a detainee is an alien and present in the U.S. unlawfully but there are no state or local criminal violations, the officer shall contact ICE/CBP, unless presumptive identification is presented or one of the exceptions in 429.5 (a) and (b) of this order applies.

(a) The officer through dispatch shall contact the ICE Law Enforcement Support Center at 1-802-872-6020 to advise the Center that the officer has a person detained and needs to have the person's name, date of birth and alien number (if available) checked in the ICE database. The officer shall make a notation in the dispatch call notes of "immigration investigation".

(b) If ICE/CBP advises the officer that there are federal criminal charges against the detainee, then the officer shall determine whether ICE/CBP will respond to take the person into custody or whether the officer should arrest the detainee and transport them to the Coconino County Jail. If the officer makes an arrest under these circumstances then a supervisor must be notified upon completion of the investigation.

(c) If ICE/CBP advises the officer that the detainee only has federal civil charges, then the officer shall ask whether ICE/CBP will respond. The officer may not extend the initial lawful stop based upon the federal civil charges. Once the investigation related to the initial lawful stop has been completed, the detainee must be released unless the officer has developed reasonable suspicion or probable cause relating to other criminal activity. Without the person's consent, officers shall not transport the person based solely upon a federal civil violation.

(d) If ICE/CBP is unable to indicate whether the federal charge against the detainee is civil or criminal, then the officer shall treat the charge as civil pursuant to paragraph (3) above.

(e) If ICE/CBP does not answer or if they are unable to immediately verify that the detainee is unlawfully present, ICE/CBP should be asked to re-contact the officer if and when any information is available. The officer may then proceed to process the detainee as the officer would otherwise under our existing procedures. The officer shall not extend the detention solely to wait for ICE/CBP to respond. If the officer obtained relevant information during the lawful stop, the officer shall fill out an ICE referral form. The referral from will be submitted to records with the accompanying documents (Citation, Warning, etc) The referral report shall be submitted to ICE by records. The officer shall make a notation in the dispatch call notes of "immigration investigation".

(f) If ICE/CBP verifies the subject has no records or is not wanted for civil or criminal charges, the officer does not need to complete the Ice Referral Form as long as the reasonable suspicion to conduct the inquiry will be covered in the call notes or a connecting report.

(g) The U.S. Department of State does not consider it necessary to make consular notification in instances where the detention of a foreign national is for a short period

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

of time. A routine traffic stop or accident investigation generally will not detain the national for more than a brief time, so notification is not necessary.

(h) Juveniles who are detained based upon reasonable suspicion to believe they are involved in criminal activity shall not be asked about immigration status without the presence of a parent, guardian or attorney. Officers may ask for presumptive identification if appropriate, and may consider statements offered by the juvenile in determining whether reasonable suspicion exists to believe the juvenile detainee is unlawfully present in the U.S.

429.5.1 DOCUMENTATION OF REASONABLE SUSPICION

(a) If an officer does an Ice inquiry on a stop or FI, and the suspect comes back clear Officers must list their reasonable suspicion in the call notes of the stop or FI (on the MDC). The officer shall also make a notation in the dispatch call notes of "immigration investigation".

(b) If an officer does not get a timely return from ICE, the officer will complete the Ice Referral Form, where they will list their reasonable suspicion. The officer shall also make a notation in the dispatch call notes of "immigration investigation".

(c) If an officer receives a civil hit, the officer will list their reasonable suspicion in the Ice Referral form. The officer shall also make a notation in the dispatch call notes of "immigration investigation".

(d) If an officer receives a criminal hit they will list their reasonable suspicion in the report. The officer shall also make a notation in the dispatch call notes of "immigration investigation" and inform their supervisor of the arrest upon completion of the investigation.

(e) Detectives will cover how they established reasonable suspicion in their detective supplemental report.

429.6 ARRESTS

(a) Officers are required to verify the immigration status of all arrestees unless it can be verified through one of the forms of presumptive identification as outlined above. If a person is arrested and booked into jail the officer does not need to make the required immigration inquiry as that will be done by the jail prior to their release from custody.

(b) When an officer arrests a person for a misdemeanor and is considering whether the cite and release the person, and has reasonable suspicion to believe the individual is undocumented, the officer through dispatch shall contact the ICE Law Enforcement Support Center at 1-802-872-6020 to advise the Center that an officer has a person under arrest and needs to have the person's name, date of birth and alien number (if available) checked in the ICE database.

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

1. If ICE/CBP does not answer or if ICE/CBP is unable to verify that the arrestee is unlawfully present, then the officer will proceed to handle the arrestee according to agency policy, which may result in the issuance of a citation/referral and the release of the arrestee.
2. If ICE/CBP verifies that the person has federal civil or criminal charges, then the officer may ask the federal agency to transport the person, the officer may transport the person to the agency, or the officer may transport the person to jail for booking on the state charges. FPD officers will not transport persons to jail on federal civil charges alone.
3. If verification is made by the agency, the fact that verification was made and by whom will be documented in the DR. And the officer shall make a notation in the dispatch call notes of "immigration investigation".

(c) When an officer arrests a person and is going to book the person into a jail facility, they do not need to inquire about their immigration status; however, they may need to ask about their country of citizenship for consular notification. As required by Arizona law, all persons who are to be booked into jail shall be asked about their country of citizenship, with the answer/s documented in the departmental report:

1. What is your country of citizenship?
2. Where were you born?
   (a) If the answer is other than the United States, officers will ask the arrested person if they have dual United States citizenship. Additionally, the following questions should be asked, but only after Miranda warnings have been given (if a juvenile, use appropriate Miranda warnings) and a waiver obtained.
      1. Are you in the United States legally?
      2. Do you have any registration documents or other proof of lawful presence?

(d) In situations where a Foreign National is arrested but cited and released a short time later, it is unnecessary to notify their consulate. If, however, the Foreign National is being detained for a significant length of time (whether or not they are under arrest), it becomes necessary to advise the Foreign National of their right to have their consulate notified of their arrest or detention. Booking a Foreign National into jail or detaining them for several hours while questioning would require the officer to make the admonishment and any requested notification. This applies for the arrest of any Foreign National, whether they are in this country legally or not.

429.7 DETENTION AND REMOVAL ORDER (DRO) HOLDS (USUALLY A NCIC HIT)

(a) The Detention and Removal Office is a unit of ICE that has the responsibility of detaining and transporting undocumented persons apprehended by ICE, CBP and local law enforcement.

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

(b) Once a person has been identified as being in the United States unlawfully, ICE will issue a DRO hold, which can be for criminal or civil violations.

1. This hold will be similar to a warrant notification when a person's information is run through NCIC.

(c) If an officer or dispatch receives a DRO notification from ICE, the following will be done:

1. Call the phone number on the DRO notification to determine whether the DRO hold is criminal or civil.
2. Detain and transport for criminal orders, if requested to do so by ICE.
3. Complete a departmental report containing all relevant information.

(d) Without the person's consent, officers will not transport for civil violations or continue to detain if the only violation is a civil DRO hold.

(e) Consular notification procedures shall be followed if an arrest and transport is made.

429.8 NCIC ICE IMMIGRATION VIOLATOR FILE

(a) ICE keeps a record of aliens who have been convicted of a felony crime in the United States and have since been deported to their country of citizenship. This record is known as the Deported Felon File which is located in the NCIC Immigration Violator File.

(b) The Immigration Violator File contains the following additional categories:

1. The ICE Absconder category, which contains the records for individuals with an outstanding administrative warrant of removal from the United States who have unlawfully remained in the United States.
2. The ICE National Security Entry/Exit Registration System (NSEERS) category, which contains the records for individuals whom the Department of Homeland Security (DHS) and ICE have determined have violated registration requirements for entry into the United States.
3. ICE enters this information into the NCIC Immigration Violator File.
4. Police officers will not take enforcement action on Administrative Warrants or NSEERS hits, as these are civil or other non-criminal federal matters.
5. The NCIC query results will advise whether the information displayed is an Administrative Warrant hit or a Deported Felon File hit.

(c) If an officer runs a person who is the subject of a Deported Felon File notification, and there are no local charges, the following steps will be taken:

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

1. Verify through physical description (scars, marks, tattoos, etc.), admission, or other available information, that the person on the notification is the same person.
2. Contact the ICE Law Enforcement Service Center in Vermont through the communications dispatcher or call directly at 802-872-6020.
3. Once the hit has been confirmed, officers will positively identify the subject through LiveScan, or fingerprint the individual and fax the fingerprints to ICE at FAX 602-379-4502.
4. After the subject has been positively identified, CCSO Detention personnel will arrange for pick-up and disposition of the subject.

(d) Officers will complete a departmental report titled "NCIC Immigration Hit" with the following information:

1. Subject's name and personal information.
2. Time, place and reason for contacting the subject.
3. Name and badge number of ICE agent that took custody of subject (if applicable).

(e) If there are local charges along with a Deported Felon notification, there is no need to contact ICE. Follow normal booking procedures.

429.9 DOCUMENTATION

Officers are reminded of their responsibility to thoroughly document all facts and circumstances in a DC1, DC2, F.I., or ICE Referral Form (whichever is applicable) supporting their decisions in the application of this statute. They will include hardcopy responses from dispatch with all reports.

429.10 DISPATCH RESPONSIBILITIES

(a) The Dispatch Center shall conduct all ICE verification for all arrests made by members of the Flagstaff Police Department. Dispatch will be contacted by arresting officers with a request that verification be made through The ICE Law Enforcement Center at 1-802-872-6020 or by NLETS. Dispatchers shall make a notation in the dispatch call notes of "immigration investigation".

(b) When Dispatch completes the NLETS inquiry to verify whether a person is an alien and unlawfully present in the U.S., the inquiry will include the following information:

1. Is there any record that the person has ever completed an alien registration document?
2. Whether the person has any other authorization from the federal government to remain in the U.S.

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

3. Is the violation criminal or civil?

(c) All NLETS requests and returns shall be placed in a box specifically labeled for this purpose and made available for access by patrol officers. These documents shall be included with the officer's reports.

429.11 RECORDS RESPONSIBILITIES

Records will receive the ICE referral form via the normal report submission process and will be treated like a DC2 report. The Records Clerk will be responsible to scan a copy of the Ice Referral Form and attach it to the incident. A copy of the form will be forwarded to ICE.

429.12 ICE REFERRAL FORM

See attachment: ICE Form.JPG

429.13 U-VISA REQUESTS

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000 encourages victims to report crimes and contribute to criminal investigations and prosecutions regardless of immigration status as well as supports law enforcement efforts to investigate and prosecute crimes committed against immigrant victims. The U-Visa provides eligible victims with nonimmigrant status to temporarily remain in the United States while assisting law enforcement. (U-Visa Law Enforcement Certification Resource Guide)

U-Visas are available through United States Citizenship and Immigration Services for undocumented foreign nationals who are current or former victims, witnesses, or affected family who are assisting or have assisted officials in the criminal justice system investigate or prosecute criminal activity.

Note: An agency's decision to provide a certification is entirely discretionary; the agency is under no legal obligation to complete a Form I-918 Supplement B for any undocumented foreign national.

1. VICTIMS INQUIRING ABOUT APPLYING FOR U-VISA OR REQUESTING assistance with completing an application should be directed to Coconino County Victim Witness Services or to obtain an attorney to assist them in the process. Officers are encoruaged to also refer interested victims to www.usis.gov for more information.

2. ALL REQUESTS FOR U NONIMMIGRANT STATUS CERTIFICATION (USCIS) FORM I-918 SUPPLEMENT B (I-918B) SHALL be forwarded to the Lieutenant of the Detective Division for review and coordination in processing the request.

3. THE LIEUTENANT , OR A DESGINEE WILL:

a. Log the request and coordinate with the investigating officers and the affected prosecuting agency in making the determination to recommend and forward the form I-918B to the Chief or the Chief's designee for final review.

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

b. Refer to instructions for the form provided by Department of Homeland Security when making this determination

c. Consider forwarding completed request to the Chief or the Chief's designee for review if the applicant:

1) Is a victim of a qualifying crime,

2) Possess specific knowledge and details of the crime, and

3) Has been, is being, or is likely to be helpful to law enforcement in the detection, investigation or prosecution of the qualifying crime.

d. Determine if any additional information will be provided along with the certification, such as copies of police reports, any harm sustained by the victim that is known to the police department, or information regarding contacts with the applicant. Indicate on the form additional information is being provided, provide the form and the additional documentation to the applicant, retain a copy of the form and documents and send a copy separately to USCIS Vermont Service Center.

e. Log the disposition of each request

f. Send written notification to USCIS-Vermont Service Center if a victim unreasonably refuses to assist in the investigation or prosecution of their case after the form I-918B has been certified to Include the victim's name, date of birth, and A-number (if available) on all correspondence.

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

Attachments

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

ICE Form.JPG

Copyright Lexipol, LLC 2020/07/02, All Rights Reserved.
Published with permission by Flagstaff Police Department

Flagstaff Police Department

ICE Referral Form

911 E. Sawmill Road
Flagstaff, Arizona 86001

FAX: (928) 779-2708
Police Records: (928) 214-2530

son for Contact / Call for Service, Traffic Stop, Subject Stop, etc.): DR #:

evant Factors to consider when determining reasonable suspicion that the person(s) is/are unlawfully present:
Lack of or fake ID ☐ Possession of foreign ID ☐ Flight and/or preparation for flight ☐ Voluntary statements ☐ Foreign vehicle registration
Counter-surveillance or lookout activity ☐ In company of others unlawfully present aliens ☐ Location ☐ Involving gun/radio
Passenger in vehicle attempts to hide or avoid detection ☐ Prior information about the person ☐ Inability to provide residential address
Claim of not knowing other's name, vehicle or name location ☐ Providing inconsistent or false information ☐ Suspicious demeanor
Significant difficulty speaking English ☐ Other Relevant Factors (explain): _____

ject's Name: LAST FIRST MIDDLE

e Sex Date of Birth Country of Birth

ght Weight Hair Eyes Complexion Scars/Tattoos

Present?
☐ Yes ☐ No

ID Type ID Number, State, etc.

ne Address: Home Phone

ol Name/Address: Work Phone

ol Days Work Hours Occupation Length of Employment

ng Affiliation Alias/AKA's

icle Year Make Model Style Color

icle Plate # Year State VIN

gistered Owner

son's Name Serial # Duty Phone

rrative: _____

_____

_____

_____

pervisor's Name/Signature: _____ ID# _____

E contact information: ICE 24 hour contact: 1-(800) 973-2867, ICE Law Enforcement Support Center (NLETS Inquiry): 1-(2) 872-6020, Tucson Customs & Border Protection: (520) 836-7012, ICE Phoenix Duty Agent: (602) 379-3116

Immigration Violations

428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to employees of the Coconino County Sheriff's Office for reporting, investigating and enforcing immigration laws.

428.2 POLICY

It is incumbent upon all employees of this office to make a personal and professional commitment to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of the Office in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their immigration status.

428.2.1 DETENTIONS

A detention occurs when a deputy intentionally, through words, actions or physical force causes a reasonable individual to believe he/she is being required to restrict his/her movement. Detentions also occur when a deputy actually restrains a person's freedom of movement.

428.2.2 CONSENSUAL CONTACTS

A consensual contact occurs when a deputy contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the deputy is voluntary.

Consensual contacts with consenting individuals are encouraged by the Coconino County Sheriff's Office to strengthen community involvement, community awareness and problem identification. Deputies should be consistent about when they ask such consenting individuals for identification in order to avoid the perception of disparate treatment based on race, color or national origin.

428.2.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry or deportation. While it may often be necessary to determine the identity of a victim or witness, employees shall treat all individuals equally and without regard to race, color or national origin in any way that would violate the United States or Arizona Constitution.

428.3 ENFORCEMENT

It shall be the policy of this agency to question the immigration status of an individual only after a lawful arrest (the arrest having nothing to do with their immigration status) and when reasonable suspicion

exists they are illegally in this country. The immigration check will not be conducted by field deputies and will only be checked by detention staff at the time of booking.

428.3.1 FEDERAL CIVIL VERSUS CRIMINAL OFFENSES

An individual who enters into the United States illegally has committed a misdemeanor (8 USC § 1325(a)). Generally, an alien who initially made a legal entry into the United States but remains beyond what is a legal period of time has committed a civil offense.

Factors that may be considered in determining reasonable suspicion that a criminal violation has occurred may include, but are not limited to:

(a) An admission or confession that the person is unlawfully present in the United States.

(b) Reason to suspect that the person possesses immigration documentation that is forged, altered or otherwise indicative that the person is not legally present in the United States.

(c) While a lack of English proficiency may be considered, it should not be the sole factor in establishing reasonable suspicion. When practicable, reasonable effort should be made to accommodate persons with limited English proficiency.

(d) Proximity to a United States border or known routes used for illegal entry into the United States.

(e) Other factors based upon training and experience, particularly those identified by Arizona Peace Officer Standards and Training (POST) material.

428.3.2 DETERMINING IMMIGRATION STATUS DURING STOPS AND DETENTIONS

A person is presumed to be lawfully present in the United States if the person provides any of the following (ARS § 11-1051):

(a) A valid Arizona driver license or a valid Arizona non-operating identification license.

(b) A valid tribal enrollment card or other form of tribal identification.

(c) Any valid federal, state or local government-issued identification where proof of legal presence in the United States was required before issuance.

(d) A drivers license or state issued ID from any state within the United States.

If appropriate documentation has been presented to the deputy, no obligation exists to pursue further investigation unless additional reasonable inquiry is warranted.

Circumstances may arise that make reasonable attempts to determine the immigration status of a stopped or detained person impracticable (ARS § 11-1051). Examples of these circumstances include, but are not limited to, time limitations, availability of personnel or other resources, issues of officer safety and communication capabilities. Deputies do not need a supervisor's approval to forgo such attempts in these circumstances but are expected to make reasonable decisions in good faith and based upon the totality of the circumstances presented at the time. Deputies who determine that no inquiry

regarding a detained person's immigration status is warranted should notify a supervisor and document the reason for no inquiry or for an incomplete inquiry in an associated dispatch log, Field Interview card or report.

428.3.3 SUPERVISOR RESPONSIBILITIES

When notified that a deputy has detained a person and established probable cause to believe the person has committed a criminal immigration offense, the supervisor should:

(a) Confirm that the detained person's immigration status was properly verified.

(b) Ensure that the detained person is taken into custody when appropriate. Appropriate steps may include, but are not limited to:

1. Transfer to federal authorities.

2. Lawful arrest for a criminal offense or warrant.

428.4 ARRESTS

Any person who is arrested shall have his/her immigration status checked. Unless the arrestee continues to be suspected of some crime for which he/she may be held, custody should not be prolonged for the immigration inquiry. The result of an immigration inquiry should be documented, even if the arrestee has been released (ARS § 11-1051).

428.4.1 BOOKINGS

Detention Staff will notify the Detention and Removal Office (DRO), a subsidiary of Immigration Custom Enforcement (ICE), immediately upon reasonable suspicion, notification or admission that an inmate in our facility is an alien and is unlawfully present in the United States. In determining whether reasonable suspicion of unlawful presence exists, officers should consider all relevant factors, including, among others:

(a) Lack of or false identification, no date of birth, no social security number

(b) Possession of foreign identification

(c) Voluntary statements by the person regarding their citizenship or lawful presence

(d) Prior information about the person

(e) Inability to provide their residential address

(f) Providing inconsistent or illogical information

(g) Demeanor €" for example, unusual or unexplained nervousness, erratic behavior, refusal to make eye contact

(h) Significant difficulty speaking English

428.4.2 INFORMATION SHARING

Unless otherwise dictated by law, it is the policy of the Coconino County Sheriff's Office that:

(a) No employee will prohibit, or in any way restrict, any other employee from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

1. Sending information to, or requesting or receiving such information from, ICE
2. Maintaining such information in office records
3. Exchanging such information with any other federal, state or local government entity

(b) Employees will not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law (ARS § 11-1051).

428.5 U-VISA/T-VISA NON-IMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U and T)). A declaration/certification for a U-Visa/T-Visa from the U.S. Citizenship and Immigration Services may be completed on the appropriate U.S. Department of Homeland Security (DHS) Form supplements (I-918 or I-914) by law enforcement and must include information on how the individual can assist in a criminal investigation or prosecution in order for a U-Visa/T-Visa to be issued.

Any request for assistance in applying for U-Visa/T-Visa status should be forwarded in a timely manner to the Operations Commander with Sheriff notification assigned to oversee the handling of any related case. The Operations Commander should:

(a) Consult with the assigned detective to determine the current status of any related case and whether further documentation is warranted.

(b) Review the instructions for completing the declaration/certification if necessary. Instructions for completing Forms I-918/I-914 can be found on the U.S. DHS website.

(c) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the declaration/certification has not already been completed and whether a declaration/ certification is warranted.

(d) Address the request and complete the declaration/certification, if appropriate, in a timely manner.

(e) Ensure that any decision to complete or not complete the form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed certification in the case file.

428.6 PROCEDURES FOR IMMIGRATION COMPLAINTS

Reasonable options when a person reports immigration violations include referrals to ICE and/or the Arizona Attorney General's office if the report relates to employment violations.

428.7 ICE REQUEST FOR ASSISTANCE

A specific request for assistance from ICE or any other federal agency should be directed to a supervisor. This office may provide available support services, such as traffic control or peacekeeping efforts, to ICE or other federal agencies.

428.8 TRAINING

The Training Coordinator shall ensure that all applicable employees receive appropriate immigration training supplied by Arizona POST.

428.9 POLICY RECORD

Originated By: Kathleen Levinson

Approved By: William B. Pribil, Sheriff

Effective Date: 12/12/2013

Publish Date: 12/12/2013

Rescinds: SOI 224

Updated:01/29/2020 - Jim Driscoll, Sheriff

11-1051. Cooperation and assistance in enforcement of immigration laws; indemnification

A. No official or agency of this state or a county, city, town or other political subdivision of this state may limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

B. For any lawful stop, detention or arrest made by a law enforcement official or a law enforcement agency of this state or a law enforcement official or a law enforcement agency of a county, city, town or other political subdivision of this state in the enforcement of any other law or ordinance of a county, city or town or this state where reasonable suspicion exists that the person is an alien and is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person, except if the determination may hinder or obstruct an investigation. Any person who is arrested shall have the person's immigration status determined before the person is released. The person's immigration status shall be verified with the federal government pursuant to 8 United States Code section 1373(c). A law enforcement official or agency of this state or a county, city, town or other political subdivision of this state may not consider race, color or national origin in implementing the requirements of this subsection except to the extent permitted by the United States or Arizona Constitution. A person is presumed to not be an alien who is unlawfully present in the United States if the person provides to the law enforcement officer or agency any of the following:

1. A valid Arizona driver license.

2. A valid Arizona nonoperating identification license.

3. A valid tribal enrollment card or other form of tribal identification.

4. If the entity requires proof of legal presence in the United States before issuance, any valid United States federal, state or local government issued identification.

C. If an alien who is unlawfully present in the United States is convicted of a violation of state or local law, on discharge from imprisonment or on the assessment of any monetary obligation that is imposed, the United States immigration and customs enforcement or the United States customs and border protection shall be immediately notified.

D. Notwithstanding any other law, a law enforcement agency may securely transport an alien who the agency has received verification is unlawfully present in the United States and who is in the agency's custody to a federal facility in this state or to any

other point of transfer into federal custody that is outside the jurisdiction of the law enforcement agency. A law enforcement agency shall obtain judicial authorization before securely transporting an alien who is unlawfully present in the United States to a point of transfer that is outside of this state.

E. In the implementation of this section, an alien's immigration status may be determined by:

1. A law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status.

2. The United States immigration and customs enforcement or the United States customs and border protection pursuant to 8 United States Code section 1373(c).

F. Except as provided in federal law, officials or agencies of this state and counties, cities, towns and other political subdivisions of this state may not be prohibited or in any way be restricted from sending, receiving or maintaining information relating to the immigration status, lawful or unlawful, of any individual or exchanging that information with any other federal, state or local governmental entity for the following official purposes:

1. Determining eligibility for any public benefit, service or license provided by any federal, state, local or other political subdivision of this state.

2. Verifying any claim of residence or domicile if determination of residence or domicile is required under the laws of this state or a judicial order issued pursuant to a civil or criminal proceeding in this state.

3. If the person is an alien, determining whether the person is in compliance with the federal registration laws prescribed by title II, chapter 7 of the federal immigration and nationality act.

4. Pursuant to 8 United States Code section 1373 and 8 United States Code section 1644.

G. This section does not implement, authorize or establish and shall not be construed to implement, authorize or establish the REAL ID act of 2005 (P.L. 109-13, division B; 119 Stat. 302), including the use of a radio frequency identification chip.

H. A person who is a legal resident of this state may bring an action in superior court to challenge any official or agency of this state or a county, city, town or other political subdivision of this state that adopts or implements a policy that limits or

restricts the enforcement of federal immigration laws, including 8 United States Code sections 1373 and 1644, to less than the full extent permitted by federal law. If there is a judicial finding that an entity has violated this section, the court shall order that the entity pay a civil penalty of not less than five hundred dollars and not more than five thousand dollars for each day that the policy has remained in effect after the filing of an action pursuant to this subsection.

I. A court shall collect the civil penalty prescribed in subsection H of this section and remit the civil penalty to the state treasurer for deposit in the gang and immigration intelligence team enforcement mission fund established by section 41-1724.

J. The court may award court costs and reasonable attorney fees to any person or any official or agency of this state or a county, city, town or other political subdivision of this state that prevails by an adjudication on the merits in a proceeding brought pursuant to this section.

K. Except in relation to matters in which the officer is adjudged to have acted in bad faith, a law enforcement officer is indemnified by the law enforcement officer's agency against reasonable costs and expenses, including attorney fees, incurred by the officer in connection with any action, suit or proceeding brought pursuant to this section in which the officer may be a defendant by reason of the officer being or having been a member of the law enforcement agency.

L. This section shall be implemented in a manner consistent with federal laws regulating immigration, protecting the civil rights of all persons and respecting the privileges and immunities of United States citizens.

State of Arizona

Title 11- Article 8: Enforcement of Immigration Laws

11-1051. Cooperation and assistance in enforcement of immigration laws; indemnification

A. No official or agency of this state or a county, city, town or other political subdivision of this state may limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

B. For any lawful stop, detention or arrest made by a law enforcement official or a law enforcement agency of this state or a law enforcement official or a law enforcement agency of a county, city, town or other political subdivision of this state in the enforcement of any other law or ordinance of a county, city or town or this state where reasonable suspicion exists that the person is an alien and is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person, except if the determination may hinder or obstruct an investigation. Any person who is arrested shall have the person's immigration status determined before the person is released. The person's immigration status shall be verified with the federal government pursuant to 8 United States Code section 1373(c). A law enforcement official or agency of this state or a county, city, town or other political subdivision of this state may not consider race, color or national origin in implementing the requirements of this subsection except to the extent permitted by the United States or Arizona Constitution. A person is presumed to not be an alien who is unlawfully present in the United States if the person provides to the law enforcement officer or agency any of the following:

1. A valid Arizona driver license.

2. A valid Arizona nonoperating identification license.

3. A valid tribal enrollment card or other form of tribal identification.

4. If the entity requires proof of legal presence in the United States before issuance, any valid United States federal, state or local government issued identification.

C. If an alien who is unlawfully present in the United States is convicted of a violation of state or local law, on discharge from imprisonment or on the assessment of any monetary obligation that is imposed, the United States immigration and customs enforcement or the United States customs and border protection shall be immediately notified.

D. Notwithstanding any other law, a law enforcement agency may securely transport an alien who the agency has received verification is unlawfully present in the United States and who is in the agency's custody to a federal facility in this state or to any other point of transfer into federal custody that is outside the jurisdiction of the law enforcement agency. A law enforcement agency shall obtain judicial authorization before securely transporting an alien who is unlawfully present in the United States to a point of transfer that is outside of this state.

E. In the implementation of this section, an alien's immigration status may be determined by:

1. A law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status.

2. The United States immigration and customs enforcement or the United States customs and border protection pursuant to 8 United States Code section 1373(c).

F. Except as provided in federal law, officials or agencies of this state and counties, cities, towns and other political subdivisions of this state may not be prohibited or in any way be restricted from sending, receiving or maintaining information relating to the immigration status, lawful or unlawful, of any individual or exchanging that information with any other federal, state or local governmental entity for the following official purposes:

1. Determining eligibility for any public benefit, service or license provided by any federal, state, local or other political subdivision of this state.

2. Verifying any claim of residence or domicile if determination of residence or domicile is required under the laws of this state or a judicial order issued pursuant to a civil or criminal proceeding in this state.

3. If the person is an alien, determining whether the person is in compliance with the federal registration laws prescribed by title II, chapter 7 of the federal immigration and nationality act.

4. Pursuant to 8 United States Code section 1373 and 8 United States Code section 1644.

G. This section does not implement, authorize or establish and shall not be construed to implement, authorize or establish the REAL ID act of 2005 (P.L. 109-13, division B; 119 Stat. 302), including the use of a radio frequency identification chip.

H. A person who is a legal resident of this state may bring an action in superior court to challenge any official or agency of this state or a county, city, town or other political subdivision of this state that adopts or implements a policy that limits or restricts the enforcement of federal immigration laws, including 8 United States Code sections 1373 and 1644, to less than the full extent permitted by federal law. If there is a judicial finding that an entity has violated this section, the court shall order that the entity pay a civil penalty of not less than five hundred dollars and not more than five thousand dollars for each day that the policy has remained in effect after the filing of an action pursuant to this subsection.

I. A court shall collect the civil penalty prescribed in subsection H of this section and remit the civil penalty to the state treasurer for deposit in the gang and immigration intelligence team enforcement mission fund established by section 41-1724.

J. The court may award court costs and reasonable attorney fees to any person or any official or agency of this state or a county, city, town or other political subdivision of this state that prevails by an adjudication on the merits in a proceeding brought pursuant to this section.

K. Except in relation to matters in which the officer is adjudged to have acted in bad faith, a law enforcement officer is indemnified by the law enforcement officer's agency against reasonable costs and expenses, including attorney fees, incurred by the officer in connection with any action, suit or proceeding brought pursuant to this section in which the officer may be a defendant by reason of the officer being or having been a member of the law enforcement agency.

L. This section shall be implemented in a manner consistent with federal laws regulating immigration, protecting the civil rights of all persons and respecting the privileges and immunities of United States citizens.

Flagstaff Police Department
ICE Referral Form

911 E. Sawmill Road
Flagstaff, Arizona 86001

FAX: (928) 779-2703
Police Records: (928) 214-2530

Reason for Contact (Call for Service, Traffic Stop, Subject Stop, etc.):	DR #:

Relevant Factors to consider when determining reasonable suspicion that the person(s) is/are unlawfully present:
☐ Lack of/or false ID ☐ Possession of foreign ID ☐ Flight and/or preparation for flight ☐ Voluntary statements ☐ Foreign vehicle registration
☐ Counter-surveillance or lookout activity ☐ In company of other unlawfully present aliens ☐ Location ☐ Traveling in tandem
☐ Passengers in vehicle attempt to hid or avoid detection ☐ Prior information about the person ☐ Inability to provide residential address
☐ Claim of not knowing others in same vehicle or at same location ☐ Providing inconsistent or illogical information ☐ Suspicious demeanor
☐ Significant difficulty speaking English ☐ Other Relevant Factors: (explain)_____

Subject's Name: LAST	FIRST	MIDDLE

Race	Sex	Date of Birth	Country of Birth

Height	Weight	Hair	Eyes	Complexion	Scars/Tattoos

ID Present? ☐ Yes ☐ No	ID Type	ID Number, State, etc.

Home Address	Home Phone

Work Name/Address	Work Phone

Work Days	Work Hours	Occupation	Length of Employment

Gang Affiliation	Alias/AKA's

Vehicle Year	Make	Model	Style	Color

Vehicle Plate #	Year	State	VIN

Registered Owner

Officer's Name	Serial #	Duty Phone

Narrative: _____

_____

_____

_____

Supervisor's Name/Signature: _____ ID# _____

ICE contact information: ICE 24 hour contact: 1-(800) 973-2867, ICE Law Enforcement Support Center (NLETS Inquiry): 1-(802) 872-6020, Tucson Customs & Border Protection: (520) 836-7812, ICE Phoenix Duty Agent: (602) 379-3116

8. C.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
:	
Co-Submitter:	Stacey Brechler-Knaggs
Date:	09/30/2020
Meeting Date:	10/06/2020

TITLE:

Consideration and Adoption of Resolution No. 2020-55: A resolution approving an Intergovernmental Agreement (IGA) Grant Application between the City of Flagstaff and Coconino County, regarding joint application for grant funding from the Department of Justice, Fiscal Year 2020 Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2020-55 by title only
2) City Clerk reads Resolution No. 2020-55 by title only (if approved above)
3) Adopt Resolution No. 2020-55

Executive Summary:

Approval of the IGA will enable the City of Flagstaff to pass through U.S. Department of Justice funding to the Coconino County Sheriff's Department utilizing $6,038.00 to purchase four (4) Very High Frequency (VHF) P25 digital mobile radios and four (4) Ultra High Frequency (UHF) refurbished radios to be installed in off road Search and Rescue vehicles.

The remaining $187.00 is applied to the associated National Incident Based Reporting System (NIBRS) costs, bringing the Coconino County Sheriff's Office total to $6,225.00.

Financial Impact:

There is no significant financial impact to the City of Flagstaff in terms of expenditures. This grant is budgeted in FY 2020-21 in the General Fund, Police Grant Section, assigned the account number of 001-04-062-6101-2-4273.

Policy Impact:

There is no impact to policy. This IGA is solely for the purpose of providing an agreed upon percentage of funding from the grant to the Coconino County Sheriff's Office for their needs.

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

- Safe & Healthy Community: Provide public safety with the resources, staff, and training to respond to community needs.

Regional 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:

Yes, since 2014, Council has approved the Justice Assistance Grant (JAG) Program IGAs with Coconino County Sheriff's Office, which has benefited both agencies.

Options and Alternatives:

Approve the Intergovernmental Agreement between the City and County.
Not approve the IGA between the City and County and forfeit the grant funding.

Background/History:

The U.S Department of Justice, Office of Justice Programs (OJP) Bureau of Justice Assistance (BJA), was created in 1984 to provide federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist crime victims. The Edward Byrne Memorial Justice Assistance Grant (JAG) Program allows states, tribes, and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions. JAG blends the previous Byrne Formula and Local Law Enforcement Block Grant (LLEBG) Programs to provide agencies with the flexibility to prioritize and spend funds where they are most needed. The formula calculates direct allocations for local governments within each state, based on their share of the total violent crime reported to the state.

Key Considerations:

As part of the joint application process an IGA is required to be submitted to the funding agency indicating who will serve as applicant/fiscal agent for the joint funds. The IGA will authorize payment to the County in the amount of $6,225.00 for the JAG funds upon successful award.

Expanded Financial Considerations:

The Fiscal Year 2020 JAG funds have been requested in the amount of $20,751.00 of which the City will agree to the terms of the Intergovernmental Agreement and pass on the appropriate funds through the County. The County will request a total of $6,225 (includes 3% set aside) to be used to purchase four (4) VHF P25 digital mobile radios and four (4) UHF refurbished radios.

Both agencies will use 3% of their total amount to be used for the mandatory National Incident Based Reporting System (NIBRS) transition and will be used in conjunction with the OnCall Records software implementation to add NIBRS to the records software management system. A total amount of $617.00 will be used for NIBRS as requested by the JAG grant requirements.

Community Benefits and Considerations:

The Intergovernmental Agreement will allow the Flagstaff Police Department and the Coconino County Sheriff's Office to utilize the Fiscal Year 2020 grant funds to improve communication, training and community outreach, ultimately helping to preserve life, protect property, improve community relations, prevent and control crime, administer justice and assist crime victims.

Community Involvement:

Inform the Council and public on the application of this grant and intended use of these funds.

Expanded Options and Alternatives:

1. Approve as recommended.
2. Disapprove the IGA with the County and potentially reduce the full funding to City and County.

Attachments: Res. 2020-55
IGA Between FPD and CCSO for JAG FY20

RESOLUTION NO. 2020-55

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN COCONINO COUNTY AND THE CITY OF FLAGSTAFF FOR THE APPLICATION FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FY 2020 LOCAL SOLICITATION / CFDA #16.738

RECITALS:

WHEREAS, this Agreement is made under the authority of Arizona Revised Statues Section 11-952 as a joint exercise of powers; and,

WHEREAS, both parties are required to enter into this Intergovernmental Agreement as co-applicants of a grant under Edward Byrne Memorial Justice Assistance Grant Program and to designate a fiscal agent for purposes of administering grant funds; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and

ENACTMENTS:

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

SECTION 1. In General.

The Flagstaff City Council hereby authorizes the Mayor to execute the Intergovernmental Agreement between Coconino County and the City of Flagstaff, Arizona, attached hereto as Exhibit A, which shall become effective upon the date first executed by both parties ("Effective Date").

SECTION 2. Effective Date.

This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6th day of October, 2020.

_____

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibits:
Exhibit A – IGA

GMS APPLICATION NUMBER: 2020-JAG

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF FLAGSTAFF, AZ AND COUNTY OF COCONINO, AZ

EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FY 2020 LOCAL SOLICITATION / CFDA #16.738

This Agreement is made and entered into this 11th day of August, 2020, by and between COCONINO COUNTY, acting by and through its governing body, the Board of Supervisors, hereinafter referred to as COUNTY, and the CITY of FLAGSTAFF, acting by and through its governing body, the City Council, hereinafter referred to as CITY, both of Coconino County, State of Arizona:

WHEREAS, this Agreement is made under the authority of Arizona Revised Statues Section 11-952 as a joint exercise of powers; and,

WHEREAS, both parties are required to enter into this Intergovernmental Agreement as co-applicants of a grant under Edward Byrne Memorial Justice Assistance Grant Program and to designate a fiscal agent for purposes of administering grant funds; and,

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and

NOW THEREFORE, the COUNTY and CITY agree as follows:

Section 1.

CITY agrees to serve as fiscal agent for purposes of accepting the JAG program grant award and to pay COUNTY a total of $6,225.00 ($6,038 direct amount/$187 NIBRS 3% set-aside) of JAG funds.

Section 2.

COUNTY agrees to use $6,225.00 for the purposes outlined in the FY 2020 JAG Program award period of October 1, 2019 through September 30, 2021.

Section 3.

Nothing in the performance of this Agreement shall impose any liability for claims against either party other than claims for which liability may be imposed by the Federal Tort Claims Act. By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

Section 4.

Each party to this agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party. Neither party agrees to indemnify or hold harmless the other party.

Section 5.

Notwithstanding any other provision contained herein, this Agreement may be terminated if either party does not receive sufficient grant funds to carry out their purposes under the JAG program. Each party agrees to appropriate funds to continue its effort to apply for funding from the JAG program. If JAG funds are not awarded, the obligations of the parties shall terminate.

Section 6.

Before this Agreement can become effective and binding on either party, it must be approved by the respective governing bodies and the legal counsel of each party.

Section 7.

This Agreement shall remain in effect for the period of October 1, 2019, through September 30, 2021.

Section 8.

The County and the City, as co-applicants, agree to comply with the and Mandatory Award Terms and Conditions, Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements, and Standard Assurances provisions attached as Exhibit A to this Agreement.

Section 9.

This Agreement may be cancelled pursuant to Arizona Revised Statutes Section 38-511.

Approved by Resolution of the respective governing bodies hereto:

Dated:_____ Dated: 8/13/20

CITY OF FLAGSTAFF, AZ

_____
Coral Evans, Mayor

COUNTY OF COCONINO, AZ

_____
Elizabeth C. Archuleta, Chairwoman

ATTEST:

_____
City Clerk

ATTEST:

_____
Clerk of the Board

APPROVED AS TO FORM AND PROPER AUTHORITY:

_____
City Attorney

APPROVED AS TO FORM AND PROPER AUTHORITY:

_____
Deputy County Attorney

Exhibit A

"General Conditions" for OJP Awards in FY 2020
May 2020

OJP expects that all (or virtually all) awards made in FY 2020 will include all of the award conditions set out below.

Individual awards typically also will include additional award conditions. Those additional conditions may relate to the particular statute, program, or solicitation under which the award is made; to the substance of the funded application; to the recipient's performance under other federal awards; to the recipient's legal status (e.g., as a for-profit entity); or to other pertinent considerations.

Requirements of the award; incorporation by reference; remedies for non-compliance or for materially false statements
Applicability of Part 200 Uniform Requirements
Compliance with DOJ Grants Financial Guide
Reclassification of various statutory provisions to a new Title 34 of the United States Code
Required training for Point of Contact and all Financial Points of Contact
Requirements related to "de minimis" indirect cost rate
Requirement to report potentially duplicative funding
Requirements related to System for Award Management and Universal Identifier Requirements
Employment eligibility verification for hiring under the award
Requirement to report actual or imminent breach of personally identifiable information (PII)
All subawards ("subgrants") must have specific federal authorization
Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed $250,000
Unreasonable restrictions on competition under the award; association with federal government
Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)
Determination of suitability to interact with participating minors
Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events
Requirement for data on performance and effectiveness under the award
OJP Training Guiding Principles
Effect of failure to address audit issues
Potential imposition of additional requirements
Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42
Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54
Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38
Restrictions on "lobbying"
Compliance with general appropriations-law restrictions on the use of federal funds (FY 2020)
Reporting potential fraud, waste, and abuse, and similar misconduct
Restrictions and certifications regarding non-disclosure agreements and related matters
Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)
Encouragement of policies to ban text messaging while driving
Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ
Requirements of the award; incorporation by reference; remedies for non-compliance or for materially false statements
The conditions of this award are material requirements of the award. Compliance with any assurances or certifications 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.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqts.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. 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 a 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.

Applicability of Part 200 Uniform Requirements
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") apply to this FY 2020 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2020 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2020 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at https://ojp.gov/funding/Part200UniformRequirements.htm.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

Compliance with DOJ Grants Financial Guide
References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at https://ojp.gov/financialguide/DOJ/index.htm), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

Reclassification of various statutory provisions to a new Title 34 of the United States Code
On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

Required training for Point of Contact and all Financial Points of Contact
Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at https://ojp.gov/training/fmts.htm. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

Requirements related to "de minimis" indirect cost rate
A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient 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 items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

8. D.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

:

Co-Submitter: Jack Fitchett

Date: 09/30/2020

Meeting Date: 10/06/2020

TITLE:

Consideration and Adoption of Resolution No. 2020-56: A resolution of the Flagstaff City Council, approving the Flagstaff Alliance for the Second Century Intergovernmental Agreement between the Northern Arizona University, City of Flagstaff, Coconino County, Community College District, Flagstaff Unified School District, and Northern Arizona Intergovernmental Public Transportation Authority

STAFF RECOMMENDED ACTION:

1) Read Resolution No. 2020-56 by title only
2) City Clerk reads Resolution No. 2020-56 by title only (if approved above)
3) Adopt Resolution No. 2020-56

Executive Summary:

Approve the Flagstaff Alliance for the Second Century Intergovernmental Agreement (IGA) for cooperative purchasing services and authorize the Mayor to sign the IGA on behalf of the City of Flagstaff.

This new IGA adds a new member to the Alliance, Northern Arizona Intergovernmental Public Transportation Authority, (hereinafter "Mountain Line"). The Agreement shall be for a period of ten (10) years effective from the date of the final signature of the Parties.

Financial Impact:

Under this Agreement the parties may sponsor, conduct, and/or administer a cooperative agreement for the procurement or disposal of any materials, services or construction. The Parties may cooperatively use materials or services or commonly use or share warehousing facilities, capital equipment and other facilities. Further the Parties may provide personnel, except that the requesting Party shall pay the Party providing the personnel the direct and indirect cost of providing personnel. In addition, the Parties on request and subject to reimbursement of reasonable and necessary costs when applicable, make available to each other informational, technical or other services or software that may assist in improving the efficiency or economy of procurement.

Policy Impact:

The proposed IGA establishes procedures for the Alliance to participate in procurement related activities and encourages Alliance member cooperation whenever possible to increase purchasing power and provide better value in the expense of public resources. The performance of this Agreement is in the best interests of all parties and will benefit the public by not duplicating bidding efforts and providing a more efficient procurement process.

Connection to PBB Key Community Priorities/Objectives & Regional Plan:

Priority Based Budget Key Community Priorities and Objectives

High Performing Governance - Enhance the organizations fiscal stability and increase efficiency and effectiveness.

Has There Been Previous Council Decision on This:

Yes, the first IGA was approved by Council in September of 1994 for a ten (10) year period and expired in 2004. Then in September of 2004, the IGA was renewed for another ten (10) years which expired in September of 2014. On October 21, 2014, Council approved another ten (10) year renewal to expire in September of 2024.

Options and Alternatives:

1.) Approve the IGA.
2.) Decline the IGA which impacts the Alliance members ability to use and share resources.

Background/History:

This IGA was first approved by all of the five (5) participating members of the Alliance IGA (Flagstaff Unified School District, Northern Arizona University, Coconino County, City of Flagstaff, and Coconino County Community College) back in September of 1994 for a ten (10) year period. Then in September of 2004, this IGA was renewed for another ten (10) years through September of 2014 and is now expired. All five (5) participating members of the Alliance are interested in renewing this IGA for another ten (10) year period; which would expire in September of 2024.

Key Considerations:

This new IGA adds a new member to the Alliance, Northern Arizona Intergovernmental Public Transportation Authority, (hereinafter "Mountain Line"). The Agreement shall be for a period of ten (10) years effective from the date of the final signature of the Parties.

Community Benefits and Considerations:

This IGA will allow participating members of the Alliance to pool their resources to lower contract pricing through volume bidding that help leverage our purchasing power and to obtain maximum service quality provided by contracted vendors.

Community Involvement:

Inform

Attachments: Res. 2020-56
Alliance for the Second Century IGA

RESOLUTION NO. 2020-56

A RESOLUTION OF THE FLAGSTAFF CITY COUNCIL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF NORTHERN ARIZONA UNIVERSITY, THE CITY OF FLAGSTAFF, COCONINO COUNTY, COCONINO COUNTY COMMUNITY COLLEGE DISTRICT, FLAGSTAFF UNIFIED SCHOOL DISTRICT, NORTHERN ARIZONA INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY

RECITALS:

WHEREAS, this Agreement is made under the authority of Arizona Revised Statues Section 11-952 as a joint exercise of powers; and

WHEREAS, the Parties are required to enter into this Intergovernmental Agreement to permit the Parties to participate in, sponsor, conduct and/or administer cooperative purchasing agreements for the procurement of any materials, services, professional services, construction or construction services; and

WHEREAS, the Parties may, sponsor, conduct, and/or administer a cooperative agreement for the procurement or disposal of any materials, services, or construction; and

WHEREAS, the Parties may cooperatively use materials or services; and

WHEREAS, the Parties may, commonly use or share warehousing facilities, capital equipment and other facilities, provide personnel, except that the requesting Party shall pay the Party providing the personnel the direct and indirect cost of providing personnel; and

WHEREAS, the Parties on request and subject to reimbursement of reasonable and necessary costs when applicable, make available to each other informational, technical or other services or software that may assist in improving the efficiency or economy of procurement; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interest of the Party, that the undertaking will benefit the public.

ENACTMENTS:

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

SECTION 1. In General.

The Flagstaff City Council hereby authorizes the Mayor to execute the Intergovernmental Agreement, which shall become effective upon the date first executed by both parties (“Effective Date”).

SECTION 2. Effective Date.

This resolution shall be immediately effective upon adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 6th day of October, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:
IGA

FLAGSTAFF ALLIANCE FOR THE SECOND CENTURY
INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (hereafter "Agreement") dated_____ _____, 2020 between the **ARIZONA BOARD OF REGENTS for and on behalf of NORTHERN ARIZONA UNIVERSITY** (hereafter "NAU"), **CITY OF FLAGSTAFF** (hereafter "City"), **COCONINO COUNTY** (hereafter "County"), **COCONINO COUNTY COMMUNITY COLLEGE DISTRICT** (hereafter "Community College"), **FLAGSTAFF UNIFIED SCHOOL DISTRICT** (hereafter "District"), and **NORTHERN ARIZONA INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY** (hereafter "Mountain Line") is to permit the Parties to participate in intergovernmental procurement pursuant to Arizona Revised Statutes ("A.R.S.") and rules of the applicable legislative or other governing bodies as provided herein. NAU, City, County, Community College, District, and Mountain Line may be referred to individually as Party or collectively as Parties.

ARTICLE 1 - TERM

1. This Agreement shall be for a period of ten (10) years effective from the date of final signature of the Parties.

2. Upon mutual consent of the Parties, this Agreement may be extended through an addendum signed by all Parties. No extension term may exceed ten (10) years.

ARTICLE 2 - AUTHORITY

1. NAU is authorized to enter into this Agreement pursuant to A.R.S. 11-952 and Arizona Board of Regents Policy 3-808.

2. City of Flagstaff is authorized to enter into this Agreement pursuant to A.R.S. 11-952 and 41-2632 and Article I, Section 3 of the Flagstaff City Charter.

3. Coconino County is authorized to enter into this Agreement pursuant to A.R.S. 11-952 and 41-2632 and Board of Supervisors action of _____, 2020.

4. Community College is authorized to enter into this Agreement pursuant to A.R.S. 11-952 and 41-2632 and Coconino County Community College District Governing Board action of _____, 2020.

5. The District is authorized to enter into this Agreement pursuant to A.R.S 11-952, 15-213, 15-341, 15-342, and 41-2632 and Governing Board action of _____, 2020.

6. Mountain Line is authorized to enter into this Agreement pursuant to A.R.S. 11-952.

ARTICLE 3 - PURPOSE

1. The purpose of this Agreement shall be to permit the Parties to participate in, sponsor, conduct and/or administer cooperative purchasing agreements for the procurement of any materials, services, professional services, construction or construction services in accordance with an agreement entered into between the applicable Parties defining the specific scope of the work.

2. Under this Agreement, the Parties may:

a. Sponsor, conduct, and/or administer a cooperative agreement for the procurement or disposal of any materials, services, or construction;

b. Cooperatively use materials or services;

c. Commonly use or share warehousing facilities, capital equipment and other facilities;

d. Provide personnel, except that the requesting Party shall pay the Party providing the personnel the direct and indirect cost of providing the personnel;

e. On request and subject to reimbursement of reasonable and necessary costs when applicable, make available to each other informational, technical or other services or software that may assist in improving the efficiency or economy of procurement.

ARTICLE 4 – RESPONSIBILITIES OF EACH PARTY

1. Cover all costs associated with its individual activities relative to this Agreement, including but not limited to materials, utilities, maintenance, and personnel.

2. Ensure purchase orders issued against any other Party's bid documents and/or contracts are in accordance with the pricing and terms and conditions established in the bid document and/or contract.

3. Ordering of materials, equipment or services under this Agreement.

4. Make timely payments to the vendor or other Party in accordance with the terms and conditions of bid or contract documents or the agreement as set forth in **ARTICLE 3.1.** of this Agreement.

5. Exercise any rights or remedies under its agreement with a vendor as a result of utilizing bid and/or contract documents originated by any or all Parties to this Agreement;

however, the Party who administered the bid and/or contract documents, without subjecting itself to any liability, may join in the resolution of any controversy should it so desire.

ARTICLE 5 – INSURANCE AND INDEMNIFICATION

1. Each Party shall maintain adequate insurance, which may include a bona fide self-insurance program, to cover any liability arising from the acts and omissions of the Party's employees or agents. The Parties may include specific insurance requirements in individual agreements as applicable.

2. Each Party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other Party(ies) (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, indemnitor's officer, officials, agents, employees, or volunteers.

ARTICLE 6 - TERMINATION

1. Any Party may terminate its participation in this Agreement upon ninety (90) days written notice to all the Parties to this Agreement. Providing that at least two (2) Parties remain as participants in this Agreement, the Agreement shall remain in effect with the remaining Parties.

2. The Parties understand that this Agreement may be cancelled by action of any successor legislative or other governing body. It is further agreed that if the Agreement is cancelled, no damages to any of the respective Parties shall result from such cancellation.

3. The Parties agree that this Agreement may be cancelled for conflict of interest in accordance with Arizona Revised Statutes (A.R.S.) §38-511.

ARTICLE 7 – NONDISCRIMINATION

The Parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration (Executive Order 13465 – Employment Eligibility Verification, E-Verify; 73 FR 67704), nondiscrimination (Executive Order 11246), and affirmative action. The Parties shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on race, color, religion, sex, or national

origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

ARTICLE 8 - ARBITRATION

The Parties will be required to make use of mandatory arbitration of any legal action that is filed in the Arizona superior court concerning a controversy arising out of this Agreement if required by A.R.S. § 12-133.

ARTICLE 9 – RECORDS RETENTION

The Parties agree to retain all books, accounts, reports, files and other records relating to the Agreement and to make such records available at all reasonable times for inspection and audit by the other Party(ies) or Auditor General of the State of Arizona, or their agents, during the term of and for a period of 5 years after the completion of the Agreement.

ARTICLE 10 – FINAL AGREEMENT

This Agreement represents the final agreement of the Parties and supersedes any prior written or oral agreements between the Parties.

ARTICLE 11 - COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the Parties hereto have read and agree to the terms and conditions herein and have executed this Agreement as of the last signature hereof:

ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF NORTHERN ARIZONA UNIVERSITY

_____

Name: Rita Hartung Cheng
Title: President
Date: _____

REPRESENTING ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF NORTHERN ARIZONA UNIVERSITY:
The undersigned counsel for Northern Arizona University has reviewed the Agreement and determined that the Agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.
Signature: _____
Name: Michelle G. Parker
Title: General Counsel
Date:_____

CITY OF FLAGSTAFF

_____

Name:
Title: Mayor
Date: _____

REPRESENTING CITY OF FLAGSTAFF:
The undersigned counsel for the City of Flagstaff has reviewed the Agreement and determined that the Agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.
Signature:_____
Name:_____
Title:_____
Date:_____

COCONINO COUNTY

_____

Name:
Title: Chairman, Board of Supervisors
Date:_____

REPRESENTING COCONINO COUNTY:
The undersigned counsel for the Coconino County has reviewed the Agreement and determined that the Agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

_____

Name:
Title:
Date:_____

COCONINO COMMUNITY COLLEGE

_____

Name:
Title: President
Date: _____

REPRESENTING COCONINO COUNTY COMMUNITY COLLEGE DISTRICT:
The undersigned counsel for the Coconino County Community College District has reviewed the Agreement and determined that the Agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

_____

Name:
Title:
Date:_____

FLAGSTAFF UNIFIED SCHOOL DISTRICT

_____

Name:
Title: Superintendent
Date:_____

REPRESENTING FLAGSTAFF UNIFIED SCHOOL DISTRICT:
The undersigned counsel for the Flagstaff Unified School District has reviewed the Agreement and determined that the Agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

_____

Name:
Title:
Date:_____

MOUNTAIN LINE

_____

Name:
Title:
Date:_____

REPRESENTING MOUNTAIN LINE:

The undersigned counsel for NAIPTA has reviewed the Agreement and determined that the Agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.

_____

Name:
Title:
Date:_____

9. A.

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Dan Symer, Zoning Code Manager
Date:	09/30/2020
Meeting Date:	10/06/2020

TITLE

Case No. PZ-19-00125 Updates to Zoning Code 2020 - High Occupancy Housing Specific Plan

STAFF RECOMMENDED ACTION:

Hold a work session to allow the City Council and the public to ask questions, seek clarification, have discussions, offer comments, and provide direction on the proposed amendment.

EXECUTIVE SUMMARY:

The proposed amendment (Attachment 1) is intended to implement the High Occupancy Housing Specific Plan (HOH Plan) that was adopted by the City Council in February 2018. To implement the goals, policies, and implementation strategies of the HOH Plan, multiple changes to the Zoning Code are being proposed. First and foremost, the amendment removes the Rooming and Boarding Land Use and adds the High Occupancy Housing Development (HOHD) and Mixed-Use High Occupancy Housing Development (MHOHD) related land uses to the Zoning Code as conditional uses. The proposed land uses address small-, medium-, and large-scale HOHDs and MHOHDs. In addition to the land uses, the amendment includes provisions related to vehicle and bicycle parking, a transit pass parking reduction program, locational criteria, density and bedrooms per acre allowances, Use Specific criteria, and Conditional Use Permit criteria.

The text below in red indicates new information as requested by the Council as well as some additional minor modifications.

Specific to this discussion, the Zoning Code Text Amendment has been updated related to the City Council's August 25, 2020, direction pertaining to the definitions of a Single-Family HOHD and Sanitation Facility (Sections IV.A. and B., below). To accommodate the City Council's modifications, a systematic increase to the Two-unit HOHD bedroom count, greater than seven, has been incorporated (Section IV.C.1., below). Also, the number of Sanitation Facilities in a HOHD or MHOHD dwelling unit has been updated, and the Bedroom-to-Sanitation Facility Ratio has been deleted. In addition, the provisions have been updated to address concerns related to the maximum number of bedrooms that the Two- and Three-unit HOHDs are allowed (Section IV.C.2., below). Finally, clarification has been added related to the applicability of the bedroom distribution requirement, Bedroom-to-Dwelling Unit Ratio, intersecting pedestrian sheds of activity centers, Crime Free Multi-Housing Program, HOHD or MHOHD typical floor plan or residential unit study, Waste Management Plan, and transit stop location provisions (Sections IV.C.3. and V., below).

INFORMATION:

1. **I. City Council Questions:**

For your reference, below is a general overview of the questions on which staff is seeking the City Council's comments and direction.

- Does the City Council have any recommended modifications or considerations on the proposed Zoning Code Text Amendment?
- Does the City Council desire to maintain the staff recommended Two- and Three-unit HOHD bedroom maximums?

  Please refer to the discussion in section IV.C.2. of the report.

II. Introduction:
In February 2018, the City Council adopted the citywide High Occupancy Housing Specific Plan (HOH Plan). The HOH Plan was developed in response to the community's dialogue about previously proposed high-intensity mid-rise developments near historic neighborhoods that primarily catered to college students. The HOH Plan is intended to provide direction in the form of goals and policies to accommodate a variety of housing options in areas of the city that can support infill, redevelopment, and mixed-use activities. These goals and policies are intended to enhance and maintain the city's character and guide future developments that would be considered High Occupancy Housing (HOH). It should be noted that the HOH Plan's listed implementation strategies about the Zoning Code amendments (Pages 102, 103, 105, and 106 of the HOH Plan) "…may be accomplished through another method..." to achieve "…the goals and policies of the HOH Specific Plan and the Regional Plan" (Page 99 of the HOH Plan).

After the adoption of the HOH Plan, staff received direction and affirmation from City Council on October 8, 2019, to address smaller developments that may also be considered as HOH. The smaller HOH developments that staff was directed to consider are single-family, two-unit (duplex), three-unit (triplex), and multiple-family developments that were not addressed in the HOH Plan.

It should be noted that the HOH Plan did not scrutinize addressing smaller HOH developments. For context, the HOH Plan defines an HOH development as any development that has at least 30 units or 75 bedrooms per acre (Page 2 and 110 of the HOH Plan). When the HOH Plan was developed, the Plan primarily focused on large-scale developments. Developments that were included in the HOH Plan analysis were The HUB, The Standard, Village at Aspen Place, Fremont Station, etc.

III. Overview of Proposed Amendment:
To implement the goals, policies, and implementation strategies of the High Occupancy Housing Specific Plan, the proposed amendment (Attachment 1) includes multiple changes to the Zoning Code. New provisions are being added, and several existing regulations are being modified. The most significant of the modifications include the:

- Removal of the Rooming and Boarding Land Use;
- Incorporation of the proposed High Occupancy Housing Development (HOHD) and Mixed-Use High Occupancy Housing Development (MHOHD) related land uses;
- Incorporation of the maximum bedrooms per acre allowed for developments in the Non-Transect Zones, and additional allowances in the pedestrian shed of an activity center;
- Incorporation of the maximum dwelling units per acre allowed for mixed-use developments in Commercial Zones without a Conditional Use Permit, and additional allowances in the pedestrian shed of an activity center;
- Incorporation of a Conditional Use Permit requirement for a HOHD and MHOHD in the Transect Zones;
- Incorporation of the HOHD and MHOHD use specific standards;
- Incorporation of the Transit Pass Parking Reduction Pilot Program;
- Incorporation and modifications to the parking requirements;
- Incorporation of bicycle space requirements for a HOHD and MHOHD;
- Incorporation of design requirements for bicycle racks, bins, and storage facilities; and

Summary of the Staff Revisions to the Zoning Code:
The proposed amendment includes:

1. Residential Zones (Section 10-40.30.030):

- The following land uses have been added to Table 10-40.30.030.B.: High Occupancy Housing Development, Single-Family; High Occupancy Housing Development, Two-units; High Occupancy Housing Development, Three-units; and High Occupancy Housing Development, Four-units and Greater.
- The Rooming and Boarding Facilities land use has been deleted from Table 10-40.30.030.B.
- The gross density provisions of Table 10-40.30.030.C. have been updated to include provisions for the properties zoned with the Resource Protection Overlay in and outside of a pedestrian shed of an activity center.
- Bedrooms per acre provisions have been added to Table 10-40.30.030.C. for multiple-family developments that have more than four dwelling units.

2. Commercial Zones (Section 10-40.30.040):

- The following land uses have been added to Table 10-40.30.040.B.: High Occupancy Housing Development, Single-Family; High Occupancy Housing Development, Two-units; High Occupancy Housing Development, Three-units; High Occupancy Housing Development, Four-units and Greater; and Mixed-Use High Occupancy Housing Development.
- The Rooming and Boarding Facilities land use has been deleted from Table 10-40.30.040.B.
- The gross density provisions of Table 10-40.30.040.C. have been updated to include provisions for a HOHD and MHOHD in and outside of a pedestrian shed of an activity center.
- Bedrooms per acre provisions have been added to Table 10-40.30.040.C. for multiple-family developments that have more than four dwelling units.

3. T3 Neighborhood I (T3N.1) Standards (10-40.40.050):

- The following land use has been added to Table H.: High Occupancy Housing Development, Single-Family.
- The Rooming and Boarding Facilities land use has been deleted from Table H.

4. T3 Neighborhood 2 (T3N.2) Standards (10-40.40.060):

- The following land uses have been added to Table H.: High Occupancy Housing Development, Single-Family; High Occupancy Housing Development, Two-units; High Occupancy Housing Development, Three-units; and High Occupancy Housing Development, Four-units and Greater.
- The Rooming and Boarding Facilities land use has been deleted from Table H.

5. T4 Neighborhood 1 (T4N.1) Standards (10-40.40.070):

- The following land uses have been added to Table I.: High Occupancy Housing Development, Single-Family; High Occupancy Housing Development, Two-units; High Occupancy Housing Development, Three-units; and High Occupancy Housing Development, Four-units and Greater.
- The Rooming and Boarding Facilities land use has been deleted from Table I.

6. T4 Neighborhood 2 (T4N.2) Standards (10-40.40.080):

- The following land uses have been added to Table I.: High Occupancy Housing Development, Single-Family; High Occupancy Housing Development, Two-units; High Occupancy Housing Development, Three-units; and High Occupancy Housing Development, Four-units and Greater.
- The Rooming and Boarding Facilities land use has been deleted from Table I.

7. T5 Main Street (T5) Standards (10-40.40.090):

- The following land uses have been added to Table I.: High Occupancy Housing Development, Three-units; High Occupancy Housing Development, Four-units and Greater; and Mixed-Use High

Occupancy Housing Development.
- The Rooming and Boarding Facilities land use has been deleted from Table I.

8. T6 Downtown (T6) Standards (Section 10-40.40.100):

- The following land uses have been added to Table H.: High Occupancy Housing Development, Three-units; High Occupancy Housing Development, Four-units and Greater; and Mixed-Use High Occupancy Housing Development.
- The Rooming and Boarding Facilities land use has been deleted from Table H.

9. Specific to Uses (Division 10-40.60): Added Section 10-40.60.175, High Occupancy Housing Developments, and Mixed-Use High Occupancy Housing Developments. This section includes the use of specific standards and regulations related to:

- General Requirements;
- Building Footprint Sizes and Separation Requirements;
- Waste Management Plan;
- Crime Free Multi-Housing Program; and
- Additional Conditional Use Permit Criteria.

10. Mixed Use (10-40.60.260): Subsection D has been updated to remove the regulations that conflict with the proposed HOHD and MHOHD provisions.

11. Parking Standards (Division 10-50.80): Added Section 10-50.80.061, Transit Pass Parking Reduction Pilot Program, and related regulations.

12. Number of Motor Vehicle Parking Spaces Required (Section 10-50.80.040): Modified the existing parking requirements for single-family dwellings, added clarifications, and incorporated parking requirements for the HOHD and MHOHD.

13. Bicycle Parking (Section 10-50.80.050): Updated the existing requirements and added requirements for the HOHD and MHOHD, including design requirements.

14. Parking Adjustments (Section 10-50.80.060): Updated the existing requirements to include provisions for HOHDs and MHOHDs. Also, the parking study requirements have been updated to include requirement clarifications and when a request for a parking reduction requires the City Council approval.

15. Parking Standards (Division 10-50.80): Incorporated a provision for a Transit Pass Parking Reduction Pilot Program for HOHDs and MHOHDs.

16. Parking Spaces, Parking Lot Design and Layout (Section 10-50.80.080): Updated the existing requirements to limit the use of tandem parking spaces to single-family attached and detached dwelling units and duplex developments in the Non-Transect Residential Zones.

17. Specific to Building Types (Division 10-50.110): The following sections have been modified to remove the allowance for tandem parking: 10-50.110.080, 10-50.110.090, 10-50.110.100, 10-50.110.110, and 10-50.110.120.

18. Definition of Specialized Terms, Phrases, and Building Functions (Division 10-80.20):

- The following definitions have been added: High Occupancy Housing Development (HOHD); High Occupancy Housing Development, Single-Family; High Occupancy Housing Development, Two-units; High Occupancy Housing Development, Three-units; High Occupancy Housing Development, Four-units and Greater; Mixed-Use High Occupancy Housing Development (MHOHD); and Ratio, Bedroom-to-Dwelling Unit.

19. Flagstaff Zoning Code, Appendices (Title 10): Added Appendix 1.4 Bicycle Parking Space Design Requirements. This appendix includes regulations and design requirements for bicycle parking spaces.

IV. Summary of August 25, 2020, City Council Work Session Direction and Modifications:
At the August 25, 2020, City Council Work Session meeting, the City Council requested the staff to revise the definitions of a Single-Family HOHD and Sanitation Facility. In addition, a member of City Council requested the staff to look at the number of bedrooms in a Two- and Three-unit HOHD, and return with revised definitions and revised allowances. Staff's response to the City Council's direction and related modifications are described below.

A. Single-Family HOHD

The City Council requested the staff to revise the Single-Family HOHD definition to be based on a single-family dwelling containing seven bedrooms or more, or having five or more sanitation facilities. To accommodate the Council's request, the proposed draft has been updated to include the following definition of a Single-Family HOHD:

- High Occupancy Housing Development, Single-Family: A single-family attached or detached dwelling unit with:

  a. Seven or more bedrooms; or
  b. Five or more sanitation facilities.

B. Sanitation Facility

The City Council requested the staff to revise the existing definition of a Sanitation Facility to be limited to a facility that is a three-quarter bathroom (toilet, sink, and a shower) or greater. To accommodate the City Council request, the proposed modification to the definition includes two parts. The first part defines a Sanitation Facility as a room containing a toilet, sink, and a shower or tub (the "fixtures"). Since there are many configurations of a Sanitation Facility that are intended to function as a three-quarter bathroom or a full bathroom, it is necessary to address when the fixtures are not in the same room but are in close proximity. The second part of the definition incorporates this consideration.

The Sanitation Facility definition has been modified as follows:

- Sanitation Facility: A delineated area for bathing that contains a toilet, sink, and a shower or tub. The fixtures (toilet, sink, and a shower or tub) may be located in a room or in close proximity that functions as a Sanitation Facility as determined by the Zoning Administrator.

The proposed definition and the associated figure are included in Section 28 of Attachment 1.

C. Two- and Three-unit HOHDs

To accommodate the City Council's modification to the definition of a Single-Family HOHD, additional changes are necessary to the proposed amendment to maintain the validity of the associated regulations. The required changes include modifying the number of bedrooms that would be considered a Two-unit HOHD and incorporating a maximum number of bedrooms allowed in a Two- and Three-unit HOHD.

The definition of a Two-unit HOHD has been modified as follows:

1. High Occupancy Housing Development, Two-units: A lot or parcel containing two dwelling units, excluding an Accessory Dwelling Unit, with:

   a. More than a total of seven bedrooms; or
   b. One or more dwelling unit(s) containing four or more sanitation facilities.

2. To accommodate the modifications described in C.1., a maximum number of bedrooms allowed with a Two-unit HOHD Conditional Use Permit needs to be established. This modification is necessary since the Bedroom-to-Dwelling Unit Ratio will not allow a Two-Unit HOHD with more than seven bedrooms. In addition, an associated modification needs to be incorporated for a Three-unit HOHD. Therefore, to accommodate a Two- and Three-unit HOHD and to provide for flexibility, the following is a summary of the provision that has been incorporated:

   - A two-unit HOHD shall have no more than 10 bedrooms, and a three-unit HOHD shall have no more than 12 bedrooms.

3. Associated to the modification of number two above, the bedroom distribution requirements (proposed Section 10-40.60.175.A.3.) and the Bedroom-to-Dwelling Unit Ratio (proposed Section 10-40.60.175.A.4.) of Attachment 1 have been limited to developments containing four dwelling units or more.

D. Bedroom-to-Sanitation Facility Ratio

In order to maintain consistency with the City Council's modification to the Single-Family HOHD definition, and to simplify the proposed regulations, the HOHD and MHOHD definitions (Two-, Three-, and Four-units and Greater HOHDs and MHOHDs) have been revised to exclude the Bedroom-to-Sanitation Facility Ratio. In place of the Bedroom-to-Sanitation Facility Ratio, a provision has been incorporated that requires a HOHD or MHOHD Conditional Use Permit if any dwelling unit contains four or more sanitation facilities. To review the associated modifications to the definitions, please refer to Sections 25 and 26 of Attachment 1.

It should be noted that a single-family attached or detached dwelling unit that contains five or more sanitation facilities is required to obtain a Single-Family HOHD Conditional Use Permit. Four or more sanitation facilities is used in the definitions of the Two-, Three-, and Four-units and Greater HOHDs and MHOHDs since these uses typically have fewer bedrooms than a single-family attached or detached dwelling unit.

V. Additional Modifications Incorporated:

The following modifications have been incorporated:

1. A provision has been incorporated pertaining to the building footprint size and separation requirements of an HOHD or MHOHD. The proposed standard is to provide clarification when a pedestrian shed of an activity center intersects with the area of a pedestrian shed of another activity center that has a different building footprint size and separation requirement.

   The proposed standard is:

   - Where the area of a pedestrian shed of an activity center intersects with the area of a pedestrian shed of another activity center, the pedestrian shed with the more restrictive maximum building footprint requirement shall govern the intersecting area. The locations of the pedestrian sheds of the activity centers are identified in the General Plan, including any applicable Specific Plans.

2. A provision has been incorporated to allow the Police Department's Crime Free Multi-Housing Program representative to exempt a unit from the Crime Free Multi-Housing Program. The Crime Free Multi-Housing Program is a rental unit oriented program and does not address owner-occupied units. Owner-occupied units are regulated under other nuisance oriented regulations.
3. The requirement to provide typical floor plans or a typical residential unit study that illustrates how the residential units of a HOHD or MHOHD could be converted to a residential unit that is no longer a HOHD or MHOHD has been limited to development with four dwelling units or more.
4. The requirement to provide a Waste Management Plan has been limited to developments

containing four dwelling units or more.

5. The requirement to be located near a transit stop has been limited to developments containing four dwelling units or more.

VI. Summary of August 26, 2020, and September 23, 2020, Planning and Zoning Commission Work Session Comments:

At the August 26, 2020, Planning and Zoning Commission meeting, the members of the Planning and Zoning Commission had general and clarification questions for the staff. The Commission did not have any suggested modifications to the proposed Zoning Code Text Amendment.

The Planning and Zoning Commission will be reviewing the above-referenced changes at the September 23, 2020, Planning and Zoning Commission Work Session meeting. Staff will update the City Council with the Planning and Zoning Commission comments at the October 6, 2020, City Council meeting.

VII. Findings:

At a future City Council meeting, the City Council will be requested to make the required findings specified in the Zoning Code and adopt the proposed amendment. For your reference and discussion purposes, the required findings are specified below.

1. The proposed amendment is consistent with and conforms to the objectives and policies of the General Plan and any applicable specific plan;
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City; and
3. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.

VIII. Community Involvement:

Public input was received at the public meetings held on August 19, 2019, February 13 and 14, 2020, and through the City's online Community Forum (https://www.opentownhall.com/portals/227/Issue_7685) (Attachment 2). Also, work sessions with the Planning and Zoning Commission were held on August 14, 2019, and May 27, 2020, and with the City Council on October 8, 2019, and June 11, 2020. In addition, staff received several comments regarding HOH developments from the Southside stakeholders' group that was formed to assist in the development of the proposed Southside specific plan. These meetings were held over the past year.

On August 25, 2020, the City Council held a work session on the proposed amendment. A summary of the public comments received are:

- The proposed modifications are complicated, particularly for small and infill developments;
- Revise the draft to be limited to the large HOH developments; and
- The parking requirements for smaller developments make it difficult.

On August 26, 2020, the Planning and Zoning Commission held a work session. No public comments were provided at this meeting.

On September 23, 2020, the Planning and Zoning Commission will have a work session meeting to discuss the proposed amendment. Staff will update the City Council with any public comments received at the October 6, 2020, City Council meeting.

Persons of interest on file with the Planning and Development Services section of the Community Development department were notified of the Planning and Zoning Commission work sessions via first class mail. Also, notification of the work session was published on the City's Facebook web page and in the Arizona Daily Sun.

IX. Timeline

The anticipated timeline for the amendment is as follows:

- October 28, 2020 – Planning and Zoning Commission Public Hearing
- November 3, 2020 – Potential City Council Public Hearing (1st Reading of Ordinance)
- November 17, 2020 – Potential City Council Public Hearing (2nd Reading of Ordinance/Adoption)

X. Conclusion:
As indicated above, the purpose of the work session is for staff to present an overview of the proposed amendment to the Zoning Code and allow interested individuals, residents, and business owners to provide commentary. In addition, the work session allows the City Council to ask questions, seek clarification, have discussions, and offer comments on the proposed amendment. No formal recommendation or action by the City Council is to occur at the work session. Additional opportunities for discussion, public comment, and action by the City Council will occur at a future public hearing.

Attachments: 1. Draft Code
2. Public Comments
Staff Presentation

Case No. PZ-19-00125 Updates to Zoning Code 2020 - High Occupancy Housing Land Use

Amendment for Adoption in Flagstaff Zoning Code

HOW TO READ THIS DOCUMENT

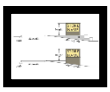
Unless otherwise stated, existing provisions that are being deleted are shown in bold red strikethrough text, like this: ~~**Provisions that are being deleted are shown with a bold red strikethrough text**~~.

Provisions that are being added are shown in bold blue text, like this: **Provisions that are being added are shown in bold blue text.**

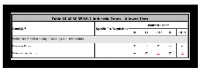
Provisions that are shown in bold red text and yellow highlights are deletions made after the August 25, 2020 City Council Work Session. The changes are shown like this: ~~**Provisions that have been deleted after the August 25, 2020 City Council Work Session are shown in bold red text and yellow highlights**~~.

Provisions that are shown in bold blue text and yellow highlights are additions made after the August 25, 2020 City Council Work Session. The changes are shown like this: **Provisions that have been changed after the August 25, 2020 City Council Work Session are shown in bold blue text and yellow highlights.**

Graphics/Figures that are being deleted are indicated with an "X" over the graphic/figure.

Graphics/Figures that are being added are indicated with a border  around the graphic/figure.

Tables that are being deleted are indicated with an "X" over the Tables.

Tables that are being added are indicated with a thick border  around the Tables.

Section 1. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.30 Non-Transect Zones, Section 10-40.30.030 Residential Zones, Subsection B. Residential Zones – Allowed Uses, as follows:

Section 10-40.30.030 Residential Zones

B. Residential Zones – Allowed Uses. The allowed land uses of each of the Residential Zones are shown in Table 10-40.30.030.B.

Table 10-40.30.030.B.
Residential Zones – Allowed Uses.

Primary Land Use[1]	Specific Use Regulations	Residential Zones						
		RR	ER	R1	R1N	MR	HR	MH
Ranching, Forestry and Animal Keeping								
Animal Keeping	10-40.60.070	P[6]	P[6]	--	--	--	--	--

Recreation, Education and Assembly								
Commercial Campgrounds	10-40.60.130	UP	--	--	--	--	--	--
Equestrian Recreational Facilities		UP	UP	UP	--	--	--	--
Golf Courses and Facilities		UP	UP	UP	--	--	--	--
Libraries, Museums		UP	UP	UP	UP	UP	UP	UP
Meeting Facilities, Public and Private	10-40.60.230							
Regional		--	--	--	--	--	--	--
Neighborhood		P/UP[2]	P/UP[2]	P/UP[2]	P/UP[2]	P/UP[2]	P/UP[2]	P/UP[2]
Outdoor Public Uses, General		P	P	P	--	P	P	P
Places of Worship		P/UP[5]	P/UP[5]	P/UP[5]	P/UP[5]	P/UP[5]	P/UP[5]	P/UP[5]
Schools – Private		P	P	P	P	P	P	P
Schools – Public and Charter		P[3]	P[3]	P[3]	P[3]	P	P	P[3]
Trade Schools		--	--	--	--	--	--	--
Residential								
Co-housing	10-40.60.120	P	P	PRD	--	P	P	--
Congregate Care Facilities		UP	UP	UP	UP	P	P	UP
Day Care, Centers	10-40.60.150.B	UP	UP	UP	UP	UP	UP	UP
Day Care, Home	10-40.60.150.A	P	P	P	P	P	P	P
Development, Duplex		PRD	PRD	PRD	P	P	P	--
Development - Cluster, Single-Family	10-40.60.170	P	P	PRD	--	--	--	--
Development, Multiple-Family		PRD	PRD	PRD	--	P	P	--
Development, Single-Family		P	P	P	P	PRD[4]	PRD[4]	P
Dormitories		--	--	--	--	UP	UP	--
Group Home		P	P	P	P	P	P	P
High Occupancy Housing Development, Single-Family	**10-40.60.175**	**UP**	**UP**	**UP**	**UP**	**UP/PRD**	**UP/PRD**	**UP**

High Occupancy Housing Development, Two-units	**10-40.60.175**	**UP/PRD**	**UP/PRD**	**UP/PRD**	**UP**	**UP**	**UP**	**- -**
High Occupancy Housing Development, Three-units	**10-40.60.175**	**UP/PRD**	**UP/PRD**	**UP/PRD**	**- -**	**UP**	**UP**	**- -**
High Occupancy Housing Development, Four-units and Greater	**10-40.60.175**	**UP/PRD**	**UP/PRD**	**UP/PRD**	**- -**	**UP**	**UP**	**- -**
Home Occupation	10-40.60.180	P	P	P	P	P	P	P
Institutional Residential								
Custodial Care Facilities		UP	UP	UP	UP	UP	UP	UP
Homeless Shelters	10-40.60.190							
Emergency Shelters		UP	UP	UP	UP	UP	UP	UP
Short Term Housing		UP	UP	UP	UP	UP	UP	UP
Transitional Housing		UP	UP	UP	UP	UP	UP	UP
Sheltered Care Homes		UP	UP	UP	UP	UP	UP	UP
Nursing Homes		--	UP	UP	UP	UP	UP	UP
Live/Work	10-40.60.200	--	--	--	--	UP/PRD	UP/PRD	--
Manufactured Home	10-40.60.210	--	--	--	--	--	--	P
Manufactured Home Park	10-40.60.210.D	--	--	--	--	--	--	P
Manufactured Home Subdivision	10-40.60.210.C	--	--	--	--	--	--	P
Mobile Home		--	--	--	--	--	--	P
Planned Residential Development	10-40.60.280	P	P	P	P	P	P	--
~~**Rooming and Boarding Facilities**~~		~~**--**~~	~~**UP**~~	~~**--**~~	~~**--**~~	~~**UP**~~	~~**UP**~~	~~**UP**~~
Single Room Occupancy, Fraternities and Sororities		--	--	--	--	UP	UP	--
Retail Trade								
Neighborhood Market								

	≤ 1,500 sf		--	--	UP	--	--	--	UP
	≤ 2,500 sf		--	--	--	--	UP	--	--
	≤ 5,000 sf		--	--	--	--	--	UP	--
Offices			--	--	--	--	--	UP	--
Services									
Bed and Breakfast Establishments		10-40.60.110	P	P	P	P	P	P	P
Cemeteries			UP	UP	UP	--	UP	UP	UP
Hospitals			UP	UP	UP	UP	UP	UP	UP
Public Services									
Emergency Services			UP	UP	UP	UP	UP	UP	UP
Public Services Minor			P	P	P	P	P	P	P
Public Services Major			--	--	--	--	--	--	--
Telecommunications Facilities									
AM Broadcasting Facilities		10-40.60.310	UP	UP	UP	UP	UP	UP	UP
Antenna-supporting Structure		10-40.60.310	UP	UP	UP	UP	UP	UP	UP
Attached Telecommunication Facilities		10-40.60.310	P	P	P	P	P	P	P
Colocation Facility		10-40.60.310	P	P	P	UP	P	P	P
FM/DTV/Low Wattage AM Broadcasting Facilities		10-40.60.310	UP	UP	UP	UP	UP	UP	UP
Stealth Telecommunication Facilities		10-40.60.310	P	P	P	P	P	P	P
Transportation and Infrastructure									
Accessory Wind Energy Systems		10-40.60.040	P	P	P	--	P	P	P
Urban Agriculture									
Community Garden		10-40.60.140	P	P	P	P	P	P	P
Nurseries			UP	--	--	--	--	--	--
End Notes									
1. A definition of each listed use type is in Chapter 10-80, Definitions.									
2. A conditional use permit is required if liquor is sold or if facilities exceed 250 seats.									

3.	Charter schools proposed in existing single-family residences shall be located on residential lots one acre or greater. Charter schools shall be subject to the review processes established in A.R.S. §15-189.01., as amended.
4.	Existing single-family uses and lots recorded in MR and HR, prior to the effective date of this Zoning Code, are considered legal, conforming uses.
5.	A conditional use permit is required if the facility exceeds 250 seats and/or if the facility is located adjacent to a toxic use.
6.	Use is allowed only on a lot or parcel with a net lot area of five acres, or greater.

Key		
P	=	Permitted Use
UP	=	Conditional Use – Requires the Approval of a Conditional Use Permit
PRD	=	Allowed Use only when part of a Planned Residential Development (see Section 10-40.60.280)
UP/PRD	=	Conditional Use – Requires the Approval of a Conditional Use Permit, and the use shall be part of a Planned Residential Development (see Section 10-40.60.280)
- -	=	Use Not Allowed

Section 2. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.30 Non-Transect Zones, Section 10-40.30.030 Residential Zones, Subsection C. Residential Zones – Building Form Standards and Property Development Standards, as follows:

10-40.30.030 Residential Zones

C. Residential Zones – Building Form Standards and Property Development Standards. The building form and property development standards shown in Table 10-40.30.030.C. shall apply to all property within the corresponding residential zone.

Table 10-40.30.030.C.
Residential Zones – Building Form and Property Development Standards.

	Residential Zones						
	RR	**ER**	**R1**	**R1N**	**MR**	**HR**	**MH**
Residential development subdivided by a plat that was recorded before December 5, 2011							
Lot sizes	(1) Lot sizes and setbacks shall be provided in accordance with the requirements delineated on the final plat approved by the City Council and recorded. When a recorded plat does not have setbacks delineated, the Building Placement Requirements of this table shall govern.						
Setbacks							

	(2) Any lot(s) created or reconfigured in accordance with the subdivision code shall conform with the current requirements of the property's zone, unless alternate lot sizes and setbacks are approved by the City Council on a final plat that is recorded.						
Building Placement Requirements							
Setbacks							
Front (min.)							
2nd Floor and Below	75'	50'	15'	15'	10'	10'	15'
Above 2nd Floor	75'	50'	15'	15'	15'	15'	15'
For Parking	--	--	25'[1]	--	--	--	--
Side (min.)							
Side Yard	10'	20'min./ 45'total	8'	6'	5'	5'	8'
Street Side Yard	25'	20'	15'	6'	5'	5'	12'
Rear (min.)	10'	60'	25'[2]	15'	15'[3]	15'[3]	10'
Building Form Requirements							
Building Height (max.)[12,13, and 14]	35'	35'	35'	35'	35'	60'[4]	30'
Coverage (max.)	20%	17%	35%	35%	40%	50%	43%
Density Requirements (See Division 10-30.20, Affordable Housing Incentives)							
Gross Density (units/acre)							
Min.	--	--	2	2	6	10	--
~~**Max. Outside the RPO**~~	~~**1**~~	~~**1**~~	~~**6**~~	~~**14**~~	~~**14**~~	~~**29**[5]~~	~~**11**~~
Maximum without the Resource Protection Overlay (RPO)	**1**	**1**	**6**	**14**	**14**	**29**[5]	**11**
Maximum with the RPO, inside of a pedestrian shed of an activity center[(18)]	**1**	**1**	**6**	**14**	**14**	**29**[5]	**11**
~~**Max. Within the RPO**~~ **Maximum with the RPO, outside of a pedestrian shed of an activity center**[(18)]	1	1	5	- -	9	22	4
Multiple-Family Developments with four dwelling units or more, Bedrooms per Acre							
Maximum without the RPO	**---End note 15---**		**15**	**- -**	**35**	**72.5**	**- -**
Maximum without the RPO with a Conditional Use Permit	**---End note 16---**		**21**	**- -**	**49**[17]	**101.5**[17]	**- -**

	for a High Occupancy Housing Development inside of a pedestrian shed of an activity center[(18)]						
	Maximum with the RPO	**---End note 15---**	**12.5**	**- -**	**22.5**	**55**	**- -**
	Maximum with the RPO and a Conditional Use Permit for a High Occupancy Housing Development inside of a pedestrian shed of an activity center[(18)]	**---End note 16---**	**17.5**	**- -**	**31.5[17]**	**77[17]**	**- -**
Lot Requirements							
Area							
	Gross (min.)	1 ac[6]	1 ac	6,000 sf	6,000 sf	6,000 sf	6,000 sf	5 ac
	Per Unit (min.)	1 ac[6]	1 ac	6,000 sf	3,000 sf	End note 5	End note 5	4,000 sf
Width							
	Interior Lots (min.)	100'[7]	149'[8]	60'[8,9]	50'	50'[8,9]	50'[8,10]	--
	Corner Lots (min.)	100'[7]	149'[8]	60'[8,9]	50'	50'[8,9]	50'[8,10]	--
	Depth (min.)	200'[7]	--	100'[8]	100'	100'[8]	75'[8,10]	--
Other Requirements							
Open Space (% of Development Site Area)[11]		--	--	--	--	See Table 10-40.30.030.A		
Fences and Screening		See Division 10-50.50						
Landscaping		See Division 10-50.60						
Lighting		See Division 10-50.70						
Parking		See Division 10-50.80						
Signs		See Division 10-50.100						

End Notes

1. 15' for side entrance garages, where the garage is designed as an integral element of the primary dwelling (i.e., doors and windows are consistent with the overall architectural character).
2. One or two story residential buildings and decks attached to those buildings may be built to 15' from the rear property line; provided, that any portion of the structure located closer than 25' to the rear property line does not exceed 50% of the lot width.
3. May be reduced for zones not subject to the Resource Protection Overlay when a minimum of 350 sf of open yard area per unit is provided, see Section 10-40.30.030(H).
4. Building height can be exceeded with approval of a Conditional Use Permit.
5. The maximum number of units for each lot is based on the following:

Area of Lot	Required Lot Area Per Dwelling Units
5,000 to 14,000 square feet	2,500 square feet
14,001 to 24,000 square feet	2,000 square feet
24,001 square feet and over	1,500 square feet

6. Five-acre minimum where public water supply and public streets are not available to serve the property.

7. Where public water supply and public streets are not available to serve the property a minimum lot width of 200' and lot depth of 250' are required.

8. Within a Planned Residential ~~**Development**~~ **Development,** the minimum width and depth of a lot may vary based on the minimum lot standards applicable to the building types selected for application within a Planned Residential Development (See Section 10-40.60.280, Planned Residential Development).

9. Lot width measured at the setback line.

10. On lots greater than 9,000 sf: 70' minimum width on interior lots, 75' minimum width on corner lots and 100' minimum depth on all lots.

11. ~~**Any required common**~~ **Common** open space as required in Division 10-50.110, Specific to Building Types, and areas set aside for resource preservation such as floodplains, slopes and forests (Division 10-50.90, Resource Protection Standards) may be used to satisfy this standard. In this context, “open space” includes active and passive recreation uses, landscape areas, and community gardens.

12. Primary structures, excluding accessory structures, with a roof pitch greater than, or equal to, 6:12 shall be allowed an additional five feet above the maximum building height.

13. The elevator and stairwell bulkheads shall be architecturally integrated with the building. Elevator and stairwells bulkheads are allowed an additional 15 feet above the maximum building height. The Director may approve a height greater than 15 feet when the additional height is necessary to accommodate an elevator or stairwell bulkhead, related equipment, or the requirements of the Building or Fire Code.

14. Steeples, solar collectors, towers and other unoccupied architectural features are allowed an additional height above the maximum building height equal to 20 percent multiplied by the maximum building height allowed for property’s zone. The total area of the referenced allowances above the building height shall not exceed 20 percent of the total roof area.

15. Multiple-Family Developments are allowed 3 bedrooms for the first acre of a Development Site and 2.5 bedrooms per acre for each additional acre of a Development Site.

16. Multiple-Family Developments are allowed 4 bedrooms for the first acre of a Development Site and 3.5 bedrooms per acre for each additional acre of a Development Site.

17. Additional bedrooms per acre may be approved on a lot or parcel inside of a pedestrian shed of a Regional Activity Center delineated on the General Plan or applicable Specific Plan with an HOHD Conditional Use Permit.

18. Activity centers are delineated on the General Plan or applicable Specific Plan.
Key
- - Not Applicable

Section 3. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.30 Non-Transect Zones, Section 10-40.30.040 Commercial Zones, Subsection B. Commercial Zones – Allowed Uses., as follows:

10-40.30.040 Commercial Zones

B. **Commercial Zones – Allowed Uses.** The allowed land uses of each of the Commercial zones are shown in Table 10-40.30.040.B.

Table 10-40.30.040.B.

Commercial Zones – Allowed Uses

Primary Land Use[1]	Specific Use Regulations	Commercial Zones				
		SC	CC	HC	CS	CB
Industrial, Manufacturing, Processing and Wholesaling						
Carpenter or Cabinet Shops		--	--	--	P	-
Flammable Liquid, Gas, and Bulk Fuel – Storage and Sale		--	--	UP	--	
Machine or Metal Working Shops		--	--	--	P	--
Manufacturing and Processing – Incidental		--	P	P	P	P
Micro-brewery or Micro-distillery	10-40.60.240	--	P	P	P	P
Mini-storage Warehousing	10-40.60.250	--	--	UP[2]	P	--
Research and Development Uses	10-40.60.300	--	--	UP	--	--
Transportation or Trucking Yards		--	--	--	P	--
Vehicle Towing/Impound Yard		--	--	P[4]	--	--
Warehousing	10-40.60.330	--	P[3]	P[3]	--	P[3]

Wholesaling and Distribution		--	--	--	P	P[3]
Recreation, Education and Assembly						
Automobile, Go-kart, Miniature Automobile Racing	10-40.60.080	--	UP	UP	--	--
Commercial Campgrounds	10-40.60.130	--	--	P	--	--
Commercial Recreation Facilities, Indoor		P	P	P	--	P
Commercial Recreation Facilities, Outdoor	10-40.60.270	--	UP	UP	--	--
Libraries, Museums		P	P	P	P	P
Meeting Facilities, Public or Private	10-40.60.230					
Regional		--	P/UP[5]	P/UP[5]	P/UP[5]	P/UP[5]
Neighborhood		P[5]	P/UP[5]	--	--	--
Outdoor Public Uses, General		P	P	P	--	--
Places of Worship		P/UP[10]	P/UP[10]	P/UP[10]	P/UP[10]	P/UP[10]
Schools – Public and Charter		P	P	P	P	P
Schools – Private		P	P	P	P	P
Theaters		P	P	P	--	P
Trade Schools		--	UP	UP	UP	UP
Residential[7]						
Co-housing	10-40.60.120	P[6]	P[6]	P[6]	P[6]	P[6]
Congregate Care Facilities		UP	P	P	P	UP
Day Care, Centers	10-40.60.150.B	P	P	P	UP	UP
Day Care, Home	10-40.60.150.A	P	P	P	P	P
Development, Duplex		P[6]	P[6,9]	P[6]	P[6]	P[6]
Development, Multiple-Family		P[6]	P[6]	P[6]	P[6]	P[6]
Development, Single-Family		--	P[9]	--	--	--

Dormitories		UP[6]	UP[6]	UP[6]	UP[6]	UP[6]
Fraternities and Sororities		UP[6]	UP[6]	UP[6]	UP[6]	UP[6]
Group Homes		P[6]	P[6]	P[6]	P[6]	P[6]
High Occupancy Housing Development, Single-Family	**10-40.60.175**	**- -**	**UP**	**- -**	**- -**	**- -**
High Occupancy Housing Development, Two-units	**10-40.60.175**	**UP[6]**	**UP[6]**	**UP[6]**	**UP[6]**	**UP[6]**
High Occupancy Housing Development, Three-units	**10-40.60.175**	**UP[6]**	**UP[6]**	**UP[6]**	**UP[6]**	**UP[6]**
High Occupancy Housing Development, Four-units and Greater	**10-40.60.175**	**UP[6]**	**UP[6]**	**UP[6]**	**UP[6]**	**UP[6]**
Home Occupation	10-40.60.180	P	P	P	P	P
Institutional Residential						
Custodial Care Facilities		P[8]	P[8]	P[8]	P[8]	P[8]
Homeless Shelters	10-40.60.190					
Emergency Shelters		P[8]	P[8]	P[8]	P[8]	P[8]
Short Term Housing		P[8]	P[8]	P[8]	P[8]	P[8]
Transitional Housing		P	P	P	P	P
Nursing Homes		UP	UP	UP	UP	UP
Sheltered Care Homes		P	P	P	P	P
Live/Work	10-40.60.200	P	P	P	P	P
Planned Residential Development	10-40.60.280	P/UP	P/UP[9]	UP	UP	UP
Residence for Owner, Caretaker or Manager		P[6]	P[6]	P[6]	P[6]	P[6]
~~**Rooming and Boarding Facilities**~~		~~**UP[6]**~~	~~**UP[6]**~~	~~**UP[6]**~~	~~**UP[6]**~~	~~**UP[6]**~~

Single Room Occupancy		UP	--	P	--	P
Retail Trade						
Bars/Taverns		P	P	P	P	P
Crematorium		P	P	P	P	--
Drive-through Retail	10-40.60.160	P	P	P	--	--
Drive-through Service		P	P	P	--	--
Farmers Markets and Flea Markets		--	P	P	P	P
General Retail Business		P	P	P	P	P
Mixed Use	10-40.60.260	P	P	P	P	P
Mixed-Use High Occupancy Housing Development	**10-40.60.175 and 10-40.60.260**	**UP**	**UP**	**UP**	**UP**	**UP**
Restaurant or Cafe		P	P	P	P	P
Services						
Bed and Breakfast Establishments	10-40.60.110	P	P	P	P	P
Cemeteries		UP	UP	UP	UP	--
Dry-cleaning, Processing		P	P	P	--	--
Equipment Rental Yard		--	UP	P	P	--
Funeral Homes, Chapels and Mortuaries		--	P	P	--	UP
General Services		P	P	P	P	P
Hospital		UP	UP	UP	UP	UP
Kennel, Animal Boarding	10-40.50.195			UP [11]		
Medical Marijuana Dispensary	10-40.60.220	--	--	P	--	--
Office		P	P	P	P	P
Public Services						
Public Services Major		--	--	--	--	--

	Public Services Minor		P	P	P	P	P
	Emergency Services		UP	UP	UP	UP	UP
Travel Accommodations			UP	--	P	--	P
Veterinary Clinics			P	P	P	P	--
Veterinary Hospitals			--	--	UP	UP	--
Telecommunication Facilities							
AM Broadcasting Facilities		10-40.60.320	UP	UP	UP	UP	UP
Antenna-Supporting Structure		10-40.60.320	UP	UP	UP	UP	UP
Attached Telecommunication Facilities		10-40.60.320	P	P	P	P	P
Collocation Facility		10-40.60.320	P	P	P	P	P
FM/DTV/Low Wattage AM Broadcasting Facilities		10-40.60.320	P	P	P	P	P
Stealth Telecommunication Facilities		10-40.60.320	P	P	P	P	P
Transportation and Infrastructure							
Accessory Wind Energy Systems		10-40.60.040	P	P	P	P	P
Garages, Off-Street			P	P	P	P	P
Parking Lots, Off-Street		10-50.80	P	P	P	P	P
Passenger Transportation Facilities			--	--	UP	UP	UP
Urban Agriculture							
Community Gardens		10-40.60.140	P	P	P	P	P
Food Production			--	--	UP[2]	UP[2]	--
Vehicle Sales and Services							
Automobile Service Station and Convenience Store		10-40.60.090	P	P	P	P	--

Automobile and Trailer Rental		--	--	P	P	--
Automobile/Vehicle Sales and Service, New and Used		--	UP	P	P	UP
Automobile/Vehicle Repair Garages – Minor	10-40.60.100	--	UP	P	P	--
Automobile/Vehicle Repair Garages – Major	10-40.60.100	--	--	P	P	--
Car Washes		P	P	P	--	--
Mobile Homes and Recreational Vehicles, Sales, and Service		--	--	P	--	--

End Notes

1. A definition of each listed use type is in Chapter 10-80, Definitions.
2. Only allowed on lots that do not have highway frontage or behind existing/new commercial uses.
3. Only permitted when incidental to permitted use.
4. This use shall be screened. See Division 10-50.50, Fences and Screening, for fencing and screening requirements.
5. A conditional use permit is required if liquor is sold or if facilities exceed 250 seats.
6. Residential uses with more than two units are allowed as part of a mixed-use development located above or behind the commercial uses, or as a planned residential development ~~(Section 10-40.60.280)~~.
7. Residential uses in the CC, HC, CS and CB zones, and residential uses and properties listed on the National Historic Registry or within the Landmarks overlay zone existing prior to the effective date of this Zoning Code are considered legal, nonconforming uses. Residential uses in the CC, HC, CS and CB zones shall be subject to the development standards established in the HR zone.
8. Conditional use permit is required if proximity between shelter facilities is less than one-quarter mile.
9. Single-family and duplex land uses are permitted by right on lots ≤9,000 sf and existing prior to November 1, 2011, subject to the building placement and building form requirements of the MR zone.
10. A conditional use permit is required if the facility exceeds 250 seats and/or if the facility is located adjacent to a toxic use.
11. Outdoor kenneling of animals is prohibited.

Key

P = Permitted Use
UP = Conditional Use Permit Required
-- = Use Not Allowed

Section 4. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.30 Non-Transect Zones, Section 10-40.30.040 Commercial Zones, Subsection C. Commercial Zones – Building Form Standards., as follows:

Section 10-40.30.040 Commercial Zones

C. Commercial Zones – Building Form and Property Development Standards. The building form and property development standards shown in Table 10-40.30.040.C. shall apply to all property with the corresponding commercial zones.

Table 10-40.30.040.C.
Commercial Zones – Building Form and Property Development Standards

	Commercial Zones				
	SC	**CC**	**HC**	**CS**	**CB**
Building Placement Requirements					
Setback from property line					
Front (Also see Section 10-50.60.040.B)	15' [1]	0'	0' [2]	0'	0'
Side					
Adjacent to Residential Use	---------- 15' min.[6] ----------				
Street Side (min.)	10' [3]	10' [3]	10' [3]	10' [3]	0'
All Other sides	---------- 0' ----------				
Rear					
Adjacent to Residential	---------- 15' min. ----------				
All Other rears	---------- 0' ----------				
Building Form Requirements					
Building Height (max.)[8, 9, 10]	35'	60' [4, 7]	60' [4]	60' [4]	60' [4]
Gross FAR (max.)	0.8	2.5	3.0	2.0	No max.
Density Requirements					
Gross Density (units/acre) ~~(max.)~~ ~~(Not Applicable to Mixed Use)~~					
~~Areas of the City without the Resource Protection Overlay (RPO)~~ **Maximum without the Resource Protection Overlay (RPO)**	~~13~~ **13[11]**	----------~~29~~ **29[11]**----------			
~~Areas of the City inside of a pedestrian shed of an activity center delineated on the General Plan, with or without the RPO~~ **Maximum with the RPO, inside of a pedestrian shed of an activity center[(13)]**	~~13~~ **13[11]**	----------~~29~~ **29[11]**----------			
~~Areas of the City with RPO, excluding areas of the City inside of a pedestrian shed of an activity center delineated on the General Plan~~	~~13~~ **13[11]**	----------~~22~~ **22[11]**----------			

	Maximum with the RPO, outside of a pedestrian shed of an activity center[(13))]					
Maximum Bedroom Requirements						
Bedrooms per Acre on a Development Site with Four Dwelling Units or More						
	Maximum without the RPO for a development	**35[12]**	**---------- 72.5[12]----------**			
	Maximum with the RPO inside of a pedestrian shed of an activity center[(13)]	**35[12]**	**---------- 72.5[12]----------**			
	Maximum with the RPO inside of a pedestrian shed of an activity center[(13)]	**35[12]**	**---------- 55[12]----------**			
Lot Requirements						
Area (Gross sf) (min.)[5]		6,000	9,000	9,000	9,000	7,000
Width (min.)[5]		50'	60'	60'	60'	50'
Depth (min.)[5]		100'	100'	100'	100'	--
Open Space						
Developments with Two or More Dwelling Units		---------- 15 percent of the net lot area ----------				
Other Requirements						
Fences and Screening		See Division 10-50.50				
Landscaping		See Division 10-50.60				
Outdoor Lighting		See Division 10-50.70				
Parking		See Division 10-50.80				
Signs		See Division 10-50.100				

End Notes

1. Front setbacks shall be equal to 15' or match adjacent residential development, whichever is less.
2. No front setback required, except when required by the adoption of building setback lines along specified streets.
3. Setback may be reduced to 5' min., if the landscape street buffer is reduced in accordance with Section 10-50.60.040(B), Nonresidential Zone Buffers.
4. Conditional use permit required for structures over 60' in height.
5. Within a planned residential development, the minimum area, width, and depth of a lot may vary based on the minimum lot standards applicable to the building types selected for application within a planned residential development (see Section 10-40.60.280, Planned Residential Development).
6. Except that the setback from a proposed residential use in a commercial zone to other residential uses shall be 5' min.
7. Single-family dwellings and duplexes in the CC zone shall be limited to a maximum height of 35 feet consistent with the height standard for the MR zone.
8. Primary structures, excluding accessory structures, with a roof pitch greater than, or equal to, 6:12 shall be allowed an additional five feet above the maximum building height.
9. The elevator and stairwell bulkheads shall be architecturally integrated with the building. Elevator and stairwells bulkheads are allowed an additional 15 feet above the maximum building height. The Director may approve a height greater than 15 feet when the additional

	height is necessary to accommodate an elevator or stairwell bulkhead, related equipment, or the requirements of the Building or Fire Code.
10.	Steeples, solar collectors, towers and other unoccupied architectural features are allowed an additional height above the maximum building height equal to 20 percent multiplied by the maximum building height allowed for property's zone. The total area of the referenced allowances above the building height shall not exceed 20 percent of the total roof area.
11.	**Additional density may be approved with an HOHD or MHOHD Conditional Use Permit.**
12.	**Additional bedrooms per acre may be approved with an HOHD or MHOHD Conditional Use Permit.**
13.	**Activity centers are delineated on the General Plan or applicable Specific Plan.**

Section 5. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.40 Transect Zones, Section 10-40.40.050 T3 Neighborhood I (T3N.1) Standards, H. Allowed Uses**,** as follows:

10-40.40.050 T3 Neighborhood I (T3N.1) Standards

H. Allowed Uses

Land Use[1]	Specific Use Regulations	T3N.1	Land Use[1]	Specific Use Regulations	T3N.1
Residential			Places of Worship		P/UP[6]
Accessory Buildings and Structures	10-40.60.020	P	Schools – Private		P
Accessory Dwelling Unit	10-40.60.040	P	Schools – Public and Charter		P[5]
Co-Housing	10-40.60.120	P	Retail Trade		
Congregate Care Facilities		UP	Neighborhood Market ≤ 1,500 sf		UP
Dormitories and Fraternities/Sororities		UP	Services		
Dwelling: Multiple-Family		P[2]	Bed and Breakfast	10-40.60.110	P
Dwelling: Single-Family		P	Cemeteries		UP
Duplex		P[2]	Daycare	10-40.60.150	
Group Home		P	Home		P
Home Occupation	10-40.60.180	P	Centers		UP
High Occupancy Housing Development, Single-Family	**10-40.60.175**	**UP**	Public Services		

H. Allowed Uses					
Land Use[1]	**Specific Use Regulations**	**T3N.1**	**Land Use**[1]	**Specific Use Regulations**	**T3N.1**
Institutional Residential	10-40.60.190	UP	Public Services Minor		P
~~**Rooming and Boarding Facilities**~~		~~**UP**~~	Emergency Services		UP
Recreation, Education and Public Assembly			Telecommunication Facilities		
Dance or Music Studio ≤ 650 sf		P[3]	Stealth Telecommunication Facilities	10-40.60.310	P
Libraries, Museums			Transportation and Infrastructure		
≤ 2,500 sf		P	Accessory Wind Energy Systems	10-40.60.040	P
> 2,500 sf		UP	Urban Agriculture		
Meeting Facilities, Public and Private	10-40.60.230	P/UP[4]	Community Gardens	10-40.60.140	P
Outdoor Public Use, General		P			

End Notes

1. See Chapter 10-80, Definitions, for use type definitions.
2. Permitted only if the use exists at the effective date of this code.
3. Not allowed on the ground floor unless behind an allowed ground-floor use.
4. UP required if liquor is sold or if facilities exceed 250 seats.
5. Charter schools proposed in existing single-family residences shall be located on residential lots 1 acre or greater.
6. A conditional use permit is required if the facility exceeds 250 seats and/or if the facility is located adjacent to a toxic use.

Key

P	Permitted Use
UP	Permitted Use

Section 6. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.40 Transect Zones, Section 10-40.40.060 T3 Neighborhood 2 (T3N.2) Standards, H. Allowed Uses, as follows:

10-40.40.060 T3 Neighborhood 2 (T3N.2) Standards

H. Allowed Uses					
Land Use[1]	**Specific Use Regulations**	**T3N.2**	**Land Use[1]**	**Specific Use Regulations**	**T3N.2**
Residential			Services		
Accessory Buildings and Structures	10-40.60.020	P	Bed and Breakfast	10-40.60.110	P
Accessory Dwelling Unit	10-40.60.030	P	Cemeteries		UP
Co-Housing	10-40.60.120	P	Crematoriums		UP
Congregate Care Facilities		UP	Daycare	10-40.60.150	
Dormitories and Fraternities/Sororities		UP	Home		P
			Centers		UP
Dwelling: Multiple-Family		P	Public Services		
Dwelling: Single-Family		P	Public Services Minor		P
Duplex		P	Emergency Services		UP
Group Home		P	Telecommunication Facilities		
Home Occupation	10-40.60.180	P	Stealth Telecommunication Facilities	10-40.60.310	P
High Occupancy Housing Development, Single-Family	**10-40.60.175**	**UP**			
High Occupancy Housing Development, Two-units	**10-40.60.175**	**UP**			
High Occupancy Housing Development, Three-units	**10-40.60.175**	**UP**			
High Occupancy Housing Development, Four-units and Greater	**10-40.60.175**	**UP**			
Institutional Residential	10-40.60.190	UP			
Live/Work		P	Transportation and Infrastructure		
~~**Rooming and Boarding Facilities**~~		~~**UP**~~	Accessory Wind Energy Systems	10-40.60.040	P

H. Allowed Uses					
Land Use[1]	**Specific Use Regulations**	**T3N.2**	**Land Use[1]**	**Specific Use Regulations**	**T3N.2**
Recreation, Education and Public Assembly Uses			Urban Agriculture		
Dance or Music Studio ≤ 650 sf		P[2]	Community Gardens	10-40.60.140	P
Libraries, Museums			End Notes		
≤ 2,500 sf		P	1. See Chapter 10-80, Definitions, for use type definitions. 2. Not allowed on the ground floor unless behind an allowed ground-floor use. 3. UP required if liquor is sold or if facilities exceed 250 seats. 4. Charter schools proposed in existing single-family residences shall be located on residential lots 1 acre or greater. 5. A conditional use permit is required if the facility exceeds 250 seats and/or if the facility is located adjacent to a toxic use.		
> 2,500 sf		UP			
Meeting Facilities, Public and Private	10-40.60.230	P/UP[3]			
Outdoor Public Use, General		P			
Places of Worship		P/UP[5]			
Schools – Private		P			
Schools – Public and Charter		P[4]			
Retail Trade					
Neighborhood Market ≤ 1,500 sf		P			
Key					
P	Permitted Use				
UP	Permitted Use				

Section 7. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.40 Transect Zones, Section 10-40.40.070 T4 Neighborhood 1 (T4N.1) Standards, I. Allowed Uses**,** as follows:

10-40.40.070 T4 Neighborhood 1 (T4N.1) Standards

I. Allowed Uses							
Land Use[1]	**Specific Use Regulations**	**T4N.1**	**T4N.1-O**	**Land Use**[1]	**Specific Use Regulations**	**T4N.1**	**T4N.1-O**
Residential				Services			
Accessory Buildings and Structures	10-40.60.020	P[2]	P[2]	ATM		-	P
				Bed and Breakfast	10-40.60.110	P	p
Accessory Dwelling Unit	10-40.60.030	P	P	Cemeteries		UP	UP
Co-Housing	10-40.60.120	P	P	Crematorium		-	UP
Congregate Care Facilities		P	P	Daycare	10-40.60.150		
Dormitories, Fraternities/Sororities and SRO (≤15 rooms)		UP	UP	Home		P	P
				Centers		UP	UP
Dwelling: Multiple-Family		P	P	Funeral Homes, Chapels, Mortuaries		-	P
Dwelling: Single-Family		P	P	General Services		-	P
Duplex		P	P	Lodging			
Group Home		P	P	≤ 15 rooms		-	P
High Occupancy Housing Development, Single-Family	**10-40.60.175**	**UP**	**UP**	Offices		-	P
High Occupancy Housing Development, Two-units	**10-40.60.175**	**UP**	**UP**	Public Services			
High Occupancy Housing Development, Three-units	**10-40.60.175**	**UP**	**UP**	Public Services Minor		P	P
High Occupancy Housing Development, Four-units and Greater	**10-40.60.175**	**UP**	**UP**	Emergency Services		UP	UP

I. Allowed Uses

Land Use[1]	Specific Use Regulations	T4N.1	T4N.1-O
Home Occupation	10-40.60.180	P	P
Institutional Residential	10-40.60.190	UP	UP
Live/Work		-	P
~~Rooming and Boarding Facilities~~	-	~~UP~~	~~UP~~
Recreation, Education and Public Assembly			
Libraries, Museums			
≤ 2,500 sf		P	P
> 2,500 sf		UP	UP
Meeting Facilities, Public and Private	10-40.60.230	P[3]	P[3]
Places of Worship		P/UP[4]	P/UP[4]
Schools – Private		P	P
Schools – Public and Charter		P	P
Retail Trade			
Bars/Taverns		-	P
General Retail Businesses, except with any of the following features		-	P
Drive-Through		-	-
Floor Area ≥ 3,500 sf		-	UP
Markets			
Neighborhood Market ≤ 2,500 sf		-	P

Land Use[1]	Specific Use Regulations	T4N.1	T4N.1-O
Veterinary Clinic		-	P
Telecommunication Facilities			
Stealth Telecommunication Facilities	10-40.60.310	P	P
Transportation and Infrastructure			
Accessory Wind Energy Systems	10-40.60.040	P	P
Urban Agriculture			
Community Gardens	10-40.60.140	P	P

End Notes

1. See Chapter 10-80, Definitions, for use type definitions.
2. Not allowed on the ground floor unless behind an allowed ground-floor use.
3. UP required if liquor is sold or if facilities exceed 250 seats.
4. A conditional use permit is required if the facility exceeds 250 seats and/or if the facility is located adjacent to a toxic use.

Key	
P	Permitted Use
UP	Conditional Use Permit Required
-	Use Not Allowed

I. Allowed Uses							
Land Use[1]	**Specific Use Regulations**	**T4N.1**	**T4N.1-O**	**Land Use[1]**	**Specific Use Regulations**	**T4N.1**	**T4N.1-O**
Micro-brewery/Micro-distillery	10-40.60.240	-	P				
Restaurant, or Cafes		-	P				

Section 8. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.40 Transect Zones, Section 10-40.40.070 T4 Neighborhood 2 (T4N.2) Standards, I. Allowed Uses**,** as follows:

10-40.40.080 T4 Neighborhood 2 (T4N.2) Standards

I. Allowed Uses							
Land Use[1]	**Specific Use Regulations**	**T4N.2**	**T4N.2-O**	**Land Use[1]**	**Specific Use Regulations**	**T4N.2**	**T4N.2-O**
Residential				Services			
Accessory Buildings and Structures	10-40.60.020	P[2]	P[2]	ATM		-	P
				Bed and Breakfast	10-40.60.110	P	p
Accessory Dwelling Unit	10-40.60.030	P	P	Cemeteries		UP	UP
Co-Housing	10-40.60.120	P	P	Crematorium		-	UP
Congregate Care Facilities		P	P	Daycare	10-40.60.150		
Dormitories, Fraternities/Sororities and SRO (≤15 rooms)		UP	UP	Home		P	P
				Centers		UP	UP
Dwelling: Multiple-Family		P	P	Funeral Homes, Chapels, Mortuaries		-	P
Dwelling: Single-Family		P	P	General Services		-	P
Duplex		P	P	Lodging		UP	UP
Group Home		P	P				

I. Allowed Uses

Land Use[1]	Specific Use Regulations	T4N.2	T4N.2-O
High Occupancy Housing Development, Single-Family	**10-40.60.175**	**UP**	**UP**
High Occupancy Housing Development, Two-units	**10-40.60.175**	**UP**	**UP**
High Occupancy Housing Development, Three-units	**10-40.60.175**	**UP**	**UP**
High Occupancy Housing Development, Four-units and Greater	**10-40.60.175**	**UP**	**UP**
Home Occupation	10-40.60.180	P	P
Institutional Residential	10-40.60.190	UP	UP
Live/Work		-	P
~~**Rooming and Boarding Facilities**~~	~~-~~	~~**UP**~~	~~**UP**~~
Recreation, Education and Public Assembly			
Libraries, Museums			
≤ 2,500 sf		P	P
> 2,500 sf		UP	UP
Meeting Facilities, Public and Private	10-40.60.230	P[3]	P[3]
Places of Worship		P/UP[4]	P/UP[4]
Schools – Private		P	P
Schools – Public and Charter		P	P
Retail Trade			
Bars/Taverns		-	P

Land Use[1]	Specific Use Regulations	T4N.2	T4N.2-O
Offices		-	P
Public Services			
Public Services Minor		P	P
Emergency Services		UP	UP
Veterinary Clinic		-	P
Telecommunication Facilities			
Stealth Telecommunication Facilities	10-40.60.310	P	P
Transportation and Infrastructure			
Accessory Wind Energy Systems	10-40.60.040	P	P
Urban Agriculture			
Community Gardens	10-40.60.140	P	P
End Notes			

1. See Chapter 10-80, Definitions, for use type definitions.
2. Not allowed on the ground floor unless behind an allowed ground-floor use.

I. Allowed Uses			
Land Use[1]	**Specific Use Regulations**	**T4N.2**	**T4N.2-O**
General Retail Businesses, except with any of the following features		-	P
Drive-Through		-	-
Floor Area ≥ 3,500 sf		-	UP
Markets			
Neighborhood Market ≤ 2,500 sf		-	P
Micro-brewery/Micro-distillery	10-40.60.240	-	P
Restaurant, or Cafes		-	P

3. UP required if liquor is sold or if facilities exceed 250 seats.
4. A conditional use permit is required if the facility exceeds 250 seats and/or if the facility is located adjacent to a toxic use.

Key	
P	Permitted Use
UP	Conditional Use Permit Required
-	Use Not Allowed

Section 9. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.40 Transect Zones, Section 10-40.40.090 T5 Main Street (T5) Standards, I. Allowed Uses**,** as follows:

10-40.40.090 T5 Main Street (T5) Standards

I. Allowed Uses							
Land Use[1]	**Specific Use Regulations**	**T5**	**T5-O**	**Land Use[1]**	**Specific Use Regulations**	**T5**	**T5-O**
Industrial, Manufacturing				Retail Trade			
Manufacturing and Processing, Incidental		P	P	Bars/Taverns		P	P
				General Retail Businesses, except with any of the following features		P	P
Residential							
Accessory Buildings and Structures	10-40.60.020	P[2]	P	Drive-Through		-	-
				Floor Area ≥ 5,000 sf		UP	UP
Accessory Dwelling Unit	10-40.60.030	P[2]	P	Mixed Use		P	P

I. Allowed Uses							
Land Use[1]	**Specific Use Regulations**	**T5**	**T5-O**	**Land Use[1]**	**Specific Use Regulations**	**T5**	**T5-O**
Co-Housing	10-40.60.120	P[2]	P	**Mixed-Use High Occupancy Housing Development**	**10-40.60.175**	**UP**	**UP**
Congregate Care Facilities		UP[2]	UP	Micro-brewery/Micro-distillery	10-40.60.240	P	P
Dormitories, Fraternities/Sororities and SROs		UP[2]	UP	Restaurants or Cafes		P	P
Dwelling: Multiple-Family		P[2]	P	Services			
High Occupancy Housing Development, Three-units	**10-40.60.175**	**UP[2]**	**UP**				
High Occupancy Housing Development, Four-units and Greater	**10-40.60.175**	**UP[2]**	**UP**	ATM		-	P
Group Home		P[2]	P	Bed and Breakfast	10-40.60.110	P	p
Home Occupation	10-40.60.180	P	P	Cemeteries		UP	UP
Institutional Residential				Crematoriums		UP	UP
Custodial Care Facilities		UP[2], [3]	UP	Daycare	10-40.60.150		
Nursing Homes		UP[2], [3]	UP	Home		P	P
Homeless Shelter	10-40.60.190	UP[2], [3]	UP	Centers		UP	UP
Sheltered Care Home		UP[2], [3]	UP	Funeral Homes, Chapels, Mortuaries		P	P
Live/Work		P	P	General Services		P	P
~~**Rooming and Boarding Facilities**~~		~~**UP**~~	~~**UP**~~	Lodging		P	P
Recreation, Education and Public Assembly Uses				Office		P[2]	P
Commercial Recreation Facility, Indoor				Public Services			
				Public Services Minor		P	P
≤ 5,000 sf		P	P	Emergency Services		UP	UP
> 5,000 sf		UP	UP	Veterinary Clinic		P[2]	P

I. Allowed Uses							
Land Use[1]	**Specific Use Regulations**	**T5**	**T5-O**	**Land Use[1]**	**Specific Use Regulations**	**T5**	**T5-O**
Libraries, Museums		P	P	Transportation and Infrastructure			
Meeting Facilities, Public and Private	10-40.60.230	P[3]	P[3]	Accessory Wind Energy Systems	10-40.60.040	P	P
Places of Worship		P/UP[6]	P/UP[6]	Garages, Off Street		P[2]	P[2]
Schools – Private		P	P				
Schools – Public and Charter		P	P	Parking Lots, Off Street		P[2]	P[2]
Theaters, Walk-in		P	P				
Telecommunication Facilities				Urban Agriculture			
AM Broadcasting Facilities	10-40.60.310	UP	UP	Community Gardens	10-40.60.140	P	P
Antenna-Supporting Structure	10-40.60.310	UP	UP	Vehicle Sales and Services			
Attached Telecommunication Facilities	10-40.60.310	P	P	Automobile/Vehicle Sales, New and Used		P	P
Collocation Facility	10-40.60.310	P	P	Automobile/Vehicle Repair Garage	10-40.60.100		
FM/DTV/Low Wattage AM Broadcasting Facilities	10-40.60.310	P	P	Minor		P[2]	P[2]
Stealth Telecommunication Facilities	10-40.60.310	P	P	Major		UP[2]	UP[2]
End Notes							

1. See Chapter 10-80, Definitions, for use type definitions.
2. Not allowed on the ground floor unless behind an allowed ground-floor use.
3. Conditional use permit is required if proximity between shelter facilities is less than 1/4 mile.
4. UP required if liquor is sold or if facilities exceed 250 seats.
5. Residential uses, and residential properties listed on the National Historic Registry or within the Landmarks overlay zone, in T5 and T5-O zones existing prior to the effective date of this Zoning Code are considered legal, conforming uses.
6. A conditional use permit is required if the facility exceeds 250 seats and/or if the facility is located adjacent to a toxic use.

Key	
P	Permitted Use
UP	Conditional Use Permit Required
-	Use Not Allowed

Section 10. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.40 Transect Zones, Section 10-40.40.100 T6 Downtown (T6) Standards, H. Allowed Uses, as follows:

10-40.40.100 T6 Downtown (T6) Standards

H. Allowed Uses					
Land Use[1]	**Specific Use Regulations**	**T6**	**Land Use[1]**	**Specific Use Regulations**	**T6**
Residential5			Services		
Accessory Buildings and Structures	10-40.60.020	P[2]	ATM		P
Accessory Dwelling Unit	10-40.60.030	P[2]	Bed and Breakfast	10-40.60.110	P
Co-Housing	10-40.60.120	P[2]	Cemeteries		UP
Congregate Care Facilities		UP[2]	Crematorium		UP
Dormitories, Fraternities/Sororities and SROs		UP[2]	Daycare	10-40.60.150	
			Home		P
Dwelling: Multiple-Family		P[2]	Centers		UP
High Occupancy Housing Development, Three-units	**10-40.60.175**	**UP[2]**	Dry-cleaning, Pick-up Only		P

H. Allowed Uses					
Land Use[1]	**Specific Use Regulations**	**T6**	**Land Use[1]**	**Specific Use Regulations**	**T6**
High Occupancy Housing Development, Four-units and Greater	**10-40.60.175**	**UP[2]**			
Group Home		P[2]	Funeral Homes, Mortuaries		UP
Home Occupation	10-40.60.180	P			
Homeless Shelter	10-40.60.190	UP	General Services		P
Institutional Residential			Hospitals		UP
Custodial Care Facilities		UP[2, 3]	Lodging		P
Nursing Homes		UP[2]	Office		P
Homeless Shelter		UP[2, 3]	Public Services		
Sheltered Care Home		UP[2, 3]	Public Services Minor		P
Live/Work		P	Emergency Services		UP
Mixed Use		P	Transportation and Infrastructure		
Mixed-Use High Occupancy Housing Development	**10-40.60.175**	**UP**	Accessory Wind Energy Systems	10-40.60.040	P
~~**Rooming and Boarding Facilities**~~		~~**UP**~~			
Recreation, Education and Public Assembly Uses			Garages, Off Street		P[2]
Commercial Recreation Facility, Indoor			Parking Lots, Off Street		P[2]
			Passenger Transportation Facilities		P6
≤ 5,000 sf		P	Industrial, Manufacturing, Processing and Wholesaling		
> 5,000 sf		UP	Manufacturing/Processing – Incidental		P
Libraries, Museums		P	Manufacturing/Processing – Incidental		P
Meeting Facilities, Public and Private	10-40.60.230	P[3, 4]	Telecommunication Facilities		
Places of Worship		P/UP[7]	AM Broadcasting Facilities	10-40.60.310	UP
Schools – Private		P	Antenna-Supporting Structure	10-40.60.310	UP

H. Allowed Uses

Land Use[1]	Specific Use Regulations	T6
Schools – Public and Charter		P
Theaters, Walk-in		P
Retail Trade		
Bars/Taverns		P
General Retail Businesses, except with any of the following features		P
Drive-Through		-
Floor Area ≥ 5,000 sf		UP
Micro-brewery/Micro-distillery	10-40.60.240	P
Restaurants or Cafes		P

Land Use[1]	Specific Use Regulations	T6
Attached Telecommunication Facilities	10-40.60.310	P
Collocation Facility	10-40.60.310	P
FM/DTV/Low Wattage AM Broadcasting Facilities	10-40.60.310	P
Stealth Telecommunication Facilities	10-40.60.310	P
Vehicle Sales and Services		
Automobile/Vehicles Sales, new and used		UP
Urban Agriculture		
Community Gardens	10-40.60.140	P

End Notes

1. See Chapter 10-80, Definitions, for use type definitions.
2. Not allowed on the ground floor unless behind an allowed ground-floor use.
3. Conditional use permit is required if proximity between shelter facilities is less than 1/4 mile.
4. UP required if liquor is sold or if facilities exceed 250 seats.
5. Residential uses, and residential properties listed on the National Historic Registry or within the Landmarks overlay zone, in the T6 zone existing prior to the effective date of this Zoning Code are considered legal, conforming uses.
6. Passenger facilities shall be on the ground floor with access to a public street or a public space.
7. A conditional use permit is required if the facility exceeds 250 seats and/or if the facility is located adjacent to a toxic use.

Key	
P	Permitted Use
UP	Conditional Use Permit Required
–	Use Not Allowed

Section 11. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.60: Specific to Uses, to add Section 10-40.60.175 High Occupancy Housing Developments and Mixed-

Use High Occupancy Housing Developments, to list of sections of the Division, in numerical order, as follows:

Division 10-40.60: Specific to Uses

10-40.60.175 High Occupancy Housing Developments and Mixed-Use High Occupancy Housing Developments

Section 12. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.60: Specific to Uses, to add Section 10-40.60.175 High Occupancy Housing Developments and Mixed-Use High Occupancy Housing Developments, in numerical order, as follows:

Division 10-40.60: Specific to Uses

10-40.60.175 High Occupancy Housing Developments and Mixed-Use High Occupancy Housing Developments

A. General Requirements.

1. **The applicant of an HOHD or MHOHD with four dwelling units or more shall submit typical floor plans or a typical residential unit study that illustrates how the residential units of an HOHD or MHOHD could be converted to a residential unit that is no longer an HOHD or MHOHD with minimal structural or minimal plumbing modifications. The required study shall be designed and sealed by an Arizona Registrant.**
2. **An HOHD or MHOHD with four or more dwelling units shall be located inside of a pedestrian shed of an activity center delineated in the General Plan or applicable Specific Plan.**
3. **An HOHD or MHOHD with four dwelling units or more, and that has more than 29 dwelling units per acre or more than 72.5 bedrooms per acre~~, excluding a Single-family HOHD,~~ shall have:**
    a. **A minimum of 20% of the bedrooms contained in studio and/or one-bedroom dwelling units; and**
    b. **A maximum of 30% of bedrooms contained in dwelling units with four bedrooms or more.**
4. **An HOHD or MHOHD with four dwelling units or more, and that has 29 dwelling units per acre or less or 72.5 bedrooms per acre or less~~, excluding a Single-family HOHD,~~ shall not exceed a Bedroom-to-Dwelling Unit Ratio greater than 3.5.**
5. **The maximum number of bedrooms in a two-unit HOHD or MHOHD: 10.**
6. **The maximum number of bedrooms in a three-unit HOHD or MHOHD: 12.**
7. **Inside of a pedestrian shed of a Regional Activity Center, an HOHD or MHOHD in a commercial zone may contain more than 50 dwelling units per acre and/or 125 bedrooms per acre.**
8. **An HOHD in a Commercial Zone shall be:**
    a. **On a lot or parcel that is setback at least 300 feet from the centerline of a street classified as a Commercial Corridor identified on the General Plan; and**

b. There shall be an existing primary mixed-use development or commercial use(s), excluding primary transportation and infrastructure uses, on the lot(s) or parcel(s) between the HOHD and the Commercial Corridor street.

9. An MHOHD shall comply with the mixed-use development standards of Section 10-40.60.260.

10. Prior to the final approval of a land division that creates one or more lots or parcels with a development that conforms to the definition of an HOHD or MHOHD, the property owner shall obtain approval of a Conditional Use Permit for the Development Site that will contain the HOHD or MHOHD.

11. An MHOHD shall be on a lot or parcel that:

a. Abuts a street classified as a commercial corridor shown on the General Plan; and

b. Is located inside of a pedestrian shed of an activity center delineated on the General Plan or applicable Specific Plan.

B. Building Footprint[(1)] Sizes and Separation Requirements.

1. Maximum building footprint[(1)] inside a pedestrian shed of a Historic Activity Center delineated in the General Plan or applicable Specific Plan, excluding properties zoned Commercial Business (CB): Equal to, or less than, 5,000 square feet.

2. Maximum building footprint[(1)] inside a pedestrian shed of a Historic Activity Center delineated in the General Plan or applicable Specific Plan, and on a property zoned Commercial Business (CB): Equal to, or less than, 22,000 square feet.

3. Maximum building footprint[(1)] inside a pedestrian shed of a Regional Activity Center delineated in the General Plan or applicable Specific Plan: No Maximum.

4. Maximum building footprint[(1)] inside a pedestrian shed of an activity center in all other areas not described in subsection B.1., B.2., and B.3. of this section: Equal to, or less than, 22,000 square feet.

5. Excluding the Commercial Business (CB) zone, the minimum separation between the building footprints of structures on the same lot or parcel, and structures on an abutting lot or parcel, shall be separated by a distance that is the greater of 10 feet, or 1/3 the height of the taller structure.

6. Where the area of a pedestrian shed of an activity center intersects with the area of a pedestrian shed of another activity center, the pedestrian shed with the more restrictive maximum building footprint requirement shall govern the intersecting area. The locations of the pedestrian sheds of the activity centers are identified in the General Plan, including any applicable Specific Plans.

Note 1. For the purpose of the requirements of subsection B of this section, the maximum allowable building footprint is equal to the largest floor plate of a structure, including interior courtyards, abutting and interior, or partial interior, podium and above ground parking structure(s), and structures connected with a continuous roof.

C. Waste Management Plan.

1. The property owner of an HOHD or MHOHD with four dwelling units or more shall obtain approval of a waste management plan from the City's Public Works Director, or designee, prior to the approval of the site plan.

2. Prior to the issuance of any building permit, the property owner shall incorporate into the construction documents the improvements required to comply with the approved waste management plan.

3. If a Certificate of Occupancy is not required, the property owner shall provide all necessary apparatus, equipment, and improvements within 182 days from the date of the approval of the CUP, or another date specified in the Conditions of Approval for the CUP.

   a. The Director may approve a one-time 91-day extension, for no-more than 273 days from the date of the CUP approval, to allow the property owner to complete the improvements. The property owner shall request an extension at least 14 days prior to the date indicated in subsection C.3. of this section.

4. The HOHD or MHOHD shall be maintained in compliance with the approved Waste Management Plan.

D. Crime Free Multi-Housing Program.

1. The property owner of an HOHD or MHOHD shall maintain compliance with the Flagstaff Police Department's Crime Free Multi-Housing Program, unless exempted by the Police Department's Crime Free Multi-Housing Program representative.

2. Prior to the issuance of the Conditional Certificate of Occupancy, or Certificate of Occupancy, whichever is first, or within 63 days of the approval of the Conditional Use Permit ~~for an HOHD or MHOHD~~ if a Certificate of Occupancy is not required, the property owner of a HOHD or MHOHD shall enter into an agreement with the City to comply with the Flagstaff Police Department's Crime Free Multi-Housing Program.

~~2~~ 3. The property owner, or agent, shall:

   a. Utilize a Crime Free Lease Addendum, or an alternative approved by the Flagstaff Police Department's representative, as part of each tenant lease;

   b. Obtain written verification as part of a tenant lease that each tenant has received and agreed to the Crime Free Lease Addendum or the approved alternative; and

   c. Have completed the Flagstaff Police Department's Crime Free Multi-Housing Program required training within the Program's required time frames.

~~3~~ 4. Within 182 days from the date of the agreement, the property owner, or managing agent, shall have completed the first phase requirements of the Flagstaff Police Department's Crime Free Multi-Housing Program.

~~4~~ 5. A new Flagstaff Police Department's Crime Free Multi-Housing Program first phase training and related requirements shall be completed within 182 days from the date of a change of ownership, management company, or a site manager of an existing HOHD or MHOHD.

~~5~~ **6. Every two years from the date of the agreement, the property owner, or managing agent, shall complete the required training that complies with the Flagstaff Police Department's Crime Free Multi-Housing Program.**

E. Additional Conditional Use Permit Criteria. In addition to the criteria of Section 10-20.40.050.E., the Planning and Zoning Commission shall not approve a Conditional Use Permit unless:

1. For the properties subject to Division 10-30.30 Heritage Preservation, the City's Historic Preservation Officer or the Heritage Preservation Commission has made a determination that the proposed HOHD or MHOHD has no adverse effect or has appropriately mitigated its effects on the historic cultural resource .

2. The property owner has agreed to Conditions of Approval to maintain compliance with the Flagstaff Police Department's Crime Free Multi-Housing Program at all times, unless exempted by the Police Department's Crime Free Multi-Housing Program representative.

3. Adequate transit service is available to the Development Site containing four dwelling units or more. Adequate transit service from a Development Site to a permanent transit stop is:

a. Less than or equal to 1,320 feet; or

b. A distance greater than 1,320 feet when the Planning and Zoning Commission finds that the route to the permanent transit stop has adequate nighttime lighting and does not have a significant grade change, and the distance does not impede reasonable access to transit.

The distance between the permanent transit stop to the Development Site shall be measured following a continuously improved sidewalk and/or public paved trail.

Section 13. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-40.60: Specific to Uses, 10-40.60.260 Mixed Use, subsection D. Site Layout and Development Design Standards., to delete paragraph 2, as follows:

10-40.60.260 Mixed Use

D. **Site Layout and Development Design Standards.**

~~**2. There is no density limitation established for residential uses in mixed-use developments. Instead, applicable floor area ratio, building height, parking, landscaping, etc., standards will apply to provide a control on the bulk and mass of the development and the number of residential units permitted.**~~

Section 14. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.80: Parking Standards, to add 10-50.80.061 Transit Pass Parking Reduction Pilot Program, to the list of sections in numerical order, as follows:

Division 10-50.80:

Parking Standards

Sections:

10-50.80.010 Purpose

10-50.80.020 Applicability

10-50.80.030 General Parking Standards

10-50.80.040 Number of Motor Vehicle Parking Spaces Required

10-50.80.050 Bicycle Parking

10-50.80.060 Parking Adjustments

10-50.80.061 Transit Pass Parking Reduction Pilot Program

10-50.80.070 Parking Alternatives

10-50.80.080 Parking Spaces, Parking Lot Design and Layout

10-50.80.090 Development and Maintenance

Section 15. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.80: Parking Standards, Section 10-50.80.040 Number of Motor Vehicle Parking Spaces Required, subsection C. General to All Zones., Table 10-50.80.040.A: Number of Motor Vehicle Parking Spaces Required, as follows:

Section 10-50.80.040 Number of Motor Vehicle Parking Spaces Required

C. General to All Zones.

Table 10-50.80.040.A: Number of Motor Vehicle Parking Spaces Required

Use	Number of Required Spaces
Residential	
~~**Market Rate (all dwelling classifications)**~~	
Single-Family Dwelling ~~**(Attached and Detached)[1]**~~ **(Attached and Detached)[1]**	2.0 **spaces, plus 1 space for each additional bedroom above four bedrooms. The maximum number of required parking spaces shall not exceed 8 spaces.**
~~**Multifamily, Dwelling Duplex[1] and Triplex**~~ **Multiple-Family Development and Duplex[1] Developments**	
Unit Type	
Studio **per unit**	1.25
1 Bedroom **per unit**	1.5
2 – 3 Bedrooms **per unit**	2.0
4 Bedrooms **per unit**	2.5

5+ Bedrooms **per unit**	~~2.5~~ **3.0** spaces for the first **4** **5** bedrooms plus 0.5 space for each additional bedroom
Guest Spaces ~~for Multifamily Dwelling Duplex and Triplex~~ (Includes spaces for boats and RVs)	0.25 ~~per~~ **spaces for** each ~~2+ bedroom~~ unit **with two bedrooms and greater**
Affordable (All Dwelling Classifications)	
Studio	1.0
1 Bedroom	1.0
2 – 3 Bedrooms	1.5
4+ Bedrooms	2.0
Guest Spaces for Multifamily Dwelling (Includes Boats and RVs)	0.25 per each 2+ bedroom unit
High Occupancy Housing Development	
a. Single-Family - Attached and Detached, Duplex, and Development Sites with three units or less	**1 space per bedroom**
b. Developments Sites with four units or more	**The sum of:** **1 to 75 bedrooms = 1 space per bedroom, plus** **76 to 325 bedrooms = 0.90 spaces per bedroom, plus** **326 to 650 bedrooms = 0.80 spaces per bedroom, plus** **Greater than 650 bedrooms = 0.70 spaces per bedroom**
~~Rooming and Boarding Facilities~~	
~~Private Rooms~~	~~1 per bedroom or sleeping room plus 1 for owner or manager~~
~~No Private Rooms~~	~~1 per 100 gsf plus 1 for owner or manager~~
Mixed-Use Developments	
Mixed-Use	**1. 1 per 300 gsf of non-residential floor area, plus** **2. One dwelling unit: 2 spaces** **3. Two or more dwelling units: The spaces required for a Multiple-Family Development**
Mixed-Use High Occupancy Housing Development	**1. 1 per 300 gsf of non-residential floor area, plus** **2. The spaces required for a High Occupancy Housing Development**

End Notes
[1] Parking reductions allowed in Section 10-50.80.060, Parking Adjustments, shall not apply to single-family dwellings and duplexes.

Section 16. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.80: Parking Standards, Section 10-50.80.050 Bicycle Parking., subsection B. Required Spaces., and add subsection C. Bicycle Parking Space Design., as follows:

10-50.80.050 Bicycle Parking

B. Required Bicycle Parking Spaces.

~~1. Two bicycle parking spaces, or five percent of required off-street parking spaces, whichever is greater, are required for all uses other than single-family uses.~~

~~2. Bicycle spaces shall be provided in accordance with the following requirements:~~

~~a. Bicycle parking shall consist of either a lockable enclosure (locker) in which the bicycle is stored or a rack to which the bicycle can be locked;~~

~~b. Lockers and racks shall be securely anchored to the pavement or a structure;~~

~~c. Racks shall be designed and installed to support the bicycle upright by its frame in two places in a manner that will not cause damage to the wheels and to permit the frame and one or both wheels to be secure;~~

~~Figure 10-50.80.050A~~

~~Correctly Designed Bicycle Rack~~

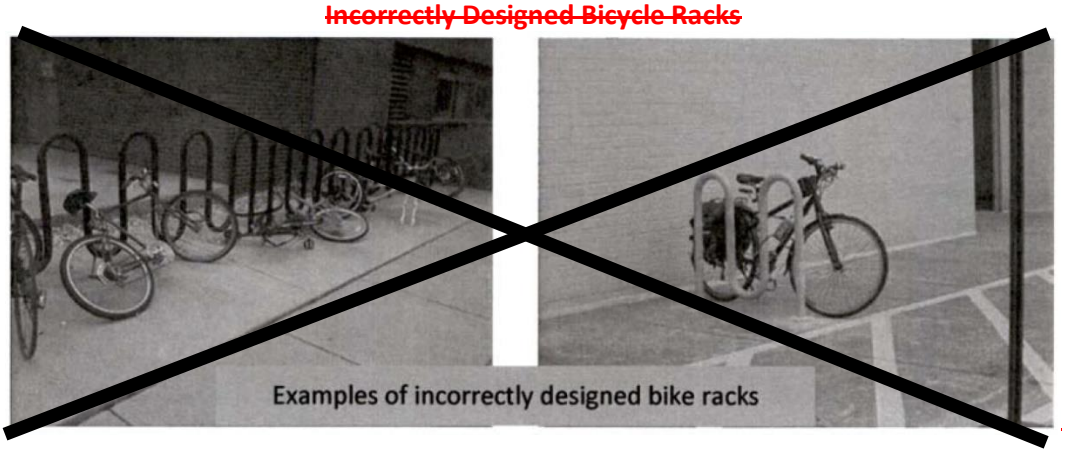
~~d. Areas containing bicycle spaces shall be surfaced with impervious surfaces such as concrete or pavers. Pervious pavements or gravel may be used where appropriate as determined by the Director;~~

~~e. When located within a parking area: curbs, fences, planter areas, bumpers, or similar barriers shall be installed and maintained for the mutual protection of bikes, motor vehicles, and pedestrians, unless determined by the Director to be unnecessary; and~~

~~f. Bicycle parking shall be placed in a convenient, highly visible, active, and well-lit location not more than 100 feet walking distance from the main entrance, but shall not interfere with pedestrian movements.~~

~~Figure 10-50.80.050B~~

~~Incorrectly Designed Bicycle Racks~~



~~C. Motor Vehicle Reduction. The Director may allow a reduction of motor vehicle parking spaces as established in Section 10-50.80.060(F).~~

~~D. Bicycle Parking Space Dimensions. All bicycle parking shall meet the following minimum dimensions:~~

~~1. Each bicycle parking space shall include a minimum area of 72 inches in length and 24 inches in width that is clear of obstructions;~~

~~2. No part of the rack shall be located closer than 30 inches to a wall or other obstruction;~~

~~3. The front or back of the rack shall be located no less than 48 inches from a sidewalk or pedestrian way; and~~

~~4. A minimum of 30 inches shall be provided between adjoining racks.~~

1. All uses, excluding a High Occupancy Housing Development and a Mixed-Use High Occupancy Housing Development.
    a. Minimum standard bicycle parking spaces required: The greater of two bicycle spaces, or 5% of the required vehicle parking.
    b. Maximum standard bicycle parking spaces required: 100 bicycle spaces.
    c. Location: Within 50 feet of the primary pedestrian entrance to the development and in accordance with the provisions of Appendix 1.4. The bicycle parking spaces shall be distributed throughout a Development Site that has multiple primary pedestrian entrances.
    d. Exceptions. Attached and Detached Single-Family and Duplex Developments are not required to provide standard bicycle parking spaces .
2. High Occupancy Housing Developments.
    a. Standard bicycle parking spaces.
        i. Minimum spaces required: Two bicycle spaces, or equal to 5% of the total number of bedrooms, whichever is greater.
        ii. Maximum spaces required: 40 bicycle spaces.
        iii. Location: Within 50 feet of the primary resident pedestrian entrance to the development and in accordance with the provisions of Appendix 1.4.
    b. Secure bicycle parking spaces.
        i. Minimum spaces required: Equal to 15% of the total number of bedrooms.

ii. Location: A maximum of 20 secure bicycle parking spaces may be provided outside in secure bicycle lockers. The remainder of the required secure bicycle parking spaces shall be provided in a bicycle storage room or cage within a building or parking structure.

c. Exceptions. Single-Family and duplex High Occupancy Housing Developments are not required to provide standard or secure bicycle parking spaces .

3. Mixed-Use High Occupancy Housing Developments.

a. Minimum outdoor non-residential standard bicycle parking spaces required: Two bicycle spaces, or 5% of the required non-residential vehicle parking spaces, whichever is greater.

b. Location of non-residential standard bicycle parking spaces: Within 50 feet of the primary pedestrian entrance to the non-residential development and in accordance with the provisions of Appendix 1.4. The bicycle parking spaces shall be distributed throughout a Development Site that has multiple primary pedestrian entrances.

c. Minimum residential bicycle parking spaces required: Compliance with the High Occupancy Housing Developments requirements, subsection B.2. of this section.

C. Bicycle Parking Space Design.

1. Secure Bicycle Parking Spaces.

a. All indoor required secure bicycle parking spaces provided in a building or parking structure shall be designed in accordance with the provisions of Appendix 1.4., except as allowed in subsections C.1.b. of this section.

b. Bicycle lockers shall be designed in accordance with the provisions of Appendix 1.4.

2. Standard Bicycle Rack Design.

a. All required bicycle racks shall be designed in accordance with the provisions of Appendix 1.4.

Section 17. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.80: Parking Standards, Section 10-50.80.060 Parking Adjustments, as follows:

10-50.80.060 Parking Adjustments

A. **Transit**. In all zones, a parking reduction of up to 10 percent may be approved by the Director for any use within ~~one-quarter of a mile~~ **1,320 feet** of a ~~bus stop~~ **permanent transit stop, except for a High Occupancy Housing Development (HOHD) or a Mixed-Use High Occupancy Housing Development (MHOHD). The distance between the permanent transit stop to the Development Site shall be measured following a continuously improved sidewalk and/or public paved trail.**

B. **Shared On-Site Parking.** Where two or more uses on the same site or adjacent parcels have distinct and differing peak parking usage periods (e.g., a theater and a bank), a reduction in the required number of parking spaces as determined by the Director may be allowed in the following manner:

1. The reduction in number of required parking spaces shall be based on a parking demand study. The parking demand study shall be in accordance with established professional practices.

2. Approval shall also require a recorded covenant running with the land, recorded by the owner of the parking lot, guaranteeing that the required parking will be maintained exclusively for the uses served and remain for the duration of the use.

C. **Parking Demand Study – Reduced Parking.** ~~Based on the completion and submittal of a parking demand study, the Director may approve a reduction in the amount of parking from that otherwise required by this division. The parking demand study shall be in accordance with established professional practices.~~

1. **The property owner shall submit a study/plan prepared in accordance with the established professional traffic and parking practices by a registrant licensed to practice in the State of Arizona. The study/plan shall document how any reductions are calculated and the assumptions utilized in the calculations.**

2. **The Director may approve a reduction equal to, or less than, 30 percent of the total parking spaces required by this Division, except as required in subsection C.3. of this section. Any request greater than 30 percent requires the approval of the City Council.**

3. **Any request to use a Parking Demand Study to reduce the required parking for an HOHD or MHOHD shall be approved by the City Council.**

D. Traffic Management Plan Parking Reduction. The Director shall have the ability to reduce the parking requirements for office and other uses in Section 10-50.80.040, Number of Motor Vehicle Parking Spaces Required**, except for an HOHD or MHOHD**. A traffic management plan shall be submitted with an application for site plan review. A reduction may be granted if the following standards are met:

1. The amount of the reduction shall be no more than 90 percent of the proposed reduction in employee motor vehicle trips.

2. The buildings shall have a single user/owner who can effectively exercise control over compliance with the plan.

3. The traffic management plan shall be submitted by a registered traffic engineer and shall include data on the effectiveness of similar plans elsewhere.

4. The traffic management plan shall contain information on the strategies, designated parking, incentives, company vehicles, staggered work hours, and information indicating the owner's ability to provide and enforce these elements over time.

5. The Director may impose conditions that are needed to ensure the long-term compliance to the plan, including but not limited to a reserve parking area, phasing, or contributions to transit or other alternative means of transportation.

E. Parking Reduction for Forest Resources. The number of parking spaces required for a new development may be reduced by no more than five percent if existing native trees such as ponderosa pine trees are located within parking areas (but not circulation areas) and these trees are required to be preserved to satisfy the requirements for forest resource protection as defined in Division 10-50.90, Resource Protection Standards**, except for an HOHD or MHOHD**. An applicant shall demonstrate to the satisfaction of the Director that by incorporating these existing native trees within the parking area, adequate measures are taken during construction to ensure that the trees are protected from construction activity.

F. Bicycle Parking Reduction. The Director may allow a reduction of one required motor vehicle parking space for each four bicycle parking spaces provided to a maximum of five percent of the required motor vehicle parking ~~spaces.~~ **spaces, except for an HOHD or MHOHD.**

G. Motorcycle Parking Reduction. A reduction of one parking space for multifamily residential and nonresidential uses may be allowed by the Director if one motorcycle parking space for every 25 required motor vehicle spaces is provided, subject to the following standards:

1. Each motorcycle space shall be easily accessible and have adequate space for a standard-size motorcycle, i.e., a minimum dimension of four feet by nine feet.
2. Motorcycle parking areas shall be clearly identified with appropriate striping.

Section 18. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.80: Parking Standards, to add Section 10-50.80.061 Transit Pass Parking Reduction Pilot Program, as follows:

Division 10-50.80: Parking Standards

10-50.80.061 Transit Pass Parking Reduction Pilot Program

A. The purpose of the Transit Pass Parking Reduction Pilot Program (TPPR) is to allow:

1. Property owners the option to reduce a development's vehicle parking requirements by providing annual transit passes to tenants and employees; and

2. The City to determine the effectiveness of the program to reduce a development's parking demand, and to determine if the tenants and employees are utilizing transit.

B. Program Term. Unless otherwise extended by a separate ordinance approved by the City Council, the TPPR shall terminate at 11:59 p.m. on December 31, 2026.

C. Maximum Parking Reduction. The Director may approve up to a 20 percent reduction in the parking requirements of Section 10-50.80.040 in accordance with the minimum requirements of subsection D of this section, and the approval of a transit pass agreement specified in subsection E of this section.

1. This reduction shall not be approved on a site that utilizes any reduction specified in 10-50.80.060.

D. Minimum Requirements.

1. The TPPR is only available to HOHD and MHOHD developments.

2. This reduction may only be approved for an HOHD or MHOHD that has a vehicle parking requirement equal to, or greater than, 100 spaces.

3. The total residential parking requirement shall not be reduced to an amount less than 0.65 spaces per bedroom. The required parking for a development shall be calculated in accordance with Table 10-50.80.040.A. before any reduction is applied.

4. The TPPR is only available to a Development Site within 1,320 feet of a permanent transit stop. The distance between the permanent transit stop to the Development Site shall be measured following a continuously improved sidewalk and/or public paved trail..

5 The property owner shall make available annual transit passes to all tenants and employees of the HOHD or MHOHD. The transit pass(es) shall be provided at no cost to the tenants and employees. No tenant and employee shall be refused a transit pass.

6. **The requirement to provide the transit passes shall be perpetual, unless the property owner provides the minimum number of parking spaces required (without any TPPR parking reduction) by the Zoning Code for the Development Site, and the Transit Pass Agreement of subsection E of this section is terminated.**

7. **The termination of the TPPR does not alleviate a property owner from providing the transit passes that are required for participation in the TPPR until the Transit Pass Agreement is terminated and the minimum parking spaces are provided as set forth herein.**

E. Transit Pass Agreement.

1. **The Director may enter into a Transit Pass Agreement with the property owner to allow a reduction in the required number of residential parking spaces in accordance with the provisions of this section. The agreement shall be in a form satisfactory to the City Attorney, or designee.**

2. **The agreement shall be perpetual unless terminated in accordance with the provisions of this section and the agreement.**

3. **The agreement shall include, but is not limited to:**

   a. **The type of transit passes to be provided;**

   b. **Notification requirements to tenants and employees of the availability of transit passes to them at no cost;**

   c. **A requirement to obtain, maintain, and provide the City with the following information:**

      i. **The number and types of transit passes requested and provided;**

      ii. **Utilization frequency reports from the transit provider;**

      iii. **Documentation of the annual transit pass proof of purchase;**

      iv. **Bedroom occupancy rates; and**

      v. **The number of tenant vehicles stored onsite and offsite within the city of Flagstaff.**

   d. **An agreement to assist the City of Flagstaff employee(s) and/or City contractor(s) in the collection of vehicle and/or transit usage data, and other City studies to determine the effectiveness of the TPPR;**

   e. **Reasonable access for City of Flagstaff employee(s) and/or City contractor(s) to study and count onsite parking utilization rates upon delivery of a written notice;**

   f. **Annual reporting requirements;**

   g. **Violations and remedies; and**

   h. **Any other provision necessary as determined by the City Attorney, Director, or designee to document the requirements and enforcement of this section and the agreement.**

4. **The agreement shall be approved by the Director and property owner prior to the issuance of any building permit for the Development Site.**

5. **The City shall record the approved Transit Pass Agreement against the real property of the Development Site. Recordation fees shall be paid by the property owner prior to the issuance of any building permit for the Development Site.**

Section 19. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.80: Parking Standards, 10-50.80.080 Parking Spaces, Parking Lot Design and Layout, subsection K, as follows:

10-50.80.080 Parking Spaces, Parking Lot Design and Layout

K. **Tandem Parking**. ~~Tandem parking is permitted in all zones for single-family residences, accessory dwelling units, and duplexes as follows:~~

1. Tandem parking is allowed in all:

a. Zones for single-family attached and detached dwelling units, and accessory dwelling units; and

b. Non-Transect Residential Zones for duplex developments.

~~1.~~**2.** Both tandem parking spaces satisfy the parking requirement of ~~one~~ **one-dwelling unit**. ~~residential unit; and~~

~~2.~~ **3.** Neither of the tandem parking spaces shall be for required accessible parking spaces.

Section 20. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.110: Specific to Building Types, Section 10-50.110.080 Bungalow Court, subsection F, as follows:

10-50.110.080 Bungalow Court

F. Vehicle Access and Parking
Parking spaces may be enclosed, covered or open.
Spaces may be individually accessible by the units and/or via a common parking area located at the rear or side of the lot.
~~Tandem parking is allowed for off-street parking to meet the requirements for a residential unit.~~

Section 21. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.110: Specific to Building Types, Section 10-50.110.090 Duplex, Side-by-Side, subsection F, as follows:

10-50.110.090 Duplex, Side-by-Side

F. Vehicle Access and Parking

Parking spaces may be enclosed, covered or open.
~~**Tandem parking is allowed for off-street parking to meet the requirements for a residential unit.**~~

Section 22. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.110: Specific to Building Types, Section 10-50.110.100 Duplex Stacked, subsection F, as follows:

10-50.110.100 Duplex, Stacked

F. Vehicle Access and Parking
Parking spaces may be enclosed, covered or open.
~~**Tandem parking is allowed for off-street parking to meet the requirements for a residential unit.**~~

Section 23. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.110: Specific to Building Types, Section 10-50.110.110 Duplex, Front-and-Back, subsection F, as follows:

10-50.110.110 Duplex, Front-and-Back

F. Vehicle Access and Parking
Parking spaces may be enclosed, covered or open.
~~**Tandem parking is allowed for off-street parking to meet the requirements for a residential unit.**~~

Section 24. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-50.110: Specific to Building Types, Section 10-50.110.120 Stacked Triplex, subsection F, as follows:

10-50.110.120 Stacked Triplex

F. Vehicle Access and Parking
Where an alley is present, parking and services shall be accessed from the alley.
Parking spaces may be enclosed, covered or open.

~~Tandem parking is allowed for off-street parking to meet the requirements for a residential unit.~~

Section 25. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-80.20: Definition of Specialized Terms, Phrases, and Building Functions, Section 10-80.20.080 Definitions, "H", to add the term "High Occupancy Housing Development (HOHD)" and related terms, as follows:

Section 10-80.20.080 Definitions, "H"

High Occupancy Housing Development (HOHD): Means any of following: High Occupancy Housing Development, Single-Family; High Occupancy Housing Development, Two-units; High Occupancy Housing Development, Three-units; and High Occupancy Housing Development, Four-units and Greater (see definitions below).

High Occupancy Housing Development, Single-Family: A single-family attached or detached dwelling unit with ~~five bedrooms or more~~:

a. **Seven or more bedrooms; or ~~On a lot or parcel containing 10,000 square feet or less; and~~**
b. **Five or more sanitation facilities. ~~Has a Bedroom-to-Sanitation Facility Ratio less than 1.2.~~**

High Occupancy Housing Development, Two-units: A lot or parcel containing two dwelling units, excluding an Accessory Dwelling Unit, with:

a. **More than a total of ~~six~~ seven bedrooms; or**
b. **One or more dwelling unit(s) containing four or more ~~bedrooms with a Bedroom-to-Sanitation Facility Ratio less than 1.3~~ sanitation facilities.**

High Occupancy Housing Development, Three-units: A lot or parcel containing three dwelling units with:

a. **More than a total of nine bedrooms; or**
b. **One or more dwelling unit(s) containing four or more ~~bedrooms with a Bedroom-to-Sanitation Facility Ratio less than 1.3~~ sanitation facilities.**

High Occupancy Housing Development, Four-units and Greater: A Development Site containing four or more dwelling units where:

a. **More than 20 percent of the total dwelling units have four bedrooms or more;**
b. **One or more of the dwelling unit(s) containing four or more ~~bedrooms with a Bedroom-to-Sanitation Facility Ratio less than 1.3~~ sanitation facilities; or**
c. **The total number of dwelling units per acre, or bedrooms per acre, requires a Conditional Use Permit for an HOHD in accordance with the building form and property development**

standards of the property's designated Non-Transect Zone; or, if the property owner has elected a Transect Zone, the density is greater than 29 dwelling units per acre or 72.5 bedrooms per acre.

Section 26. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-80.20: Definition of Specialized Terms, Phrases, and Building Functions, Section 10-80.20.130 Definitions, "M", to add the term "Mixed-Use High Occupancy Housing Development (MHOHD)", as follows:

10-80.20.130 Definitions, "M"

Mixed-Use High Occupancy Housing Development (MHOHD):

1. A mixed-use development with:

a. More than 20 percent of the total dwelling units have four bedrooms or more;

b. One or more dwelling unit(s) containing four or more ~~bedrooms with a Bedroom-to-Sanitation Facility Ratio less than 1.3~~ sanitation facilities; or

c. The total number of dwelling units per acre, or bedrooms per acre, requires a Conditional Use Permit for an MHOHD in accordance with the building form and property development standards of the property's designated Non-Transect Zone; or, if the property owner has elected a Transect Zone, the density is greater than 29 dwelling units per acre or 72.5 bedrooms per acre.

Section 27. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-80.20: Definition of Specialized Terms, Phrases, and Building Functions, Section 10-80.20.180 Definitions, "R", to add the terms "Ratio, Bedroom-to-Dwelling Unit," and "Ratio, Bedroom-to-Sanitation Facility" as follows:

Section 10-80.20.180 Definitions, "R

Ratio, Bedroom-to-Dwelling Unit: The total number of bedrooms divided by the total number of dwelling units.

Examples: An HOHD has a total number of 1160 bedrooms and 350 dwelling units. The Bedroom-to-Dwelling Unit Ratio is:

$$\frac{\text{1160 bedrooms}}{\text{350 dwelling units}} = 3.31$$

~~Ratio, Bedroom-to-Sanitation Facility: The total number of bedrooms divided by the total number of sanitation facilities in a dwelling unit.~~

~~Examples: A dwelling unit has five bedrooms and four sanitation facilities. The Bedroom-to-Sanitation Facility Ratio is:~~

$$\frac{\text{~~5 bedrooms~~}}{\text{~~4 sanitation facilities~~}} = \text{~~1.25~~}$$

Section 28. Amend Title 10 FLAGSTAFF ZONING CODE, Division 10-80.20: Definition of Specialized Terms, Phrases, and Building Functions, Section 10-80.20.190 Definitions, "S", to modify the term "Sanitation Facilities," as follows:

Section 10-80.20.190 Definitions, "S"

Sanitation ~~Facilities~~ **Facility: A delineated area for bathing** ~~bathroom~~ that contains ~~any combination of, or individually,~~ a toilet, ~~shower,~~ sink**,** and a shower or~~,~~ tub ~~or related bathing and sanitation fixtures~~**. The fixtures** (toilet, sink, **and a shower or** tub**) may be located in a room or in close proximity that functions as a** Sanitation **Facility as determined by the Zoning Administrator.**

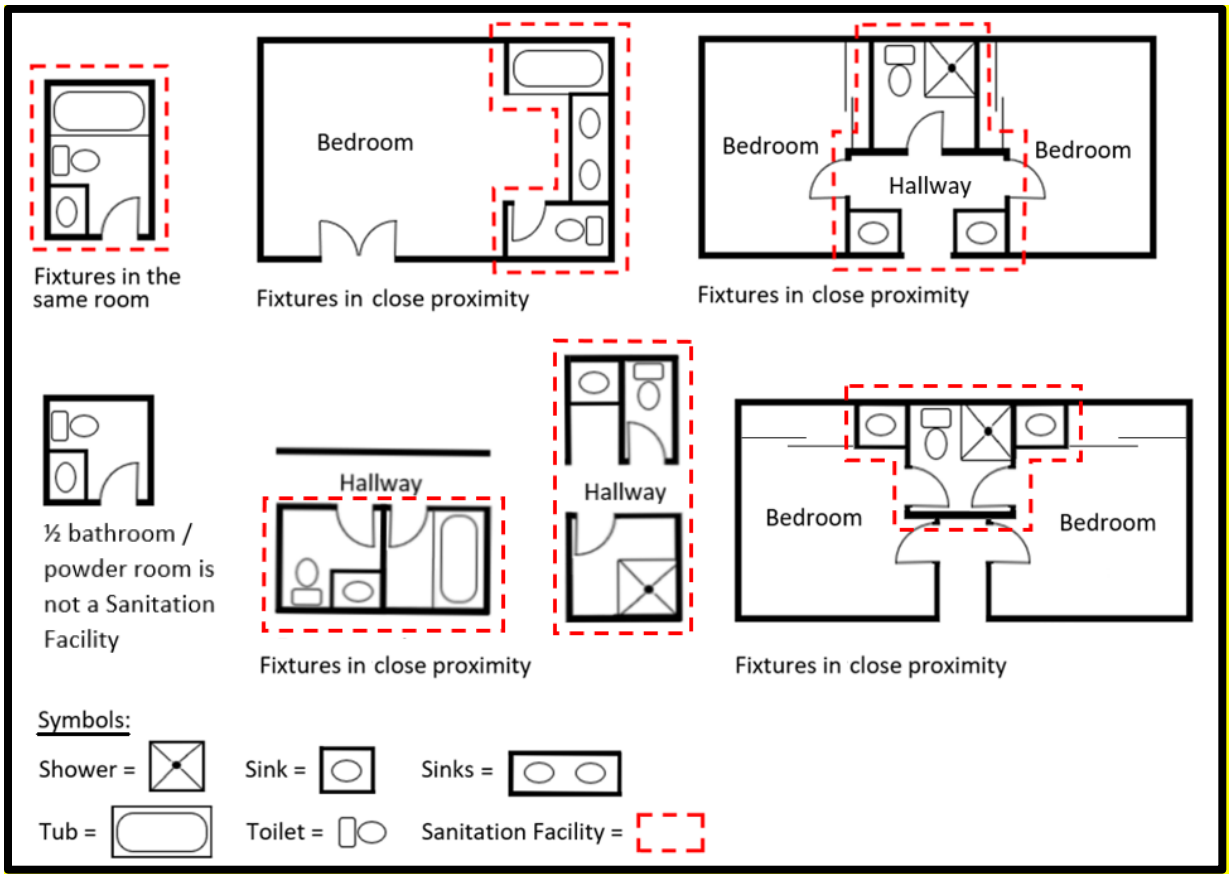


Figure 10-80.20.190 Sanitation Facility Examples

Section 29. Amend Title 10 FLAGSTAFF ZONING CODE, APPENDICES to add Appendix 1.4 Bicycle Parking Space Design Requirements, to the list, as follows:

APPENDICES

Appendix 1.1 Design Guidelines
Appendix 1.2 Additional Information on Smart Growth and Traditional Neighborhood Developments

Appendix 1.3 Sustainability Guidelines
Appendix 1.4 Bicycle Parking Space Design Requirements
Appendix 2 Planning Fee Schedule
Appendix 3 City of Flagstaff Landscape Plant List
Appendix 4 Outdoor Lighting Reference Material
Appendix 5 Additional Information Applicable to Division 10-50.90, Resource Protection Standards
Appendix 6 Additional Information on Affordable Housing
Appendix 7 List of Major Arterial Streets

Section 30. Amend Title 10 FLAGSTAFF ZONING CODE, APPENDICES, to add Appendix 1.4 Bicycle Space Design Requirements, as follows:

APPENDICES

Appendix 1.4
Bicycle Space Design Requirements

1.4.010 Purpose

A. It is the purpose of this Appendix to establish the minimum acceptable standards for bicycle parking spaces that are required by the Zoning Code.

1.4.020 Applicability

A. Requirements of this Appendix shall apply to all bicycle parking spaces provided on a Development Site within the Flagstaff city limits.

1.4.030 Standard Bicycle Rack Design Requirements

A. Rack Design.

1. Each rack shall be provided in accordance with one of the designs indicated in Figure 1.4.030.A., unless an alternative design is allowed in accordance with subsection C of this section.

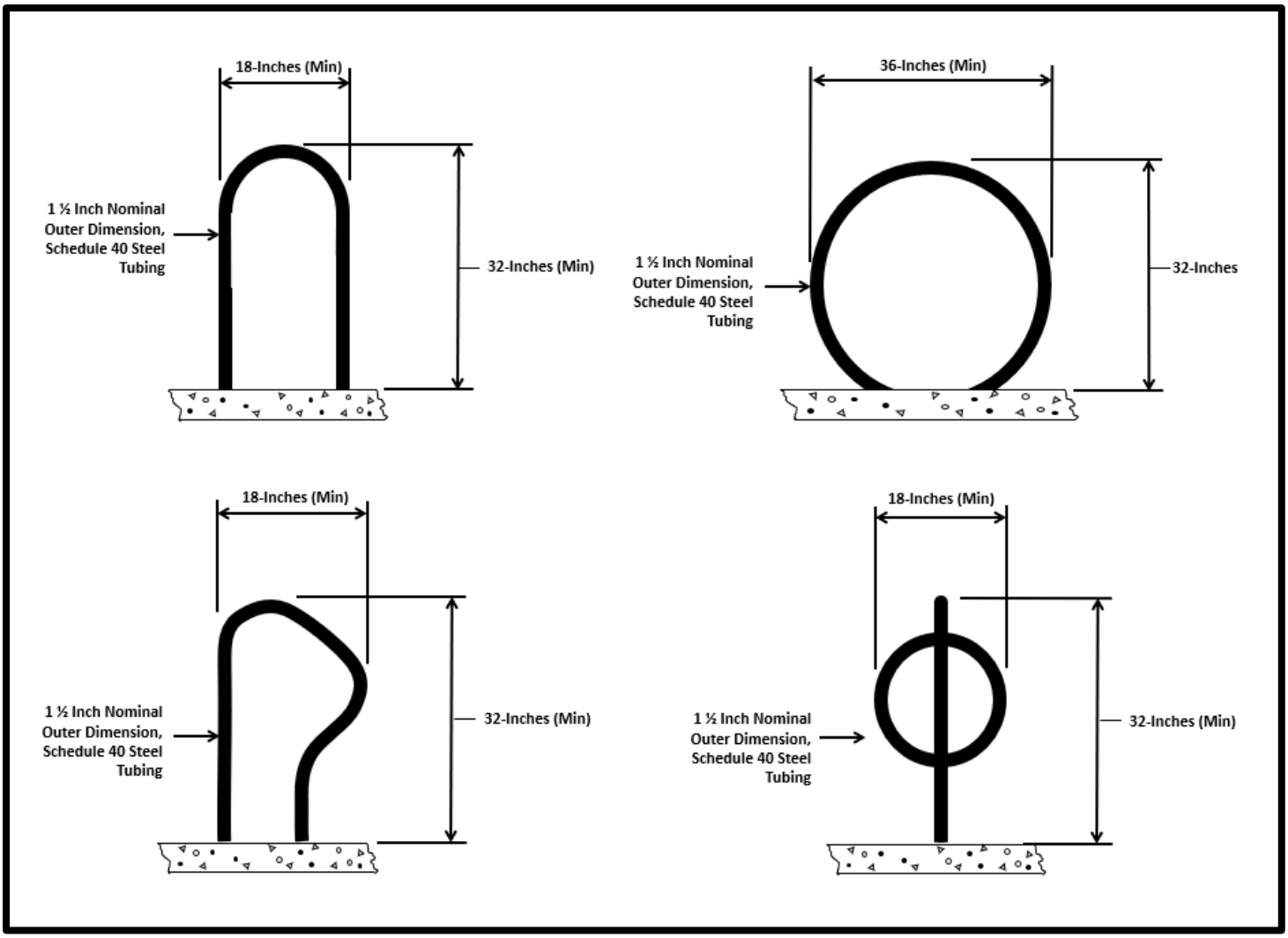


Figure 1.4.030.A. Rack Designs

B. Rack Placement.

1. The bicycle rack(s) shall be:

a. Placed in an area that complies with the location provisions of Section 10-50.80.050.B., is highly visible, well-illuminated, has frequent pedestrian activity, and is in accordance with Figure 1.4.030.B.1.;and

b. Securely mounted with a tamper-proof mounting technique to an impervious concrete, paver, or asphalt surface, unless an alternative surface is approved by the Director.

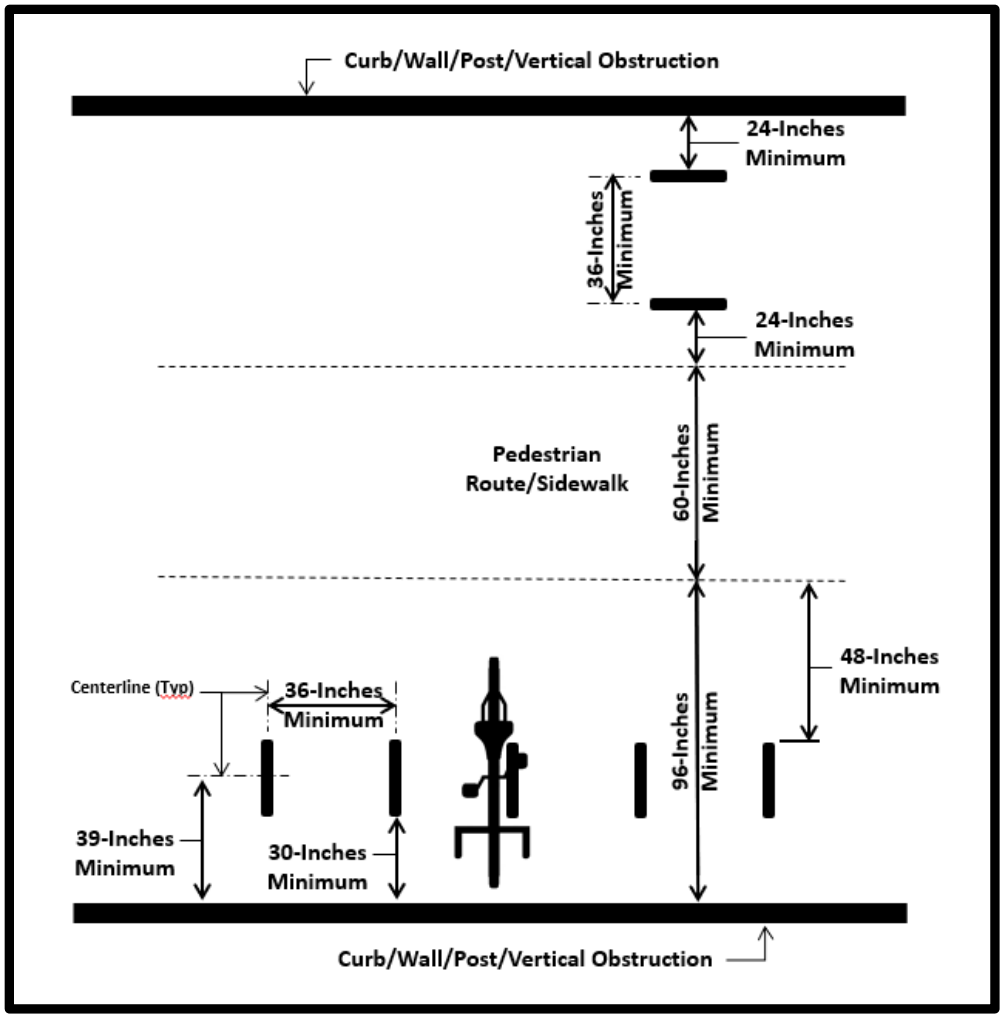


Figure 1.4.030.B.1. Bicycle Rack Placement

2. **The placement of a bicycle rack shall not interfere with pedestrian movements.**
3. **Any bicycle rack(s) located within a parking area shall be within a barrier consisting of bollards, curbs, curb-bumpers, fences, planting areas, or a similar barrier approved by the Director.**

C. Alternative Bicycle Rack Designs. The Director may approve an alternative rack design that complies with the following requirements:

1. **The rack shall allow the bicycle frame and one or both wheels to be secured with a standard U-lock;**
2. **The rack shall be designed to support a bicycle frame in two places in a manner that does not cause damage to the wheels or allow the bicycle to tip over;**
3. **The rack shall be constructed of a material of sufficient strength that resists cutting, rust, bending, and deformation (Schedule 40 metal pipe is the minimum standard); and**
4. **The rack is not a design similar to types indicated in Figure 1.4.030.C.4.**

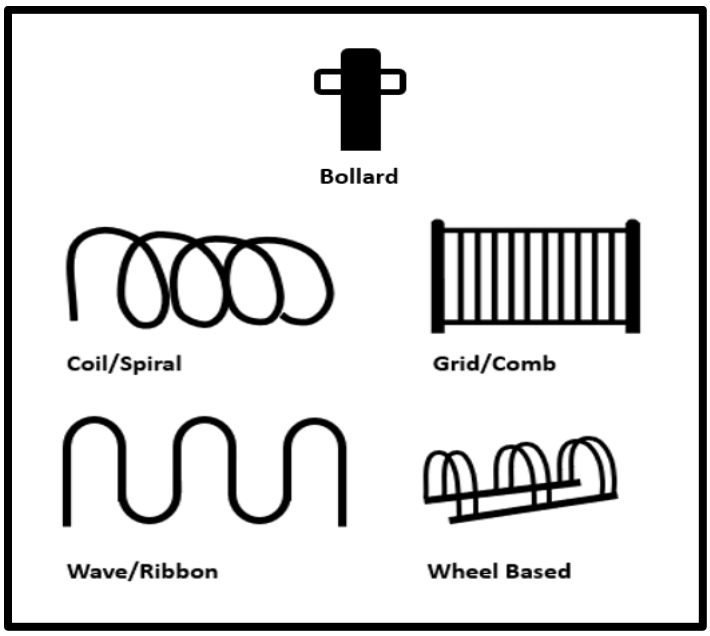


Figure 1.4.030.C.4. Unacceptable Bicycle Rack Designs

1.4.040 Standards for Indoor Secure Bicycle Parking Spaces

A. Secure Bicycle Parking Space Design.

1. The required secure bicycle parking spaces shall be in separate room(s) or cage(s) (the "Facilities") designed for bicycle storage within a building or parking structure.

2. The Facilities shall be:

a. On the ground level, or another level that has elevator access, provided that the elevator has an interior width or depth of at least six feet;

b. Accessed through a door or gate that utilizes an electronic keypad and code, security pass card, or a similar electronic system approved by the Director;

c. In a location that is illuminated in accordance with the Illuminating Engineering Society (IES) of North America (IESNA) standards for security;

d. Limited to the storage of bicycles; and

e. Include bicycle racks or lockers.

3. The bicycle rack(s) shall:

a. Conform with Section 1.4.030.A., unless an alternative design is allowed in accordance with Section 1.4.030.C.;

b. Be securely mounted with a tamper-proof mounting technique to an impervious concrete, paver, or asphalt surface; and

c. Be placed in accordance with Figure 1.4.040.A.3.c., unless an alternative configuration is approved by the Director.

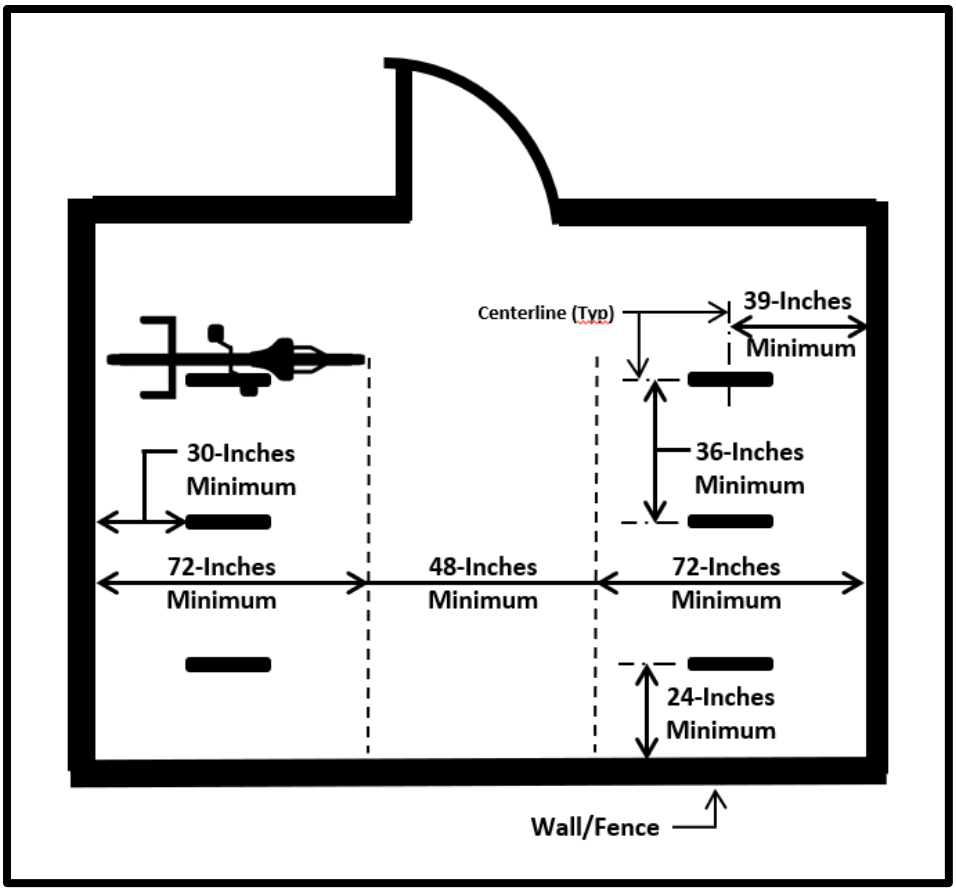


Figure 1.4.040.A.3.c. Bicycle Storage Room/Cage

1.4.050 Standards for Bicycle Lockers

A. Bicycle Locker Design and Location Requirements.

1. **The lockers shall be constructed of metal. If windows are provided in the locker, the windows shall be constructed with unbreakable material. Plastic lockers are prohibited.**
2. **The lockers shall utilize an integral mechanical or digital ("smart") locking mechanism. Lockers that use hasp or mechanisms that allow the use of user locks is prohibited.**
3. **Stacked lockers shall have a wheel track to guide the bicycle into the locker.**
4. **Lockers located within a parking area shall be within a barrier consisting of bollards, curbs, curb-bumpers, fences, planting areas, or similar barriers approved by the Director.**
5. **Lockers placed outdoors shall be within 50 feet of a primary resident entry to a building. The locker(s) shall not be placed between a building and a street.**
6. **The lockers shall be in a location that is illuminated in accordance with the Illuminating Engineering Society (IES) of North America (IESNA) standards for security.**
7. **Lockers placed in a building or parking structure shall be on the ground level, or another level that has elevator access, provided that the elevator has an interior width or depth of at least six feet.**
8. **The placement of a locker shall not interfere with pedestrian movements.**

9. **The size and placement of the lockers shall conform with Figure 1.4.050.A.9., unless an alternative configuration is approved by the Director.**

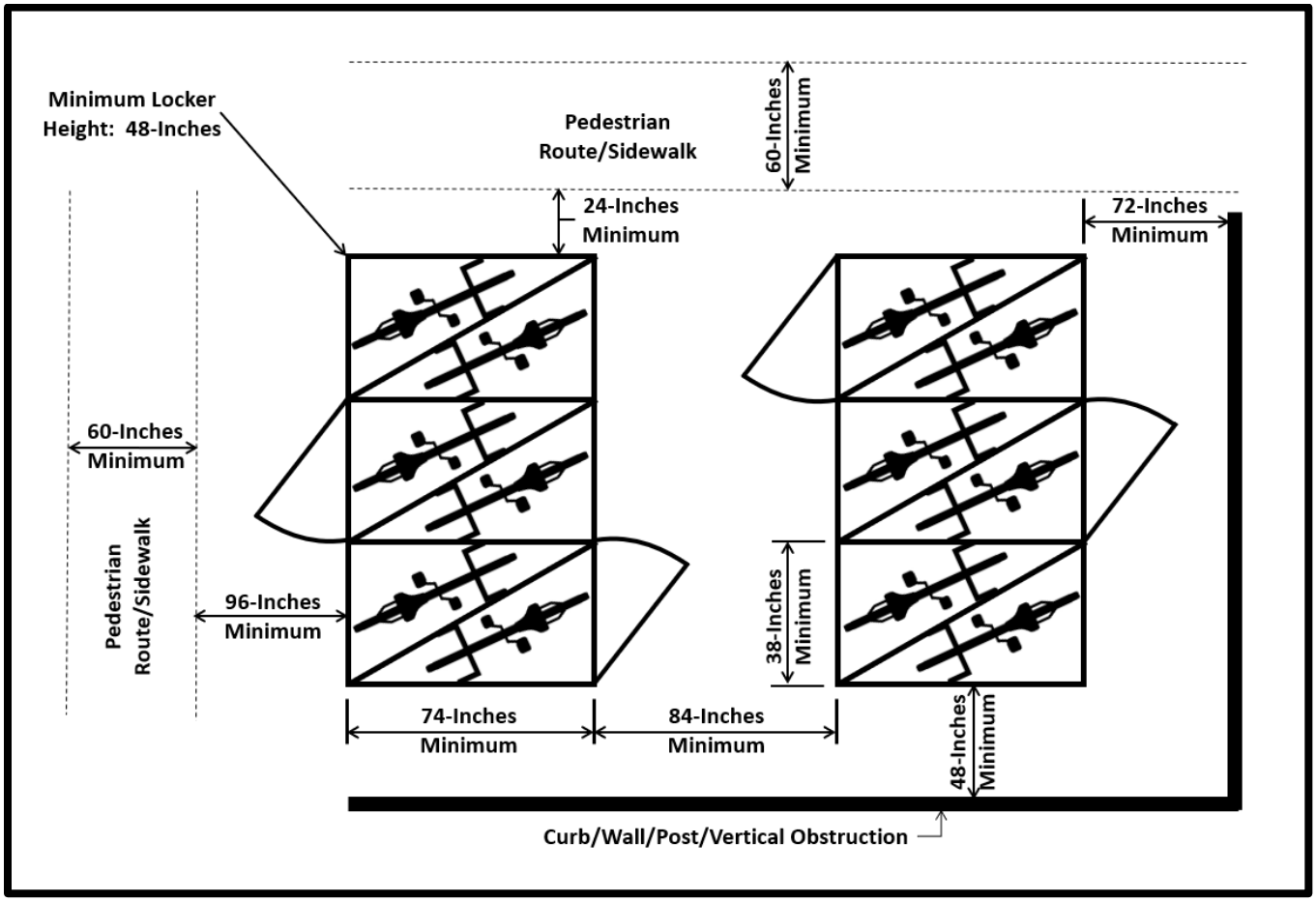


Figure 1.4.050.A.9. Bicycle Locker Size and Placement

Note: Due to the low number of responses to some of the concepts, some percentage results in the "Support" and "Do not support" columns may not be an accurate statistical representation of the community's desires.

Summary of HOH Open House (08/18/2020) and Flagstaff Community Forum Comments (07/26/2019 – 09/03/2019)					
	Concept	Total Respondents:	Support:	Do not support:	Written Comments Received
1.	A. High Occupancy Housing Development (HOHD): Is any of the following: 1. A mixed-use or multiple-family development, with three or more dwelling(s) units, and: a. has a density greater than 29 dwelling units per gross acre; b. has a bedroom to gross acre ratio greater than 72.5; c. has a bedroom-to-dwelling unit ratio greater than 2.5; d. has a dwelling unit has bedroom-to- bathroom ratio less than 1.3, excluding 1- and 2-bedroom units; or e. more than 10 percent of the dwelling units have four bedrooms or more.	Total Respondents: 5	Support: 100%	Do not support: 0%	1. There must be something written into the Code for some High and Medium density that would trigger the discussion of affordable housing 2. Lower the density to 25 3. Balance between affordable housing and greed as well as "what the market will bear" philosophy. 4. Yes, but the definition should include "rent-by-the-room" 5. Yes, but the definition should include height, square footage, and mass (volume) 6. Definition should be based on long-term residents/professionals who are looking for a single occupancy for either an individual or a couple as a family unit 7. Yes, but there should be an upper limit to how many 4+ bedrooms. 8. Yes, but clarify whether or not this would include housing targeted to college students 9. Yes, but consider using workforce or student housing in the definition instead of multiple-family 10. I support the definition, regardless of the number of four bedrooms
	B. A single-family attached or detached dwelling, duplex, or triplex that contains four bedrooms or more, and a bedroom to bathroom ratio of less than 1.3, (Excludes developments in the Rural Residential (RR) and Estate Residential (ER) zones, and accessory dwelling units.)	14	79%	21%	
2.	Mixed-use High Occupancy Housing Development (MHOHD) shall conform with the definitions of High Occupancy Housing Development and Mixed-use.	6	67%	33%	1. Activity Areas S13, S14, and S15 are overcrowded with High Occupancy Housing developments.
3.	Should a Mixed-use High Occupancy Housing Development in a Regional Activity Center Pedestrian Shed be allowed up to 50 dwelling units per acre before requiring a Conditional Use Permit?	15	33%	67%	1. The reason is all regional activity centers are created equally. The other side, it depends on who interpretation and who is interpreting. 2. Density should not exceed 29 dwelling units (75 beds) or 50 dwelling units (125) in the Regional Activity Centers 3. Density should be less. 4. The Regional Activity Center should have a lower density 5. The greatest density should only be located in Downtown and Southside only 6. Density should not exceed 29 dwelling units (75 beds). 7. Greater densities should not be allowed in the Regional Activity Centers.
4.	Proposed Additional Conditional Use Permit Criteria: A. The property owner has submitted plans that shows how a development can be converted to a traditional multiple-family development consisting of studio, 1 bedroom, 2 bedroom, and 3 bedroom units.	10	80%	20%	1. Additional Criteria is needed to ensure infrastructure, and on street parking is not overburdened. 2. I agree with the additional proposed Conditional Use Permit criteria, specifically neighboor character. 3. I agree with the additional proposed Conditional Use Permit criteria. 4. I agree with the additional proposed Conditional Use Permit criteria. 5. Is appropriate. Not a hard rule. 6. Depends. 7. Can the Builder pay for the transit stop? 8. Setback is important. 9. I am concerned that the building heights may eventually affect tax payers through the purchase of more advanced fire equipment, like ladder trucks and other insurances drivers needs in public safety.
	A. A High Occupancy Housing Development is located in an activity center delineated in the Regional Plan.	10	80%	20%	
	B. The High Occupancy Housing Development that contains more than 50 dwelling unit per acre or 125 bedrooms per acre, is located in a Regional Activity Center Pedestrian Shed	11	73%	27%	
	C. The lot or parcel that contains the High Occupancy Housing Development shall be within 1200 feet of permanent transit stop.	10	90%	10%	
	D. A High Occupancy Housing Development is designed with a character, including mass, scale, height, colors and other elements, that is compatible with the existing structures of the neighborhood were the High Occupancy Housing Development is located.	10	80%	20%	
	E. Property owner, and owner's management company or representative(s) shall operate the High Occupancy Housing Development in accordance with an approved safety plan and, a "good neighbor" plan approved by the Flagstaff Police Department.	10	90%	10%	

Note: Due to the low number of responses to some of the concepts, some percentage results in the “Support” and “Do not support” columns may not be an accurate statistical representation of the community’s desires.

5.	High Occupancy Housing Development with three dwelling units, or less (single-family, duplex, and triplex): • 1 parking space per bedroom. (This is the current Room and Boarding parking requirement.)	18	72%	28%	1. For this size development there definitely need to be adequate parking so I would support there being one space per bed. Because we have no street parking overnight in the winter monthes this must be a requirement especially in the neighborhoods where students live close to campus. 2. Sure, it's good to have enough parking so that residents don't park in other areas, exacerbating the city's already limited parking. But, more important than the ratio of parking spots to beds is the TOTAL number of people (and therefore cars) that a development will bring to a neighborhood. So sure, 942 spots for 942 beds sounds good, but that is 942 MORE VEHICLES REGULARLY ON THE ROAD IN THAT NEIGHBORHOOD. Large numbers like that are causing rapidly deteriorating traffic situations in Flagstaff. This could be avoided by limiting the sheer number of bed permitted in these developments. 3. With density comes the need for improved walking routes and public transportation for commuting to/from work and for leisure. Fewer parking spaces combined with intentional development of interconnected sidewalks, promotion of public transportation and even incentivizing ride share/taxi services will help to lower the need for a 1 person 1 car infrastructure that becomes unnecessary with thoughtful density. 4. All buildings should provide enough parking. We have so many vacation rentals in our neighborhood that don't have adequate parking and they raise the cost of housing so there is no affordable housing. Make sure that HOH in CC are not NAU student housing or investors putting in short term rentals. The condos on Beaver and Dale already have short term rentals which are changing the character and sense of community in our neighborhood. 5. "In reading this, my understanding is this is for smaller developments like the one recently built on N. Beaver near Nativity church. Based on that assumption, I would hope those smaller developments would be targeted to Flagstaff residents & families VS NAU students. Perhaps for these smaller developments one of the other ratios would be appropriate like the .77? 6. Rents in Flagstaff are so very high already making housing for residents nearly unattainable & I don't know if a 1:1 parking: bedroom ratio for places, hopefully targeted for residents, would make them out of reach for the intended target & then simply filled with even more NAU students?" 7. In my opinion this is a critical requirement. Developers try to provide less parking. This always leads to an increase in "on street" parking which is already at a premium. 8. the existing parking code of one parking space per bedroom is to extreme, a 3 bedroom unit would require 3 spaces assuming that all 3 bedroom s are of driving age. most households have only 2 cars. a one parking space per unit should be fine per dwelling 9. If anywhere near an established neighborhood, there should be one space for each bedroom. That is the modern reality. Anything less makes life bad for existing residents.
6.	High Occupancy Housing Development with Four Dwelling Units and Above: Option 1 1 parking space per bedroom Example, The Standards has 942 bedrooms: 942 bedrooms x 1 space per bedroom = 942 spaces (This is the current Room and Boarding parking requirement.)	Total Respondents: 23	Support: 52%	Do not support: 48%	1. I find this to be one of the most difficult problems with the HOHD. A large part of these developments are huge parking garages or parking lots. The whole point of allowing these types of density was to get people out of their cars and walking or using public transit. The idea of 1 space per bed shows the complete failure of our ability to have this density work in the way it was intended in the Regional Plan. There should be studies of whether with the existing student housing developments all of the parking spaces are occupied. This should impact the amount of spaces required. Any incentives to stop out of town students from bringing cars to Flagstaff should be tried. Unfortunately, the lure of these developments is the reason many prefer them to on campus housing where there is no parking. There should be efforts made between NAU and these building management firms to provide inexpensive transit to Phoenix on the weekends, where I imagine most of these students are going. Carpooling should be encouraged in whatever way possible to dinners out, bar hopping or weekend hiking. If these HOHD are primarily student housing they have to work creatively to lessen the needs for their occupants to bring cars to Flagstaff.
	Option 2 First 100 bedrooms: 0.90 parking spaces per bedroom Remaining bedrooms greater than 100: 0.80 parking space per bedroom. (Not eligible for transit and bike reductions)	15	20%	80%	

Note: Due to the low number of responses to some of the concepts, some percentage results in the "Support" and "Do not support" columns may not be an accurate statistical representation of the community's desires.

	Example, The Standards has 942 bedrooms: 942 bedrooms → (100 x 0.90 space per bedroom) + (842 x 0.80 space per bedroom) = 764 spaces (This is option is alternative requirement that would require more parking for smaller development, and less for larger developments.)				2. I like option 3. Flagstaff is at a fantastic juncture to either embrace a lifestyle that provides more high-quality public transportation options... or go the way of Phoenix and remain shackled to our cars. 3. 1 parking space/bedroom, plus secure indoor bike storage of 1 bike spot/bedroom 4. One space per bedroom with NO allowances for proximity to mass transit or secure bicycle storage. It is way too optimistic to think that one can live in Flagstaff easily without a car.
	Option 3 0.77 parking space per bedroom (Not eligible for transit and bike reductions) Example, The Standards has 942 bedrooms: 942 bedrooms x 0.77 space per bedroom = 726 spaces (This is option is based on an actual City of Flagstaff Transportation Engineering Study of several High Occupancy Housing type developments.)	14	36%	64%	5. For these monolithic supposedly 'mixed use' HOH developments 1:1 - Option 1 is appropriate. However, I am wary about the allowances that could be granted for transit & bike parking. Are the numbers spelled out somewhere? 6. Option 3 seems reasonable 7. Option 3, make people dependent on alternative modes of transportation. 8. Option 1.
	Please provide your thoughts as to whether or not the parking requirements in Option 2 and 3 should be allowed to be reduced for providing transit pass to residents and/or additional high-security bike parking.	Total Respondents: 5	Support: 60%	Do not support: 40%	1. I support the reductions 2. Yes, but the total parking provided should not exceed the reduction. 3. I do not support the reductions 4. I support the reductions 5. I do not support the reductions
7.	Proposed Parking Reduction Requirements A. Transit: Should a High Occupancy Housing Development that provides free transit passes for residents be allowed up to a maximum 20% reduction in the required parking spaces?	14	88%	22%	1. The free transit pass requirement stay with the same development perpetually, regardless of change of ownership. 2. The actual car usage reductions created by providing the transit passes is needed to determine the allowable reduction percentage. 3. All Depends. Could be ok if the goals are met 4. Great idea, but let's be realistic. The tenant will pay the cost of the transit pass in their monthly rent. I think this should be available and optional if the tenant chooses as they might desire other forms of transportation based on their needs - walking, Lyft/Uber, bicycle, etc. However, I do think that there should be a cost/fee to utilize a parking space. If we make driving a car more expensive, that will change behavior that this rule may be trying to achieve. 5. "Before this is put into anything official, the verbiage needs to be corrected since it currently states ""free PARKING"" passes and not 'free TRANSIT' passes 2x. 6. Besides that, maybe a 10% reduction not 20%." 7. Great idea. 8. Too high. 5% max.
	B. Bike Parking: Should a High Occupancy Housing Development that provides at least 50 parking space be eligible for a reduction of one parking space per 4 high security bike parking spaces (e.g. bike lockers, monitored bike rooms or enclosures, or similar), up to maximum 10% of the required parking spaces.	10	60%	40%	1. I believe there is a place for reducing parking, but 4:1 is not acceptable. 2. All Depends. Could be ok if the goals are met. 3. Yes, but increase the bike ratio and lower the cap 4. I support the reductions 5. This is a great idea and along with bus passes should be encourage and incentivized. 6. I like this idea and believe it is this type of innovative thinking that we need for a multi-solution approach the a multi-faceted problem. I believe this should remain on the table as another option. 7. I don't think that there should be any reduction in the parking requirements of HOHD under any circumstances. 8. "No reduction in parking should be made for access to carshare programs especially in the 50+ HOH category. I believe the majority of the HOHD occupants are people who come from outside of Flagstaff. The primary purpose of carshare programs is to provide a vehicle for a short period of time for a particular 'task' that requires a motor vehicle.

Note: Due to the low number of responses to some of the concepts, some percentage results in the “Support” and “Do not support” columns may not be an accurate statistical representation of the community’s desires.

					9. Carshare programs do not address one of the main reasons the HOHD residents Bring a car with them...to get from Flagstaff to wherever they came from be it points south in state or out of state. A carshare program isn't going to make any difference in the number of cars brought to town so they can go home for winter break." 10. we own a duplex at 2315 n. center and are considering adding a 3rd. unit to our property , parking for the 3rd unit would have to be from the rear ONE WAY alley which runs from 6Th ave to colanthe ave . Would the city owned alley be a allowable entrance to our proposed #3rd.unit & allow parking to the parcel from the alley ??? also with the "High Occupancy housing plan" will the city be maintaining the alley in a better manor than they currently have in effect.??? 11. Carshare seems like a nice idea, but is not proven. We should not base parking space requirements on anything less than fully proven means of discouraging the one person/one car paradigm.
	Please add your thoughts pertaining to the proposed high-security bike parking reduction provisions for a High Occupancy Housing Development. Also, is the reduction amount sufficient, or too high? If the reduction is too high, or too low, what should the reduction be? Should there be additional criteria? If so, what additional criteria do you recommend?	Total Respondents: 4	Support: 50%	Do not support: 50%	1. I support the requirement 2. I support the requirement
	C. Car Share: Should the parking requirements of a High Occupancy Housing Development be allowed to be reduced for carshare facilities and vehicles?	13	31%	69%	1. Change the "Should" to may. 2. Not every development will work as a requirement. 3. All Depends. 4. Could be ok if the goals are meet
	Please provide your thoughts on the maximum amount that the parking requirements for a High Occupancy Housing Development should be allowed to be reduced. e.g. 5%, 10% 20%, etc. Please provide an explanation for your answer.	2	50%	50%	1. I support the reductions. We need to find ways to reduce students from bring cars 2. Maximum reduction of 10%
8.	A. Proposed Bedroom Allowances: 1. Medium Density Residential (MR): Maximum bedrooms per acre outside of the Resource Protection Overlay: 35 (2.5 bedrooms per dwelling unit x 14 dwelling units per acre = 35 bedrooms per acre)	4		6	1. I don't entirely understand what this proposal means - how it translates to a real thing? However, I would like to not have high density housing that allows for lots of people to share the space. I am in favor of anything that makes it hard for many college students to room together (to save on the rent) in the same unit. 2. However, we can combat the city being overwhelmed by gargantuan multi-bedroom student housing projects is a good thing. Flagstaff is slowly being overrun by NAU's growth and the projects being erected throughout the city by outside developers are not in any way beneficial to the city's affordable housing crisis. 3. Any increase in restrictions to reduce the maximum bedroom density is a good thing. High maximum bedroom density leads to a ghetto like atmosphere. We certainly do not want to turn into Chicago. However, we do need to address our affordable housing shortage in Flagstaff, but high-density housing is not the way to do it. 4. The MR should not be increased and the HR should not be increased.
	2. Maximum bedrooms per acre in the Resource Protection Overlay: 22.5 (2.5 bedrooms per dwelling unit x 9 dwelling units per acre = 22.5 bedrooms per acre)	7	71%	29%	
	B. High Density Residential (HR) maximum bedrooms per acre: 72.5 1. Maximum bedrooms per acre outside of the Resource Protection Overlay: 72.5 (2.5 bedrooms per dwelling unit x 29 dwelling units per acre = 72.5 bedrooms per acre)	7	86%	14%	
	2. Maximum bedrooms per acre in the Resource Protection Overlay: 55 (2.5 bedrooms per dwelling unit x 22 dwelling units per acre = 55 bedrooms per acre)	6	84%	16%	
9.	Should High Occupancy Housing Development in the commercial zones have a different density and bedrooms per acre in the Resource Protection Overlay ((2.5 bedrooms per dwelling unit x 22 dwelling units per acre = 55 bedrooms per acre).	4	25%	75%	1. I support densities. The Resource Protection Overlay is to save our trees and slopes. 2. Greater densities should not be allowed anywhere. 3. The greater density should be allowed 4. The greater density should not be allowed.

Note: Due to the low number of responses to some of the concepts, some percentage results in the "Support" and "Do not support" columns may not be an accurate statistical representation of the community's desires.

10.	Replace Rooming and Boarding in the following Zones with High Occupancy Housing Development land use in the following zones: Manufactured Housing (MH)	5	40%	60%	1. So does this mean that HOH is rent by room housing? If that is not the case then there should still be an additional hoop a developer has to jump through if they want to exclude families and only have students. Our goal should be to have housing that serves all and doesn't discriminate against families or anyone who cannot afford the expensive rent by room costs. If all of these changes are happening to regulate student housing or rent by room housing than you should call it what it is. It seems with this change you are just making it easier for developers to have this type of rental property. Rent by room should be approved with careful consideration of the neighborhood and the needs of the whole community not just NAU. 2. I don't think there should be any housing with multiple tenants each having separate rental agreements. This just promotes developers targeting their units to college students - we have enough of that already. 3. I am not sure I understand this. So, my comment may not apply. However, Flagstaff needs to somehow increase regulation of AIRBNB / VRBO, etc units as much as our restrictive Arizona state regulations allow. AIRBNB / VRBO and other short term rentals are out of control. 4. What new requirements will be imposed on landlords who have been renting their property under this classification in prior years? The structures that have been utilized under the Rooming and Boarding land use may not meet the new requirements for HOHD. How will this be addressed? 5. What about the Transect Zones? High Occupancy Housing should not be in allowed in these areas since they are mainly existing neighborhoods and are not consistent with existing developments. (Verbal comment at morning open house meeting at the Murdock Center) 6. The High Occupancy Housing allowed in the Transect zones should not be allowed. (Verbal comment at morning meeting at the Murdock Center) 7. How are you going to stop High Occupancy Housing in Transect Zones? They sould not be allowed (Verbal comment at morning open house meeting at the Murdock Center). 8. Projects like the HUB, and multi bedroom triplexes and duplexs (four bedrooms and greater) High Occupancy Housing types that are allowed in transect zones and are out of scale with existing developments, impact parking, and neighborhood. These types of HOH development should not be allowed. (Verbal comments on southside meeting on Zoning).
	Estate Residential (ER)	7	29%	71%	
	Medium Density Residential (MR)	6	67%	33%	
	High Density Residential (HR)	6	83%	17%	
	Suburban Commercial (SC)	5	40%	60%	
	Community Commercial (CC)	7	57%	43%	
	Highway Commercial (HC)	5	80%	20%	
	Commercial Service (CS)	4	50%	50%	
	Central Business (CB)	6	50%	50%	
11.	Please provide your thoughts pertaining to whether a high occupancy housing development should be allowed as a Conditional Use Permit without including commercial as a mixed use development.	Total Respondents: 1	Support: 100%	Do not support: 0%	1. I support HOH without Mixed Use
12.	Proposed Zoning Code Specific to Use Requirements for a High Occupancy Housing Development: 1. A mixed-use High Occupancy Housing Development shall comply with the mixed-use development standards of the Zoning Code. 2. Prior to the issuance of a building permit for the HOHD, the property owner shall obtain approval of a safety plan from the Flagstaff Police Department's Crime Free Multihousing program. 3. Prior to the issuance of a building permit for the HOHD, the property owner shall obtain approval of a "good neighbor" plan from the Flagstaff Police Department's Crime Free Multihousing program that all tenants are required to sign and comply with as part of the tenant's lease. 4. Prior to the issuance of a building permit for the HOHD, the property owner shall obtain approval of a waste management plan from the City's Public Works Director that shall be implemented to the reduce waste generated by the development.;	4	50%	50%	1. These are all good but why isn't recycling included with the waste management section. If we are to have this kind of density producing so much more waste in our community, why isn't there requirement for some of this waste to not go in the landfill. Why are these types of developments exempted? 2. Agreed.

Note: Due to the low number of responses to some of the concepts, some percentage results in the “Support” and “Do not support” columns may not be an accurate statistical representation of the community’s desires.

	5. Prior to the final approval of a subdivision that creates one or more lots or parcels that would contain a development conforming to the definition of a HOHD, the property owner shall obtain approval of a Conditional Use Permit for the property that would contain the HOHD. Please share your thoughts about the proposed use requirements for a High Occupancy Housing Development. Does the propose requirements capture your thoughts as it pertains to this use?				
	Total Comments Received	271	Total Written Comments Received		90
Total Participates (40 - Open House Attendees) + (260 - Online Community Forum Views)		300			

Summary of Public Comments and Questions Received

from the February 13 and 14, 2020 Open House Meeting on the Zoning Code.

1. Does the proposed Zoning Code or High Occupancy Housing Plan allow for additional building height?

   Staff Response: Neither the proposed zoning code and the High Occupancy Housing Plan allow for additional building height

2. Is the High Occupancy Housing Plan specific to any one area?

   Staff Response: The High Occupancy Housing Plan address all areas of the City.

3. Where is High Occupancy Housing allowed?

   Staff Response: There are large and small High Occupancy Housing developments. As defined, the proposed Zoning Code allows High Occupancy Housing all residential and commercial zones, and all transect zones (excluding the T1 Natural (T1) and T2 Rural (T2)).

4. Are there ways to getting around the High Occupancy Housing requirements? For example, a dwelling unit having 8 bedrooms

   Staff Response: Only the single-family dwelling unit has a bedroom cap in any one dwelling unit. There is no bedroom cap in the two-unit/duplex ar a multifamily development.

5. Is a request for a Conditional Use Permit subject to the surrounding neighborhood comment?
   Staff Response: All Conditional Use Permits require a public meeting, at least, before the Planning and Zoning Commission. The Planning and Zoning Commission, or the City Council when applicable, may consider public comments in rendering their decision in the approval or denial of the Conditional Use Permit. The Planning and Zoning Commission's and the City Council's decision is limited to the Conditional Use Permit Criteria.
6. In a single-family neighborhood, is an accessory dwelling unit allowed.
   Staff Response: An accessory dwelling unit is allowed in a lot with a single-family dwelling unit.
7. Is it correct that Northern Arizona University (NAU) attendance going down?
   Staff Response: Staff has been informed that the attendance had decreased this past semester.
8. Does the development have to be compatible with the style of existing surrounding developments?
   Staff Response: The Conditional Use Permit criteria requires a finding that the compatibility criteria have met.
9. The Standard is not 100% full, 90% full per the leasing manager. It has open parking on the ground floor that is set aside for the commercial areas. Currently the residents are using the spaces since the commercial is vacant. There is available parking on the upper floors.
10. Why are they building more rooms for students? The attendance is down as NAU.
    Staff Response: Arizona is a free market state. Therefore, the property owners and developer can build what they want if it is allowed by the properties zone.
11. So, we will have just a bunch of slum housing in and next to downtown.
12. Arizona laws prohibit requiring affordable housing
13. Could the proposed standards require a minimum number of studio and one-bedroom units? For example, a minimum of 20 percent of the total dwelling units. Also, could the proposed

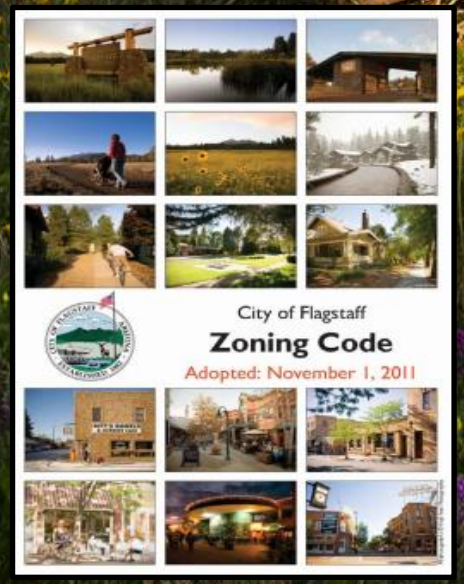
standards have a maximum number of 4 bedrooms or greater? For example, a maximum of 20 percent of the total dwelling units. Therefore, this would not allow 50 to 80 percent, or more, of the dwelling to be 4 bedrooms or greater
Staff Response: Yes, the proposed standards could.

14. Are there developer pushing to get their approval before the adoption of these proposed development standard.
    Staff Response: We have been told that some developer desire to get their approvals before the proposed standard become effective.
15. The market demand is 1 and 2 bedrooms. We want the three, four, and five-bedroom unit apartment near NAU, where the student can walk.
16. What is there to protect the low-density developments?
    Staff Response: Each zone has a list of allowed land uses and densities. The Zoning Code provided for protections within the zone, although almost all zones allow for multi-family developments at different densities. Also, single-family is allowed in almost all of the zones.
17. What regulates the Zoning Code?
    Staff Response: All new zoning code amendment must be in conformance with the Regional Plan, and applicable specific plans.
18. The proposed parking standards are to high for small developments. They should be like the transect zones.
19. Allow smaller HOH developments by-right, without the requirements for a Conditional Use Permit.
20. Provide incentives for infill developments with a lower parking requirement.

Updates to Zoning Code 2020 - High Occupancy Housing Specific Plan

City's Request to Amend the Zoning Code

Case PZ-19-00125

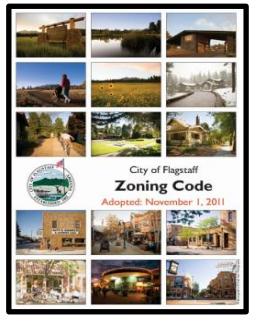


TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Dan Symer, AICP
Zoning Code Manager

Work Session Objectives

- To inform the public and allow for their suggestions and concerns to be heard
- To inform the City Council and allow for their suggestions, questions and discussion
- No action will be taken by the City Council at this work session

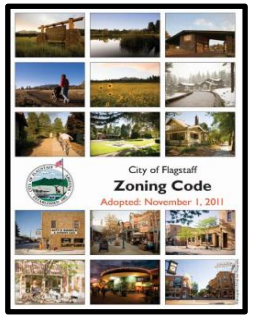


Why did the City adopt the HOH Plan?

- **Fulfills the Regional Plan Policy NH.1.7. "Develop appropriate programs and tools to ensure the appropriate placement, design, and operation of new student housing developments consistent with neighborhood character and scale."**

- **Refines the goal and policies pertaining to the location of HOH mixed-use building in activity centers**

- **Preserve the of character of existing and historic neighborhoods**

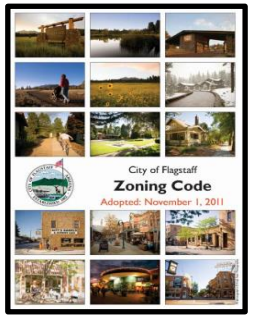


City's Proposed Zoning Code Text Amendment

Purpose:

- **Amend the Zoning Code to begin implementing the High Occupancy Housing (HOH) Plan**
  - **Address smaller HOH development types**

- **Remove the Rooming and Boarding provisions**



City's Proposed Zoning Code Text Amendment

HOH land uses provisions:

a. **Definitions**

b. **Zones that allow High Occupancy Housing Development (HOHD) and Mixed-Use High Occupancy Housing Development (MHOHD)**

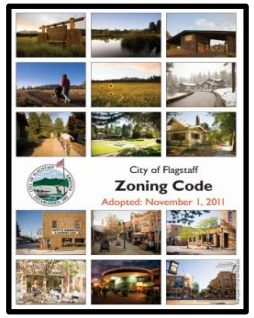
c. **Maximum dwelling unit and bedroom per acre provisions**

d. **Specific to use property development criteria**

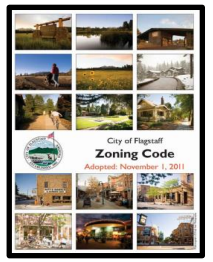
e. **Conditional Use Permit HOH specific criteria**

f. **Vehicle and bike parking requirements**

g. **Transit Pass Parking Reduction Pilot Program**



City's Proposed Zoning Code Text Amendment



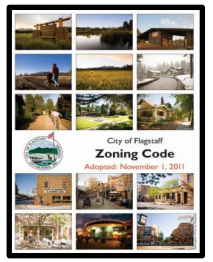
Definitions

- **High Occupancy Housing Development, Single-Family. A single-family attached or detached dwelling unit with five bedrooms or more:**
  - **a. On a lot or parcel containing 10,000 square feet or less; and**
  - **b. Has a Bedroom-to-Sanitation Facility Ratio less than 1.2**
  - **a. Seven or more bedrooms; or**
  - **b. Five or more sanitation facilities**

Note: Red text indicates deletions

Blue text indicates additions

City's Proposed Zoning Code Text Amendment



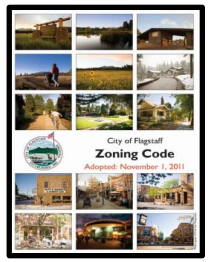
Definitions

- **High Occupancy Housing Development, Two-units. A lot or parcel containing two dwelling units, excluding an Accessory Dwelling Unit, with:**
  - **a. More than a total of six bedrooms; or**
  - **b. One or more dwelling unit(s) containing four or more bedrooms with a Bedroom-to-Sanitation Facility Ratio less than 1.3**
  - **a. More than a total of seven bedrooms; or**
  - **b. One or more dwelling unit(s) containing four or more sanitation facilities**

Note: Red text indicates deletions

Blue text indicates additions

City's Proposed Zoning Code Text Amendment



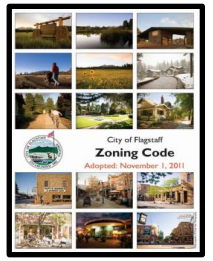
Definitions

- **High Occupancy Housing Development, Three-units. A lot or parcel containing three dwelling units with:**
  - **a. More than a total of nine bedrooms; or**
  - **b. One or more dwelling unit(s) containing four or more bedrooms with a Bedroom-to-Sanitation Facility Ratio less than 1.3**
  - **b. One or more dwelling unit(s) containing four or more sanitation facilities**

Note: Red text indicates deletions

Blue text indicates additions

City's Proposed Zoning Code Text Amendment



Definitions

- **High Occupancy Housing Development, Four-units and Greater. A Development Site containing four or more dwelling units where:**

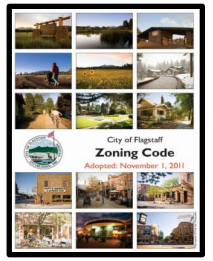
  a. **More than 20 percent of the total dwelling units have four bedrooms or more;**

  b. **One or more of the dwelling unit(s) containing four or more sanitation facilities bedrooms has a Bedroom-to-Sanitation Facility Ratio that is less than 1.3; or**

  c. **The total number of dwelling units per acre, or bedrooms per acre, requires a Conditional Use Permit for an HOHD in accordance with the building form and property development standards of the property's designated Non-Transect Zone; or, if the property owner has elected a Transect Zone, the density is greater than 29 dwelling units per acre or 72.5 bedrooms per acre**

Note: Red text indicates deletions and Blue text indicates additions

City's Proposed Zoning Code Text Amendment



Definitions

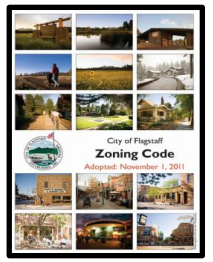
- **Mixed-Use High Occupancy Housing Development (MHOHD).**

  A mixed-use development with:

  - **More than 20 percent of the total dwelling units have four bedrooms or more;**
  - **One or more dwelling unit(s) containing four or more bedrooms sanitation facilities with a Bedroom-to-Sanitation Facility Ratio that is less than 1.3; or**
  - **The total number of dwelling units per acre, or bedrooms per acre, requires a Conditional Use Permit for an MHOHD in accordance with the building form and property development standards of the property's designated Non-Transect Zone; or, if the property owner has elected a Transect Zone, the density is greater than 29 dwelling units per acre or 72.5 bedrooms per acre**

Note: Red text indicates deletions and Blue text indicates additions

City's Proposed Zoning Code Text Amendment



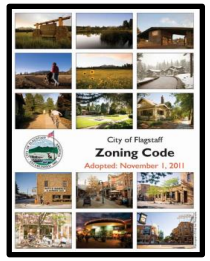
Additional Modifications

- **An HOHD or MHOHD with four dwelling units or more, and that has more than 29 dwelling units per acre or more than 72.5 bedrooms per acre, excluding a Single-family HOHD, shall have:**
  a. **A minimum of 20% of the bedrooms contained in studio and/or one-bedroom dwelling units; and**
  b. **A maximum of 30% of bedrooms contained in dwelling units with four bedrooms or more**

- **An HOHD or MHOHD with four dwelling units or more, and that has 29 dwelling units per acre or less or 72.5 bedrooms per acre or less, excluding a Single-family HOHD, shall not exceed a Bedroom-to-Dwelling Unit Ratio greater than 3.5**

Note: **Red text indicates deletions** **Blue text indicates additions**

City's Proposed Zoning Code Text Amendment



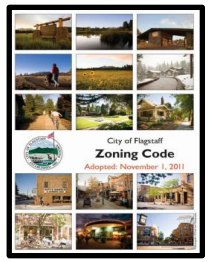
Additional Modifications

- **A Two-unit HOHD and MHOHD maximum number of bedrooms: 10**
- **A Three-unit HOHD and MHOHD maximum number of bedrooms: 12**

Note: **Red text indicates deletions**

Blue text indicates additions

City's Proposed Zoning Code Text Amendment

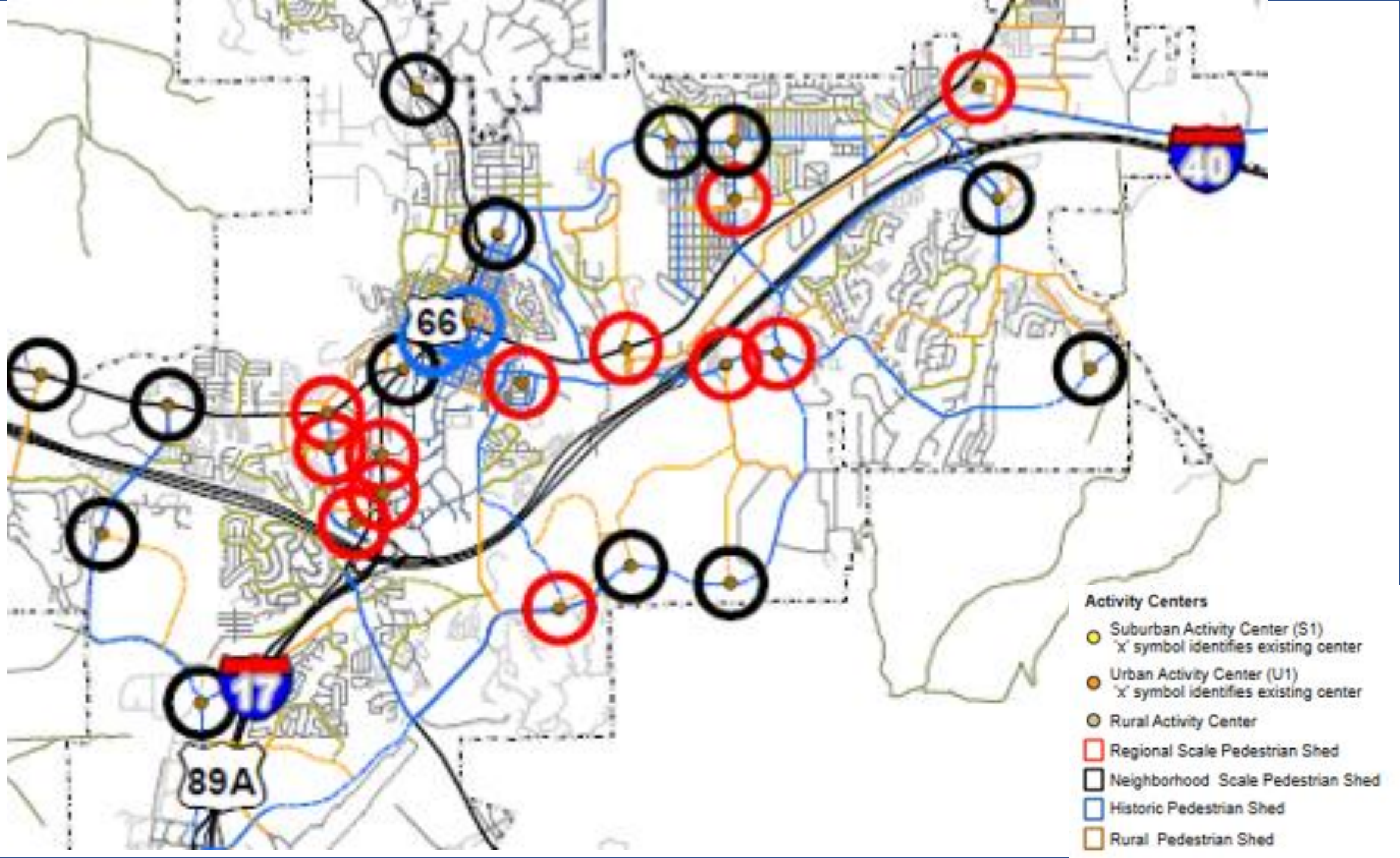


Additional Modifications

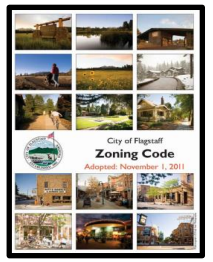
- **Where the area of a pedestrian shed of an activity center intersects with the area of a pedestrian shed of another activity center, the pedestrian shed with the more restrictive maximum building footprint requirement shall govern the intersecting area. The locations of the pedestrian sheds of the activity centers are identified in the General Plan, including any applicable Specific Plans**

Note: Red text indicates deletions

Blue text indicates additions


66
40
89A
Activity Centers
Suburban Activity Center (S1)
'x' symbol identifies existing center
Urban Activity Center (U1)
'x' symbol identifies existing center
Rural Activity Center
Regional Scale Pedestrian Shed
Neighborhood Scale Pedestrian Shed
Historic Pedestrian Shed
Rural Pedestrian Shed

City's Proposed Zoning Code Text Amendment



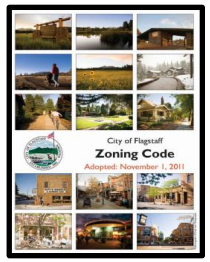
Additional Modifications

- **The property owner of an HOHD or MHOHD shall maintain compliance with the Flagstaff Police Department's Crime Free Multi-Housing Program, unless exempted by the Police Department's Crime Free Multi-Housing Program representative**

Note: Red text indicates deletions

Blue text indicates additions

City's Proposed Zoning Code Text Amendment



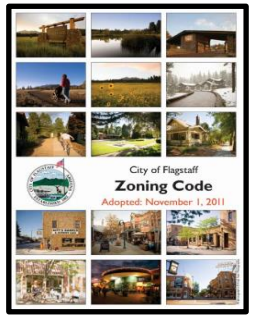
Additional Modifications

- **HOHD or MHOHD with four dwelling units or more:**
  - **Waste management plan**
  - **Typical floor plans or a typical residential unit floor plan study**
  - **Adequate transit service is available to the Development Site**

High Occupancy Housing Zoning Code Text Amendment

TEAM FLAGSTAFF
WE MAKE THE CITY BETTER

Comments, Questions and Discussion



CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	09/30/2020
Meeting Date:	10/06/2020

TITLE

Future Agenda Item Request (F.A.I.R.): A request by Councilmember Whelan to place on a future agenda a discussion about the current process for all Reclaim Water agreements/contracts and their renewals and discussion to change that process so that all agreements and their renewals become before the Water Commission and Council for approval.

STAFF RECOMMENDED ACTION:

Council direction.

EXECUTIVE SUMMARY:

Rule 4.01, Procedures for Preparation of Council Agendas, of the City of Flagstaff City Council Rules of Procedure outlines the process for bringing items forward to a future agenda. Councilmember Whelan has requested this item be placed on an agenda under Future Agenda Item Requests (F.A.I.R.) to determine if there are two other members of Council interested in placing it on a future agenda.

INFORMATION:

Attachments:

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To:	The Honorable Mayor and Council
From:	Stacy Saltzburg, City Clerk
Date:	10/02/2020
Meeting Date:	10/06/2020

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

October 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…

Water Services

Awards

Please see below recognition for Flagstaff Water Services. These are National Water Conservation Awards, placing the City at the forefront of Arizona municipalities in its conservation efforts. The excerpt is from the Water Services Website. Congratulations to the Water Services Team … very impressive!

Flagstaff Water Services Receives Two National Water Conservation Awards

Post Date: 9/30/2020

We're getting closer to our City goal of being a National Leader!

Flagstaff's Water Conservation Program earned a Gold level on the Alliance for Water Efficiency G480 Leaderboard, in recognition of Water Services' incorporation of voluntary industry standards that promote water efficiency. The G480 Standard identifies critical elements of an effective water conservation program, such as dedicated staff for conservation efforts, a water waste ordinance, universal metering practices, a landscape efficiency program, and a water loss control program. Flagstaff is the first city in Arizona to join other top utilities in the nation on the Leaderboard, demonstrating an innovative and successful water conservation program!

Alliance for Water Efficiency

EPA WaterSense PARTNER

The Environmental Protection Agency awarded Flagstaff a 2020 WaterSense Excellence Award, for its promotion of WaterSense-labeled products, designed to reduce water consumption and save money. In 2019, Water Conservation staff helped businesses and residents replace 1,150 toilets, 2,080 showerheads and 3,500 aerators through rebates, incentive programs and product giveaways. As an EPA WaterSense partner, Flagstaff consistently promotes water efficiency and WaterSense products. To learn more about reducing your water use, email us at Savewater@flagstaffaz.gov or visit our webpage at Flagstaff.az.gov/savewater.

Director Recruitment

In early Spring 2020, the CMO underwent a comprehensive and collaborative effort to recruit for the Water Services (WS) Director position in anticipation of a vacancy created by the retirement of Mr. Brad Hill in July 2020. These leadership recruitments typically take several months to conduct, and we wanted to ready. While the outcome of that earlier recruitment effort didn't conclude with a permanent hire, we are fortunate that it did conclude with the interim appointment of our very own Mr. Ryan Roberts, as Acting Water Services Director. Since June when taking the new interim role, Mr. Roberts has done a wonderful job carrying the water (pun intended) and in providing unique and impactful leadership to the division and to the community as a whole.

The CMO remains committed to the effort of permanently filling the WS Director position and to that end offers the following timeline in doing so:

- October 11 – 30: Conduct WS employee feedback on the recruitment effort
- November 6 – 20: Position is posted for two weeks nationally
- November 23 – December 11: Applicants are matrixed, and applicants selected for initial phone interviews will be contacted to schedule those interviews.
- December 14 – 18: Phone Interviews are held with applicants selected for 1st round interviews (via phone)
- December 20 – January 1: Phone interview results will be reviewed. Finalists will be identified and in-person (likely virtual) interviews will be scheduled.
- January 4 – 8: Conduct in-person (likely virtual) interviews with finalists. Should a top candidate be selected an offer will be made with the hopes of having the position filled by mid to late February 2021.

Police

Police Chief Recruitment Update

Deputy City Manager Shannon Anderson met with the Flagstaff Police Department Dispatch, Records, Patrol Squads, and Command Staff about the upcoming Police Chief interviews to obtain their input on what staff are looking for in the next Police Chief.

In terms of timeline, the Human Resources Division will be reaching out to the top six applicants identified through the screening interview to see if they are still interested in the Flagstaff Police Department Police Chief position. If the applicants are still interested, planning for the onsite (or virtual onsite) process will begin. If there are less than four applicants still interested, then another advertisement will be completed to create a competitive recruitment process.

The plan is to name a new Police Chief in January 2021, but this recruitment process will be a bit staggered from that of the Water Services Director process to minimize overlapping interviews and procedures.

Community Development

The following excerpts are provided, courtesy of the Community Development Division. During the recent update to the Council regarding revenue trends and projections, there was much attention directed to

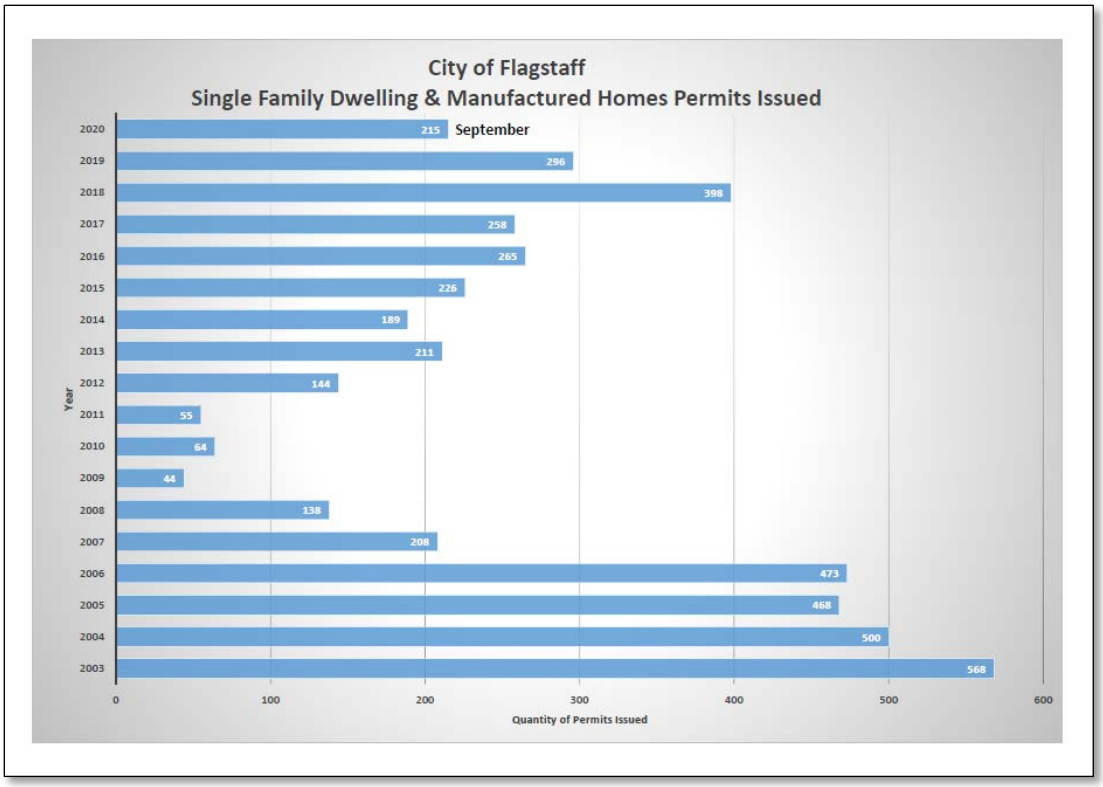
the fact that the building industry has been a healthy revenue source for the City during this recession. That may be an understatement when looking at the first matrix provided below. Please note the difference, year to date, between last year and this year. The primary difference is that of non-residential valuation, reflecting some larger commercial projects that are currently in play.

10/1/2020 Monthly Statistical Report

Monthly Statistical Report
City of Flagstaff

Category	Current Period 09/01/2020 - 09/30/2020			YTD 01/01/2020 - 09/30/2020			Previous Year 09/01/2019 - 09/30/2019			Previous Year YTD 01/01/2019 - 09/30/2019		
	Valuation	Issued	Units	Valuation	Issued	Units	Valuation	Issued	Units	Valuation	Issued	Units
Additions/Alterations/Conversions	2,671,104.00	37	0	38,467,566.00	259	1	2,172,267.00	23	0	41,518,633.00	205	0
Demolition	142,345.00	3	0	326,245.00	12	0	15,000.00	1	0	246,186.00	17	0
Mobile Home	0.00	1	0	213,900.00	7	0	0.00	0	0	673,319.00	10	0
Multi-Family	0.00	0	0	200,000.00	2	6	0.00	0	0	0.00	0	0
Non-Residential	1,700,000.00	1	0	104,764,440.00	37	382	4,202,207.00	8	0	29,053,222.00	44	70
Over The Counter	366,766.00	78	0	1,883,532.00	463	0	187,452.00	46	0	1,909,348.00	483	0
Roofing	1,393,746.00	116	0	5,059,086.00	457	0	383,620.00	45	0	4,218,944.00	356	0
Single Family Attached	89,640.00	4	4	10,941,631.00	66	64	35,000.00	1	1	6,019,852.00	48	48
Single Family Detached	4,777,310.00	24	24	38,602,544.00	142	143	6,843,778.00	30	27	32,554,368.00	161	158
Solar	177,510.00	5	0	1,387,840.00	44	0	287,057.00	14	0	1,302,217.00	58	0
Totals	11,318,421.00	269	28	201,846,784.00	1489	596	14,126,381.00	168	28	117,496,089.00	1382	276

In terms of residential (single family and mobile home), the issuance of building permits is depicted in the below graph, showing annual issuances since 2003. It is evident that there is much more activity now than what occurred during the Great Recession.



In terms of building inspections and plan reviews, the following matrix shows a ten-year tally. Notably, the plan reviews continue to track relatively high.

City of Flagstaff

BUILDING INSPECTIONS PER CALENDAR YEAR

MONTHS	CY11	CY12	CY13	CY14	CY15	CY16	CY17	CY18	CY19	CY20
JAN	830	805	989	1069	872	662	1134	1243	1373	1162
FEB	760	829	911	922	915	876	1194	980	982	1284
MAR	1015	819	1121	876	1050	987	1573	1235	1288	1163
APR	814	1069	979	932	1163	1014	1492	1197	1363	1429
MAY	970	1205	1188	951	911	984	1582	1163	1539	1289
JUN	969	1060	1103	997	1098	1148	1605	1153	1522	1393
JUL	885	1183	1316	1143	1049	1231	1396	1046	1621	1304
AUG	1051	1571	1424	1139	846	1274	1675	1311	1722	1353
SEPT	835	1210	1385	1212	1039	1137	1242	1210	1386	1483
OCT	883	1385	1421	1180	1066	1411	1264	1452	1670	
NOV	873	1367	981	870	765	1283	1127	1218	1236	
DEC	630	965	1074	925	798	1205	1083	1112	1042	
TOTAL	**10515**	**10515**	**13468**	**13892**	**12216**	**13212**	**16367**	**14320**	**16744**	**11860**
# Insptr.	4.5	4.5	5	5	5	5	6	7	7	6
Per Insptr	**2337**	**2337**	**2694**	**2778**	**2443**	**2642**	**2728**	**2046**	**2392**	**1977**

PLAN REVIEWS PER CALENDAR YEAR

MONTHS	CY11	CY12	CY13	CY14	CY15	CY16	CY17	CY18	CY19*	CY20*
JAN	22	20	23	37	52	54	58	133	104	124
FEB	27	37	24	46	53	65	81	177	107	110
MAR	27	17	40	69	59	78	134	181	172	116
APR	29	35	65	53	64	90	101	132	161	149
MAY	37	47	58	68	65	90	160	139	203	133
JUN	30	61	45	51	53	73	132	131	179	171
JUL	37	38	61	69	100	79	116	160	143	165
AUG	38	45	52	49	76	78	116	115	165	183
SEPT	35	43	71	58	76	65	116	184	142	151
OCT	32	36	46	59	75	103	116	79	142	
NOV	24	31	56	47	65	68	116	104*	174	
DEC	13	35	33	71	65	68	116	155*	176	
TOTAL	**351**	**445**	**574**	**677**	**803**	**911**	**1362**	**1690***	**1692***	**1302**
# PE	2	2	2	2	3	3	3	3	3	2
Per PE	**176**	**223**	**287**	**339**	**268**	**304**	**454**	**564**	**564**	**651**

Note: includes plans sent to 3rd party, IDS reviews, Engineering Reviews, Resubmittals & RFI's

*Inlcudes resubmittals - (Started tracking Nov. 2018)

With regard to Code Compliance, the below tables illustrate the number of cases, year to date, and the types of activity being addressed:

City of Flagstaff - Code Compliance Reporting 2020

Complaint	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Staff Driven Complaint	152	156	113	130	51	88	60	44	63			
Citizen Driven Complaint	20	12	19	41	34	21	41	28	27			
New Cases	172	168	132	171	85	109	101	72	90			
Case Status												
Open Cases (of total new cases above)	25	28	26	61	18	33	30	15	35			
Closed Cases (of total new cases above)	147	140	106	110	67	76	71	57	55			

Violation Type	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Year End Totals
Abandoned/Junked Vehicles	0	1	0	4	1	2	0	0	0				
Accessory Dwelling Unit	0	0	0	0	0	0	0	1	0				
Building Regulations	0	0	0	25	1	0	4	0	0				
Camping on Public Property within City Limits	0	0	0	2	3	0	2	1	0				
Collection/Disposal Practices	1	2	12	64	2	12	14	6	6				
Commercial Work on Motor Vehicles	0	0	0	0	0	0	0	0	1				
Failure to Remove Snow/Obstructions from Sidewalk & Deposit of Snow in ROW/Hedges over Sidewalk	36	9	14	15	10	11	11	11	9				
Failure to Meet Landscape Standards	0	0	0	1	18	1	0	0	0				
Failure to Meet Outdoor Lighting Standards	9	5	10	7	7	3	11	4	9				
Failure to Meet Parking Standards/General Parking Standards	2	2	1	5	1	3	4	6	2				
Failure to Meet Resource Protection Standards	0	0	0	0	0	0	0	0	1				
General Restrictions/Requirements for all Signs, Failure to Meet Temporary Sign Standards	4	5	10	3	14	39	9	14	24				
Failure to Meet Building from Standards/Setbacks	0	0	1	0	0	0	0	0	0				
Graffiti	111	128	61	36	15	16	21	3	11				
Littering	3	4	5	3	1	2	1	1	2				
Illegal Use or Activity without Permit	1	5	6	4	5	10	6	12	11				
Illegal Use in Zone	1	2	5	0	2	1	0	1	0				
Keeping of Certain Animals	0	2	0	0	1	1	0	0	4				
Parking of Commercial Vehicles in Residential Zone	0	0	0	0	0	0	0	1	0				
Parking of RV's	1	0	2	1	1	1	2	1	2				
Posting of Handbills on Public/Private Property	0	0	0	0	1	0	11	0	0				
Storage Containers Temporary/Permanent	0	0	0	0	0	0	0	0	0				
Storage of Unregistered/Inoperable Vehicles	0	0	0	0	0	0	0	1	0				
Storing or Placement of Solid Waste	1	2	4	1	0	1	0	2	1				
Unauthorized Accumulation of Litter on Private Property	0	0	0	0	0	0	1	1	2				
Uninhabited or Vacant Private Property	1	1	0	0	0	1	1	0	0				
Violation of Fence/Wall & Sceening Standards	0	0	0	0	0	0	1	0	0				
Water Conservation	0	0	0	0	0	0	0	2	3				
Other Misc	1	0	1	0	2	5	2	4	2				
Total Complaints by Month	172	168	132	171	85	109	101	72	90				

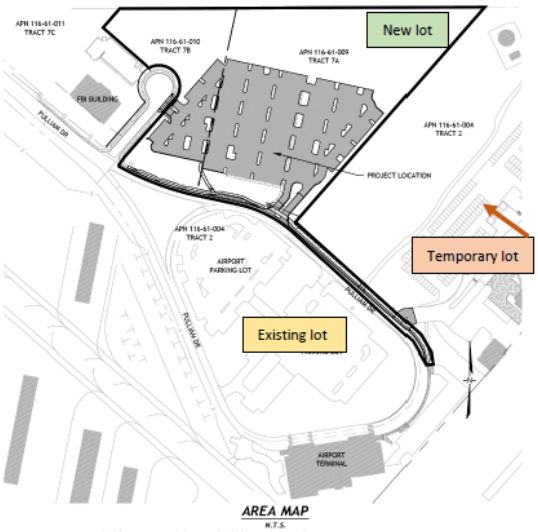
Community Development remains quite busy. Gratitude is also given for the assistance in many organizational functions during this pandemic, including ongoing participation in the Re-Entry Team and the Expanded Use of Rights of Way (EUROW) Team. Also of note, the involvement of Community Development in the current discussions related to long-term lease templates for city properties is also greatly appreciated.

Airport

Please see below from our Economic Vitality Division, related to the parking project at the Pulliam Airport. With the need for a new cultural study for FAA review and approval, we will delay the start of this project until spring, and once again utilize the temporary lot that was put into place last year. While the setback is a bit discouraging, the project will be pursued within the current fiscal year, as budgeted, and should not create any hardship on the traveling public. We will report back to Council with specifics, and a timeline. Stay tuned.

Flagstaff Pulliam Airport Parking Lot Project Update: September 2020

The parking project for the Flagstaff Pulliam Airport involves creating a second lot that will offer an additional 405 parking spots and 4 electric vehicle charging ports for our airport patrons. The site of the new lot is adjacent to the existing lot and shown on the map to the right.



AREA MAP
N.T.S.

Once we have the second lot in place, we will upgrade the existing parking lot with repaving, re-striping, and more. Important to note, we have added more ADA spots to our current lot. We also created a temporary parking lot to assist in parking for our airport employees and overflow rental cars. We will be extending the service of the temporary parking lot for one more year. This will continue to assist us in our parking needs while we work to create the second lot.

We were hoping to begin construction of the second parking lot this Fall, however, Federal Aviation Administration (FAA) had decided recently that our cultural study needed an update. We are working with our design consultants (Peak Engineering) and the FAA to update our cultural study. Our airport-wide environmental assessment, which needs to be updated every 10 years, recently expired. This setback has caused us to look for a way to get this completed and not delay the project through a full construction season.

Since we are currently partnering with Peak Engineering on the design portion of our parking lot, our engineer on staff was able to utilize the existing contract to solicit the assistance of, Logan Simpson, to conduct the Class 3 cultural study needed. Peak Engineering and Logan Simpson are scheduled to provide the formal study within five weeks. This would take us to the end of October 2020 to provide the study to the FAA and begin developing the construction contract.

We are also working to hire a consultant to help our City Staff with the paid parking transition. We currently have a multi-year engineering contract for a consulting firm out for Request for Statement of Qualifications (RSOQ) where we received four submissions. After checking with the FAA, we found out that they would allow us to add 'parking' to the list of items that this consultant could perform. With that said, we will be utilizing the chosen consulting firm to help lead the remainder of the airport parking lot paid parking portion of the project.

By November 2020, we will have a consultant identified, the cultural class 3 study completed, and will have the consultant work with our City Staff to create a parking lot timeline. This timeline will also include finishing out our procurement for a construction firm which has been in motion. Once the timeline is formalized, we will share more with Council. Our target is to start working on the parking lot in the Spring.

Sustainability

And finally, the below represents some updates from the Sustainability Section, some of which is a bit dated as it has been three weeks since the last City Manager's Report. Nevertheless, it is still informative.

CITY COUNCIL ITEMS:

- 10/6 - AZ Game & Fish Cooperative Access Agreement on Observatory Mesa
- 10/27 - Discussion of options for the expiration of the Materials Recycling Facility Contract.
- 10/27 - Climate Emergency revisions to the Climate Action and Adaptation Plan

COMMISSIONS:

- Open Space Commission: Next meeting, Monday, September 28th.
- Sustainability Commission: Next meeting: Thursday, September 24th.

Staff announcements (Personnel updates, awards, grants secured)

- Administrative Assistant-Sustainability position announcement closes 9/18/20. Currently there are 68 applications.

Regular Weekly Updates

CLIMATE ACTION:

- Staff hosted a weekend 1-hour virtual Climate Emergency Forum.
- Path to Carbon Neutrality Survey is live. The 10-minute survey will gather feedback on the 7 cross-sector targets required to achieve carbon neutrality. The survey will be open for six weeks.
- Staff presented to the ECoNA Business Attraction committee on the City's carbon neutrality goals.

COMMUNITY STEWARDS/LITTER PREVENTION:

- September's "30 Days Albert's Way" has 45 active participants, that have already picked up over 6,000 pieces of litter in our community. Our top picker, Melanie Street has picked up 2,401 pieces!
- Staff is partnering with Discover Flagstaff (CVB) on their fall Tourism Litter Clean Up, October 14-20. They will be utilizing the Litterati App during their fall conference in and around the community.
- There were two litter clean ups in the community, yielding over 15 bags of trash and recycling.

OPEN SPACE/LAND CONSERVATION:

- Open Space was approved for a TREE grant to remove invasive trees on McMillan Mesa.

MATERIALS MANAGEMENT:

- City Council approved the renewal of the IGA between the City and NAU to process City organic waste. Staff focusing next on residential yard waste and we discussed the possibility of a community drop-off event in the fall to collect leaves and pine needles.
- GIS developed an app to reference recycling inspections efforts to improve customer service. Solid Waste and Sustainability staff will now be able to reference the app, if a customer calls or emails with questions about why the received an oops tag. We can even reference a photo showing the contents of resident's bins to address concerns about specific materials.

Upcoming Events

- Flagstaff 15 Minute Makeover, 10/15 at 10:15 am we encourage the community to spend 15 minutes picking up litter where they live, work, or learn.
- Fix It Clinic by Appointment, Saturday, October 10, 2020 from 10:00 am to 2:00 pm at CoCo Coop Maker Space (masks required)
- Drop Off Day, Dump the Drugs, Shred-a-thon: Saturday, October 24, 2020, 10:00 am to 2:00 pm at the Flagstaff PD-Drive through/masked event.

That's all for now Council. Onward and upward …

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council

From: Shannon Anderson, Deputy City Manager

Date: 10/02/2020

Meeting Date: 10/06/2020

TITLE
COVID-19 and Re-Entry Updates

STAFF RECOMMENDED ACTION:

Information and Possible Direction

EXECUTIVE SUMMARY:

City staff will present the most recent dashboards from Coconino County Health and Human Services, Arizona Department of Health Services, and Northern Arizona Healthcare to continue monitoring the transmission trends and capacity of the healthcare system.

INFORMATION:

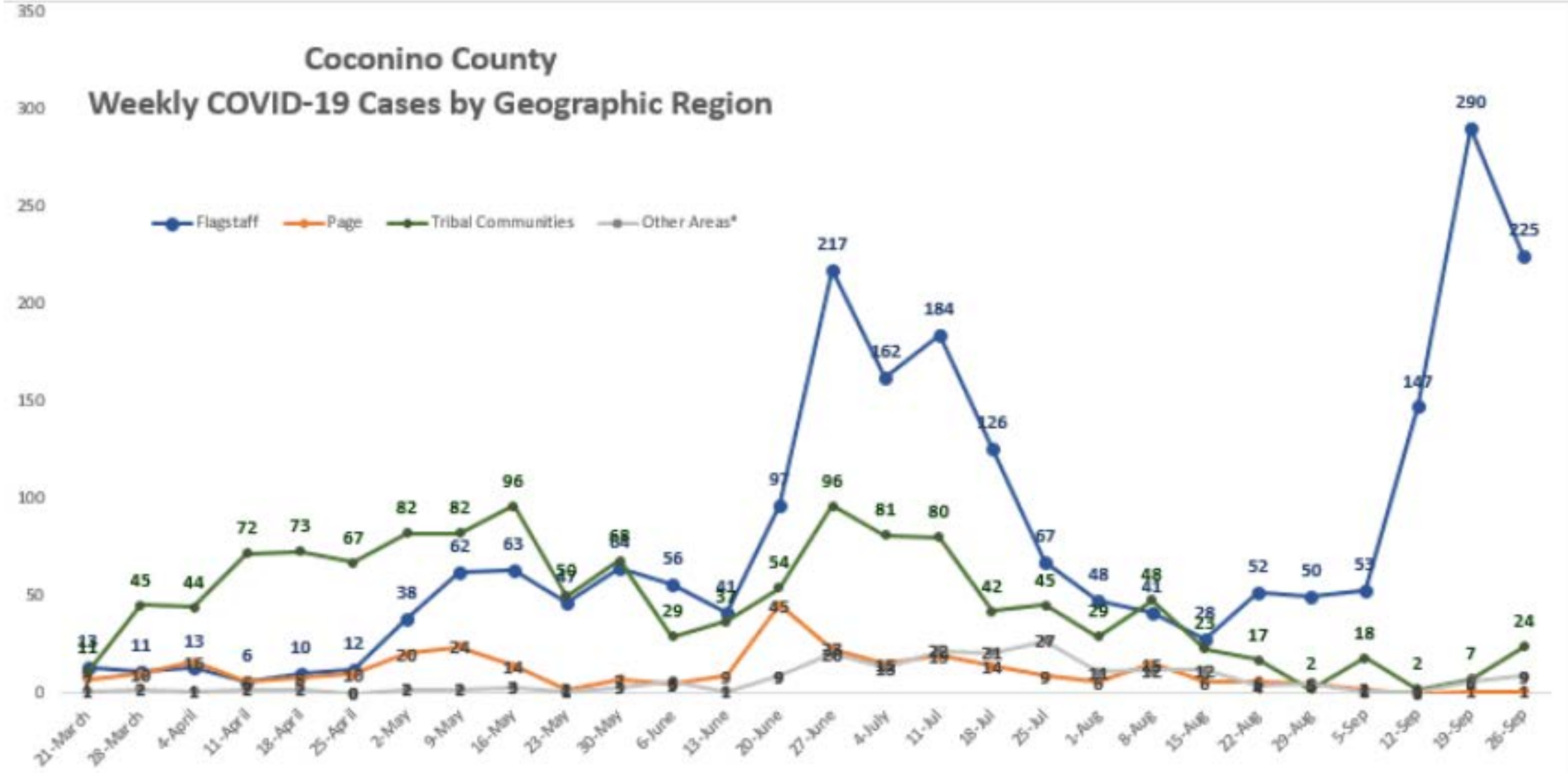
Attachments: Presentation

Data Update

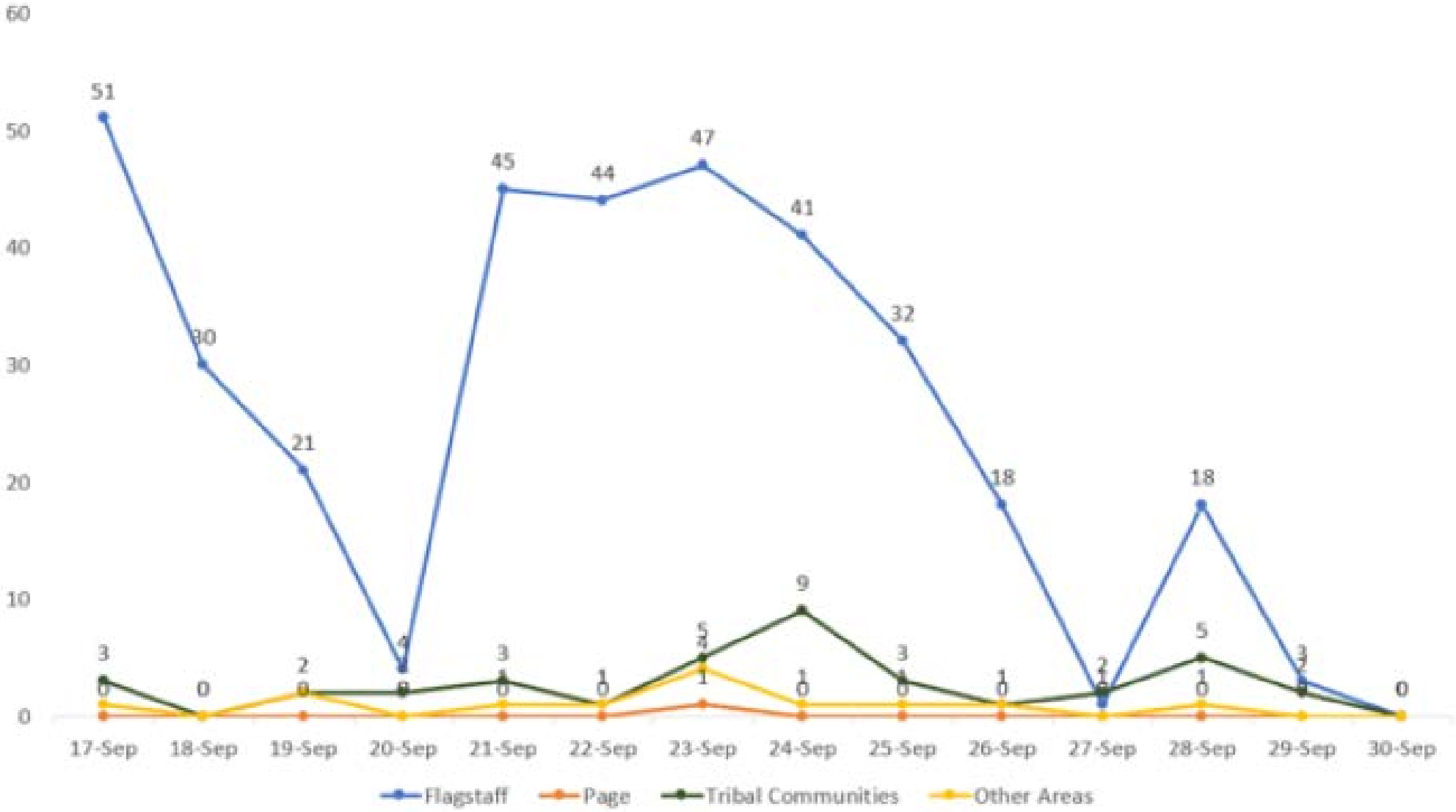
TEAM FLAGSTAFF

WE MAKE THE CITY BETTER

CCHHS: COVID-19 Weekly Cases

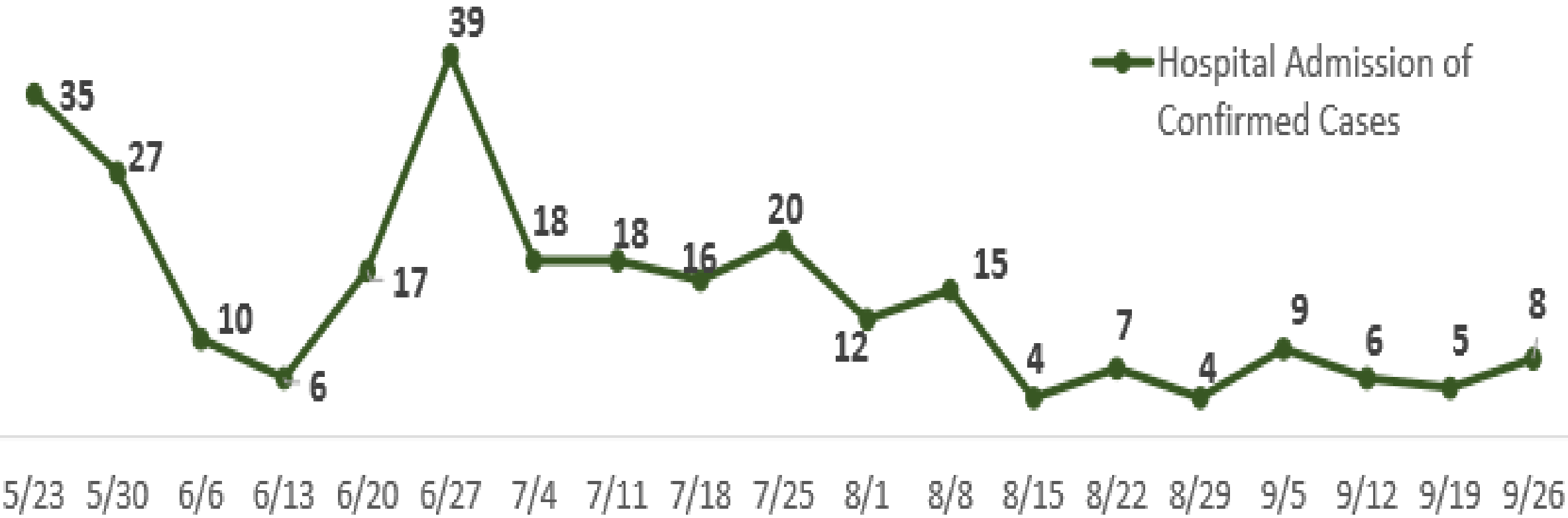


CCHHS: COVID-19 Daily Cases



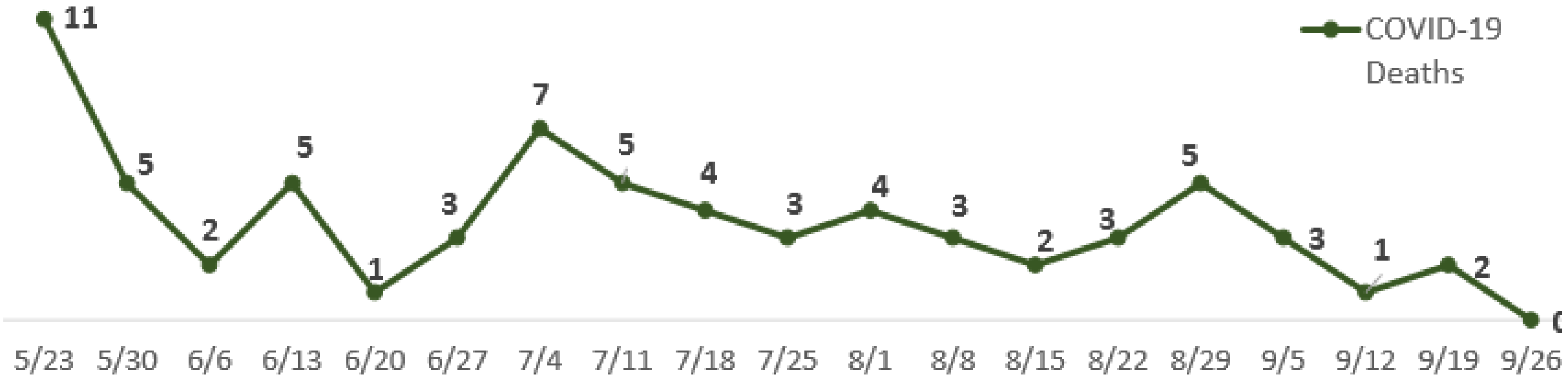
CCHHS: Hospital Admissions

Weekly Case Counts Among Coconino County Residents:



CCHHS: COVID-19 Related Deaths

Weekly COVID-19 Deaths Among Coconino County Residents:



CCHHS: Community Transmission

Community Transmission

- Coconino County has a current **incidence rate** of **178.6 per 100,000**, **percent positivity** of **7%***, and **COVID-19-Like-Illness incidence (CLI)** of **3.0%****.
- Coconino County is currently at a **moderate** level of community transmission.

Benchmarks	Minimal	Moderate	Substantial
Cases	<10 cases/100,000	10-100 cases/100,000	**>100 cases/100,000**
Percent Positivity	<5%	**5-10%**	≥10%
COVID-19-Like-Illness	**<5%**	5-10%	>10%

CCHHS: Community Transmission

Message from County Website on 10/2/20

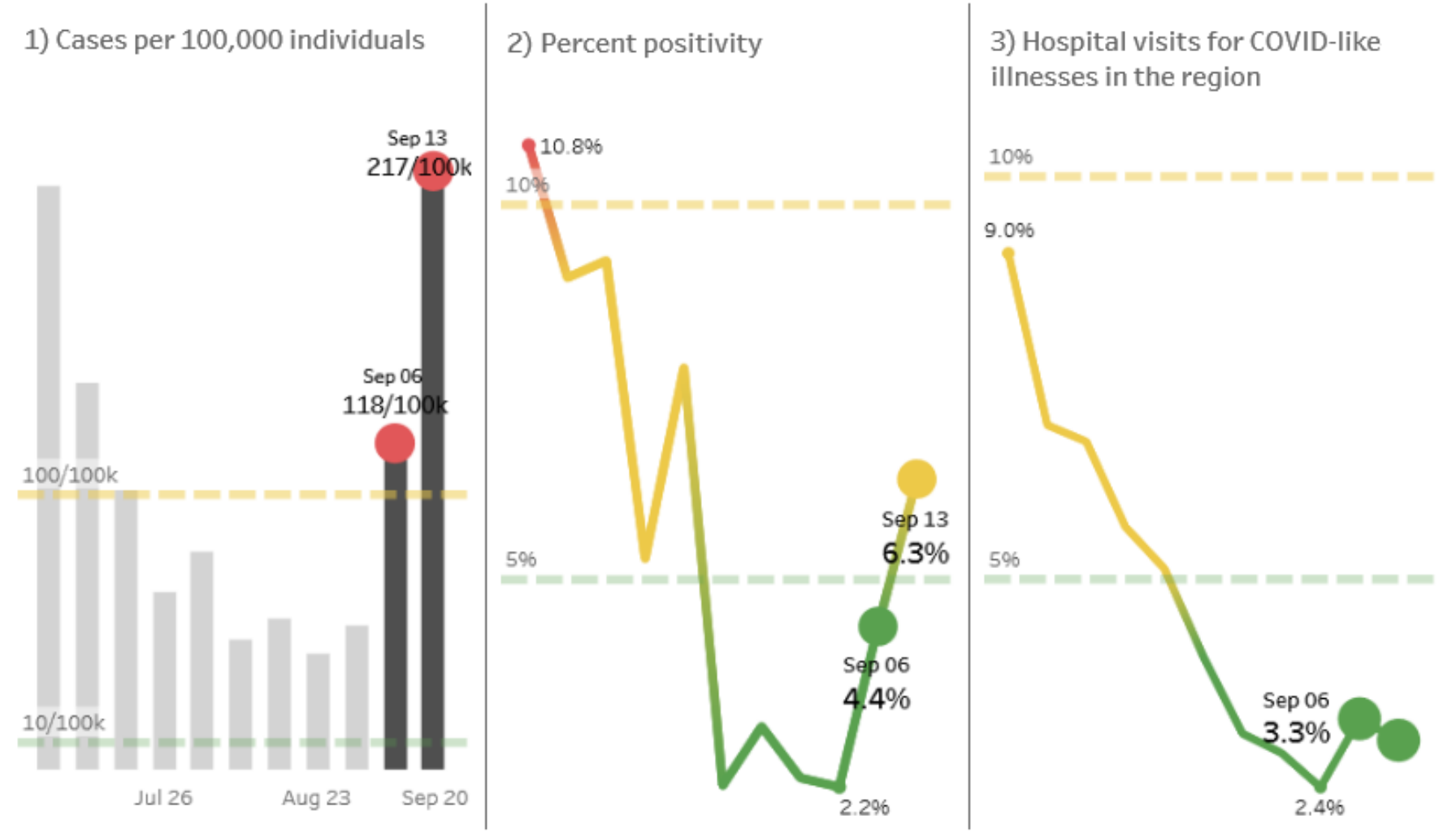
As Coconino County COVID-19 case numbers change over time, clarification regarding a move from the Moderate category to the Substantial category was requested by the County. ADHS confirmed this week that the all three benchmarks for transmission on the ADHS Business Dashboard must be met for 14 days, with a 12-day reporting lag, to move to a higher transmission phase. This is a change from previous guidance.

Coconino County is experiencing a substantial case incidence rate, however percent positivity and COVID-Like Illness are within the Moderate and Minimal range. Based on the ADHS guidelines, Coconino County remains within a Moderate level of community transmission.

ADHS Dashboard

Showing data for Coconino County (Northern Region)

Business Reopening Status: **Moderate**

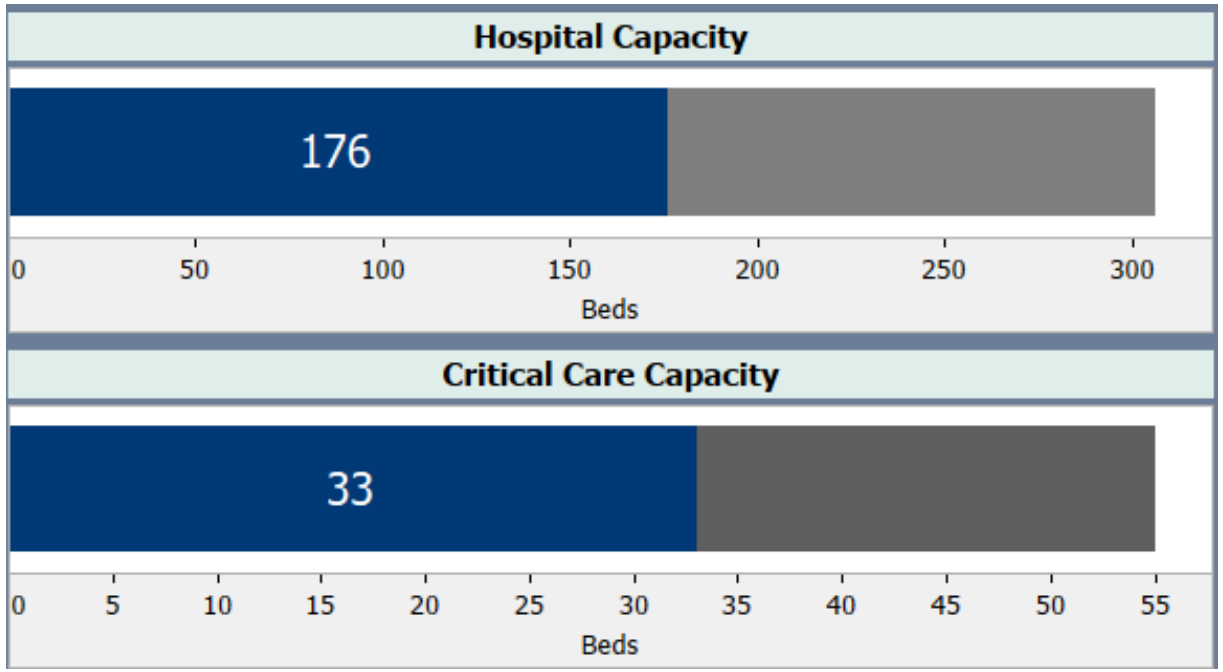


Data through September 13th

NAH: Hospital Census

Flagstaff Medical Center Hospital Census
176

In House COVID-19 Patients	
Positive	Pending
6	5



Council Questions & Discussion

TEAM FLAGSTAFF

WE MAKE THE CITY BETTER