

When recorded, return to:  
City Clerk  
211 W. Aspen Avenue  
Flagstaff, Arizona 86001

**PRE-ANNEXATION AGREEMENT  
BETWEEN THE CITY OF FLAGSTAFF AND ROBERT HOFFA AND  
CHRISTINE NEWELL**

This Pre-Annexation Agreement (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by and between the City of Flagstaff, an Arizona municipal corporation (the "City") and Robert Hoffa and Christine Newell, husband and wife, (the "Owner") (collectively "Parties").

**RECITALS**

- A. The Owner owns two certain parcels of real property located at 221 South Dunnam Street and depicted and legally described in **Exhibit A** attached hereto. For purposes of this Agreement, the parcels described in this exhibit are referred to as the "Property."
- B. The Property is currently located in an unincorporated area of Coconino County, Arizona.
- C. The City has determined that entering into this Agreement will be in the best interests of the City and the public; will be a proper and legal exercise of City power; will promote orderly development of the Property and the surrounding area; and will promote the health, safety, welfare and economic development of the community in general.
- D. Pursuant to Flagstaff City Code §§ 2-04-001-0007 through 2-04-001-0008, the Owner has applied for out-of-City sewer service for the Property. The City's Water Commission has recommended the City grant this extension subject to the condition that the Owner agrees to future annexation of the Property.
- E. A.R.S. § 9-500.05 authorizes the City to enter into a development agreement with the Owner for the purpose of establishing the conditions, terms, restrictions and requirements for annexation of the Property by the City and other matters relating to the future development of the Property.
- F. The Owner's proposed annexation of the Property is in conformity with the City's Regional Plan 2030 as of the date of this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing premises and agreements herein, the Parties hereto state, confirm and agree as follows:

1. Incorporation of Recitals and Exhibit. The foregoing recitals and exhibit are incorporated into this Agreement by this reference.

2. Annexation of Property. Owner hereby consents to the annexation of the Property into the City pursuant to A.R.S. § 9-471 *et seq.* The Owner acknowledges and understands that other properties adjacent to the Property may be added to future annexation proposals. When the City notifies the Owner that it desires the annexation proceedings, the Owner will a) apply for annexation which includes executing and filing with the City an annexation petition as required by A.R.S. § 9-471 *et seq.* to initiate annexation, and b) sign any lawful annexation petition or other annexation document for the purpose of annexing the Property into the City of Flagstaff. The City will then hold such hearings and take such action as is necessary pursuant to A.R.S. § 9-471 *et seq.* to annex the property. Any successor(s) to Owner shall execute, file or sign any similar petitions or documents necessary to accomplish annexation of the Property.
3. Applicable Zoning. Pursuant to A.R.S. § 9-471(L), upon annexation, the City shall adopt a City zoning classification for the Property that permits densities and uses no greater than those permitted by Coconino County immediately before annexation.
4. Sewer. The City agrees to provide sewer services to the Property, in accordance with the provisions of this Agreement and all applicable City, County and State requirements, prior to the Property's annexation into the City. The sewer shall be designed and extended by Owner at Owner's expense and in accordance with the City of Flagstaff Engineering Design and Construction Standards. The City, County and State shall provide joint review and approval of the construction plans and permits. The City and County shall review and approve the development plans and permits and inspect the off-site sewer service installation(s).
5. Sewer Connection and Capacity Fees. Owner agrees that upon the extension of sewer services to the Property, Owner shall pay all fees required by the Flagstaff City Code as a condition for connection to the City's sewer collection system. Furthermore, the Owner agrees to pay the monthly fees associated with connection as defined by the Flagstaff City Codes and Ordinances.
6. Reserved.
7. City Standards. The Owner agrees that if it develops the Property prior to annexation, it shall develop in general accordance with City development standards, and that it shall develop in specific compliance with City standards related to a) police and fire access and on-site needs, b) Building Form Standards per the City Zoning Code Section 10-40.30.030.C as may be amended from time to time for the Single-Family Residential (R1) zone. Owner agrees to cooperate with the City to provide review by City staff during any development efforts through the County prior to annexation.
8. Waiver of Proposition 207 Rights. The Parties agree that the Property is subject to the provisions of Proposition 207, as adopted by the voters of the State of Arizona at the November 7, 2006, General Election, which is codified at A.R.S. § 12-1131, *et seq.* ("Proposition 207"). The Owner acknowledges that the Owner and the City are empowered to agree to a waiver of the terms and requirements of Proposition 207, in particular those items codified at A.R.S. § 12-1134, pursuant to A.R.S. § 12-1134(I). The Owner on behalf of itself and all other parties having an interest in

the Property acknowledge and knowingly waives the provisions of Proposition 207, in particular A.R.S. § 12-1134, in connection with the future annexation of the Property as well as for any claim for diminution in value as a result of any subsequent rezoning of the Property by the City as the result of the annexation.

9. Negotiated Effort. The Parties agree that this Agreement represents the negotiated joint efforts of the Parties. In the event of a court of competent jurisdiction finds ambiguity, this Agreement shall not be construed against either Party in favor of a non-drafting Party.
10. Authority. All persons executing this document for the City and the Owner have all necessary and legal authority to enter into this Agreement for their respective corporations and the individual(s) executing this Agreement on behalf of their respective Parties are authorized and empowered to bind the party on whose behalf such individual is signing.
11. Successors and Assigns. The burdens and benefits of this Agreement will run with the land and be binding and inure to the benefit of the parties hereto and their respective successor and assigns. Upon the transfer of any portion of the Property, the transferring party will be released from any liability arising after the transfer with respect to the portion of the Property transferred.
12. Jurisdiction. The laws of the State of Arizona shall govern this Agreement and, in the event of a dispute, venue shall be in Coconino County, Arizona.
13. Attorney's Fees. If legal action by either Party is brought because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing Party is entitled to reasonable attorneys' fees and court costs.
14. Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled, in whole or in part and with respect to all or any portion of the Property, with the mutual written consent of the Parties hereto. Within ten (10) days after any such amendment or cancellation of this Agreement, the City will record such amendment or cancellation in the Official Records of Coconino County, Arizona.
15. Notice.
  - 15.1. Manner of Service. All notices, filing, consents, approvals or other communications provided for herein or given in connection herewith ("Notices") will be validly given, filed, made, delivered or served if in writing and delivered personally or sent by registered or certified United States postal Service Mail, return receipt requested, postage prepaid to:

If to the City:

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

With a copy to:

Flagstaff City Attorney's Office  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

If to the Owner:

Robert Hoffa and Christine Newell  
221 South Dunnam Street  
Flagstaff, Arizona 86001

or to such other addresses as either Party may from time to time designate in writing and deliver in like manner. Any such change of address Notice will be given at least ten (10) days before the date on which the change is to become effective.

- 15.2. Mailing Effective. Notice given by mail must be certified and will be deemed delivered seventy-two (72) hours following deposit in the U.S. Postal Service, in the manner set forth herein, or the next business day if sent by overnight delivery or courier.
16. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
17. Headings. The description headings of the paragraphs of this Agreement are inserted for convenience only and will not control or affect the meaning or construction of any of the provisions of this Agreement.
18. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and will not be changed or added to except in the manner provided in Section 15. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, other than specifically incorporated herein by reference, are superseded by this Agreement. All prior and contemporaneous agreements, representation and understandings or the City with any other parties, oral or written, other than specifically incorporated herein by reference, regarding any portion of or all of the Property, are superseded by this Agreement.
19. Recordation. No later than ten (10) days after the City and the Owner have executed this Agreement, it will be recorded in its entirety by the City in the Official Records of Coconino County, Arizona.
20. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable all other provisions hereof.
21. Cancellation. This Agreement is subject to cancellation for conflict of interest without penalty or further obligation as provided by A.R.S. § 38-511.
22. Term. This Agreement shall be effective upon its recordation and shall automatically terminate upon the effective date of the City Ordinance annexing the Property, provided, however, the City shall not discontinue applicable municipal services to the Property, once commenced, except as permitted by applicable law.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as provided herein:

City of Flagstaff, an Arizona Municipal Corporation

By: \_\_\_\_\_  
Mayor Paul Deasy

Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
City Clerk

Approved As to Form:

By: \_\_\_\_\_  
City Attorney

**OWNER:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF ARIZONA            )  
  ) ss.

County of Coconino    )

Subscribed and sworn to before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021, by \_\_\_\_\_, the \_\_\_\_\_ of, an  
Arizona.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires

**OWNER:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF ARIZONA            )  
  ) ss.

County of Coconino    )

Subscribed and sworn to before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021, by \_\_\_\_\_, the \_\_\_\_\_ of, an  
Arizona.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires

## Exhibit A

### Parcel 1

Lot 11, Block 1, of PONDEROSA PARK SUBDIVISION NUMBER ONE, as shown on the plat thereof, recorded in Book 2 of Maps, Page 47, records of Coconino County, Arizona.

### Parcel 2

A portion of Tract "B", Railroad Springs 66 subdivision as recorded in Case 7, Map 68 of the Records of Coconino County, Arizona (R), situated in the Northwest 1/4 of Section 20, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona, more particularly described as follows:

FROM the Southwest lot corner of Lot 1, Ponderosa Park subdivision as recorded in Book 2, Page 47 of the Records of Coconino County, Arizona (R1) and shown on (R), said point being a found 3/4" iron pipe,

thence N 00° 25' 46" W, along the West lot line of Lots 1 through 7, for a distance of 410.20 feet to the West lot corner of Lots 7 and 8 (R1), said point being a found Cap 18215;

thence N 00° 28' 21" W, along the West lot lines of Lots 8 and 9, for a distance of 119.93 feet to the West lot corner of Lots 9 and 10, said point being a found Cap 14671;

thence N 00° 28' 21" W, along the West lot line of Lot 10, for a distance of 60.00 feet to a set 1/2" rebar w/Cap 14671 and the TRUE POINT OF BEGINNING;

thence S 88° 06' 32" W for a distance of 6.16 feet to a set 1/2" rebar w/Cap 14671;

thence N 00° 23' 46" W and parallel to the West lot line of Lot 11, for a distance of 60.00 feet to a set 1/2" rebar w/Cap 14671;

thence N 88° 05' 24" E for 6.08 feet to the Northwest lot corner of said Lot 11, said point being a set 1/2" rebar w/Cap 14671;

thence S 00° 28' 21" E, along West lot line of said Lot 11, for a distance of 60.00 feet to the TRUE POINT OF BEGINNING.